AN ACT to amend and reenact sections one, four, five, six, seven, eight, nine, ten, eleven, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, twenty-six and twenty-seven, article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article seventeen, by adding thereto seven new sections, designated sections seven-a, seven-b, nine-a, ten-a, ten-b, seventeen-a, and twenty-eight, all relating to an excise tax on the sale of cigarettes.

Be it enacted by the Legislature of West Virginia:

That sections one, four, five, six, seven, eight, nine, ten, eleven, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, twenty-
six and twenty-seven, article seventeen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article seventeen be further amended by adding thereto seven new sections, designated sections seven-a, seven-b, nine-a, ten-a, ten-b, seventeen-a and twenty-eight, all to read as follows:

ARTICLE 17. EXCISE TAX ON SALE OF CIGARETTES.

§11-17-1. Definitions.

When used in this article the following words, terms and phrases and any variations thereof required by the context, shall be the meaning ascribed to them in this article, except where the context indicates a different meaning.

(a) “Person” shall mean and include any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary or conservator.

(b) “Wholesaler” or “Wholesale Dealer” shall include any person who purchases unstamped cigarettes directly from the manufacturer.
(b-1) "Sub-Jobber" or "Sub-Jobber Dealer" shall include any person who purchases stamped cigarettes from any other person who purchases from the manufacturer when such other person is located in any state which levies an excise tax on cigarettes and who purchases such cigarettes solely for the purpose of bona fide resale to retail dealers.

(c) "Retail Dealer" includes every person in this state, other than a wholesaler or sub-jobber, engaged in the selling of cigarettes at retail to a consumer or to any person for any purpose other than resale.

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

(d) "Vending Machine Operator" is any person operating one or more cigarette vending machines.

(e) "Sale by Wholesaler or Retailer" shall mean and include any bona fide transfer of title to cigarettes by a wholesaler or retailer for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the wholesaler's or retailer's business.
(f) "Cigarette" means:

1. Any roll of tobacco wrapped in paper or in substance not containing tobacco, and
2. Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1).

(g) "Package" means the individual package, box or other container in or from which retail sales of cigarettes are normally made or intended to be made.

(h) "Stamp" shall mean any cigarette stamps required under this article, or any meter or ink impression authorized by the tax commissioner to serve as such stamp.

(i) "Commissioner" means the state tax commissioner and where the meaning of the context requires, all deputies, and employees duly authorized by him.

(j) "Code" shall mean the code of West Virginia, one thousand nine hundred thirty-one, as amended.

(k) "Retail Sale" or "Sale at Retail" means a sale to a
56 consumer or to any person for any purpose other than re-
57 sale.
58 (1) "Sale" means selling, exchange, transfer of title, 
59 barter, gift, offer for sale or distribution.
60 (m) "Consumer" means a person who receives or in 
61 any way comes into possession of cigarettes for the pur-
62 pose of consuming them, giving them away or disposing 
63 of them in any way other than by sale, barter or exchange.
64 (n) "Rules and Regulations" mean those made and 
65 promulgated by the state tax commissioner.
66 (o) "Stamped Cigarettes" means that the stamp or 
67 impression as required by this article has been affixed to 
68 the bottom of the package of cigarettes.
69 (p) "Unstamped Cigarettes" means that no stamp or 
70 impression, as required by this article, has been affixed.

§11-17-4. How tax paid; stamps; how affixed; violations.

The tax hereby imposed shall be paid by the purchase 
2 of stamps as provided in this article. Payment for stamps 
3 purchased from the commissioner shall be made by cash, 
4 money order, bank draft, certified check or by non-certifi-
5 fied check. However, in the event a non-certified check
is returned unpaid by its bank, then the license of the
maker of the check shall be, and without notice of hear-
ing, and in the discretion of the commissioner, subject to
suspension or revocation and such suspension or revoca-
tion shall in no manner prevent action by the commis-
sioner against the dealer's surety bonding company to
recover moneys in the amount of the unpaid check.

A stamp as described in the cigarette rules and regu-
lations shall be affixed to, or impressed upon each package
of cigarettes of an aggregate value of not less than the
amount of the tax upon the contents thereof. The stamp
or impression, so affixed, shall be prima facie evidence of
payment of the tax imposed by this article. Stamps or
meter impressions shall be purchased from the commis-
sioner by and paid for by properly licensed wholesalers.
Except as may be otherwise provided in the rules and
regulations prescribed by the commissioner under au-
thority of this article, and unless such stamps have been
previously affixed, they shall be so affixed by each whole-
sale dealer who must be licensed by this state and prior
to the sale or delivery of any cigarettes to any retail
dealer or sub-jobber in this state.
Whenever any cigarettes are found in the place of business of any retail dealer or sub-jobber without the stamps so affixed, the prima facie presumption shall arise that such cigarettes are kept therein in violation of the provisions of this article.

