

1 *Senate* BILL NO. 230  
 2 INTRODUCED BY Norman *By request of Dept. of Revenue*  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REDEFINE CIGARETTE  
 5 VENDORS, AND TO DEFINE CIGARETTE SUB-JOBBER; AND TO REQUIRE  
 6 LICENSING OF CIGARETTE SUB-JOBBER AND CIGARETTE VENDORS;  
 7 AMENDING SECTIONS 84-5606.2, 84-5606.3, 84-5606.5, AND  
 8 84-5606.8, R.C.M. 1947."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 84-5606.2, R.C.M. 1947, is amended  
 12 to read as follows:

13 "84-5606.2. Definitions. As used in this act the  
 14 following definitions shall apply unless the context  
 15 otherwise requires:

16 (a) The word "department" shall mean the state  
 17 department of revenue of the state of Montana.

18 (b) The word "person" shall mean any individual, firm,  
 19 fiduciary, partnership, corporation, trust, organization or  
 20 association however formed.

21 (c) "Cigarettes" shall mean any roll for smoking made  
 22 wholly or in part of tobacco, irrespective of size or shape  
 23 and whether or not such tobacco is flavored, adulterated or  
 24 mixed with any other ingredient, the wrapper or cover of  
 25 which is made of nontobacco paper, or any other substance or

1 material except tobacco.

2 (d) The words "insignia" or "indicia" shall mean the  
 3 impression or mark approved by the state department of  
 4 revenue, under the provisions of this act.

5 (e) The words "full face value of insignia" shall mean  
 6 the total amount of the tax levied under this act.

7 (f) The words "public warehouses" shall mean agents or  
 8 representatives of manufacturers who receive cigarettes in  
 9 carload lots for distribution to wholesaler and retailers in  
 10 original cases.

11 (g) The word "wholesaler" shall mean and include any  
 12 person resident in this state who brings or causes to be  
 13 brought into this state unstamped cigarettes purchased  
 14 directly from the manufacturers thereof and stores, sells,  
 15 or otherwise disposes of the same after they shall reach  
 16 this state; and also any person who, within this state,  
 17 manufactures or produces, directly or indirectly, cigarettes  
 18 and sells or distributes the same within this state.

19 (h) The words "licensed wholesaler" shall mean a  
 20 wholesaler duly licensed under the provisions of this act.

21 (i) The words "cigarette vendor" shall mean and include  
 22 any person ~~company or corporation~~ doing business in the  
 23 state, who purchases cigarettes through a wholesaler ~~for ten~~  
 24 ~~(10) or more cigarette vending machines, which he operates~~  
 25 ~~for a profit in premises or locations other than his own.~~

1 ~~Such person, company or corporation shall be treated as a~~  
 2 ~~wholesaler. Any person, company, corporation or fraternal~~  
 3 ~~organization who operates less than ten (10) cigarette~~  
 4 ~~vending machines shall be treated as a retailer, or~~ or  
 5 sub-jobber or retailer and sells such cigarettes through any  
 6 type of vending machines.

7 (j) The word "sub-jobber" shall mean and include any  
 8 person who purchases cigarettes from a licensed wholesaler  
 9 with the Montana cigarette tax insignia affixed thereto and  
 10 sells or offers to sell such cigarettes to a licensed  
 11 retailer or cigarette vendor. An isolated sale or exchange  
 12 of cigarettes between licensed retailers shall not  
 13 constitute such retailers as sub-jobbers.

14 (k) The words "licensed sub-jobbers" shall mean a  
 15 sub-jobber duly licensed under the provisions of this act.

16 ~~(j)~~ (l) The word "retailer" shall mean any person other  
 17 than a wholesaler, sub-jobber, or cigarette vendor, who is  
 18 engaged in the business of selling cigarettes at retail.

19 ~~(k)~~ (m) The words "licensed retailer" shall mean any  
 20 person other than a wholesaler, sub-jobber, or cigarette  
 21 vendor, who is duly licensed under the provisions of this  
 22 act.

23 ~~(i)~~ (n) The words "sale" and "sell" shall mean and  
 24 include any transfer of cigarettes by sale, as defined by  
 25 section 87A-2-106, R. C. M. 1947, or by gift, barter or

1 exchange."

