

No. 327

## AN ACT

To provide revenue by imposing a State tax upon sales or gifts of cigarettes; requiring persons engaged in the sale of cigarettes to secure licenses; prescribing the method and manner of collecting such tax; making it unlawful to sell or possess cigarettes upon which the tax has not been paid; conferring powers and imposing duties on the Department of Revenue and other persons; making an appropriation and providing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

## ARTICLE I.

## INTRODUCTORY PROVISIONS

Pennsylvania  
Cigarette Tax  
Act of 1957.

Section 101. Short Title.—This act shall be known and may be cited as the “Pennsylvania Cigarette Tax Act of 1957.”

Section 102. Definitions.—The following words, terms and phrases shall be construed in this act to have the following meanings, except where the context clearly indicates otherwise:

(a) “Association,” any partnership, limited partnership, joint venture or other form of unincorporated enterprise owned by two or more persons.

(b) “Cigarette,” any roll for smoking made wholly or in part of tobacco, the wrapper or cover of which is made of paper or any other substance or material other than tobacco regardless of the size or shape of the roll and regardless of whether or not the tobacco is flavored, adulterated or mixed with any other ingredient.

(c) “Cigarette Tax Stamps,” any adhesive stamps, tax meter impressions or other stamps, labels or prints authorized by the department to evidence the payment of the tax imposed by this act.

(d) “Cigarette Vending Machine,” any mechanical device from which cigarettes are dispensed for a consideration.

(e) “Dealer,” any person not acting as an employe of another person who sells cigarettes within this Commonwealth.

(f) “Department,” the Department of Revenue of this Commonwealth.

(g) “Licensed Dealer,” any person to whom a license has been issued pursuant to this act. A person to whom a license has been issued shall not be considered a licensed dealer, if his license has expired or has been revoked or during a period when such license is under suspension.

(h) "Pack of Cigarettes," the smallest individual package, box or other immediate container in or from which retail sales of cigarettes are normally made.

(i) "Person," every corporation, partnership, association, joint venture and governmental subdivision, as well as a natural person. Whenever used in any clause, sentence or section prescribing and imposing a fine or imprisonment, or both, the word "person" as applied to a partnership, association or joint venture, shall mean the partners or members thereof, and as applied to a corporation, the officers and directors thereof.

(j) "Retail Dealer," any person other than a wholesale dealer, who receives cigarettes from any source whatsoever for the purpose of sale to the ultimate consumer. Any person other than a wholesale dealer, who receives any pack of cigarettes which, when received by such person, does not have affixed thereto Pennsylvania cigarette tax stamps shall also be considered a retail dealer.

(k) "Sale," any transfer of the ownership, custody or possession of cigarettes from one person to another, either for a consideration or as a gift.

(l) "Unstamped Cigarettes," any pack of cigarettes to which the proper amount of Pennsylvania cigarette tax stamps has not been affixed.

(m) "Vending Machine Operator," any person who places one or more vending machines, owned or leased by him, at locations where cigarettes are sold therefrom. The owner or lessee of the premises upon which a vending machine is placed, shall not be considered the operator of the machine, if he does not own or lease the machine and if his sole remuneration therefrom is a flat rental fee or a commission, based upon the number or value of cigarettes sold from the machine, or a combination of both.

(n) "Wholesale Dealer," any person who regularly sells cigarettes within this Commonwealth to retail dealers who buy for the purpose of resale to the ultimate consumer; any person who purchases unstamped cigarettes directly from any manufacturer or out-of-State source for the purpose of resale; or any person who owns or operates ten or more cigarette vending machines.

## ARTICLE II.

### IMPOSITION OF TAX

Section 201. Imposition of Tax.—An excise tax is hereby imposed and assessed upon the sale or possession of cigarettes within this Commonwealth at the rate of two (2) cents per ten cigarettes, or fraction thereof.

