

# SENATE BILL No. 930

February 7, 2012, Introduced by Senators KAHN, PAPPAGEORGE, PROOS and JONES and referred to the Committee on Finance.

A bill to amend 1993 PA 327, entitled "Tobacco products tax act," by amending sections 2, 5a, 6a, 7, and 12 (MCL 205.422, 205.425a, 205.426a, 205.427, and 205.432), section 2 as amended by 2005 PA 238, sections 5a and 6a as added by 1997 PA 187, section 7 as amended by 2008 PA 458, and section 12 as amended by 2004 PA 164, and by adding section 17.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2. As used in this act:

2           (a) "Cigarette" means a roll for smoking made wholly or in  
3 part of tobacco, irrespective of size or shape and irrespective of  
4 the tobacco being flavored, adulterated, or mixed with any other  
5 ingredient, which roll has a wrapper or cover made of paper or any  
6 other material. Cigarette does not include cigars.

1           (B) "CIGARETTE MAKING MACHINE" MEANS ANY MACHINE OR OTHER  
2 MECHANICAL DEVICE WHICH MEETS ALL OF THE FOLLOWING CRITERIA:

3           (i) IS CAPABLE OF BEING LOADED WITH LOOSE TOBACCO, CIGARETTE  
4 TUBES OR CIGARETTE PAPERS, AND ANY OTHER COMPONENTS RELATED TO THE  
5 PRODUCTION OF CIGARETTES, INCLUDING, BUT NOT LIMITED TO, CIGARETTE  
6 FILTERS.

7           (ii) IS DESIGNED TO AUTOMATICALLY OR MECHANICALLY PRODUCE,  
8 ROLL, FILL, DISPENSE, OR OTHERWISE GENERATE CIGARETTES.

9           (iii) IS COMMERCIAL-GRADE OR OTHERWISE DESIGNED OR SUITABLE FOR  
10 COMMERCIAL USE.

11           (iv) IS DESIGNED TO BE POWERED OR OTHERWISE OPERATED BY A MAIN  
12 OR PRIMARY POWER SOURCE OTHER THAN HUMAN POWER.

13           (C) ~~(b)~~—"Commissioner" means the state treasurer.

14           (D) ~~(c)~~—"Counterfeit cigarette" means a cigarette in an  
15 individual package of cigarettes or other container with a false  
16 manufacturing label or a cigarette in an individual package of  
17 cigarettes or other container with a counterfeit stamp.

18           (E) ~~(d)~~—"Counterfeit cigarette paper" means a cigarette paper  
19 with a false manufacturing label or that has not been printed,  
20 manufactured, or made by authority of the trademark owner.

21           (F) ~~(e)~~—"Counterfeit stamp" means any stamp, label, or print,  
22 indicium, or character, that evidences, or purports to evidence,  
23 the payment of any tax levied under this act and that has not been  
24 printed, manufactured, or made by authority of the department as  
25 provided in this act and has not been issued, sold, or circulated  
26 by the department.

27           (G) ~~(f)~~—"Department" means the department of treasury.

1           (H) ~~(g)~~—"Financially sound" means a determination by the  
2 department that the wholesaler or unclassified acquirer is able to  
3 pay for its stamps in the ordinary course of business based on  
4 criteria including, but not limited to, all of the following:

5           (i) Past filing and payment history with the department.

6           (ii) Outstanding liabilities.

7           (iii) Review of current financial statements including, but not  
8 limited to, balance sheets and income statements.

9           (iv) Duration that the wholesaler or unclassified acquirer has  
10 been licensed under this act.

11           (I) ~~(h)~~—"Gray market cigarette" means any cigarette the  
12 package of which bears any statement, label, stamp, sticker, or  
13 notice indicating that the manufacturer did not intend the  
14 cigarettes to be sold, distributed, or used in the United States,  
15 including, but not limited to, a label stating "For Export Only",  
16 "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording.

17           (J) ~~(i)~~—"Gray market cigarette paper" means any cigarette  
18 paper the package of which bears any statement, label, stamp,  
19 sticker, or notice indicating that the manufacturer did not intend  
20 the cigarette papers to be sold, distributed, or used in the United  
21 States, including, but not limited to, a label stating "For Export  
22 Only", "U.S. Tax Exempt", "For Use Outside U.S.", "For Use in  
23 \_\_\_\_\_ (another country) Only", or similar wording.

24           (K) ~~(j)~~—"Individual package" means an individual packet or  
25 pack used to contain or to convey cigarettes to the consumer.  
26 Individual package does not include cartons, cases, or shipping or  
27 storage containers that contain smaller packaging units of

1 cigarettes.

2 (I) ~~(k)~~—"Licensee" means a person licensed under this act.

3 (M) ~~(l)~~—"Manufacturer" means a—**ANY OF THE FOLLOWING:**

4 (i) A person who manufactures or produces a tobacco product.

