

HOUSE BILL NO. 486

INTRODUCED BY MOORE, FABREGA

IN THE HOUSE

January 31, 1979	Introduced and referred to Committee on Business and Industry.
February 8, 1979	Committee recommend bill do not pass.
February 9, 1979	Objection raised to adverse committee report.
February 9, 1979	On motion taken from printing and referred to Business and Industry.
February 13, 1979	Committee recommend bill do pass as amended. Report adopted.
February 15, 1979	Printed and placed on members' desks.
February 16, 1979	Second reading, do pass.
February 19, 1979	Considered correctly engrossed. Third reading, passed. Transmitted to second house.

IN THE SENATE

February 20, 1979	Introduced and referred to Committee on Business and Industry.
March 8, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 10, 1979	Second reading, concurred in.
March 13, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 14, 1979

Returned from second house.
Concurred in as amended.

March 16, 1979

Second reading, amendments
adopted.

March 17, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 486
2 INTRODUCED BY Mark L. ...

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT A LICENSED
5 WHOLESALER, SUBJOBBER, OR RETAILER TO SELL CIGARETTES TO A
6 RESIDENT OR NONRESIDENT PERSON, WHOLESALER, SUBJOBBER, OR
7 RETAILER WHO IS EXEMPT FROM STATE CIGARETTE TAXATION
8 PROVISIONS; AMENDING SECTION 16-11-132, MCA."

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

11 Section 1. Section 16-11-132, MCA, is amended to read:

12 "16-11-132. Unlawful to sell cigarettes without valid
13 license ~~exceptions.~~ (1) No person shall sell, offer to
14 sell, or possess with intent to sell any cigarettes, at
15 wholesale or retail, unless his license is current and valid
16 under the provisions of this part.

17 (2) No person shall sell, offer to sell, or possess
18 with intent to sell any cigarettes, at wholesale or retail,
19 to a resident or nonresident wholesaler, subjobber, or
20 retailer, ~~or vendor~~ who is not licensed under this part or
21 who is not licensed by the state in which he sells, offers
22 to sell, or intends to sell cigarettes, ~~except that a~~
23 ~~wholesaler, subjobber, or retailer licensed under the~~
24 ~~provisions of this chapter may sell cigarettes to a resident~~
25 ~~or nonresident person, wholesaler, subjobber, or retailer~~

1 ~~not licensed under this chapter if:~~

2 ~~(a) such resident or nonresident person, wholesaler,~~
3 ~~subjobber, or retailer is exempt from state cigarette~~
4 ~~taxation provisions;~~

5 ~~(b) such resident or nonresident person, wholesaler,~~
6 ~~subjobber, or retailer furnishes documentary evidence that~~
7 ~~he is exempt from state cigarette taxation provisions; and~~

8 ~~(c) such resident or nonresident person, wholesaler,~~
9 ~~subjobber, or retailer signs a receipt of purchase for any~~
10 ~~cigarettes evidencing that he is exempt from state cigarette~~
11 ~~taxation provisions.~~

12 (3) Any person violating the provisions of this
13 section is guilty of a misdemeanor and shall be punished as
14 hereinafter provided, and all cigarettes in his possession
15 shall be seized and forfeited to the state."

-End-

Business and IndustryObjection Raised to
Adverse Committee Report

HOUSE BILL NO. 486

INTRODUCED BY MOORE, FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT A LICENSED WHOLESALER, SUBJOBBER, OR RETAILER TO SELL CIGARETTES TO A RESIDENT OR NONRESIDENT PERSON, WHOLESALER, SUBJOBBER, OR RETAILER WHO IS EXEMPT FROM STATE CIGARETTE TAXATION PROVISIONS; AMENDING SECTIONS 16-11-113, 16-11-131, 16-11-132, AND 16-11-133, MCA."

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

SECTION 1. SECTION 16-11-113, MCA, IS AMENDED TO READ:

"16-11-113. Tax insignia. (1) Within 72 hours after receipt by the distributor or dealer of any cigarettes, except as hereinafter provided, he shall cause to be securely affixed thereto the required insignia denoting the tax thereon. A person specifically exempted under the provisions of 16-11-132(2) may not be considered to be acting unlawfully under this section.

(2) Said insignia shall be properly canceled prior to sale or removal for consumption, under such regulations as the department may prescribe.

(3) Each package shall have the required insignia to affix thereto in such a manner that the insignia will be destroyed when the package is opened.

(4) Wholesalers and retailers licensed under this part may buy, sell, or have in their possession only cigarettes which have the insignia provided for in this part on each package. The insignia provided for in this part shall be sold to and affixed by licensed wholesalers and licensed retailers only.

(5) Whenever any cigarettes are found in the place of business of any unlicensed wholesaler, retailer, or other person without the insignia affixed and canceled or not marked as having been received by the unlicensed wholesaler, retailer, or person within the preceding 72 hours, the presumption shall be that such cigarettes are kept therein in violation of the provisions of this part."

