EXHIBIT 8
DATE 2-16-05
HB 687

Montana Department of REVENUE

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HB687

Generally Revise Tobacco Laws
Section by Section Detail

February 16, 2004

Montana Department of REVENUE

HB687 - Section by Section Detail

- **Section 1.** Provides that anyone who engages in the regular solicitation of tobacco products to consumers in Montana must comply with the requirements of this chapter and any rules adopted.
- **Section 2.** Provides that the department may serve upon the Secretary of State all legal documents arising from any action taken against an unlicensed person soliciting consumers to purchase tobacco products.
- **Section 3.** Sets forth the procedures for serving the legal documents on any person who solicits orders of tobacco products, makes a contract to sell or deliver tobacco products, or collects money from the sale of tobacco products. Also establishes what the Secretary of State is required to do upon receipt of the documents.
- **Section 4.** Provides language indicating that each controlling person, and each partner, officer, or director is individually and directly liable for abiding by state law regarding tobacco and sets forth guidelines for determining personal liability.

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HB687 - Section by Section Detail (cont.)

- **Section 5.** Requires a person selling tobacco products into Montana to register with the Department of Revenue prior to any shipments being made. Creates new reporting requirements for businesses or individuals who ship tobacco products into Montana. Allows the department to seek an injunction against the seller if the requirements are not complied with.
- **Section 6.** Requires an officer who has seized contraband tobacco products to deliver an inventory of the seized product to the person having right or an interest in the seized property. Also establishes how an owner of the seized property makes claim for the seized property.
- **Section 7.** Defines tobacco products for Title 16, chapter 10.
- **Section 8.** Provides for definitions of "contraband," "controlling person," "directory," "moist snuff," "retailer," "roll your own," "tobacco products," "tobacco products vendor," "wholesale price" and "wholesaler." Most importantly redefines "cigarette" in order to mirror the definition used by the Attorney General's office.

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HB687 - Section by Section Detail (cont.)

- **Section 9.** Allows the Department of Justice to investigate and hold hearings on tobacco products that are not listed on the AG's Office directory, which establishes acceptable tobacco products to be sold in Montana.
- **Section 10.** Makes the reporting by carriers of shipments of tobacco products a requirement. Adjusts the time frame for record retention to 36 months. Provides civil penalties in an amount not to exceed $50,000 for a natural person and $100,000 for a non-natural entity for a first offense and doubles the penalties for any subsequent offenses.
- **Section 11.** Moves taxation language for all other tobacco products other than cigarettes into chapter 11-111. Adds language requiring retailers purchasing other tobacco products on which the tax has not already been paid to remit the tax prior to selling the product. Adds language clarifying that unless the shipping invoices received by the retailer indicate that the tax has been paid, the retailers should assume that the wholesaler has not paid the appropriate tobacco products tax.

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HB687 - Section by Section Detail (cont.)

- **Section 12.** Moves discount language for tobacco products other than cigarettes into chapter 11-114.
- **Section 13.** Adds clarifying language that makes this section applicable to all tobacco products. Changes the record retention requirement to three years for wholesalers and subjobbers. Creates a record retention requirement for retailers of three years. Provides for statutory authority to examine records of subjobbers and retailers. Provides civil penalties in an amount not less than $1,000 and not more than $10,000.
- **Section 14.** Moves disposition language for taxes derived from tobacco products other than cigarettes or moist snuff into chapter 11-119.
- **Section 15.** Requires licensure of all tobacco products wholesalers, subjobbers, retailers, and tobacco products vendors.

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HB687 - Section by Section Detail (cont.)

- **Section 16.** Clarifies the license fee for a tobacco products vendor.
- **Section 17.** Identifies contraband tobacco products and requires packaging to identify shipped product as tobacco products. Also establishes 16-11-148 as the penalty provision for shipment or possession of contraband.
- **Section 18.** Establishes 16-11-148 as the penalty provision for the illegal sales of tobacco products without a license.
- **Section 19.** Establishes 16-11-148 as the penalty provision for sales of tobacco products without a Montana tax stamp. Provides for individuals to bring into Montana from another state, for their own personal use, up to 200 cigarettes or 10 ounces of tobacco products other than cigarettes.
- **Section 20.** Allows Department of Justice investigators and peace officers to seize all tobacco products that are not listed on the AG's Office directory of acceptable tobacco products.
- **Section 21.** Clarifies existing language.
- **Section 22.** Clarifies existing language.
- **Section 23.** Provides for the revocation of a tobacco products license and for penalties listed in 16-11-148.

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HB687 - Section by Section Detail (cont.)

- **Section 24.** Clarifies and includes tobacco products in language.
- **Section 25.** Establishes 16-11-148 as an additional penalty provision for forgery of tax stamps.
- **Section 26.** Clarifies and includes tobacco products other than cigarettes in language. Moves subsections 2-4 to a more appropriate area.
- **Section 27.** Unless otherwise specifically stated, establishes a first offense of this part as a misdemeanor and any subsequent offenses as felonies. Increases criminal penalties for a misdemeanor to imprisonment for up to one year, a fine of up to $1,000, or both. Sets forth the penalties for a felony as imprisonment exceeding one year, a fine not to exceed $50,000, or both. Allows the department to decide whether to revoke a license for violations of this part. Adds language allowing the departments to impose civil penalties of $250 for the first full or partial pack and $10 for each additional pack. Establishes interest upon non-payment of penalties.
- **Section 28.** Clarifies existing language.
- **Section 29.** Adds language making this section applicable to decisions made by the Department of Justice or the Department of Revenue.

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HB687 - Section by Section Detail (cont.)

- **Section 30.** Includes the listed definitions for 16-11-156.
- **Section 31.** Requires all seized forfeited contraband be destroyed.
- **Section 32.** Eliminates reference to 16-11-203 which is being repealed.
- **Section 33.** Eliminates reference to 16-11-206(1)(b) which is being repealed.
- **Section 34.** Repeals sections not needed or placed in more appropriate places in the code.
- **Section 35.** Provides codification instruction.
- **Section 36.** Provides for an effective date 90 days after passage and approval.