

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-AB133)**

Received: **06/11/99**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-3847**

By/Representing: **Russell**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Alt. Drafters: **rkite**

Subject: **Tax - cigarettes and t.p.**

Extra Copies:

**Pre Topic:**

LFB:.....Russell -

**Topic:**

Eliminate cigarette multiple retailer permit

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	jkreye 06/12/99	wjackson 06/12/99	martykr 06/12/99	_____	lrb_docadmin 06/13/99		

FE Sent For:

<END>

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1?	jkreye	1 WLj 6/12	dm 6/12	JA 6/12			

FE Sent For:

<END>

**Tradewell, Becky**

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B-0674

**From:** Russell, Faith  
**Sent:** Friday, June 11, 1999 9:58 AM  
**To:** Tradewell, Becky  
**Subject:** Budget language

Hi Becky -

Attached is a copy of motion #1255, on the "Class B" liquor licenses, as well as a copy of motion #1206, which is the item on the cigarette multiple retailer permit. The cigarette multiple retailer permit is covered under Chapter 100 and Chapter 139. Please let me know if you have any questions. Thanks!

Faith Russell  
Fiscal Analyst, Legislative Fiscal Bureau  
faith.russell@legis.state.wi.us  
Phone: 608-266-3847

GENERAL FUND TAXES

Repeal of Cigarette Multiple Retailer Permit

Motion:

Move to eliminate the cigarette multiple retailer permit. Remove all references to the permit in Wisconsin statutes.

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Note:

Chapter 139 of the statutes specifies that a permit must be obtained from the Department of Revenue (DOR) for the following: (a) to manufacture cigarettes in this state; (b) to sell cigarettes in this state as a distributor, jobber, vending machine operator or multiple retailer; and (c) to operate a warehouse to store cigarettes in this state for another person. Section 139.30 (8) defines a "multiple retailer" as a person who acquires stamped cigarettes from manufacturers or permittees, stores them and sells them to consumers through ten or more retail outlets which he or she owns and operates within or without the state. A multiple retailer that also holds a permit as a distributor has the option to acquire unstamped cigarettes from manufacturers and to affix the tax stamps themselves. Multiple retailers are required to keep records and file reports of all purchases and disposition of cigarettes, as are manufacturers, distributors, jobbers and vending machine operators.

Chapter 100 of the statutes, which addresses marketing and trade practices, specifies minimum markups that apply to the sale of cigarettes. The statutes require cigarette wholesalers to mark up the price of cigarettes by 3% of the cost of the merchandise to the wholesaler, in the absence of proof of a lesser cost of doing business, when selling to a retailer. The "cost to the wholesaler," on which the markup is determined, is based on the invoice cost of the merchandise to the wholesaler, adjusted as follows: (a) certain trade discounts are to be deducted from the wholesaler costs; and (b) excise taxes previously imposed are to be included in the wholesaler costs. In a similar manner, retailers are required to mark up the price of cigarettes to the consumer by 6% of the cost to the retailer, excluding specified discounts and including excise taxes.

Chapter 100 defines multiple retailers as wholesalers. A sale at wholesale between wholesalers is exempt from the wholesaler mark-up requirement. Therefore, distributors may sell cigarettes to multiple retailers and any other wholesaler without charging the minimum 3% wholesaler markup. Section 100.30 (2)(f) requires that, in cases in which a merchant acts as both a

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wholesaler and a retailer, the merchant must add both the wholesaler and retailer markups to the retail sales price. However, unlike the wholesaler markup from a distributor to an individual retail store, which is applied after deducting certain trade discounts, the statutes specify that the wholesaler markup for a multiple retailer is to be determined disregarding any manufacturer's discounts and any discounts related to cigarette tax stamp payments.

This motion would eliminate the cigarette multiple retailer permit and all statutory references to it. The individual retail stores currently operating under a multiple retailer permit would no longer be able to purchase cigarettes without paying a 3% wholesaler markup.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0674?  
JK, RNK: /:....

RMK

6-12-99

LFB:.....Russell – Eliminate cigarette multiple retailer permit

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

SOON

INSERT  
L-1

1 At the locations indicated, amend the bill as follows:

2 <sup>1/4</sup> # Page 1022, line 7: after that line insert:

3 “SECTION 2171g. 139.30 (8) of the statutes is repealed.”