SECTION 2. SECTION 16-11-131, MCA, IS AMENDED TO READ:

"16-11-131. Transporting cigarettes without insignia a misdemeanor. It shall be unlawful for any person to transport into, receive, carry, or move from place to place within this state, except in the course of interstate commerce, any cigarettes which do not bear the insignia required by this part. except for a person specifically exempted in 16-11-132(2). Any person violating the provisions of this section is guilty of a misdemeanor and shall be punished as hereinafter provided."

Section 3. Section 16-11-132, MCA, is amended to read:

"16-11-132. Unlawful to sell cigarettes without valid

1 license ~~== exceptions.~~ (1) No person shall sell, offer to
 2 sell, or possess with intent to sell any cigarettes, at
 3 wholesale or retail, unless his license is current and valid
 4 under the provisions of this part.

5 (2) No person shall sell, offer to sell, or possess
 6 with intent to sell any cigarettes, at wholesale or retail,
 7 to a resident or nonresident wholesaler, subjobber, or
 8 retailer ~~or vendor who is not licensed under this part or~~
 9 who is not licensed by the state in which he sells, offers
 10 to sell, or intends to sell cigarettes, ~~except that a~~

11 ~~RESIDENT wholesaler, RESIDENT subjobber, or retailer~~
 12 ~~licensed under the provisions of this chapter may sell~~
 13 ~~cigarettes to a resident or nonresident person, wholesaler,~~
 14 ~~subjobber, or retailer not licensed under this chapter if:~~

15 (a) ~~such resident or nonresident person, wholesaler,~~
 16 ~~subjobber, or retailer is exempt from state cigarette~~
 17 ~~taxation provisions;~~

18 (b) ~~such resident or nonresident person, wholesaler,~~
 19 ~~subjobber, or retailer furnishes documentary evidence that~~
 20 ~~he is exempt from state cigarette taxation provisions; and~~

21 (c) ~~such resident or nonresident person, wholesaler,~~
 22 ~~subjobber, or retailer signs a receipt of purchase for any~~
 23 ~~cigarettes evidencing that he is exempt from state cigarette~~
 24 ~~taxation provisions.~~

25 (3) Any person violating the provisions of this

1 section is guilty of a misdemeanor ~~FELONY~~ and shall be
 2 punished as hereinafter provided, and all cigarettes in his
 3 possession shall be seized and forfeited to the state."

4 ~~SECTION 4. SECTION 16-11-133, MCA, IS AMENDED TO READ:~~

5 "16-11-133. Sale and use of cigarettes without
 6 insignia unlawful. Every person who sells any package of
 7 cigarettes which does not bear the insignia required by this
 8 part and every person who uses or consumes a cigarette
 9 within this state, taken from a package which does not bear
 10 the required insignia, is guilty of a misdemeanor and shall
 11 be punished as hereinafter provided, ~~except that a person~~
 12 ~~specifically exempted under the provisions of 16-11-132(2)~~
 13 ~~may not be considered to be acting unlawfully under this~~
 14 ~~section."~~

-End-

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5 WHOLESALER, SUBJOBBER, OR RETAILER TO SELL CIGARETTES TO A
6 RESIDENT OR NONRESIDENT PERSON, WHOLESALER, SUBJOBBER, OR
7 RETAILER WHO IS EXEMPT FROM STATE CIGARETTE TAXATION
8 PROVISIONS; AMENDING SECTION ~~SECTIONS 16-11-113, 16-11-131,~~
9 ~~16-11-132, AND 16-11-133, MCA."~~

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 SECTION 1. SECTION 16-11-113, MCA, IS AMENDED TO READ:

13 "16-11-113. Tax insignia. (1) Within 72 hours after
14 receipt by the distributor or dealer of any cigarettes,
15 except as hereinafter provided, he shall cause to be
16 securely affixed thereto the required insignia denoting the
17 tax thereon. A person specifically exempted under the
18 provisions of 16-11-132(2) may not be considered to be
19 acting unlawfully under this section.

20 (2) Said insignia shall be properly canceled prior to
21 sale or removal for consumption, under such regulations as
22 the department may prescribe.

23 (3) Each package shall have the required insignia to
24 affix thereto in such a manner that the insignia will be
25 destroyed when the package is opened.

1 (4) Wholesalers and retailers licensed under this part
2 may buy, sell, or have in their possession only cigarettes
3 which have the insignia provided for in this part on each
4 package. The insignia provided for in this part shall be
5 sold to and affixed by licensed wholesalers and licensed
6 retailers only.

7 (5) whenever any cigarettes are found in the place of
8 business of any unlicensed wholesaler, retailer, or other
9 person without the insignia affixed and canceled or not
10 marked as having been received by the unlicensed wholesaler,
11 retailer, or person within the preceding 72 hours, the
12 presumption shall be that such cigarettes are kept therein
13 in violation of the provisions of this part."