5 (ii) A PERSON WHO OPERATES OR WHO PERMITS ANY OTHER PERSON TO  
6 OPERATE A CIGARETTE MAKING MACHINE IN THIS STATE FOR THE PURPOSE OF  
7 PRODUCING, FILLING, ROLLING, DISPENSING, OR OTHERWISE GENERATING  
8 CIGARETTES. A PERSON WHO IS A MANUFACTURER UNDER THIS SUBPARAGRAPH  
9 SHALL CONSTITUTE A NONPARTICIPATING MANUFACTURER FOR PURPOSES OF  
10 SECTIONS 6C AND 6D. A PERSON WHO OPERATES OR OTHERWISE USES A  
11 MACHINE OR OTHER MECHANICAL DEVICE, OTHER THAN A CIGARETTE MAKING  
12 MACHINE, TO PRODUCE, ROLL, FILL, DISPENSE, OR OTHERWISE GENERATE  
13 CIGARETTES SHALL NOT BE CONSIDERED A MANUFACTURER AS LONG AS THE  
14 CIGARETTES ARE PRODUCED OR OTHERWISE GENERATED IN THAT PERSON'S  
15 DWELLING AND FOR THAT PERSON'S SELF-CONSUMPTION. FOR PURPOSES OF  
16 THIS ACT, "SELF-CONSUMPTION" MEANS PRODUCTION FOR PERSONAL  
17 CONSUMPTION OR USE AND NOT FOR SALE, RESALE, OR ANY OTHER PROFIT-  
18 MAKING ENDEAVOR.

19 (N) ~~(m)~~—"Noncigarette smoking tobacco" means tobacco sold in  
20 loose or bulk form that is intended for consumption by smoking and  
21 includes roll-your-own cigarette tobacco.

22 (O) ~~(n)~~—"Person" means an individual, partnership, fiduciary,  
23 association, limited liability company, corporation, or other legal  
24 entity.

25 (P) ~~(e)~~—"Place of business" means a place where a tobacco  
26 product is sold or where a tobacco product is brought or kept for  
27 the purpose of sale or consumption, including a vessel, airplane,

1 train, or vending machine.

2 (Q) ~~(p)~~—"Retailer" means a person other than a transportation  
3 company who operates a place of business for the purpose of making  
4 sales of a tobacco product at retail.

5 (R) ~~(q)~~—"Sale" means a transaction by which the ownership of  
6 tangible personal property is transferred for consideration and  
7 applies also to use, gifts, exchanges, barter, and theft.

8 (S) ~~(r)~~—"Secondary wholesaler" means a person who sells a  
9 tobacco product for resale, who purchases a tobacco product from a  
10 wholesaler or unclassified acquirer licensed under this act, and  
11 who maintains an established place of business in this state where  
12 a substantial portion of the business is the sale of tobacco  
13 products and related merchandise at wholesale, and where at all  
14 times a substantial stock of tobacco products and related  
15 merchandise is available to retailers for resale.

16 (T) ~~(s)~~—"Smokeless tobacco" means snuff, chewing tobacco, and  
17 any other tobacco that is intended to be consumed by means other  
18 than smoking.

19 (U) ~~(t)~~—"Stamp" means a distinctive character, indication, or  
20 mark, as determined by the department, attached or affixed to an  
21 individual package of cigarettes by mechanical device or other  
22 means authorized by the department to indicate that the tax imposed  
23 under this act has been paid.

24 (V) ~~(u)~~—"Stamping agent" means a wholesaler or unclassified  
25 acquirer other than a manufacturer who is licensed and authorized  
26 by the department to affix stamps to individual packages of  
27 cigarettes on behalf of themselves and other wholesalers or

1 unclassified acquirers other than manufacturers.

2       **(W)** ~~(v)~~—"Tobacco product" means cigarettes, cigars,  
3 noncigarette smoking tobacco, or smokeless tobacco.

4       **(X)** ~~(w)~~—"Transportation company" means a person operating, or  
5 supplying to common carriers, cars, boats, or other vehicles for  
6 the transportation or accommodation of passengers and engaged in  
7 the sale of a tobacco product at retail.

8       **(Y)** ~~(x)~~—"Transporter" means a person importing or transporting  
9 into this state, or transporting in this state, a tobacco product  
10 obtained from a source located outside this state, or from any  
11 person not duly licensed under this act. Transporter does not  
12 include an interstate commerce carrier licensed by the interstate  
13 commerce commission to carry commodities in interstate commerce, or  
14 a licensee maintaining a warehouse or place of business outside of  
15 this state if the warehouse or place of business is licensed under  
16 this act.

17       **(Z)** ~~(y)~~—"Unclassified acquirer" means a person, except a  
18 transportation company or a purchaser at retail from a retailer  
19 licensed under the general sales tax act, 1933 PA 167, MCL 205.51  
20 to 205.78, who imports or acquires a tobacco product from a source  
21 other than a wholesaler or secondary wholesaler licensed under this  
22 act for use, sale, or distribution. Unclassified acquirer also  
23 means a person who receives cigars, noncigarette smoking tobacco,  
24 or smokeless tobacco directly from a manufacturer licensed under  
25 this act or from another source outside this state, which source is  
26 not licensed under this act. An unclassified acquirer does not  
27 include a wholesaler.