4 <sup>2</sup> # Page 1022, line 13: after that line insert:

5 “SECTION 2172g. 139.34 (1) (a) of the statutes is amended to read:

6 139.34 (1) (a) No person may manufacture cigarettes in this state or sell

7 cigarettes in this state as a distributor, jobber, or vending machine operator ~~or~~

8 ~~multiple retailer~~ and no person may operate a warehouse in this state for the storage

9 of cigarettes for another person without first filing an application for and obtaining

10 the proper permit to perform such operations from the department.

11 SECTION 2172m. 139.34 (6) of the statutes is amended to read:

1           139.34 (6) A vending machine operator ~~or a multiple retailer~~ may acquire  
2 unstamped cigarettes from the manufacturers thereof and affix the stamps to  
3 packages or other containers only if the vending machine operator ~~or multiple~~  
4 ~~retailer~~ also holds a permit as a distributor.

5           **SECTION 2172p.**<sup>✓</sup> 139.38 (1) of the statutes is amended to read:

6           139.38 (1) Every manufacturer located out of the state shall keep records of all  
7 sales of cigarettes shipped into this state. Every manufacturer located in the state  
8 shall keep records of production, sales and withdrawals of cigarettes. Every  
9 distributor shall keep records of purchases and sales of cigarettes. Every  
10 manufacturer and distributor holding a permit from the secretary with the right to  
11 purchase and apply stamps shall also keep records of purchases and disposition of  
12 stamps. Every jobber, ~~multiple retailer~~ and vending machine operator shall keep  
13 records of all purchases and disposition of cigarettes. Every warehouse operator  
14 shall keep records of receipts and withdrawals of cigarettes. All such records shall  
15 be accurate and complete and be kept in a manner prescribed by the secretary. These  
16 records shall be preserved on the premises described in the permit or license in such  
17 a manner as to ensure permanency and accessibility for inspection at reasonable  
18 hours by authorized personnel of the department.

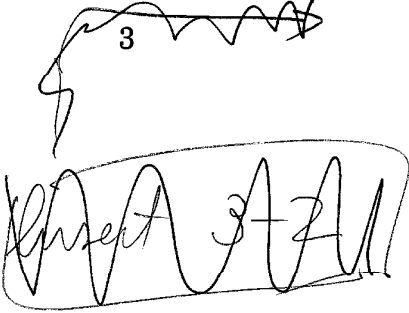
19           **SECTION 2172r.**<sup>✓</sup> 139.38 (2) (b) of the statutes is amended to read:

20           139.38 (2) (b) The department may allow any jobber, ~~multiple retailer~~ or  
21 vending machine operator permittee who does not sell cigarettes, except for those on  
22 which the tax under this chapter is paid, to file a quarterly report. The quarterly  
23 report shall be filed on or before the 15th day of the next month following the close

1 of each calendar quarter. The report shall specify the number of cigarettes purchased  
2 and sold during the preceding calendar quarter.”

3

(END)



A handwritten signature, possibly "Robert J. All", is enclosed in a hand-drawn rectangular box. Above the signature, there is a scribble consisting of a horizontal line with several wavy, vertical lines extending downwards from it.



1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

INSERT *MA*  
*1-1*

1 ~~#4~~. Page 958, line 7: after that line insert:

2 "SECTION 1960d. 100.30 (2) (c) 1. b. of the statutes is amended to read:  
3 100.30 (2) (c) 1. b. For every person holding a permit as a distributor as defined  
4 in s. 139.30 (3) ~~or as a multiple retailer as defined in s. 139.30 (8)~~, with respect to that  
5 portion of the person's business which involves the purchase and sale of cigarettes,  
6 "cost to wholesaler" means the cost charged by the cigarette manufacturer,  
7 disregarding any manufacturer's discount or any discount under s. 139.32 (5), plus  
8 the amount of tax imposed under s. 139.31. Except for a sale at wholesale between  
9 wholesalers, a markup to cover a proportionate part of the cost of doing business shall  
10 be added to the cost to wholesaler. In the absence of proof of a lesser cost, this markup  
11 shall be 3% of the cost to wholesaler as set forth in this subd. 1. b.

History: 1973 c. 310; 1979 c. 34 ss. 950o to 950y, 2102 (3) (a); 1979 c. 176, 221; 1981 c. 79 s. 17; 1983 a. 189 ss. 136 to 138, 329 (20); 1983 a. 466; 1985 a. 313, 332; 1987 a. 175; 1993 a. 16; 1997 a. 55.

