

421B.2 Definitions.

When used in any part of this chapter, the following words, terms and phrases shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

1. *"Basic cost of cigarettes"* shall mean whichever of the two following amounts is lower: (a) the true invoice cost of cigarettes to the wholesaler or retailer, as the case may be, or (b) the lowest replacement cost of cigarettes to the wholesaler or retailer in the quantity last purchased, less, in either case, all trade discounts and customary discounts for cash, plus one-half of the full face value of any stamps which may be required by any cigarette tax act of this state.

2. *"Cigarettes"* shall mean and include any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

3. a. *"Cost to the retailer"* shall mean the basic cost of the cigarettes involved to the retailer plus the cost of doing business by the retailer as defined in this chapter.

b. The cost of doing business by the retailer is presumed to be six percent of the basic cost of cigarettes in the absence of proof of a lesser or higher cost plus the full face value of any stamps which may be required by any cigarette tax act of this state to the extent not already included in the basic cost of cigarettes.

c. If any retailer in connection with the retailer's purchase of any cigarettes shall receive the discounts ordinarily allowed upon purchases by a retailer and in whole or in part discounts ordinarily allowed upon purchases by a wholesaler, the cost of doing business by the retailer with respect to the said cigarettes shall be, in the absence of proof of a lesser or higher cost of doing business, the sum of the cost of doing business by the retailer and, to the extent that the retailer shall have received the full discounts allowed to a wholesaler, the cost of doing business by a wholesaler as hereinabove defined in subsection 4, paragraph "b".

4. a. *"Cost to wholesaler"* shall mean the basic cost of the cigarettes plus the cost of doing business by the wholesaler, as defined in this chapter.

b. The cost of doing business by the wholesaler is presumed to be three percent of the basic cost of cigarettes in the absence of proof of a lesser or higher cost, which includes cartage to the retail outlet, plus the full face value of any stamps which may be required by any cigarette tax act of this state to the extent not already included in the basic cost of cigarettes.

5. *"Person"* shall mean and include any individual, firm, association, company, partnership, corporation, joint stock company, club agency, syndicate, or anyone engaged in the sale of cigarettes.

6. *"Retailer"* means any person who is engaged in this state in the business of selling, or offering to sell, cigarettes at retail.

For purposes of this chapter, a person who does not meet the definition of retailer or wholesaler but who is engaged in the business of selling cigarettes in this state to a retailer or final consumer shall be considered a retailer and subject to the minimum pricing requirements of this chapter.

7. *"Sale"* and *"sell"* shall mean and include any transfer for a consideration, exchange, barter, gift, offer for sale and distribution in any manner or by any means whatsoever.

8. *"Sell at retail"*, *"sale at retail"* and *"retail sales"* shall mean and include any sale or offer for sale for consumption or use made in the ordinary course of trade of the seller's business.

9. "*Sell at wholesale*", "*sale at wholesale*", and "*wholesale sales*" shall mean and include any sale or offer for sale made in the course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

10. "*Wholesaler*" means and includes any person who acquires cigarettes for the purpose of sale to retailers or to other persons for resale, and who maintains an established place of business when any part of the business is the sale of cigarettes at wholesale to persons licensed under this chapter, and where at all times a stock of cigarettes is available to retailers for resale.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 551A.2]

83 Acts, ch 165, § 35

C93, § 421B.2

2001 Acts, ch 116, §5