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Private Acts of 1955 Chapter 295

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Private Acts of 1955 Chapter 295

SECTION 1. That all Counties within the State of Tennessee having a population according to Federal Census of 1950 of 482, 393 or more and all incorporated Cities within such Counties be and they hereby are authorized to levy a privilege tax upon the purchase at retail of cigarettes of One Cent per package containing 20 or less cigarettes and for packages containing more than 20 cigarettes at the rate of One Cent for each 20 cigarettes or fraction thereof; said tax so levied being a privilege tax upon the consumer of said cigarettes to be collected as hereinafter provided.

SECTION 2. Definitions: For the purposes of this Act:

- (a) The term "retailer" means a person who sells cigarettes for consumption and not for resale.
- (b) The term "wholesaler" means the person who sells cigarettes to retailers and shall include distributors, manufacturers or any other person making sales to retailers.

SECTION 3. That the tax imposed under the authority of this Act by any County shall be levied upon the retail purchases of cigarettes made in such County from retailers whose places of business are located in the portions of such County outside the boundaries of any incorporated City. A County may if it shall so determine, by appropriate resolution, levy the tax herein authorized upon all purchases of cigarettes within any City in the County which shall have failed to itself levy said tax on purchases within its boundaries, but shall not levy said tax within any city which has levied the tax within its boundaries. The tax levied by the action of the Government of any incorporated City within such County shall be levied only on the retail purchases of cigarettes made from retailers whose places of business are located within the City Limits of such incorporated City imposing such tax by the authority of this Act. Any City within a County having a population of 482, 393 or more according to the Federal Census of 1950 or any subsequent census may cause the provisions of this Act to become effective within its boundaries, even though the County itself or other Cities within such County, have failed to do so.

SECTION 4. That said tax shall be added by each and every wholesaler who sells cigarettes to retailers within such Counties and Cities, to each invoice for cigarettes sold to a retailer within a County or City which shall have levied the tax under the authority hereof and shall be collected by such wholesaler from such retailer and remitted to said Counties and Cities as may be entitled thereto as hereinafter set out. Each such retailer shall include the amount of such tax paid by him to the wholesaler in the retail price charged by him to the consumer on each and every package of cigarettes sold.

SECTION 5. That it shall be unlawful for any retailer to sell any cigarettes within a County or a City which has adopted the provisions of this Act and levied the tax herein authorized without collecting the tax hereby authorized and each separate sale without the collection of such tax is hereby made a separate offense, punishable as hereinafter provided.

SECTION 6. That the tax hereby levied shall be remitted by all wholesalers who sell cigarettes within Counties and Cities which have adopted the provisions of this Act to the County Court Clerk, in the case of the County, and to that official who is charged with the duty of collection of privilege taxes within such City, or such other officer as may by resolution or ordinance be charged with the duty of collection thereof, said tax to be remitted to such officer not later than the 20th day of each month for the preceding month. The wholesaler is hereby required to collect the said tax from the retailer at the time of delivery of all cigarettes on which said tax is levied, and if credit be granted by the wholesaler to the retailer then the obligation to all Counties and Cities entitled to said tax shall be that of the wholesaler. The County Court of any County or the governing body of any City which has adopted the provisions of this Act is hereby authorized and empowered by Resolution in case of the County and by Ordinance in case of a City to provide reasonable rules and regulations for the implementation of the provisions of this Act. Without limitation upon the provisions of such Resolution or Ordinance such Resolution or Ordinance may provide for the making of a monthly tax return by the wholesaler under oath with such number of copies thereof as may be reasonably required by the collection of said tax and including such facts and information as may be deemed reasonable for the verification of the tax due and may provide for and require access to the pertinent records of all wholesalers at reasonable times. Such Resolution or Ordinance may likewise require the placing or printing by the wholesaler of a stamp upon each package of cigarettes showing the payment of said tax and in the event such provision is made then such stamps may be printed and sold by such Counties and such Cities to wholesalers. Such Resolution or Ordinance may also exempt from the tax herein provided all purchasers of cigarettes made upon any military base, post, hospital or other military establishment of the United States of America. A County and a City within the County or two or more Cities within a County may contract with each other for the purpose of adopting common methods, measures, agencies, rules and regulations for the collection of their several taxes.

SECTION 7. That if the Counties and Cities levying the tax herein authorized shall elect by Resolution or

Ordinance to provide and sell stamps to be affixed to packages of cigarettes, or shall elect by Resolution or Ordinance to permit the wholesaler to print a stamp on each package of cigarettes indicating the payment of the tax due thereon, it shall then be unlawful for a retailer or a consumer to have in his possession with such County or within such City any package or packages of cigarettes which are not so stamped or printed, and the possession of each and every package of unstamped cigarettes by a retailer or a consumer shall constitute a separate offense under the provisions of this Act, punishable as provided hereinafter.

SECTION 8. That each violation of any provision of this Act shall be punishable by a fine of not less than \$50.00 nor more than \$500.00.

SECTION 9. That each County and each City adopting the provisions of this Act may by Resolution or Ordinance, as the case may be, allow the wholesaler a discount of not to exceed 5% of the Tax collected by him as compensation for affixing or printing stamps, making reports and such other services as may be required of the wholesaler in the administration of the provisions of this Act.

SECTION 10. That if any portion of this Act shall be held invalid the remaining portions hereof shall not be affected.

SECTION 11. That this Act shall become effective as to any County or any City coming within the provisions hereof when the same shall have been approved by the County Court, in the case of the County, or by governing body of a City, in the case of a City, coming within the provisions hereof, by a vote of not less than two-thirds of the members of the County court or the governing of a City, as the case may be, such approval to be made by said County Court or said governing body of a City, as the case may be, within 60 days after the sine die adjournment of the General Assembly of the State of Tennessee for the year 1955, the public welfare requiring its becoming effective at that time, and this Act shall not become effective as to any County or any City before such approval by such County Court, in the case of a County, or such governing body of a City, in the case of a City. The approval or non-approval of this Act by said County Court and by said governing bodies of Cities shall be certified by the Chairman of the County Court, in the case of Counties, and by the Mayor of each City entitled to avail itself of the provisions of this Act to the Secretary of State.

Passed: March 1, 1955.

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