§11-17-5. **Ultimate incidence for tax.**

Any person who advances or pays the tax imposed by this article through the purchase of such stamps shall add the amount of the tax so advanced or paid to the price of the cigarettes when sold by the wholesaler, it being intended that the ultimate incidence for the tax shall be upon the ultimate possessor, consumer or user.

§11-17-6. **Dealer's records.**

From and after the effective date hereof and at the time of delivering cigarettes to any person, each wholesale dealer and sub-jobber in this state shall make a true duplicate invoice showing the date of delivery, the amount and value of each shipment of cigarettes delivered and the name of purchaser to whom delivery is made, and retain the same for a period of two years from the date of such delivery, subject to the use and inspection of the tax commissioner.
Enr. S. B. No. 326] 8

10 Each wholesaler, sub-jobber and retail dealer in this
11 state shall procure and retain as a part of his records,
12 invoices showing the amount and value of each shipment
13 of cigarettes received by him, the date thereof and the
14 name of the shipper, and shall retain the same for a
15 period of two years subject to the use and inspection of
16 the commissioner. The commissioner, in his discretion,
17 may require reports from all dealers pertaining to the
18 sale of cigarettes.
19 In each case in which cigarettes are shipped into the
20 state of West Virginia by common carrier, such common
21 carrier transporting any shipment thereof shall file with
22 the commissioner a copy of the freight bill within ten
23 days after delivery in this state of each shipment when
24 requested so to do by the commissioner.

§11-17-7. Cigarette retail dealer's license required; suspension or revocation.

No person shall engage in selling cigarettes at retail
2 within this state without having first secured an annual
3 cigarette retail dealer's license, which shall be issued by
4 the state tax commissioner without charge. Cigarette
retail dealer's license will be subject to suspension or revocation, in the discretion of the commissioner, for violation of any laws or for other good causes or rules and regulations of chapter eleven, article seventeen, of the code.

§11-17-7a. Wholesaler's and sub-jobber's license required; suspension or revocation.

No person shall engage in selling cigarettes as a wholesaler or sub-jobber without having first secured a wholesaler's or sub-jobber's license as required by article twelve of this chapter and having complied with the provisions of section seven-b of this article. Wholesaler's and sub-jobber's licenses will be subject to suspension or revocation, in the discretion of the commissioner, for violation of any laws or for other good causes or rules and regulations of chapter eleven, article twelve or article seventeen, of the code.

§11-17-7b. Conditions precedent to issuance of licenses; bond.

Application for a wholesale cigarette dealer's license shall be accompanied by payment of the proper license fee together with a letter from at least three of the major
cigarette manufacturers indicating that they will sell to
the applicant on a direct basis in the event a proper
license is issued by this state. For the purpose of this
section, major cigarette manufacturers will be those man-
ufacturers who are among the six companies showing the
largest taxable cigarette removals during the previous
calendar year, as indicated by the records of the tobacco
tax branch of the United States internal revenue service.
This section shall not apply to applications for renewal
of licenses provided the applicant is, at the time of apply-
ing for renewal, purchasing from at least three of the
major cigarette manufacturers.

Each application for a wholesale cigarette license shall
have attached thereto a surety bond in such amount as
the commissioner may designate, but in no event shall
the bond be less than one thousand dollars nor more
than ten thousand dollars, conditioned upon the payment
of the tax due upon the cigarettes stamped by the whole-
saler. This surety bond will not be required from per-
sons who have filed a surety bond for the purpose of
purchasing stamps on credit as provided for in section eleven of this article.

Wholesale or sub-jobber's licenses shall be issued only to persons, except corporations, of good moral character, who are not less than twenty-one years of age. No wholesale or sub-jobber's licenses shall be issued to any person who has been convicted within the past five years of any offense against the cigarette laws of this state or who has been convicted in this state, or any state of the United States, during the past five years of any offense designated as a felony by such state or the United States, or to a corporation, any of whose officers have been so convicted. The term “conviction” shall include the adjudication of guilt on a plea of nolo contendere, or the forfeiture of a bond when charged with a crime. The commissioner may refuse to issue any license provided for under this section to any person, firm or corporation whose license under the cigarette law has been suspended or revoked or to any corporation, an officer of which has had his cigarette license suspended or revoked, or to any person who is or has been an officer of a corporation whose cigarette license has been suspended or revoked.
§11-17-8. Cigarette vending machine operators; licenses.