In addition to the foregoing, an additional excise tax is hereby imposed and assessed upon the sale or possession of cigarettes within this Commonwealth at the rate of one-half ( $\frac{1}{2}$ ) cent per ten cigarettes, or fraction thereof. The additional tax shall be imposed for the period beginning on the effective date of this act and ending May 31, 1959.

Section 202. Sales to Commonwealth and Political Subdivisions.—The excise tax imposed by this act is hereby levied upon the sale of cigarettes to the Commonwealth or any department, board, commission, authority or agency thereof and to political subdivisions of the Commonwealth or any department, board, commission, authority or agency thereof.

Section 203. Limitation of Tax.—Only one sale of the same pack of cigarettes shall be taxable and used in computing the amount of tax due hereunder.

Section 204. Incidence of Tax.—Notwithstanding any other provision contained in this act, the tax imposed hereby shall be conclusively presumed to be a direct tax on the retail purchaser or ultimate consumer, precollected for convenience.

Section 205. Exemptions from Tax.—No tax imposed by this act shall be levied upon the possession or sale of cigarettes which this Commonwealth is prohibited from taxing under the Constitution or statutes of the United States. In addition, the following sales are exempt: Provided, That the seller and purchaser have registered with the Department and obtained exemption certificates:

(a) Sales to commissaries and ship's stores for use or sale aboard ships, when in operation in waters outside the territorial limits of the Commonwealth, pursuant to regulations of the department;

(b) Sales to veterans' organizations approved by the Department, if the cigarettes are being purchased by the organization for gratuitous issue to veteran patients in Federal, State or State-aided hospitals;

(c) Sales to voluntary unincorporated organizations of military forces personnel operating under regulations promulgated by the Secretary of Defense or departments under his jurisdiction;

(d) Sales to patients in Veterans' Administration hospitals by retail dealers located in such hospitals.

Section 206. Liability for Collection of Tax.—Every person shall be liable to pay into the State Treasury, through the department, the tax imposed by this act on

all packs of cigarettes received by him to which Pennsylvania cigarette tax stamps have not been previously affixed and cancelled.

### ARTICLE III.

#### CIGARETTE TAX STAMPS

Section 301. Dealers to Affix Stamps.—Within the time hereinafter prescribed, every dealer shall affix to each pack of cigarettes received by him and shall cancel Pennsylvania cigarette tax stamps to evidence payment of the tax imposed by this act, unless such stamps have been affixed to the packs of cigarettes and cancelled before such dealer received them.

Section 302. Amount of Stamps; Cancellation.—Pennsylvania cigarette tax stamps in an amount not less than the tax thereon, shall be affixed to each pack of cigarettes in such manner that they will be visible to the purchaser. The person affixing such stamps shall cancel them immediately in such manner as may be prescribed by the department.

Section 303. Design of Stamps.—Pennsylvania cigarette tax stamps shall be adhesive stamps, tax meter impressions or other stamps, labels or prints of such designs and denominations as may be prescribed by the department.

Section 304. Sale of Stamps.—The department shall make provisions for the sale of Pennsylvania cigarette tax stamps in such places and at such times as it deems necessary, but all stamps shall be paid for at the time of purchase, except that the department may permit a stamp affixing agent or wholesale dealer to pay for stamps within forty-five (45) days after the date of purchase, provided a bond satisfactory to the department in an amount not less than the sales price of such stamps is filed with the department. The bond conditioned to secure payment for the stamps shall be executed by the stamp affixing agent as principal and by a corporation duly authorized to engage in business as a surety company in the Commonwealth of Pennsylvania as surety.

Section 305. Time for Affixing Stamps.—Every dealer shall immediately upon the receipt at his place of business of any cigarettes not containing Pennsylvania cigarette tax stamps either affix the proper amount of stamps to each pack of unstamped cigarettes and cancel them, or he shall immediately mark in ink on each unopened box, carton or other container of such cigarettes the word "received," and the month, day and year of receipt, and he shall affix his signature thereto. Upon opening such box, carton or other container and prior to

the sale of such cigarettes, and in no event later than twenty-four (24) hours in the case of a retail dealer, and seventy-two (72) hours in the case of a wholesale dealer, after the time of receipt, the dealer shall affix to each pack of cigarettes and cancel the proper amount of tax stamps.

