

HOUSE BILL No. 6071

July 6, 2004, Introduced by Rep. Julian and referred to the Committee on Regulatory Reform.

A bill to amend 1993 PA 327, entitled
"Tobacco products tax act,"
by amending section 8 (MCL 205.428), as amended by 1997 PA 187.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8. (1) A person, other than a licensee, who is in
2 control or in possession of a tobacco product contrary to this
3 act, who after August 31, 1998 is in control or in possession of
4 an individual package of cigarettes without a stamp in violation
5 of this act, or who offers to sell or does sell a tobacco product
6 to another for purposes of resale without being licensed to do so
7 under this act, shall be personally liable for the tax imposed by
8 this act, plus a penalty of ~~100%~~ **500%** of the amount of tax due
9 under this act.

10 (2) The ~~commissioner of revenue~~ **department** may permit a
11 representative of a licensed manufacturer of tobacco products

1 whose duties require travel in this state to transport up to
2 138,000 cigarettes, of which not more than 36,000 cigarettes may
3 bear no tax indicia or the tax indicia of another state. All
4 138,000 cigarettes must bear the stamp approved by the department
5 or the tax indicia of another state, if any. The total value of
6 tobacco products, excluding cigarettes, carried by a
7 representative shall not exceed a wholesale value of \$5,000.00.
8 A manufacturer shall notify the department of the manufacturer's
9 representatives that it currently employs who carry cigarettes or
10 tobacco products other than cigarettes in performing work duties
11 in this state. The manufacturer shall maintain a record of each
12 transaction by the manufacturer's representative for a period of
13 4 years immediately following the transaction and shall produce
14 the records upon request of the ~~commissioner~~ **state treasurer** or
15 the ~~commissioner's~~ **state treasurer's** authorized agent. Each
16 record shall identify the quantity and identity of the tobacco
17 products, detail whether exchanged, received, removed, or
18 otherwise disposed of and the identity of the retailer,
19 wholesaler, secondary wholesaler, vending machine operator, or
20 unclassified acquirer involved. The representative of the
21 manufacturer shall provide a copy of the record to the retailer,
22 wholesaler, secondary wholesaler, vending machine operator, or
23 unclassified acquirer at the time of the exchange or disposal.
24 The retailer, wholesaler, secondary wholesaler, vending machine
25 operator, or unclassified acquirer shall retain the copy of the
26 record in the same place and for the same time period as other
27 records required by this section. A representative shall not

1 exchange, or otherwise dispose of, within this state tobacco
2 products bearing the tax indicia of another state or receive
3 tobacco products bearing the tax indicia of another state from
4 retailers located within this state. A representative who sells,
5 exchanges, or otherwise disposes of cigarettes or tobacco
6 products other than cigarettes that do not bear the stamp or
7 other marking required by the department or sells, exchanges, or
8 otherwise disposes of cigarettes or tobacco products other than
9 cigarettes bearing the tax indicia of another state is guilty of
10 a felony, punishable by a fine of not more than \$5,000.00 or
11 imprisonment for not more than 5 years, or both.

12 (3) A person who possesses, acquires, transports, or offers
13 for sale contrary to this act 3,000 or more cigarettes, ~~or~~
14 tobacco products other than cigarettes with an aggregate
15 wholesale price of \$250.00 or more, **or 3,000 or more counterfeit**
16 **cigarettes** is guilty of a felony, punishable by a fine of not
17 more than \$50,000.00 or imprisonment for not more than 5 years,
18 or both.

19 (4) A person who possesses, acquires, transports, or offers
20 for sale contrary to this act 1,200 or more, but not more than
21 2,999, cigarettes, ~~or~~ tobacco products other than cigarettes
22 with an aggregate wholesale value of \$100.00 or more but less
23 than \$250.00, **or 1,200 or more, but not more than 2,999,**
24 **counterfeit cigarettes,** is guilty of a misdemeanor punishable by
25 a fine of not more than \$5,000.00 or imprisonment of not more
26 than 1 year, or both.

27 (5) A person who violates a provision of this act for which a

1 criminal punishment is not otherwise provided is guilty of a
2 misdemeanor, punishable by a fine of not more than \$1,000.00 **or 5**
3 **times the retail value of the tobacco products involved,**
4 **whichever is greater,** or imprisonment for not more than 1 year,
5 or both.

6 (6) A person who manufactures, possesses, or uses a stamp or
7 manufactures, possesses, or uses a counterfeit stamp or writing
8 or device intended to replicate a stamp without authorization of
9 the department, ~~or~~ a licensee who purchases or obtains a stamp
10 from any person other than the department, **or who falsifies a**
11 **manufacturer's label on cigarettes or counterfeit cigarettes,** is
12 guilty of a felony and shall be punished by imprisonment for not
13 less than 1 year or more than 10 years and may be punished by a
14 fine of not more than \$50,000.00.

15 (7) A person who falsely makes, counterfeits, or alters a
16 license, vending machine disc, or marker, or who purchases or
17 receives a false or altered license, vending machine disc, or
18 marker, or who assists in or causes to be made a false or altered
19 license, vending machine disc, or marker, or who possesses a
20 device used to forge, alter, or counterfeit a license, vending
21 machine disc, or marker is guilty of a felony punishable by a
22 fine of not more than \$5,000.00 or imprisonment for not more than
23 5 years, or both. A person who alters or falsifies records or
24 markings required under this act is guilty of a felony punishable
25 by a fine of not more than \$5,000.00 or imprisonment for not more
26 than 5 years, or both.

27 (8) The attorney general has concurrent power with the

1 prosecuting attorneys of the state to enforce this act.

2 (9) At the request of the department or its duly authorized
3 agent, the state police and all local police authorities shall
4 enforce the provisions of this act.