



# HOUSE BILL No. 5841

May 1, 1996, Introduced by Rep. Munsell and referred to the Committee on Tax Policy.

A bill to amend section 2 of Act No. 327 of the Public Acts of 1993, entitled "Tobacco products tax act," being section 205.422 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Section 2 of Act No. 327 of the Public Acts of  
2 1993, being section 205.422 of the Michigan Compiled Laws, is  
3 amended to read as follows:

4 Sec. 2. As used in this act:

5 (a) "Cigarette" means a roll for smoking made wholly or in  
6 part of tobacco, irrespective of size or shape and irrespective  
7 of the tobacco being flavored, adulterated, or mixed with any  
8 other ingredient, which roll has a wrapper or cover made of paper  
9 or any other material. Cigarette does not include cigars.

1 (b) "Commissioner" means the revenue commissioner.

2 (c) "Department" means the department of treasury.

3 (d) "Licensee" means a person licensed under this act.

4 (e) "Manufacturer" means a person who manufactures or  
5 produces a tobacco product.

6 (f) "Noncigarette smoking tobacco" means tobacco sold in  
7 loose or bulk form that is intended for consumption by smoking.  
8 NONCIGARETTE SMOKING TOBACCO ALSO MEANS ROLL YOUR OWN CIGARETTE  
9 TOBACCO.

10 (g) "Person" means an individual, partnership, fiduciary,  
11 association, corporation, LIMITED LIABILITY COMPANY, or other  
12 legal entity.

13 (h) "Place of business" means a place where a tobacco prod-  
14 uct is sold or where a tobacco product is brought or kept for the  
15 purpose of sale or consumption, including a vessel, airplane,  
16 train, or vending machine.

17 (i) "Retailer" means a person other than a transportation  
18 company who operates a place of business for the purpose of  
19 making sales of a tobacco product at retail.

20 (j) "Sale" means a transaction by which the ownership of  
21 tangible personal property is transferred for consideration and  
22 applies also to use, gifts, exchanges, barter, and theft.

23 (k) "Secondary wholesaler" means a person who sells a  
24 tobacco product for resale, who purchases a tobacco product from  
25 a wholesaler OR AN UNCLASSIFIED ACQUIRER licensed under this act,  
26 and who maintains an established place of business in this state  
27 WHERE SUBSTANTIALLY ALL OF THE BUSINESS IS THE SALE OF TOBACCO

1 PRODUCTS AND RELATED MERCHANDISE AT WHOLESALE, AND WHERE AT ALL  
2 TIMES A SUBSTANTIAL STOCK OF TOBACCO PRODUCTS AND RELATED MER-  
3 CHANDISE IS AVAILABLE TO ALL RETAILERS FOR RESALE.

4 (l) "Smokeless tobacco" means snuff, chewing tobacco, and  
5 any other tobacco that is intended to be consumed by means other  
6 than smoking.

7 (m) "Tobacco product" means cigarettes, cigars, noncigarette  
8 smoking tobacco, or smokeless tobacco.

9 (n) "Transportation company" means a person operating, or  
10 supplying to common carriers, cars, boats, or other vehicles for  
11 the transportation or accommodation of passengers and engaged in  
12 the sale of a tobacco product at retail.

13 (o) "Transporter" means a person importing or transporting  
14 into this state, or transporting in this state, a tobacco product  
15 obtained from a source located outside this state, or from any  
16 person not duly licensed under this act. Transporter does not  
17 include an interstate commerce carrier licensed by the interstate  
18 commerce commission to carry commodities in interstate commerce,  
19 or a licensee maintaining a warehouse or place of business out-  
20 side of this state if the warehouse or place of business is  
21 licensed under this act.

22 (p) "Unclassified acquirer" means a person, except a trans-  
23 portation company or a purchaser at retail from a retailer  
24 licensed under the general sales tax act, Act No. 167 of the  
25 Public Acts of 1933, being sections 205.51 to 205.78 of the  
26 Michigan Compiled Laws, who imports or acquires a tobacco product  
27 from a source other than a wholesaler or secondary wholesaler

1 licensed under this act for use, sale, or distribution.

2 UNCLASSIFIED ACQUIRER ALSO MEANS A PERSON, INCLUDING A RETAILER,  
3 WHO RECEIVES CIGARS, NONCIGARETTE SMOKING TOBACCO, OR SMOKELESS  
4 TOBACCO DIRECTLY FROM A MANUFACTURER, OR FROM A SOURCE OUTSIDE  
5 THIS STATE WHICH SOURCE IS NOT LICENSED UNDER THIS ACT. AN  
6 UNCLASSIFIED ACQUIRER DOES NOT MEAN A WHOLESALER AS DEFINED IN  
7 THIS ACT.

8 (q) "Vending machine operator" means a person who operates 1  
9 or more vending machines for the sale of a tobacco product and  
10 who purchases a tobacco product from a manufacturer, licensed  
11 wholesaler, or secondary wholesaler.

12 (r) "Wholesale price" means the actual price paid for a  
13 tobacco product, including any tax, by a wholesaler to a manufac-  
14 turer, excluding any discounts or reductions.

15 (s) "Wholesaler" means a person who purchases all or part of  
16 his or her tobacco products from a manufacturer, who sells 75% or  
17 more of those tobacco products to others for resale, and who  
18 maintains an established business where substantially all of the  
19 business is the sale of tobacco products or cigarettes and  
20 related merchandise at wholesale and where at all times a sub-  
21 stantial stock of tobacco products and related merchandise is  
22 available to retailers for resale. Wholesaler includes a chain  
23 of stores retailing a tobacco product to the consumer if 75% of  
24 its stock of tobacco products is purchased directly from the  
25 manufacturer.