Section 306. **Manufacturers and Other Persons May Affix Stamps.**—Manufacturers of cigarettes, located either within or outside the Commonwealth, and any other person may purchase Pennsylvania cigarette tax stamps from the department and affix them to packs of cigarettes to be sold within the Commonwealth.

Section 307. **Stamps to be Affixed Once.**—Any person who receives cigarettes to which the proper amounts of Pennsylvania cigarette tax stamps have been previously affixed and cancelled shall not be required to affix additional stamps thereto, notwithstanding any other provisions of this act to the contrary.

Section 308. **Appointment of Stamp Affixing Agents.**—The department may appoint any manufacturer of cigarettes or licensed dealer as its agent to affix Pennsylvania cigarette tax stamps. Such agent shall be exempt from the provisions of section 305 so long as he shall prior to the delivery of any pack of cigarettes to any person in this Commonwealth other than another stamp affixing agent, affix cigarette tax stamps to each pack of cigarettes, unless such stamps shall have been previously affixed thereto, and shall cancel them in such manner as shall be prescribed by the department. The department may authorize the sale of unstamped cigarettes by one stamp affixing agent to another pursuant to regulations governing the recording and reporting of such sales.

Section 309. **Commission on Sales.**—Whenever the department shall sell, consign or deliver to any stamp affixing agent any stamps of the face amount of one hundred dollars (\$100.00) or more, such agent shall be entitled to receive as compensation for his services and expenses as agent in affixing such stamps and to retain out of the moneys to be paid by him for such stamps a commission of four per centum (4%) on the par value thereof, if and when such agent has purchased the stamps affixed by him directly from the department.

Section 310. **Sample Packs of Cigarettes.**—The department shall promulgate regulations governing the receipt, distribution of and payment of tax on sample packs of cigarettes used for free distribution. Such regulations may provide that any licensed dealer may receive and make free distribution of sample packs of cigarettes, containing not more than five (5) cigarettes

per pack, without affixing Pennsylvania cigarette tax stamps thereto so long as the proper tax thereon has been paid.

#### ARTICLE IV.

##### CIGARETTE VENDING MACHINES

Section 401. Names of Owner and Operator To Be On Machine.—There shall be conspicuously and visibly placed, on every cigarette vending machine, the name and address of the owner and the name and address of the operator.

Section 402. License for Machine.—The license required for each cigarette vending machine shall be conspicuously and visibly placed on the machine.

Section 403. Sale of Single Cigarettes from Vending Machines.—Single cigarettes may be sold from vending machines, pursuant to regulations promulgated by the department, so long as tax is paid on such cigarettes.

Section 404. Machine Containing Unstamped Cigarettes.—No property rights shall exist in any cigarette vending machine in which unstamped cigarettes are found, and the same shall be deemed contraband and shall be forfeited to the Commonwealth. No such property when in the custody of the law shall be seized or taken therefrom on any writ of replevin or like judicial process. The Department of Property and Supplies shall dispose of any forfeited machine in the same manner in which it disposes of surplus Commonwealth property.

Section 405. Duties.—Whenever it is provided in this act that a duty or liability is imposed on the owner or operator of cigarette vending machines, such duty or liability shall only be imposed once in regard to any cigarette vending machine and the owner and operator shall be, jointly and severally, liable for the performance of such duty or satisfaction of such liability.

#### ARTICLE V.

##### LICENSES

Section 501. Licenses Required.—No person shall sell any cigarettes within this Commonwealth without first securing the proper license pursuant to the provisions of this act, except that no license shall be required for any person whose cigarette sales are all exempt from tax.