A cigarette vending machine operator is any person owning and operating one or more cigarette vending machines. Cigarette vending machine operators who purchase cigarettes directly from the manufacturer are required to secure a wholesaler's license; however, for the purposes of this article, the sale of cigarettes through a vending machine will be construed as sales at retail and will subject the cigarette vending machine operator to the cigarette law and rules and regulations pertaining to cigarette retail dealers. Cigarette vending machines are licensed under the general license law, chapter eleven, article twelve, section three of the code.

§11-17-9. Sales by licensed wholesale dealers; liability for tax; sale of unstamped cigarettes prohibited; penalties.

No wholesale dealer shall sell cigarettes to any person in this state other than to another licensed wholesaler, licensed sub-jobber or licensed retail dealer and no person in this state other than a licensed wholesaler, or licensed sub-jobber, shall sell cigarettes to a licensed retail dealer. It shall be unlawful and a violation of this
article for any licensed retail cigarette dealer to purchase
or acquire cigarettes from any person other than a li-
censed wholesaler or licensed sub-jobber. The original
wholesaler who purchases unstamped cigarettes from the
manufacturer is liable for the excise tax and the affixing
of the required stamps, and the sale of unstamped cig-
arettes in this state is hereby expressly prohibited and
any sale of unstamped cigarettes shall be a violation of
this article and any person violating this section shall be
guilty of a misdemeanor and, upon conviction thereof,
shall be fined not less than five hundred dollars nor more
than five thousand dollars, or imprisoned in the county
jail for not more than six months, or both, in the discre-
tion of the court.

§11-17-9a. To operate as both wholesaler and retailer; separate
places of business.

No person in this state shall sell any cigarettes both as
a wholesale dealer and a retail dealer at the same place
of business. However, one person may operate as both a
wholesale dealer and a retail dealer: Provided, That the
two said operations are completely set apart by walls or
partitions, or an entirely different address, and the stocks
of cigarettes are not intermingled and separate and com-
plete records are maintained which may be inspected dur-
ing regular business hours by agents of the commissioner.
§11-17-10. Power of tax commissioner; rules and regulations;
records by wholesalers, sub-jobbers and retailers;
metering in lieu of stamping; agents for metering; levy
to collect tax.

The tax commissioner shall have power and authority
to enforce and administer the provisions of this article.
The tax commissioner shall have authority to promulgate
in accordance with the provisions of this article such rules
and regulations as he may deem necessary to carry out
its provisions, and may adopt different detailed regula-
tions applicable to diverse methods and conditions of sale
of cigarettes in this state.

All books, papers, invoices and records of any whole-
saler, sub-jobber or retail dealer in this state shall at all
times, during the usual business hours of the day, be open
for the inspection of the tax commissioner, or his au-
thorized agent, for such purposes; and the tax commis-
sioner or a deputy shall have power to investigate the
stock of cigarettes in and upon the premises where the
same are placed, stored, or sold, for the purpose of de-
termining compliance by the dealers with the provisions
of this article.

The tax commissioner, if he shall determine that it is
practicable to stamp packages of cigarettes by impression
by means of a metering device, shall provide that such
metering device and its impression may be used in lieu
of the stamps otherwise required by law. The tax com-
missioner may authorize any wholesaler purchasing un-
stamped cigarettes and holding the licenses herein re-
quired, to use any metering device approved by the com-
misioner, such devices to be sealed by the commissioner
or a deputy, or agent, authorized by the commissioner,
before being used, which device shall be used only in
accordance with the regulations prescribed by the com-
missioner.

Any wholesaler authorized by the tax commissioner
to affix stamps to packages of cigarettes by means of a
metering device shall file with the tax commissioner a
bond in such amount as the tax commissioner may des-
ignate, conditioned upon the payment of the tax upon
the cigarettes so stamped.