14 SECTION 2. SECTION 16-11-131, MCA, IS AMENDED TO READ:

15 "16-11-131. Transporting cigarettes without insignia a
16 misdemeanor. It shall be unlawful for any person to
17 transport into, receive, carry, or move from place to place
18 within this state, except in the course of interstate
19 commerce, any cigarettes which do not bear the insignia
20 required by this part, except for a person specifically
21 exempted in 16-11-132(2). Any person violating the
22 provisions of this section is guilty of a misdemeanor and
23 shall be punished as hereinafter provided."

24 Section 3. Section 16-11-132, MCA, is amended to read:

25 "16-11-132. Unlawful to sell cigarettes without valid

1 license -- ~~exceptions.~~ (1) No person shall sell, offer to
 2 sell, or possess with intent to sell any cigarettes, at
 3 wholesale or retail, unless his license is current and valid
 4 under the provisions of this part.

5 (2) No person shall sell, offer to sell, or possess
 6 with intent to sell any cigarettes, at wholesale or retail,
 7 to a resident or nonresident wholesaler, subjobber, or
 8 retailer, --or-- vendor who is not licensed under this part or
 9 who is not licensed by the state in which he sells, offers
 10 to sell, or intends to sell cigarettes, ~~except that a~~

11 ~~RESIDENT wholesaler; RESIDENT subjobber, or retailer~~
 12 ~~licensed under the provisions of this chapter may sell~~
 13 ~~cigarettes to a resident or nonresident person, wholesaler,~~
 14 ~~subjobber, or retailer not licensed under this chapter if:~~

15 ~~(a) such resident or nonresident person, wholesaler,~~
 16 ~~subjobber, or retailer is exempt from state cigarette~~
 17 ~~taxation provisions;~~

18 ~~(b) such resident or nonresident person, wholesaler,~~
 19 ~~subjobber, or retailer furnishes documentary evidence that~~
 20 ~~he is exempt from state cigarette taxation provisions; and~~

21 ~~(c) such resident or nonresident person, wholesaler,~~
 22 ~~subjobber, or retailer signs a receipt of purchase for any~~
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25 (3) Any person violating the provisions of this

1 section is guilty of a misdemeanor ~~FELONY~~ and shall be
 2 punished as hereinafter provided, and all cigarettes in his
 3 possession shall be seized and forfeited to the state."

4 ~~SECTION 4. SECTION 16-11-133, MCA, IS AMENDED TO READ:~~

5 ~~"16-11-133. Sale and use of cigarettes without~~
 6 ~~insignia unlawful. Every person who sells any package of~~
 7 ~~cigarettes which does not bear the insignia required by this~~
 8 ~~part and every person who uses or consumes a cigarette~~
 9 ~~within this state, taken from a package which does not bear~~
 10 ~~the required insignia, is guilty of a misdemeanor and shall~~
 11 ~~be punished as hereinafter provided, except that a person~~
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-End-

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17 tax thereon. A person specifically exempted under the
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19 acting unlawfully under this section.

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21 sale or removal for consumption, under such regulations as
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 7 to a resident or nonresident wholesaler, subjobber, or
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 9 who is not licensed by the state in which he sells, offers
 10 to sell, or intends to sell cigarettes, except that a
 11 RESIDENT wholesaler, RESIDENT subjobber, or retailer
 12 licensed under the provisions of this chapter may sell
 13 cigarettes to a resident or nonresident person, wholesaler,
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 15 (a) such resident or nonresident person, wholesaler,
 16 subjobber, or retailer is exempt from state cigarette
 17 taxation provisions;

18 (b) such resident or nonresident person, wholesaler,
 19 subjobber, or retailer furnishes documentary evidence that
 20 he is exempt from state cigarette taxation provisions; and

21 (c) such resident or nonresident person, wholesaler,
 22 subjobber, or retailer signs a receipt of purchase for any
 23 cigarettes evidencing that he is exempt from state cigarette
 24 taxation provisions.

25 (3) Any person violating the provisions of this

1 section is guilty of a ~~misdemeanor~~ **FELONY MISDEMEANOR** and
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 3 cigarettes in his possession shall be seized and forfeited
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5 SECTION 4, SECTION 16-11-133, MCA, IS AMENDED TO READ:
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 9 part and every person who uses or consumes a cigarette
 10 within this state, taken from a package which does not bear
 11 the required insignia, is guilty of a misdemeanor and shall
 12 be punished as hereinafter provided, except that a person
 13 specifically exempted under the provisions of 16-11-132(2)
 14 may not be considered to be acting unlawfully under this
 15 section."

-End-

March 8, 1979

SENATE STANDING COMMITTEE REPORT
(Business & Industry)

That House Bill No. 486 be amended as follows:

1. Page 4, line 1.
Following: "~~misdemeanor~~"
Strike: "FELONY"
Insert: "misdemeanor"