Section 502. Application for License.—Every person, unless all his sales of cigarettes are exempt from tax, who sells cigarettes within this Commonwealth shall apply to the department for a retail or wholesale dealer's ciga-

rette license for each place of business at which, or vending machine from which, he sells cigarettes. Every application shall be made upon a form furnished by the department and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business within this Commonwealth, and such other information as the department may require. If the applicant has or intends to have more than one place of business within the Commonwealth, the application shall state the location of each place of business. If the applicant is an owner or operator of cigarette vending machines, the applicant shall state the number of machines owned or operated by the applicant, and the applicant shall forthwith notify the department of all subsequent acquisitions and dispositions. If the applicant is a partnership, association or joint venture, the application shall set forth the names and addresses of the members of the association, and if a corporation, the names and addresses of the principal officers thereof. If the application is made by a natural person, it shall be signed by him. If it is made by a partnership, association or joint venture, it shall be signed by a principal member. If it is made by a corporation, it shall be signed by an officer or other person specifically authorized to sign the application (to which shall be attached written evidence of his authority).

Section 503. License Fee.—At the time of making any application the applicant for a wholesale dealer's license shall pay to the department a license fee of fifty dollars (\$50.00), and the applicant for a retail dealer's license or vending machine license shall pay to the department a license fee of one dollar (\$1.00). Any person appointed as an agent to affix stamps, pursuant to the provisions of section 308, shall be issued a special license for which he shall pay to the department a fee of two hundred dollars (\$200.00).

Section 504. Issuance of Licenses.—Upon approval of the application and payment of the fees, the department shall issue the proper licenses for each place of business set forth in the application. Every license shall be conspicuously displayed at the place for which issued.

Section 505. Expiration.—Every license shall expire on the thirty-first of December next succeeding the date upon which it was issued, unless sooner suspended, surrendered or revoked.

Section 506. Renewal.—Any outstanding license may be renewed for the next succeeding year, at any time

prior to the date on which it expires, upon application made to the department and payment of a renewal fee equal to the initial license fee.

Section 507. Duplicate License.—Whenever any license is defaced, destroyed or lost, the department may issue a duplicate to the holder of the defaced, destroyed or lost license upon submission of a signed statement setting forth the reasons for the issuance of the duplicate, together with payment of a fee of one dollar (\$1.00).

Section 508. Suspension or Revocation of License.—The department may suspend for as long as thirty (30) days, or after hearing revoke a license, whenever it finds that the holder thereof has failed to comply with any of the provisions of this act, or any regulation of the department adopted pursuant to the provisions hereof. Upon the suspension or revocation of any license, the holder thereof shall immediately surrender to the department all licenses issued to him and no refund of the fees shall be paid. Whenever the department suspends a license without hearing, it shall notify the holder immediately and afford him a hearing if requested. After such hearing the department shall either rescind the suspension, continue it or revoke the license.

Section 509. Transfer of Licenses.—Any licensed dealer may transfer a license from one location to another or from one cigarette vending machine to another in accordance with regulations of the department.

Section 510. Disposition of License Fees.—All license fees imposed and collected under the provisions of this act shall be payable to the Commonwealth and are hereby appropriated to the department to be used for enforcing this act.

## ARTICLE VI.

### GENERAL PROVISIONS

Section 601. Retention of Records.—Every dealer shall maintain and keep for a period of four years a complete record of all cigarettes received, sold and delivered by him within this Commonwealth, together with invoices, bills of lading and other pertinent papers as may be required by the department.

Section 602. Department Authorized to Examine Records.—The department is hereby authorized to examine the books and records, the stock of cigarettes and the premises and equipment of any dealer in order to verify the accuracy of the payment of the tax imposed by this act. Every such person is hereby directed and required to give to the Secretary of Revenue, or his duly authorized representative, the means, facilities and op-

portunity for such examinations. Refusal to cooperate with or permit such examination to the satisfaction of the department shall be sufficient grounds for the suspension or revocation of any license issued hereunder.