Wholesalers licensed to use said device shall make a
monthly return to the commissioner and remit monthly
the amounts of tax due the state: Provided, however,
That a wholesaler may elect to pay the tax in advance
where a metering device is used, in which event such
dealer shall deliver the metering device to the commis-
sioner, or his agent authorized for the purpose, who shall
seal the meter in accordance with the prepayment so
made. The commissioner may designate and authorize
any bank or trust company with banking offices in any
county of this state, to act as his deputy or agent for the
purpose of performing his duties with respect to sealing
of metering devices or the selling of stamps in such
county, and may require bond, and the action of any such
deputy by its duly authorized officer or employees shall
be as valid as though performed by the commissioner.

The commissioner shall have power to make an assess-
ment, against any wholesaler who fails to return or makes
a false or erroneous return. The commissioner may collect such assessment by levy, action at law, distraint, or any other method of enforcing taxes which may be provided by law and shall have the right to file liens therefor in any county.

§11-17-10a. Jeopardy assessments.

If the tax commissioner believes that the collection of any tax which he is required to administer will be jeopardized by delay, he shall thereupon make an assessment of the tax, noting that fact upon the assessment. The amount assessed shall be immediately due and payable. Unless the taxpayer against whom a jeopardy assessment is made petitions for reassessment within twenty days after service of notice of the jeopardy assessment, such an assessment becomes final.

A petition for reassessment by a person against whom a jeopardy assessment has been made must be accompanied by such security as the tax commissioner may deem necessary to insure compliance with this article.

§11-17-10b. Notice of assessment; petition for reassessment; hearing.

The tax commissioner shall give to the taxpayer writ-
ten notice of any assessment made pursuant to this article. Unless the taxpayer to whom a notice of assessment is directed, shall, within thirty days after service thereof (except in the case of jeopardy assessments), either personally or by certified mail, file with the tax commissioner a petition in writing, verified under oath by said taxpayer or his duly authorized agent, having knowledge of the facts, setting forth with definiteness and particularity the items of the assessment objected to, together with the reason for such objections, said assessments shall become and be deemed conclusive and the amount thereof shall be payable at the end of the thirty-day period. In every case where a petition for reassessment as above described is filed, the tax commissioner shall assign a time and place for the hearing of same and shall notify the petitioner of such hearing by written notice at least twenty days in advance thereof and such hearing shall be held within sixty days from the filing of the petition for reassessment unless continued by agreement or by the tax commissioner for good cause. The hearing shall be informal and may be conducted by
an examiner designated by the tax commissioner. At such hearing evidence may be offered to support the assessment or to prove that it is incorrect. After such hearing the tax commissioner shall, within a reasonable time, give notice in writing of the decision. Unless an appeal is taken within thirty days from service of this notice, the tax commissioner's decision shall be final.

§11-17-11. Form of stamps; custody; discounts; security for payments.

The commissioner shall design and procure stamps to be used as herein provided for, affixed and attached to containers, packages or receptacle of whatever kind that may be used for containing cigarettes. In the preparing of said stamp or stamps the same shall have printed or impressed thereon the words "State of West Virginia—Cigarette Tax Stamp" and such other words and figures as he may deem proper to show the value and denomination of the stamp or stamps. He shall also prescribe the form of impression to be placed upon any package or container of cigarettes by any metering device. The state tax
commissioner shall collect the taxes provided for by this article.

Such stamps shall be kept in the custody of the state tax commissioner or such deputies as he may designate to sell the same. Such stamps shall be sold and accounted for at the face value thereof except that the tax commissioner may authorize sale thereof, or sell to wholesalers in this state, or to wholesalers outside of this state such stamps at a discount of four per cent of the face value of such stamps, the same to be allowed as a commission for affixing the stamps and prepaying the cigarette tax; and excepting further that the tax commissioner may, by like regulation so certified, authorize the delivery of stamps to wholesalers in this state, or to wholesalers outside of this state on credit, allowing the same discount as when sold for cash, if and when the purchaser shall file with the tax commissioner a bond made payable to the state of West Virginia, in such form and amount as the commissioner shall prescribe, and with surety or sureties to the satisfaction of the commissioner, conditioned as he may require, to guarantee payment within thirty days for stamps
so delivered within such period of time and by making
of such reports and settlement as the commissioner may
require. The commissioner may, by further regulations,
provide for cancelling, renewing or increasing such bond
or for the substitution of the surety thereon. The com-
missioner shall redeem any unused or mutilated, but iden-
tifiable, stamps, that any licensed wholesaler or retail
dealer may present for redemption, on written verified
requests made by the purchaser, his administrators, ex-
cutors, successors, or assigns, and refund therefor, ninety-
five per cent of the face value of said stamps, less any
discounts allowed on the purchase of said stamps. The
commissioner shall pay on a like basis for stamps de-
stroyed by fire or flood upon presentation of proof of such
loss satisfactory to him. Such payments shall for the pur-
poses hereof be deemed to be refunds of taxes improperly
collected and shall be allowed and paid as part of the cost
of administration of this article as in this article provided.

