

THE CASE OF SPECIALLY PACKAGED MANUFACTURERS' SAMPLES WHICH ARE DESIGNATED ON THE PACKAGE AS NOT TO BE SOLD; OR

(4) MAKE ANY REBATE, ADVERTISING ALLOWANCE, OR ANY OTHER CONCESSION BY ANY MEANS OR DEVICE IN CONNECTION WITH THE SALE OF CIGARETTES WHEREBY THE CIGARETTES ARE IN EFFECT SOLD BELOW THEIR COST TO THE RETAILER OR THEIR COST TO THE WHOLESALER, RESPECTIVELY.

(B) EXCEPTION.

A RETAILER OR WHOLESALER MAY PASS ON TO A PURCHASER ANY REDUCTION IN COST WHICH RESULTS FROM:

(1) PAYMENT OR COMPENSATION GIVEN BY A MANUFACTURER OF CIGARETTES ON A UNIFORM AND NONDISCRIMINATORY BASIS FOR PROMOTIONAL SERVICES; OR

(2) ANY COUPON ISSUED AND ULTIMATELY REDEEMED BY A CIGARETTE MANUFACTURER.

REVISOR'S NOTE: This section presently appears as Art. 83, §120.

The reference to violations of the UnFair Sales Act, presently appearing in the introductory paragraph to Art. 83, §120 is deleted as inconsistent with §11-509 of this subtitle.

The only other changes are in style.

11-506. EVIDENCE.

(A) PRIMA FACIE EVIDENCE OF INTENT.

IN ANY PROCEEDING UNDER THIS SUBTITLE, INCLUDING A PROCEEDING RELATING TO LICENSES BEFORE THE STATE COMPTROLLER, PROOF OF A SALE BY A RETAILER OR A WHOLESALER OF CIGARETTES OR OF ANY OTHER ITEM IN COMBINATION OR IN CONNECTION WITH CIGARETTES AT LESS THAN THEIR COST TO THE RETAILER OR THEIR COST TO THE WHOLESALER, RESPECTIVELY, IS PRIMA FACIE EVIDENCE OF INTENT TO INJURE A COMPETITOR OR TO DESTROY OR SUBSTANTIALLY LESSEN COMPETITION.

(B) EVIDENCE OF COST.

IN DETERMINING COST TO THE RETAILER OR COST TO THE WHOLESALER, THE STATE COMPTROLLER OR THE COURT SHALL RECEIVE AND CONSIDER EVIDENCE:

(1) THAT THE PERSON COMPLAINED AGAINST PURCHASED CIGARETTES AT A FICTITIOUS PRICE OR ON TERMS,