Section 603. Enforcement and Regulations.—The department is hereby charged with the enforcement of the provisions of this act, and it is hereby authorized to promulgate regulations relating to the administration and enforcement of the provisions of this act.

Section 604. Refunds.—Whenever any packs of cigarettes upon which stamps have been placed have been sold and shipped into another state for sale or use therein or have been sold to persons exempt under section 205 hereof for resale to authorized purchasers, or have become unfit for use and consumption or unsalable by reason of fire, flood or other causes beyond the control of the dealer, the dealer who sold the cigarettes and shipped them into another state for sale or use therein or who sold the cigarettes to persons exempt under section 205 for resale to authorized purchasers or who owned the cigarettes at the time they became unfit for use and consumption or unsalable by reason of fire, flood or other cause beyond the control of the dealer, shall be entitled to a refund of the actual amount of Pennsylvania cigarette tax paid with respect to such cigarettes. If the department is satisfied that a dealer is entitled to a refund, it shall certify the proposed amount of such refund to the Board of Finance and Revenue for approval, and thereafter shall issue to the dealer stamps of sufficient value to cover the refund approved by the Board.

Section 605. Exempt Sales.—The department may promulgate regulations to relieve manufacturers and dealers from affixing stamps to packs of cigarettes sold and delivered to points outside the Commonwealth for use outside the Commonwealth, or sold to purchasers designated as exempt under section 205 hereof for resale to authorized purchasers. However, all sales shall be presumed to be taxable and the burden shall be upon the person claiming an exemption to prove his right thereto.

Section 606. Invoices or Delivery Tickets Required in Certain Cases.—Every person other than a common carrier, or the employes thereof, who shall possess or transport two hundred (200) or more unstamped cigarettes upon the public highways, roads or streets of this Commonwealth for the purpose of delivery, sale or disposition shall be required to have in his actual possession invoices or delivery tickets for such cigarettes. The absence of

such invoices or delivery tickets shall be prima facie evidence that such person is a dealer in cigarettes in this Commonwealth and subject to the provisions of this act.

Section 607. Advertising.—Any dealer may state the amount of the tax separately from the price of the cigarettes on any displays, signs, sales slips, delivery slips or statements which advertise or indicate the price of such cigarettes.

## ARTICLE VII.

### PENALTIES AND ENFORCEMENT

Section 701. Sale without License.—Any person who shall sell cigarettes without being the holder of the proper cigarette license as required by this act shall, upon conviction in a summary proceeding, be sentenced to pay a fine of twenty-five dollars (\$25.00) and costs of prosecution, and in default of payment thereof, to undergo imprisonment for not more than ten (10) days.

Section 702. Sale of Unstamped Cigarettes.—Any person who shall sell any pack of cigarettes which does not have affixed thereto the proper amount of Pennsylvania cigarette tax stamps shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced for the first offense to pay a fine of not more than one thousand dollars (\$1000.00) or to suffer imprisonment for a term not exceeding six (6) months, or both, in the discretion of the court, and in the case of a conviction of a second or subsequent offense hereunder, shall be sentenced to pay a fine of not more than one thousand dollars (\$1000.00) and to suffer imprisonment for a term not more than three (3) years.

Section 703. Refusal to Permit Inspection.—Any dealer who shall refuse to permit the department to examine its books and records, its stock of cigarettes and its premises and equipment in order to verify the accuracy of its payment of the tax imposed by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than five hundred dollars (\$500.00) or to suffer imprisonment of not more than six (6) months, or both, in the discretion of the court.

Section 704. Counterfeited and Reused Stamps.—Any person who falsely or fraudulently makes, forges, alters, or counterfeits any stamp prescribed by the department under the provisions of this act, or causes or procures to be falsely or fraudulently made, forged, altered or counterfeited any stamp, or knowingly and wilfully utters, publishes, passes, or tenders as true any such false, altered, forged, or counterfeited stamp, or

uses more than once any stamp provided for and required by this act, for the purpose of evading the tax hereby imposed and assessed, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to suffer imprisonment for a term of not more than five (5) years.