2 Section 2. Section 84-5606.3, R.C.M. 1947, is amended  
 3 to read as follows:

4 "84-5606.3. Wholesaler's, sub-jobber's, retailer's, and  
 5 cigarette vendor's licenses--multiple places of  
 6 business--application forms. Every wholesaler, sub-jobber,  
 7 ~~or~~ retailer, or cigarette vendor shall obtain a license  
 8 from the department before engaging in the business of  
 9 wholesaler, sub-jobber, or retailer, or cigarette vendor. A  
 10 separate application and a separate license shall be  
 11 required for each place of business owned, controlled or  
 12 operated by such wholesaler, sub-jobber, ~~or~~ retailer, or  
 13 cigarette vendor within the state of Montana. Application  
 14 forms shall require the type and general description of  
 15 applicant organizations, names ~~and--home--addresses~~ of all  
 16 known owners, ~~state--whether--or--not--principals--of--such~~  
 17 ~~organization--have--been--convicted--of--a--felony--and--identify~~  
 18 ~~each--such--individual~~, and such other pertinent information  
 19 as the ~~board~~ department may require in regularly promulgated  
 20 regulations."

21 Section 3. Section 84-5606.5, R.C.M. 1947, is amended  
 22 to read as follows:

23 "84-5606.5. Wholesaler's, sub-jobber's, ~~and~~ retailer's,  
 24 and cigarette vendor's license fees--renewal--display of  
 25 license. Each application for a wholesaler's license shall

1 be accompanied by a fee of fifty dollars (\$50) effective  
 2 July 1, 1969. Each application for a sub-jobber's license  
 3 shall be accompanied by a fee of fifty dollars (\$50)  
 4 effective July 1, 1975. Each application for a retailer's  
 5 license shall be accompanied by a fee of five dollars (\$5)  
 6 effective July 1, 1969. Each application for a cigarette  
 7 vendor's license shall be accompanied by a fee of two  
 8 dollars (\$2) for each vending machine owned, operated or  
 9 controlled by the vendor effective July 1, 1975. These  
 10 licenses shall be renewed annually upon payment of the  
 11 annual fee in the amount set forth above, and shall be  
 12 effective for one year, without proration, and are not  
 13 transferable. Each license shall be prominently displayed on  
 14 the licensed premises, and a separate license shall be  
 15 displayed at each place of business owned, controlled or  
 16 operated by such wholesaler, sub-jobber, or retailer, or  
 17 cigarette vendor. Each cigarette vendor shall affix a  
 18 license decal furnished by the department of revenue in a  
 19 prominent position to the front side of each vending  
 20 machine."

21 Section 4. Section 84-5606.8, R.C.M. 1947, is amended  
 22 to read as follows:

23 "84-5606.8. Revocation or suspension of  
 24 license--hearing and appeal--duration--sale of cigarettes  
 25 after revocation or suspension a misdemeanor--forfeiture.

1 The department may revoke or suspend the license of any  
 2 wholesaler, ~~or~~ sub-jobber, retailer, or cigarette vendor for  
 3 failure to comply with any provision of this act or of the  
 4 ~~Unfair~~ Montana Cigarette Sales Act (sections 51-301 through  
 5 51-314, R. C. M. 1947), and with any lawful rule or  
 6 regulation of the department made pursuant to said laws. Any  
 7 person aggrieved by such revocation or suspension may apply  
 8 to the department for a hearing which shall be open to the  
 9 public, and may further appeal to the court, as hereinafter  
 10 provided. When a license has been duly revoked, no license  
 11 shall again issue to such licensee for a period of one (1)  
 12 year thereafter. When a license has been duly suspended, the  
 13 suspension may be for any period not to exceed one (1) year.  
 14 Any person who shall sell cigarettes after his license has  
 15 been revoked or suspended is guilty of a misdemeanor, and  
 16 shall be punished as hereinafter provided, and all  
 17 cigarettes in his possession shall be seized and forfeited  
 18 to the state."

-End-

Approved by Committee  
on Taxation

1 SENATE BILL NO. 230

2 INTRODUCED BY NORMAN

3 (BY REQUEST OF DEPARTMENT OF REVENUE)

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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REDEFINE CIGARETTE  
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7 LICENSING OF CIGARETTE SUB-JOBBER AND CIGARETTE VENDORS;  
8 AMENDING SECTIONS 84-5606.2, 84-5606.3, 84-5606.5, AND  
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12 Section 1. Section 84-5606.2, R.C.M. 1947, is amended  
13 to read as follows:

14 "84-5606.2. Definitions. As used in this act the  
15 following definitions shall apply unless the context  
16 otherwise requires:

17 (a) The word "department" shall mean the state  
18 department of revenue of the state of Montana.