12 SECTION 1960h. 100.30 (2) (f) of the statutes is amended to read:  
13 100.30 (2) (f) With respect to the sale of merchandise other than motor vehicle  
14 fuel, "retailer" and "wholesaler" shall both be applied to any merchant who buys  
15 merchandise for resale at retail from the manufacturer or producer thereof and to  
16 any wholesaler under par. (L) 2. and, as to that merchandise or that wholesaler, the  
17 terms "cost to retailer" and "cost to wholesaler" as defined in pars. (am) and (c) shall  
18 both be applied, including the markup requirements. *(intro.) and 1.*

History: 1973 c. 310; 1979 c. 34 ss. 950o to 950y, 2102 (3) (a); 1979 c. 176, 221; 1981 c. 79 s. 17; 1983 a. 189 ss. 136 to 138, 329 (20); 1983 a. 466; 1985 a. 313, 332; 1987 a. 175; 1993 a. 16; 1997 a. 55.

19 SECTION ~~1960i~~ 100.30 (2) (L) of the statutes ~~is~~ amended to read:  
20 100.30 (2) (L) *(intro)* "Wholesaler" includes every person holding a permit as a  
21 ~~multiple retailer under s. 139.30 (8)~~ and every person engaged in the business of  
22 making sales at wholesale, other than sales of motor vehicle fuel at wholesale, within

19  
Who?  
Please  
Fix  
Comment  
20  
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*are consolidated  
renumbered 100.30  
and*

- 1 this state except as follows: 1. In that in the case of a person engaged in the business
- 2 of selling both at wholesale and at retail, "wholesaler" applies only to the wholesale
- 3 portion of that business.

History: 1973 c. 310; 1979 c. 34 ss. 950o to 950y, 2102 (3) (a); 1979 c. 176, 221; 1981 c. 79 s. 17; 1983 a. 189 ss. 136 to 138, 329 (20); 1983 a. 466; 1985 a. 313, 332; 1987 a. 175; 1993 a. 16; 1997 a. 55.

4

**SECTION 1960t.** 100.30 (2) (L) 2. of the statutes is repealed." .



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0674/1  
JK&RNK:wlj:km

LFB:.....Russell – Eliminate cigarette multiple retailer permit

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

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2 1. Page 958, line 7: after that line insert:

3 “SECTION 1960d. 100.30 (2) (c) 1. b. of the statutes is amended to read:

4 100.30 (2) (c) 1. b. For every person holding a permit as a distributor as defined  
5 in s. 139.30 (3) ~~or as a multiple retailer as defined in s. 139.30 (8)~~, with respect to that  
6 portion of the person’s business which involves the purchase and sale of cigarettes,  
7 “cost to wholesaler” means the cost charged by the cigarette manufacturer,  
8 disregarding any manufacturer’s discount or any discount under s. 139.32 (5), plus  
9 the amount of tax imposed under s. 139.31. Except for a sale at wholesale between  
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1           **SECTION 1960h.** 100.30 (2) (f) of the statutes is amended to read:

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6 terms “cost to retailer” and “cost to wholesaler” as defined in pars. (am) and (c) shall  
7 both be applied, including the markup requirements.

8           **SECTION 1960p.** 100.30 (2) (L) (intro.) and 1. of the statutes are consolidated,  
9 renumbered 100.30 (2) (L) and amended to read:

10           100.30 (2) (L) (intro.) “Wholesaler” includes ~~every person holding a permit as~~  
11 ~~a multiple retailer under s. 139.30 (8) and~~ every person engaged in the business of  
12 making sales at wholesale, other than sales of motor vehicle fuel at wholesale, within  
13 this state except as follows: 1. In that in the case of a person engaged in the business  
14 of selling both at wholesale and at retail, “wholesaler” applies only to the wholesale  
15 portion of that business.

16           **SECTION 1960t.** 100.30 (2) (L) 2. of the statutes is repealed.”.

17           **2.** Page 1022, line 7: after that line insert:

18           “**SECTION 2171g.** 139.30 (8) of the statutes is repealed.”.

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21 hours by authorized personnel of the department.

22 **SECTION 2172r.** 139.38 (2) (b) of the statutes is amended to read:

23 139.38 (2) (b) The department may allow any jobber, ~~multiple retailer~~ or  
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25 which the tax under this chapter is paid, to file a quarterly report. The quarterly

1 report shall be filed on or before the 15th day of the next month following the close  
2 of each calendar quarter. The report shall specify the number of cigarettes purchased  
3 and sold during the preceding calendar quarter.”

4 (END)