Section 705. Possession of Untaxed Cigarettes.—Any person not being a duly licensed dealer under the provisions of this act, or not holding an unexpired exemption certificate issued under section 205 hereof, who shall have in his possession within this Commonwealth two hundred (200) or more cigarettes upon which Pennsylvania cigarette tax has not been paid, or to the packs of which Pennsylvania cigarette tax stamps are not affixed in the amount herein required, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than twenty-five dollars (\$25.00) and costs of prosecution for each two hundred (200) unstamped cigarettes found in his possession, and the cigarettes shall be forfeited to the Commonwealth without further proceedings, and in default of the payment of the said fine and costs, he shall be imprisoned in the county jail one (1) day for each dollar of fine and costs unpaid.

Section 706. Dealer's Possession of Unstamped Cigarettes.—Whenever any cigarettes are found at the place of business of a dealer who is not a licensed stamp affixing agent and such cigarettes do not have the proper amount of stamps affixed and cancelled and the boxes, cartons or other containers have not been marked as having been received within the preceding twenty-four (24) hours in the case of a retail dealer, or seventy-two (72) hours in the case of a wholesale dealer, such dealer shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than twenty-five dollars (\$25.00) and costs of prosecution for each two hundred (200) unstamped and unmarked cigarettes found in his possession, and the cigarettes shall be forfeited to the Commonwealth without further proceedings, and in default of the payment of the said fine and costs, he shall be imprisoned in the county jail one (1) day for each dollar of fine and costs unpaid.

Section 707. Other Violations.—Any person who violates any other provisions of this act or the regulations promulgated hereunder shall, upon conviction in a summary proceeding, be sentenced to pay a fine of twenty-five dollars (\$25.00) and costs of prosecution, and in default of payment thereof, to undergo imprisonment for not more than ten (10) days.

Section 708. Fines and Penalties Payable to Commonwealth.—All fines and penalties imposed and collected under the provisions of this act shall be payable to the Commonwealth and are hereby appropriated to the department to be used in enforcing this act.

Section 709. Forfeited Cigarettes.—The court shall order the sheriff to deliver to any non-profit hospital for the use of its patients any cigarettes forfeited to the Commonwealth under the provisions of this act and to make return to the court of compliance with the order.

Section 710. Cigarette Vending Machine Forfeiture Proceedings.—(a) The proceedings for the forfeiture of any cigarette vending machine in which are found un-taxed cigarettes shall be in rem, in which the Commonwealth shall be the plaintiff and the property the defendant. A petition shall be filed in the court of quarter sessions of the county in which the machine was found, verified by the oath of affirmation of any cigarette tax enforcement officer or other person. The petition shall contain the following: (1) a description of the machine seized, (2) a statement of the time when and place where seized, (3) the name and address of the owner, if known, (4) the name and address of the person in possession, if known, (5) a statement of the circumstances under which the machine was found and the number and a description of the unstamped cigarettes found therein, and (6) a prayer for an order forfeiting the machine to the Commonwealth, unless cause be shown to the contrary.

(b) A copy of the petition shall be served personally on the owner if he can be found within the Commonwealth, or upon the person in possession at the time of the seizure. The copy shall have endorsed thereon a notice substantially similar to the following:

“To the claimant of the within cigarette vending machine: You are required to file an answer to this petition setting forth your title in and right to possession of said machine, within twenty (20) days from the service hereof, and you are also notified that if you fail to file said answer, a decree of forfeiture will be entered against said machine.”

The notice shall be signed by the petitioner or his attorney or the District Attorney or Attorney General.

(c) If the owner of the machine is unknown or outside the Commonwealth and there was no person in possession of the machine when seized, or the person in possession cannot be found within the Commonwealth, a copy of the petition shall be sent by registered or certified mail, return receipt requested, to his last known address, if any, and notice of the petition shall also be given by an

advertisement in only one newspaper of general circulation published in the county where the machine was seized, once a week for two (2) successive weeks. No other advertisement of any sort shall be necessary, any other law to the contrary notwithstanding. The notice shall contain a statement of the seizure of the machine, with a description thereof, the place and date of seizure, and shall direct any claimants thereof to file a claim therefor, on or before a date given in the notice, which shall not be less than ten (10) days from the date of the last publication.