19 (b) The word "person" shall mean any individual, firm,  
20 fiduciary, partnership, corporation, trust, organization or  
21 association however formed.

22 (c) "Cigarettes" shall mean any roll for smoking made  
23 wholly or in part of tobacco, irrespective of size or shape  
24 and whether or not such tobacco is flavored, adulterated or  
25 mixed with any other ingredient, the wrapper or cover of

1 which is made of nontobacco paper, or any other substance or  
2 material except tobacco.

3 (d) The words "insignia" or "indicia" shall mean the  
4 impression or mark approved by the state department of  
5 revenue, under the provisions of this act.

6 (e) The words "full face value of insignia" shall mean  
7 the total amount of the tax levied under this act.

8 (f) The words "public warehouses" shall mean agents or  
9 representatives of manufacturers who receive cigarettes in  
10 carload lots for distribution to wholesaler and retailers in  
11 original cases.

12 (g) The word "wholesaler" shall mean and include any  
13 person resident in this state who brings or causes to be  
14 brought into this state unstamped cigarettes purchased  
15 directly from the manufacturers thereof and stores, sells,  
16 or otherwise disposes of the same after they shall reach  
17 this state; and also any person who, within this state,  
18 manufactures or produces, directly or indirectly, cigarettes  
19 and sells or distributes the same within this state.

20 (h) The words "licensed wholesaler" shall mean a  
21 wholesaler duly licensed under the provisions of this act.

22 (i) The words "cigarette vendor" shall mean and include  
23 any person, ~~company or corporation~~, doing business in the  
24 state, who purchases cigarettes through a wholesaler ~~for ten~~  
25 ~~(10) or more cigarette vending machines, which he operates~~

SECOND READING

1 ~~for a profit in premises or locations other than his own.~~  
 2 ~~Such person, company or corporation shall be treated as a~~  
 3 ~~wholesaler. Any person, company, corporation or fraternal~~  
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 5 ~~vending machines shall be treated as a retailer, or~~  
 6 sub-jobber or retailer and sells such cigarettes through any  
 7 type of vending machines.

8 (j) The word "sub-jobber" shall mean and include any  
 9 person who purchases cigarettes from a licensed wholesaler  
 10 with the Montana cigarette tax insignia affixed thereto and  
 11 sells or offers to sell such cigarettes to a licensed  
 12 retailer or cigarette vendor. An isolated sale or exchange  
 13 of cigarettes between licensed retailers shall not  
 14 constitute such retailers as sub-jobbers.

15 (k) The words "licensed sub-jobbers" shall mean a  
 16 sub-jobber duly licensed under the provisions of this act.

17 (l) The word "retailer" shall mean any person other  
 18 than a wholesaler, sub-jobber, or cigarette vendor, who is  
 19 engaged in the business of selling cigarettes at retail.

20 (m) The words "licensed retailer" shall mean any  
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24 (n) The words "sale" and "sell" shall mean and  
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1 section 87A-2-106, R. C. M. 1947, or by gift, barter or  
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3 Section 2. Section 84-5606.3, R.C.M. 1947, is amended  
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24 "84-5606.5. Wholesaler's, sub-jobber's, and retailer's,  
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1 license. Each application for a wholesaler's license shall  
 2 be accompanied by a fee of fifty dollars (\$50) effective  
 3 July 1, 1969. Each application for a sub-jobber's license  
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 5 effective July 1, 1975. Each application for a retailer's  
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 8 vendor's license shall be accompanied by a fee of two  
 9 dollars (\$2) for each vending machine owned, operated or  
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 16 been revoked or suspended is guilty of a misdemeanor, and  
 17 shall be punished as hereinafter provided, and all  
 18 cigarettes in his possession shall be seized and forfeited  
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-End-

1 SENATE BILL NO. 230

2 INTRODUCED BY NORMAN

3 (BY REQUEST OF DEPARTMENT OF REVENUE)

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23 any person, ~~company or corporation~~, doing business in the  
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~~for--a--profit--in--premises--or--locations--other--than--his--own--~~  
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sub-jobber or retailer and sells such cigarettes through any  
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person who purchases cigarettes from a licensed wholesaler  
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of cigarettes between licensed retailers shall not  
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-End-

