



HOUSE BILL No. 5845

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

A bill to amend section 8 of Act No. 327 of the Public Acts of 1993, entitled "Tobacco products tax act," being section 205.428 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 8 of Act No. 327 of the Public Acts of
2 1993, being section 205.428 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 8. (1) ~~Beginning May 1, 1994, a~~ A person, other than
5 a licensee, who is in control or in possession of a tobacco prod-
6 uct contrary to this act, or who offers to sell or does sell a
7 tobacco product to another for purposes of resale without being
8 licensed to do so under this act, shall be considered to have
9 possession of that tobacco product as an unclassified acquirer

1 and shall be personally liable for the tax imposed by this act,
2 plus a penalty of 100% of the amount of tax due under this act.

3 (2) THE COMMISSIONER MAY PERMIT A REPRESENTATIVE OF A
4 LICENSED MANUFACTURER OF TOBACCO PRODUCTS WHOSE DUTIES REQUIRE
5 TRAVEL IN THIS STATE TO TRANSPORT UP TO 72,000 CIGARETTES, OF
6 WHICH NOT MORE THAN 36,000 CIGARETTES MAY BEAR THE TAX INDICIA OF
7 OTHER STATES. THE TOTAL VALUE OF TOBACCO PRODUCTS, NOT INCLUDING
8 CIGARETTES, CARRIED BY A REPRESENTATIVE SHALL NOT EXCEED A VALUE
9 OF \$5,000.00. LICENSED MANUFACTURERS SHALL NOTIFY THE DEPARTMENT
10 OF THE MANUFACTURER'S REPRESENTATIVES THAT THEY CURRENTLY EMPLOY
11 WHO CARRY CIGARETTES OR OTHER TOBACCO PRODUCTS IN PERFORMING WORK
12 DUTIES IN THIS STATE. THE MANUFACTURER SHALL MAINTAIN A RECORD
13 OF EACH TRANSACTION BY THE MANUFACTURER'S REPRESENTATIVE AT AN
14 OFFICE LOCATED IN THIS STATE FOR A PERIOD OF 4 YEARS IMMEDIATELY
15 FOLLOWING THE TRANSACTION AND SHALL PRODUCE THE RECORDS UPON THE
16 REQUEST OF THE COMMISSIONER OR THE COMMISSIONER'S AUTHORIZED
17 AGENT. EACH RECORD SHALL IDENTIFY THE QUANTITY AND IDENTITY OF
18 THE TOBACCO PRODUCTS EXCHANGED, RECEIVED, REMOVED, OR OTHERWISE
19 DISPOSED OF, AND IDENTIFY THE RETAILER OR WHOLESALER INVOLVED. A
20 REPRESENTATIVE SHALL NOT SELL, EXCHANGE, OR OTHERWISE DISPOSE OF,
21 WITHIN THIS STATE, CIGARETTES OR OTHER TOBACCO PRODUCTS BEARING
22 THE TAX INDICIA OF ANOTHER STATE, OR RECEIVE TOBACCO PRODUCTS
23 WITH TAX INDICIA FROM OTHER STATES FROM RETAILERS LOCATED WITHIN
24 THIS STATE.

25 (3) A PERSON WHO POSSESSES, ACQUIRES, TRANSPORTS, OR OFFERS
26 FOR SALE CONTRARY TO THIS ACT 1,200 OR MORE BUT NOT MORE THAN
27 2,999 CIGARETTES, OR OTHER TOBACCO PRODUCTS NOT INCLUDING

1 CIGARETTES WHOSE WHOLESALE PRICE IS \$100.00 OR MORE BUT NOT MORE
2 THAN \$250.00, IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF
3 NOT MORE THAN \$1,000.00 OR IMPRISONMENT FOR NOT MORE THAN 1 YEAR,
4 OR BOTH.

5 (4) ~~(2)~~ A person who possesses, acquires, transports, or
6 offers for sale contrary to this act 3,000 OR MORE CIGARETTES, OR
7 tobacco products NOT INCLUDING CIGARETTES whose wholesale price
8 is ~~\$50.00~~ \$250.00 or more, is guilty of a felony ~~—~~ punishable
9 by a fine of not more than \$5,000.00 or imprisonment for not more
10 than 5 years, or both.

11 (5) ~~(3) Beginning May 1, 1994, a~~ A person who violates a
12 provision of this act for which a criminal punishment is not oth-
13 erwise provided is guilty of a misdemeanor ~~—~~ punishable by a
14 fine of not more than \$1,000.00 or imprisonment for not more than
15 1 year, or both.

16 (6) ~~(4)~~ The attorney general has concurrent power with the
17 prosecuting attorneys of the state to enforce this act.

18 (7) ~~(5)~~ At the request of the department or its duly
19 authorized agent, the state police and all local police authori-
20 ties shall enforce the provisions of this act.

21 (8) A PERSON WHO FALSELY MAKES, COUNTERFEITS, OR ALTERS A
22 LICENSE, VENDING MACHINE DISC, OR MARKER, OR WHO PURCHASES OR
23 RECEIVES A FALSE OR ALTERED LICENSE, VENDING MACHINE DISC, OR
24 MARKER, OR WHO ASSISTS IN OR CAUSES TO BE MADE A FALSE OR ALTERED
25 LICENSE, VENDING MACHINE DISC, OR MARKER, OR WHO POSSESSES A
26 DEVICE USED TO FORGE, ALTER, OR COUNTERFEIT A LICENSE, VENDING
27 MACHINE DISC, OR MARKER IS GUILTY OF A FELONY PUNISHABLE BY A

1 FINE OF NOT MORE THAN \$5,000.00 OR IMPRISONMENT FOR NOT MORE THAN
2 5 YEARS, OR BOTH. A PERSON WHO ALTERS OR FALSIFIES RECORDS OR
3 MARKINGS REQUIRED UNDER THIS ACT IS GUILTY OF A FELONY PUNISHABLE
4 BY A FINE OF NOT MORE THAN \$5,000.00 OR IMPRISONMENT FOR NOT MORE
5 THAN 5 YEARS, OR BOTH.