§11-17-13. Possession of unstamped cigarettes; failure to pro-
duce invoices; penalty.

Whoever, being a retail dealer in this state, has in his
possession packages of cigarettes not bearing the stamps herein required to be affixed thereto or, whoever fails to produce on demand by the commissioner invoices of all cigarettes purchased or received by him within two years prior to such demand, unless upon satisfactory proof it is shown that such nonproduction is due to providential or other causes beyond his control, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned in the county jail not more than ninety days, or both, in the discretion of the court.

If unstamped cigarettes be found in any vending machine, both the cigarettes and the vending machine shall be contraband goods and may be seized by the commissioner, his agents or employees or by any peace officer of the state at the discretion of the commissioner, his agents or employees, without a warrant.

Cigarettes and vending machines seized under this section shall be forthwith sold in the manner provided by law for the sale of personal property for taxes and such sale shall not relieve the owner of the sold personal property
of any action by the commissioner for violations of any
sections of this article.

§11-17-14. False records; penalties.

Whoever makes any false entry upon an invoice, pack-
the provisions of this article, or with intent to evade the
tax imposed by this article, presents any such false entry
for the inspection of the commissioner, shall be guilty of
a misdemeanor, and, upon conviction thereof, shall be
fined not less than one hundred dollars nor more than
one thousand dollars, or imprisoned in the county jail not
more than ninety days, or both, in the discretion of the
court.

§11-17-15. Preventing inspections; penalties.

Whoever prevents or hinders the commissioner or his
deputy from making a full inspection of any place where
cigarettes subject to the tax imposed by this state are sold
or stored, or prevents or hinders the full inspection of in-
voices, books, records, or papers required to be kept under
the provisions of this article, shall be guilty of a misde-
meanor, and, upon conviction thereof, shall be fined not
less than one hundred dollars nor more than one thousand
dollars, or imprisoned in the county jail not more than
ninety days, or both, in the discretion of the court.

§11-17-16. Sales or possession without affixing stamps; penalties.

Whoever sells cigarettes in this state without there hav-
ing been first affixed to each individual package thereof
the stamp or stamps required to be affixed thereto by this
article, shall be guilty of a misdemeanor, and, upon con-
viction thereof, shall be fined not less than two dollars and
fifty cents per package of cigarettes or imprisoned in the
county jail not more than ninety days, or both, in the
discretion of the court.

If a person, firm or corporation, who is not a regularly
licensed dealer in tobacco products, as provided by this
article, shall have in his possession within the state more
than ten packages of cigarettes not bearing cigarette tax
paid indicia of this state, such possession shall be pre-
sumed to be for the purpose of evading the payment of the
taxes due thereon and shall be subject to the penalties as
outlined in this section.
§11-17-17. Altering or counterfeiting stamps; penalties.

Whoever falsely or fraudulently makes, forges, alters, or counterfeits any stamp prescribed by the commissioner under the provisions of this article and cigarette tax rules and regulations, and any person who knowingly and wilfully makes, causes to be made, purchases, receives or has in his possession, any device for forging or counterfeiting any stamp, or uses more than once any stamp provided for and required by this article for the purpose of evading the tax hereby imposed, shall be guilty of a felony and, upon conviction thereof, shall be sentenced to pay a fine of not less than five thousand dollars nor more than ten thousand dollars and imprisoned in the penitentiary for a term of not less than one year nor more than five years. For the purpose of this section, the words "stamp provided for and required by this article" shall include a stamp or imprint made by a metering machine to evidence the payment of the excise tax on cigarettes as required by this article and the stamps and metering device as described in the West Virginia administrative regulations pertaining to the excise tax on cigarettes.
§11-17-17a. Enforcement; assistance of department of public safety.

Any employee of the cigarette tax division so designated by the tax commissioner, shall have all the lawful powers delegated to members of the department of public safety to enforce the provisions of this article in any county or city of this state, and such employee shall, before entering upon the discharge of his duties, execute a bond with security in the sum of thirty-five hundred dollars, payable to the state of West Virginia, conditioned for the faithful performance of his duties as such, and such bond shall be approved as to form by the attorney general, and as to sufficiency by the board of public works, and the same shall be filed with the secretary of state and preserved in his office.

