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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Substitute Bill Comparative Synopsis

Sub. H.B. 71

133rd General Assembly

House Ways and Means

This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (As Introduced)	Latest Version (L-133-0653-1)
Culpability	
Retailers are prohibited from recklessly inducing or procuring the purchase of cigarettes at a price less than the wholesaler's cost. (R.C. 1333.12(B).)	<p>The prohibition is the same, but the retailer's state of mind in violating it is purposely, which implies that the retailer has to act more intentionally than under the reckless standard in order to be considered to have committed a violation.</p> <p>Under Ohio criminal law, a person acts purposely when it is their specific intention to engage in the prohibited conduct; it is the highest degree of intentionality. A person is considered to act recklessly when, "with heedless indifference to the consequences, the person disregards a substantial and unjustifiable risk" that their conduct is likely to cause a certain result. (See R.C. 2901.22.)</p>
Role of 'concessions'	
A separate and distinct prohibition bars a retailer from inducing or procuring a concession "of any kind" in connection with the purchase of cigarettes from a wholesaler, independent from how the price compares to the wholesaler's cost. (R.C. 1333.12(B).)	The bar against concessions is integrated into the purchase price prohibition, so that a retailer is barred from inducing or procuring the purchase of cigarettes at a price that, " <i>including any related concessions,</i> " is less than the wholesaler's cost.

Previous Version (As Introduced)	Latest Version (L-133-0653-1)
Approval of exceptions	
<p>The Tax Commissioner is authorized to make exceptions to the minimum cigarette pricing requirements if a wholesaler files proof that the wholesaler’s cost varies from the law’s default cost and the proof is “satisfactory to” the Commissioner. (R.C. 1333.11(C), 1333.12(C), and 1333.15.)</p>	<p>Same, except that, instead of the proof being satisfactory to the Commissioner, the Commissioner must have approved the exception.</p>

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