

HOUSE BILL NO. HB0096

Tobacco taxes.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to taxation and revenue; providing for
2 enforcement of tobacco tax provisions as specified;
3 providing definitions; and providing for an effective date.

4

5 *Be It Enacted by the Legislature of the State of Wyoming:*

6

7 **Section 1.** W.S. 39-18-101(a)(v) by creating a new
8 subparagraph (D) and 39-18-108(c)(iii), (iv) and by
9 creating new paragraphs (vii) through (xi) are amended to
10 read:

11

12 **39-18-101. Definitions.**

13

14 (a) As used in this article:

15

16 (v) "Wholesaler" means any person who:

17

1 (D) Delivers cigarettes, cigars, snuff or
2 other tobacco products over the internet or through any
3 other means of direct or indirect mail solicitation and
4 delivery.

5
6 **39-18-108. Enforcement.**

7
8 (c) Penalties. The following shall apply:

9
10 (iii) Each act in violation of ~~paragraph~~
11 paragraphs (ii) and (vii) through (xi) of this subsection
12 is a separate offense;

13
14 (iv) The penalties specified in paragraphs (ii),
15 ~~and~~ (iii) and (vii) through (xi) of this subsection are in
16 addition to the provisions of paragraph (i) of this
17 subsection and subsection (e) of this section;

18
19 (vii) Any person who omits, neglects or refuses
20 to comply with any duty imposed upon him by this article,
21 or to do or cause to be done any of the things required by
22 this article, or does any act prohibited by this article,
23 may, in addition to any other penalty provided by this
24 article, be liable for a penalty of not to exceed one

1 thousand dollars (\$1,000.00) or five (5) times the retail
2 value of the tobacco product at issue, whichever is
3 greater, to be recovered in a civil action;

4
5 (viii) Any person who fails to pay any tax
6 imposed by this article at the time prescribed by law or
7 department rule or regulation may, in addition to any other
8 penalty provided by this article, be liable for a penalty
9 of not to exceed five (5) times the tax due, but unpaid, to
10 be recovered in a civil action;

11
12 (ix) Any fixture, equipment or any other
13 material or personal property on the premises of any
14 tobacco product wholesaler or retailer who, with intent to
15 defraud the state, fails to keep or make any record,
16 return, report or inventory, or who keeps or makes any
17 false or fraudulent record, return, report or inventory
18 required by this article, or who refuses to pay any tax
19 imposed by this article, or who attempts in any manner to
20 evade or defeat the requirements of this article shall be
21 forfeited to the state;

22
23 (x) Any person who, with intent to defraud,
24 fails to comply with any requirement of this article or

1 regulation prescribed hereunder may, in addition to any
2 other penalty provided in this article, for each such
3 offense, be fined not to exceed ten thousand dollars
4 (\$10,000.00), or be imprisoned for not to exceed one (1)
5 year, or both;

6
7 (xi) Notwithstanding any other provision of law,
8 the sale or possession for sale of counterfeit cigarettes
9 with the intent to defraud by a cigarette manufacturer,
10 importer, wholesaler or retailer may result in the seizure
11 of the product and related machinery by the department or
12 any law enforcement agency and shall be punishable as
13 provided in this paragraph. As used in this paragraph,
14 "counterfeit cigarettes" means cigarettes which have a
15 false manufacturing label or any package of cigarettes
16 which bears a counterfeit tax stamp. Any counterfeit
17 cigarettes seized by the department under paragraph (i) of
18 this subsection shall be destroyed. The following
19 penalties shall apply:

20
21 (A) A first violation involving a total
22 quantity of less than two (2) cartons of cigarettes may be
23 punishable by a fine of not to exceed one thousand dollars

1 (\$1,000.00) or five (5) times the retail value of the
2 cigarettes involved, whichever is greater;

3
4 (B) A subsequent violation involving a
5 total quantity of less than two (2) cartons of cigarettes
6 may be punishable by a fine of not to exceed five thousand
7 dollars (\$5,000.00) or five (5) times the retail value of
8 the cigarettes involved, whichever is greater;

9
10 (C) A first violation involving a total
11 quantity of two (2) cartons of cigarettes or more may be
12 punishable by a fine of not to exceed two thousand dollars
13 (\$2,000.00) or five (5) times the retail value of the
14 cigarettes involved, whichever is greater;

15
16 (D) A subsequent violation involving a
17 quantity of two (2) cartons of cigarettes or more shall be
18 punishable by a fine of not to exceed fifty thousand
19 dollars (\$50,000.00).

20
21 **Section 2.** This act is effective July 1, 2005.

22
23 (END)