The state department of public safety is hereby authorized and may be requested, to assist in the enforcement of the provisions of this article as directed by the tax commissioner or his agents.

§11-17-18. Penalties.

Whoever violates any of the provisions of this article or any lawful rule or regulation promulgated by the com-
missioner under authority of this article for the violation of which no penalty is provided by law, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the county jail not more than ninety days, or both, in the discretion of the court.

§11-17-26. Expiration and renewal of license.

The license required to be issued pursuant to this article shall expire on the thirtieth day of June of each year. On or before the first day of July of each year, every person having a license shall apply to the state tax commissioner for a renewal for the year next ensuing, unless such person has ceased to operate or does not propose to continue operation during the year next ensuing, in which event he shall notify the state tax commissioner that he has ceased operation or that he proposes to cease operation prior to the first day of July of the year next ensuing. All application for renewal shall be made on the forms prescribed by the state tax commissioner.

Each new license issued prior to the first day of January of any year shall be charged for at the full rate and each
license issued on or after the first day of January shall be charged for at one half of the full rate, as prescribed in section six-a, article twelve, chapter eleven of the code.

§11-17-27. Transportation of unstamped cigarettes; forfeitures and sales of cigarettes and equipment.

Every person who shall transport cigarettes not stamped as required by this article upon the public highways, waterways, roads or streets of this state shall have in his actual possession invoices or delivery tickets for such cigarettes which shall show the true name and complete and exact address of the consignor or seller, the true name and complete and exact address of the consignee, or purchaser, the quantity and brands of the cigarettes transported and the true name and complete and exact address of the person who has or shall assume payment of the West Virginia state tax, or the tax, if any, of the state or foreign country at the point of ultimate destination: Provided, That any common carrier which has issued a bill of lading for a shipment of cigarettes and is without notice to itself or to any of its agents or employees that said cigarettes are not stamped as required by this article
shall be deemed to have complied with this article and the
vehicle or vessel in which said cigarettes are being trans-
ported shall not be subject to confiscation hereunder. In
the absence of such invoices, delivery tickets or bills of
lading, as the case may be, the cigarettes so transported,
the vehicle or vessel in which the cigarettes are being
transported and any paraphernalia or devices used in con-
nection with the unstamped cigarettes, are declared to be
contraband goods and may be seized by the commissioner,
his agents or employees or by any peace officer of the state
when directed by the commissioner, his agents or em-
ployees so to do without a warrant.

The person or persons transporting unstamped ciga-
rettes in violation of this section shall be guilty of a mis-
demeanor, and upon conviction thereof, shall be fined not
less than three hundred dollars nor more than five thou-
sand dollars, or imprisoned in the county jail not more
than one year, or both, in the discretion of the court.

The commissioner shall immediately, after any seizure
made pursuant to this section, institute a proceeding for
the confiscation thereof in the circuit court of the county
in which the seizure is made. The court may proceed in a summary manner and may direct confiscation to the commissioner: Provided, however, That anything to the contrary notwithstanding that any person claiming to be the holder of a mortgage, conditional sales contract or other security interest in any vehicle or vessel, the disposition of which is provided for above, may present his petition so alleging and be heard, and in the event it appears to the court that the property was unlawfully used by a person other than such claimant, and if the said claimant acquired his security interest in good faith and without knowledge that the vehicle or vessel was going to be so used, the court shall either waive forfeiture in favor of such settlement and order the vehicle or vessel returned or delivered to such claimant or if it is found that the value thereof exceeds the amount of the claim, the court shall order payment of the amount of the claim out of the proceeds of the sale.


The various provisions of the several sections of article seventeen, contained in this act, shall be deemed to be
separable insofar as they or their meaning is not inseparably connected, and if any provisions of this act shall be held unconstitutional, such holding shall not affect any of the other provisions of this act not inseparably connected in meaning and effect with such part so held unconstitutional.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tanger
Chairman Senate Committee

Clayton Davidson
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1967.

Joshua Wyair
Clerk of the Senate

Clarence Blandensky
Clerk of the House of Delegates

Howard E. Carro
President of the Senate

W. L. Evans White
Speaker House of Delegates

The within approval this the 21st day of March, 1967.

Hallett C. Smith
Governor