

HOUSE BILL NO. 587

Introduced: 01/31/83

Referred to Committee on Taxation: 01/31/83

Hearing: 2/8/83

Report: 02/11/83, Do Not Pass

Bill Killed: 02/14/83

1 *House* BILL NO. *587*
2 INTRODUCED BY *Sen. Duck*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE
5 DEFINITION OF "CIGARETTE VENDOR"; AND TO PROVIDE A LICENSE
6 FEE OF \$8 FOR EACH CIGARETTE VENDING MACHINE OPERATED IN
7 MONTANA; AMENDING SECTIONS 16-11-102 AND 16-11-122, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 16-11-102, MCA, is amended to read:

11 "16-11-102. Definitions. (1) As used in this chapter,
12 the following definitions shall apply unless the context
13 requires otherwise:

14 (a) The word "department" shall mean the department of
15 revenue of the state of Montana.

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

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

25 (2) As used in this part, the following definitions

1 shall apply unless the context requires otherwise:

2 (a) The words "insignia" or "indicia" shall mean the
3 impression or mark approved by the department under the
4 provisions of this part.

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

7 (c) 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 (d) 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 (e) The words "licensed wholesaler" shall mean a
20 wholesaler duly licensed under the provisions of this part.

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

1 ~~person shall be treated as a wholesaler. Any person who~~
 2 ~~operates less than 10 cigarette vending machines shall be~~
 3 ~~treated as a retailer.~~

4 (g) The word "subjobber" shall mean and include any
 5 person who purchases cigarettes from a licensed wholesaler
 6 with the Montana cigarette tax insignia affixed thereto and
 7 sells or offers to sell such cigarettes to a licensed
 8 retailer or cigarette vendor. An isolated sale or exchange
 9 of cigarettes between licensed retailers shall not
 10 constitute such retailers as subjobbers. It is further
 11 provided that a subjobber shall use the license in the
 12 interest of the general public. If during any month more
 13 than 35% of volume of cigarette sales be with any retail
 14 client whose business is controlled directly or indirectly
 15 through sanguinity or affinity with the owner or employer
 16 for such retail business, the license shall be deemed to
 17 have been used or to be intended to be used in violation of
 18 16-11-144.

19 (h) The words "licensed subjobber" shall mean a
 20 subjobber duly licensed under the provisions of this part,
 21 and he shall be treated as a wholesaler.

22 (i) The word "retailer" shall mean any person, other
 23 than a wholesaler, subjobber, or cigarette vendor, who is
 24 engaged in the business of selling cigarettes at retail.

25 (j) The words "licensed retailer" shall mean any

1 person, other than a wholesaler, subjobber, or cigarette
 2 vendor, who is duly licensed under the provisions of this
 3 part.

4 (k) The words "sale" and "sell" shall mean and include
 5 any transfer of cigarettes by sale, as defined by 30-2-106,
 6 or by gift, barter, or exchange."

7 Section 2. Section 16-11-122, MCA, is amended to read:
 8 "16-11-122. License fees — renewal. (1) Each
 9 application for a wholesaler's license shall be accompanied
 10 by a fee of \$50.

11 (2) Each application for cigarette vendor's license
 12 shall be accompanied by a fee of \$8 for each vending machine
 13 operated in Montana.

14 ~~(2)(3)~~ Each application for a subjobber's license
 15 shall be accompanied by a fee of \$50.

16 ~~(3)(4)~~ Each application for a retailer's license shall
 17 be accompanied by a fee of \$5.

18 ~~(4)(5)~~ These licenses shall be renewed annually upon
 19 payment of the annual fee in the amount set forth above and
 20 shall be effective for 1 year, without proration, and are
 21 not transferable."

-End-

STATE OF MONTANA

REQUEST NO. 304-83

FISCAL NOTE

Form RD 15

In compliance with a written request received February 2, 19 83, there is hereby submitted a Fiscal Note for House Bill 587 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 587 revises the definition of "cigarette vendor" and provides a license fee of \$8 for each cigarette vending machine operated in Montana.

ASSUMPTIONS:

- (1) The number of licensed wholesale and retail dealers and vendors will remain at approximately the level reported for FY 82, as follows:

2,111	retailers
41	wholesalers
392	vendors with less than 10 machines
32	vendors with 10 machines or more
- (2) Approximately 2,400 cigarette machines will be licensed annually.
- (3) The average number of machines per vendor with fewer than ten is 5, and the average number of machines per vendor with ten or more is 14.
- (4) Fees for wholesale and retail licenses will remain at \$50 and \$5, respectively.

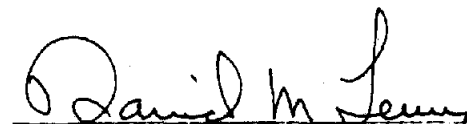
FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>
Cigarette License Fees		
Under Current Law	\$16,165	\$16,165
Under Proposed Law	31,805	31,805
Estimated Increase	<u>\$15,640</u>	<u>\$15,640</u>
Earmarked Revenue Fund for		
Cigarette Enforcement		
Under Current Law	\$16,165	\$16,165
Under Proposed Law	31,805	31,805
Estimated Increase	<u>\$15,640</u>	<u>\$15,640</u>

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposed legislation represents a substantial increase in fees paid by vendors with more than one machine, which may result in an increased price to the consumer.

FISCAL NOTE 11:E/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-8-83