HOUSE OF REPRESENTATIVES

March 26, 1975

HOUSE COMMITTEE ON TAXATION AMENDMENT TO SENATE BILL 230

Amend in the third reading copy as follows:

1. Amend page 2, section 1 (i), line 24.  
Following: "wholesaler"  
Insert: ", sub-jobber, or retailer for ten (10) or more cigarette vending machines, which he operates for a profit in premises or locations other than his own. Such person shall be treated as a wholesaler. Any person who operates less than ten (10) cigarette vending machines shall be treated as a retailer."
2. Amend page 3, section 1 (i), lines 5, 6, 7.  
Following: "~~retailer:~~"  
Strike: All remaining material in subsection (i) in its entirety.
3. Amend page 3, section 1 (j), line 14.  
Following: "sub-jobbers."  
Insert: "It is further provided that a sub-jobber shall use the license in the interest of the general public. If during any month, more than thirty-five percent (35%) of volume of cigarette sales be with any retail client whose business is controlled directly or indirectly through sanguinity or affinity with the owner, or employer for such retail business, the license shall be deemed to have been used or to be intended to be used in violation of section 84-5606.8."
4. Amend page 3, section 1 (k), line 16.  
Following: "act"  
Insert: ", and they shall be treated as wholesalers"
5. Amend page 5, section 3, lines 7, 8, 9, 10.  
Following: "1969."  
Strike: All underlined material through "1975."
6. Amend page 5, section 3, line 20.  
Following: "position"  
Strike: "to the front side of"  
Insert: "on"

AS SO AMENDED  
BE CONCURRED IN

---

REP. DAN YARDLEY, Chairman

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2 INTRODUCED BY NORMAN

3 (BY REQUEST OF DEPARTMENT OF REVENUE)

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21 wholesaler duly licensed under the provisions of this act.

22 (i) The words "cigarette vendor" shall mean and  
23 include any person~~-company-or-corporation~~, doing business  
24 in the state, who purchases cigarettes through a wholesaler,  
25 ~~for ten (10) or more cigarette vending machines, which he~~

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operates-for-a-profit-in-premises-or--locations--other--than  
 his--own,---such--person,--company--or--corporation-shall-be  
 treated-as-a-wholesaler.-Any-person,company,-corporation-or  
 fraternal-organization--who--operates--less--than--ten--(10)  
 cigarette--vending--machines-shall-be-treated-as-a-retailer,  
 or-sub-jobber-or-retailer-and-sells-such-cigarettes--through  
 any--type--of--vending-machines: SUB-JOBBER, OR RETAILER FOR  
 TEN (10) OR MORE CIGARETTE VENDING MACHINES, WHICH HE  
 OPERATES FOR A PROFIT IN PREMISES OR LOCATIONS OTHER THAN  
 HIS OWN. SUCH PERSON SHALL BE TREATED AS A WHOLESALER, ANY  
 PERSON WHO OPERATES LESS THAN TEN (10) CIGARETTE VENDING  
 MACHINES SHALL BE TREATED AS A RETAILER.

(j) The word "sub-jobber" shall mean and include any  
 person who purchases cigarettes from a licensed wholesaler  
 with the Montana cigarette tax insignia affixed thereto and  
 sells or offers to sell such cigarettes to a licensed  
 retailer or cigarette vendor. An isolated sale or exchange  
 of cigarettes between licensed retailers shall not  
 constitute such retailers as sub-jobbers. IT IS FURTHER  
 PROVIDED THAT A SUB-JOBBER SHALL USE THE LICENSE IN THE  
 INTEREST OF THE GENERAL PUBLIC. IF DURING ANY MONTH, MORE  
 THAN THIRTY-FIVE PERCENT (35%) OF VOLUME OF CIGARETTE SALES  
 BE WITH ANY RETAIL CLIENT WHOSE BUSINESS IS CONTROLLED  
 DIRECTLY OR INDIRECTLY THROUGH SANGUINITY OR AFFINITY WITH  
 THE OWNER, OR EMPLOYER FOR SUCH RETAIL BUSINESS, THE LICENSE

SHALL BE DEEMED TO HAVE BEEN USED OR TO BE INTENDED TO BE  
 USED IN VIOLATION OF SECTION 84-5606.8.

(k) The words "licensed sub-jobbers" shall mean a  
 sub-jobber duly licensed under the provisions of this act,  
 AND THEY SHALL BE TREATED AS WHOLESALERS.