(d) Upon the filing of any claim for the machine setting forth a right of possession thereof, the case shall be deemed at issue and a time fixed for the hearing thereof.

(e) At the time of the hearing, if the Commonwealth shall produce evidence that the machine in question was found to contain unstamped cigarettes, the burden shall be upon the claimant to show (1) that he is the owner of the machine, and (2) that all cigarettes found in the machine at the time of seizure did contain the proper amounts of Pennsylvania cigarette tax stamps.

In the event the claimant shall prove, by competent evidence, to the satisfaction of the court that the machine did not contain unstamped cigarettes, the Court shall order the machine returned to the claimant; otherwise, the Court shall order it forfeited to the Commonwealth.

Section 711. Peace Officers; Powers.—Such employes of the Department of Revenue as are designated “cigarette tax enforcement officers” are hereby declared to be peace officers and are hereby given police power and authority throughout the Commonwealth to arrest on view, except in private homes, without warrant, any person actually engaged in the unlawful sale of unstamped cigarettes or unlawfully having in his possession unstamped cigarettes contrary to the provisions of this act. Such cigarette tax enforcement officers shall have the power and authority, upon reasonable and probable cause, to search for and seize without warrant or process, except in private homes, any unstamped cigarettes unlawfully possessed. Such cigarettes shall be disposed of as hereinbefore provided.

## ARTICLE \*VIII.

### MISCELLANEOUS

Section 801. Prior Law; Saving Clause.—This act shall be deemed to be a continuation of prior law and all cigarette tax stamps, licenses and permits sold or issued pursuant to any act repealed hereby shall continue in full force and effect in accordance with their terms and any

\* “VII.” in original.

cigarettes upon which tax has once been paid shall not be taxed a second time. All licenses issued after the effective date of this act shall be issued in accordance with the requirements of and schedule of fees provided in this act. The enactment of this act shall not affect or impair any act done or right existing or accrued or affect any civil or criminal suit, action, proceeding or prosecution to enforce any right acquired or prosecute any violation committed under the provisions of any law repealed hereby.

Section 802. Repeal.—The act of June 14, 1935 (P. L. 341), entitled, as amended, “An act to provide revenue by imposing a State tax upon sales or gifts of cigarettes by dealers as herein defined; requiring persons engaged in the sale of cigarettes at wholesale and retail to secure permits; prescribing the method and manner of collecting such tax; making it unlawful to possess cigarettes upon which the tax has not been paid; conferring powers and imposing duties on the Department of Revenue, and persons as herein defined, engaged in the sale of cigarettes at retail or wholesale; and providing penalties,” and all reenactments and amendments thereto are repealed.

Section 803. Effective Date.—This act shall take effect immediately.

APPROVED—The 8th day of July, A. D. 1957.

GEORGE M. LEADER

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No. 328

AN ACT

Amending the act of June 1, 1956 (P. L. 1944), entitled “An act providing a permanent allocation of a part of the fuels and liquids fuels tax proceeds to cities, boroughs, incorporated towns and townships, for their road, street and bridge purposes; conferring powers and imposing duties on local officers and the Department of Highways; and making an appropriation out of the Motor License Fund; and repealing existing legislation,” continuing a conditional appropriation beyond the calendar year 1957.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 4.1, act of June 1, 1956 (P. L. 1944), entitled “An act providing a permanent allocation of a part of the fuels and liquids fuels tax proceeds to cities, boroughs, incorporated towns and townships, for their road, street and bridge purposes: con-

Allocations of funds to cities, boroughs, towns and townships.

Section 4.1, act of June 1, 1956, P. L. 1944, amended.