

HOUSE BILL No. 6073

July 6, 2004, Introduced by Rep. Julian and referred to the Committee on Regulatory Reform.

A bill to amend 1993 PA 327, entitled
"Tobacco products tax act,"
by amending section 11 (MCL 205.431).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) ~~Beginning May 1, 1994, a~~ A person, either as
2 principal or agent, shall not sell or solicit ~~orders for~~ a sale
3 of a tobacco product to be shipped, mailed, or otherwise sent or
4 brought into the state, to a person not a licensed manufacturer,
5 licensed wholesaler, licensed secondary wholesaler, licensed
6 vending machine operator, licensed unclassified acquirer,
7 licensed transporter, or licensed transportation company, unless
8 the tobacco product is to be sold to or through a licensed
9 wholesaler. ~~Each violation of this act is a separate offense.~~

10 (2) All sales transactions conducted through the internet,
11 by telephone, or in a mail-order transaction shall not be

1 completed unless, before each delivery of cigarettes is made,
2 whether through the mail, through a transportation company, or
3 through any other delivery system, the seller has obtained from
4 the purchaser a certification that includes a valid
5 government-issued document that confirms that the purchaser is at
6 least the legal minimum age to purchase cigarettes; that the
7 cigarettes purchased are not intended for consumption by an
8 individual who is younger than the legal minimum age to purchase
9 cigarettes; and a written statement signed by the purchaser that
10 certifies the purchaser's address and that the purchaser is at
11 least the minimum legal age to purchase cigarettes. The
12 statement shall also confirm that the purchaser understands that
13 signing another person's name to the certification is illegal;
14 that the sale of cigarettes to individuals under the legal
15 minimum purchase age is illegal; and that the purchase of
16 cigarettes by individuals under the legal minimum purchase age is
17 illegal under the laws of the state of Michigan. The seller
18 shall verify the information contained in the certification
19 provided by the purchaser against a commercially available
20 database of governmental records, or obtain a photocopy or other
21 image of the valid, government-issued identification stating the
22 date of birth or age of the purchaser.

23 (3) All invoices, bills of lading, sales receipts, or other
24 documents related to the sale of cigarettes through the internet,
25 by telephone, or in a mail-order transaction shall contain the
26 current seller's valid Michigan sales tax registration number,
27 business name and address of the seller, and a statement as to

1 whether all sales taxes and taxes levied under this act have been
2 paid. All packages of cigarettes shipped from a cigarette seller
3 to purchasers who reside in Michigan shall clearly print the
4 package with the word "CIGARETTES" on the outside of all sides of
5 the package so it is clearly visible to the shipper. In
6 addition, the package shall contain an externally visible and
7 clearly legible notice located on the same side of the package as
8 the address to which the package is delivered, as follows:

9 "IF THESE CIGARETTES HAVE BEEN SHIPPED TO YOU FROM A SELLER
10 LOCATED OUTSIDE OF THE STATE IN WHICH YOU RESIDE, THE SELLER HAS
11 REPORTED UNDER FEDERAL LAW THE SALE OF THESE CIGARETTES TO OUR
12 STATE TAX COLLECTION AGENCY, INCLUDING YOUR NAME AND ADDRESS.
13 YOU ARE LEGALLY RESPONSIBLE FOR ALL APPLICABLE UNPAID STATE TAXES
14 ON THESE CIGARETTES."

15 If an order is made as a result of advertisement over the
16 internet, the tobacco retailer shall request the electronic mail
17 address of the purchaser and shall receive payment by credit card
18 or check before shipping. This subsection and subsection (2) do
19 not apply to sales by wholesalers and unclassified acquirers.

20 (4) A person who violates this section in connection with a
21 sale conducted through the internet, by telephone, or in a
22 mail-order transaction is guilty of a misdemeanor, punishable by
23 a fine of not more than \$1,000.00 or imprisonment for not more
24 than 1 year, or both. Each violation of this section is a
25 separate offense.

26 (5) As used in this section, "internet sale" means a sale of,
27 a solicitation to sell, a purchase of, or an offer to purchase

1 cigarettes conducted all or in part by accessing an internet
2 website.