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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 40  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for S.B. 40's Bill Analysis](#)

**Version:** As Reported by House Ways and Means

**Primary Sponsor:** Sen. Schaffer

**Local Impact Statement Procedure Required:** No

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The bill makes certain changes to the statutorily prescribed minimum sales prices of cigarettes in Ohio. The bill's provisions primarily codify the practice of the Department of Taxation, so the bill has a minimal effect on the Department's costs, and no direct fiscal effect on other state agencies or political subdivisions.

Current law prohibits a cigarette wholesaler to advertise or sell cigarettes at less than its cost. The bill specifies conditions under which a wholesaler may do so, if approved by the Tax Commissioner. The bill also specifies the cost basis on which the wholesale minimum sale price of cigarettes is calculated.<sup>1</sup> A wholesaler may appeal the Commissioner's rejection of a request for an alternative cost of doing business to the Board of Tax Appeals.

Current law does not expressly contemplate transactions between wholesalers. The bill proposes to enact section 1333.13 of the Revised Code regarding cigarette minimum pricing between wholesalers. When one wholesaler sells cigarettes to another wholesaler, the selling wholesaler is not required to include in the selling price its full cost, and the purchasing wholesaler will be considered the wholesaler upon resale to a cigarette retailer for purposes of cigarette law. However, a wholesaler selling to a retailer must continue to charge the wholesaler's minimum sales price.

Additional details are available in the LSC bill analysis.

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<sup>1</sup> In cases where a wholesaler would like to deviate from prescribed minimum prices for a cash and carry sale to a retailer, the Tax Commissioner may require the wholesaler to have an independent certified public accountant certify that the calculation of the wholesaler's cost of doing business was made in accordance with generally accepted accounting principles.