

# HOUSE BILL No. 5305

November 13, 2003, Introduced by Rep. Wenke and referred to the Committee on Tax Policy.

A bill to amend 1993 PA 327, entitled  
"Tobacco products tax act,"  
by amending sections 3 and 4 (MCL 205.423 and 205.424), section 3  
as amended by 1997 PA 187.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3. (1) Beginning May 1, 1994, a person shall not  
2 purchase, possess, acquire for resale, or sell a tobacco product  
3 as a manufacturer, wholesaler, secondary wholesaler, vending  
4 machine operator, unclassified acquirer, transportation company,  
5 or transporter in this state unless licensed to do so. A license  
6 granted under this act is not assignable.

7       (2) Upon proper application and the payment of the applicable  
8 fee, and subject to subsection (6), the department shall issue a  
9 license to each manufacturer, wholesaler, secondary wholesaler,  
10 vending machine operator, unclassified acquirer, transportation

1 company, or transporter. The application shall be on a form  
2 prescribed by the department and signed under penalty of  
3 perjury. Except for transportation companies, each place of  
4 business shall be separately licensed. If a person acts in more  
5 than 1 capacity at any 1 place of business, a license shall be  
6 procured for each capacity. Each machine for vending tobacco  
7 products shall be considered a place of retail business. Each  
8 license or a duplicate copy shall be prominently displayed on the  
9 premises covered by the license. In the case of vending  
10 machines, a disc or marker furnished by the department showing it  
11 to be licensed shall be attached to the front of the machine in a  
12 place clearly visible to the public.

13 (3) The fees for licenses shall be the following:

14 (a) A wholesaler's license, ~~-\$100.00~~ **\$150.00**.

15 (b) A secondary wholesaler's license, ~~-\$25.00~~ **\$37.50**.

16 (c) A license for vending machine operators, ~~-\$25.00~~  
17 **\$37.50**.

18 (d) An unclassified acquirer's license, as follows:

19 (i) State of Michigan, no fee.

20 (ii) Retail importer of tobacco products other than  
21 cigarettes, ~~-\$10.00~~ **\$15.00**.

22 (iii) Retail importer of cigarettes, ~~-\$100.00~~ **\$150.00**.

23 (iv) Vending machine operator buying direct from a  
24 manufacturer, ~~-\$100.00~~ **\$150.00**.

25 (v) Manufacturer, ~~-\$100.00~~ **\$150.00**.

26 (vi) Any other importer, ~~-\$100.00~~ **\$150.00**.

27 (e) A transportation company's license, ~~-\$5.00~~ **\$7.50**.

1 (f) A transporter's license, ~~-\$50.00~~ **\$75.00**.

2 (4) If a manufacturer, wholesaler, secondary wholesaler, or  
3 vending machine operator maintains more than 1 place of business,  
4 the fee for each additional place of business shall be 1/4 of the  
5 fee otherwise prescribed in subsection (3). A fee, or a part of  
6 a fee, shall not be refunded by reason of relinquishment,  
7 suspension, or revocation of the license, or, except under order  
8 of a court of competent jurisdiction, for any other reason or  
9 cause.

10 (5) A person shall not possess a machine for vending tobacco  
11 products for a period in excess of 72 hours unless there is a  
12 disc or marker attached as provided by this section. This  
13 requirement does not apply to a machine not containing a tobacco  
14 product. If a person possesses a vending machine containing a  
15 tobacco product that is not properly licensed or identified as  
16 required by this section, the department may seal or seize the  
17 machine, together with the tobacco products contained in the  
18 machine. The provisions of section 9 govern the seizure and  
19 subsequent disposition of a machine or tobacco product seized.

20 (6) Applications from persons applying for an initial license  
21 under this act shall be accompanied by satisfactory proof, as  
22 determined by the department, of all the following:

23 (a) The applicant's financial responsibility, including but  
24 not limited to, satisfactory proof of a minimum net worth of  
25 \$25,000.00.

26 (b) That the applicant owns, or has an executed lease for, a  
27 secure nonresidential facility for the purpose of receiving and

1 distributing cigarettes and conducting its business if the  
2 applicant owns or has an executed lease for such a facility. If  
3 the applicant carries on another business in conjunction with the  
4 secure nonresidential facility, the other business shall also be  
5 identified.

6 (c) United States citizenship or eligibility to obtain  
7 employment within the United States if not a citizen. If the  
8 applicant is not an individual, the controlling shareholders,  
9 partners, directors, and principal officers shall be United  
10 States citizens or eligible to obtain employment within the  
11 United States if not a citizen.

12 (7) The department may require an applicant who is purchasing  
13 the business of a licensee to file a copy of the contract of sale  
14 and any related documents with its application. The department  
15 may require a licensee under this section to furnish a surety  
16 bond with a surety company authorized to do business in this  
17 state in an amount the department may fix, conditioned upon the  
18 payment of the tax provided by this act. The department may also  
19 require a licensee under this section to file a financial  
20 statement with the department showing all assets and liabilities  
21 and any other information the department may prescribe, to be  
22 filed within 30 days after the date requested. If there is a  
23 change of more than 50% of ownership or control or a change in  
24 the general partnership of a licensee, the department may require  
25 that licensee to file a new application for a license or an  
26 updated financial statement.

27 Sec. 4. (1) Except as provided in subsection (2), each

1 license issued under section 3 shall expire on the ~~June~~  
2 **September** 30 next succeeding the date of issuance unless revoked  
3 by the department, unless the business for which the license was  
4 issued changes ownership, or unless the holder of the license  
5 removes the business from the location covered by the license.  
6 Upon expiration of the license, revocation of the license, change  
7 of ownership of the business, or removal of the business from the  
8 location covered by the license, the holder of the license  
9 immediately shall return the license to the department. If a  
10 business moves to another location in the state, the license may  
11 be reissued for the new location for the balance of the unexpired  
12 term without payment of an additional fee. The holder of each  
13 license may renew that license for another 1-year period by  
14 filing an application accompanied by the applicable fee with the  
15 department before the expiration date of that license.

16 (2) For licenses issued in 1994, the department may issue  
17 those licenses with an expiration date of June 30, 1995.

18 (3) **For licenses issued after the effective date of the**  
19 **amendatory act that added this subsection, the department may**  
20 **issue those licenses with an expiration date of September 30 of**  
21 **the immediately following year.**