(l) The word "retailer" shall mean any person other  
 than a wholesaler, sub-jobber, or cigarette vendor, who is  
 engaged in the business of selling cigarettes at retail.

(m) The words "licensed retailer" shall mean any  
 person other than a wholesaler, sub-jobber, or cigarette  
 vendor, who is duly licensed under the provisions of this  
 act.

(n) The words "sale" and "sell" shall mean and  
 include any transfer of cigarettes by sale, as defined by  
 section 87A-2-106, R. C. M. 1947, or by gift, barter or  
 exchange."

Section 2. Section 84-5606.3, R.C.M. 1947, is amended  
 to read as follows:

"84-5606.3. Wholesaler's, sub-jobber's, retailer's, and  
 cigarette vendor's licenses -- multiple places of business  
 -- application forms. Every wholesaler, sub-jobber, or  
 retailer, or cigarette vendor shall obtain a license from  
 the department before engaging in the business of  
 wholesaler, sub-jobber, or retailer, or cigarette vendor. A  
 separate application and a separate license shall be

1 required for each place of business owned, controlled or  
 2 operated by such wholesaler, sub-jobber, or retailer, or  
 3 cigarette vendor within the state of Montana. Application  
 4 forms shall require the type and general description of  
 5 applicant organizations, names ~~and--home--addresses~~ of all  
 6 known owners, ~~state--whether--or--not--principals--of--such~~  
 7 ~~organization--have--been--convicted--of--a--felony--and--identify~~  
 8 ~~each--such--individual~~, and such other pertinent information  
 9 as the board department may require in regularly promulgated  
 10 regulations."

11 Section 3. Section 84-5606.5, R.C.M. 1947, is amended  
 12 to read as follows:

13 "84-5606.5. Wholesaler's, sub-jobber's, and  
 14 retailer's, and cigarette vendor's license fees -- renewal  
 15 -- display of license. Each application for a wholesaler's  
 16 license shall be accompanied by a fee of fifty dollars (\$50)  
 17 effective July 1, 1969. Each application for a  
 18 sub-jobber's license shall be accompanied by a fee of fifty  
 19 dollars (\$50) effective July 1, 1975. Each application for  
 20 a retailer's license shall be accompanied by a fee of five  
 21 dollars (\$5) effective July 1, 1969. ~~Each application for a~~  
 22 ~~cigarette vendor's license shall be accompanied by a fee of~~  
 23 ~~two dollars (\$2) for each vending machine owned, operated or~~  
 24 ~~controlled by the vendor effective July 1, 1975.~~ These  
 25 licenses shall be renewed annually upon payment of the

1 annual fee in the amount set forth above, and shall be  
 2 effective for one year, without proration, and are not  
 3 transferable. Each license shall be prominently displayed on  
 4 the licensed premises, and a separate license shall be  
 5 displayed at each place of business owned, controlled or  
 6 operated by such wholesaler, sub-jobber, or retailer, or  
 7 cigarette vendor. Each cigarette vendor shall affix a  
 8 license decal furnished by the department of revenue in a  
 9 prominent position to the front--side--of ON each vending  
 10 machine."

11 Section 4. Section 84-5606.8, R.C.M. 1947, is amended  
 12 to read as follows:

13 "84-5606.8. Revocation or suspension of license --  
 14 hearing and appeal -- duration -- sale of cigarettes after  
 15 revocation or suspension a misdemeanor -- forfeiture. The  
 16 department may revoke or suspend the license of any  
 17 wholesaler, or sub-jobber, retailer, or cigarette vendor for  
 18 failure to comply with any provision of this act or of the  
 19 Unfair Montana Cigarette Sales Act (sections 51-301 through  
 20 51-314, R. C. M. 1947), and with any lawful rule or  
 21 regulation of the department made pursuant to said laws. Any  
 22 person aggrieved by such revocation or suspension may apply  
 23 to the department for a hearing which shall be open to the  
 24 public, and may further appeal to the court, as hereinafter  
 25 provided. When a license has been duly revoked, no license

1 shall again issue to such licensee for a period of one (1)  
2 year thereafter. When a license has been duly suspended, the  
3 suspension may be for any period not to exceed one (1) year.  
4 Any person who shall sell cigarettes after his license has  
5 been revoked or suspended is guilty of a misdemeanor, and  
6 shall be punished as hereinafter provided, and all  
7 cigarettes in his possession shall be seized and forfeited  
8 to the state."

-End-