1           **(AA)** ~~(z)~~—"Vending machine operator" means a person who  
2 operates 1 or more vending machines for the sale of a tobacco  
3 product and who purchases a tobacco product from a manufacturer,  
4 licensed wholesaler, or secondary wholesaler.

5           **(BB)** ~~(aa)~~—"Wholesale price" means the actual price paid for a  
6 tobacco product, including any tax, by a wholesaler or unclassified  
7 acquirer to a manufacturer, excluding any discounts or reductions.

8           **(CC)** ~~(bb)~~—"Wholesaler" means a person who purchases all or  
9 part of his or her tobacco products from a manufacturer, who sells  
10 75% or more of those tobacco products to others for resale, and who  
11 maintains an established business where substantially all of the  
12 business is the sale of tobacco products or cigarettes and related  
13 merchandise at wholesale and where at all times a substantial stock  
14 of tobacco products and related merchandise is available to  
15 retailers for resale. Wholesaler includes a chain of stores  
16 retailing a tobacco product to the consumer if 75% of its stock of  
17 tobacco products is purchased directly from the manufacturer.

18           Sec. 5a. **(1)** The department shall procure stamps as needed in  
19 the various designs, denominations, and forms necessary as  
20 determined by the department. The department shall pay for the  
21 stamps.

22           **(2) NOT LATER THAN MARCH 1, 2012, THE DEPARTMENT SHALL ISSUE A**  
23 **REQUEST FOR PROPOSAL TO ACQUIRE AND USE DIGITAL STAMPS THAT CONTAIN**  
24 **A UNIQUE NONREPEATING CODE THAT CAN BE READ BY A DEVICE THAT**  
25 **IDENTIFIES THE TAXED PRODUCT AND ALSO CONTAIN OTHER SECURITY AND**  
26 **ENFORCEMENT FEATURES AS DETERMINED BY THE DEPARTMENT. THE REQUEST**  
27 **FOR PROPOSAL SHALL INCLUDE A PROVISION THAT REQUIRES THE SUCCESSFUL**

1 BIDDER ON THE PROPOSAL TO SHARE DIGITAL STAMP TECHNOLOGY SO THAT  
2 HANDHELD DEVICES, INCLUDING, BUT NOT LIMITED TO, SMARTPHONES, CAN  
3 BE READILY UTILIZED IN FURTHERANCE OF THE IMPLEMENTATION OF THE USE  
4 OF DIGITAL STAMPS AND SO THAT THE TECHNOLOGY AND EQUIPMENT USED BY  
5 THE STAMPING AGENTS TO AFFIX THE STAMP TO THE PRODUCT CAN BE  
6 SUPPLIED, AS MAY BE PERMITTED BY THE DEPARTMENT, BY THE SUCCESSFUL  
7 BIDDER ON THE PROPOSAL OR BY ANY OTHER PROVIDERS. THE REQUEST FOR  
8 PROPOSAL SHALL ALSO INCLUDE A PROVISION PERMITTING THE DEPARTMENT  
9 TO MANAGE OR RESTRICT ACCESS RIGHTS TO ALL OR PART OF THE  
10 INFORMATION CONTAINED WITHIN, OR ACCESSIBLE FROM, THE STAMPS AND A  
11 PROVISION REQUIRING THE SUCCESSFUL BIDDER ON THE PROPOSAL TO  
12 GUARANTEE THAT THE STAMPS WILL BE DESIGNED AND MANUFACTURED TO  
13 ENSURE THAT STAMPS CAN BE AFFIXED TO INDIVIDUAL PACKAGES OF  
14 CIGARETTES IN ACCORDANCE WITH THE REQUIREMENTS UNDER SECTION 6A(2).

15 Sec. 6a. (1) ~~Beginning April 15, 1998, a~~ **A** wholesaler or  
16 unclassified acquirer other than a manufacturer may apply to the  
17 department ~~for~~ stamps to affix as provided in this act. The  
18 department may prescribe the method of shipment of the stamps. The  
19 department shall keep a record of all stamps disbursed, name of  
20 wholesaler or unclassified acquirer, and date of disbursement. The  
21 department may release the identity of the wholesaler or  
22 unclassified acquirer to whom specific stamps were disbursed to  
23 state or local police agencies.

24 (2) ~~Beginning May 1, 1998, before~~ **BEFORE** delivery, sale, or  
25 transfer to any person in this state, a wholesaler or an  
26 unclassified acquirer shall place or cause to be placed on the  
27 bottom of each individual package of cigarettes to be sold within



1 this state a stamp provided by the department. Stamps shall be  
2 firmly affixed in such a manner that the stamps cannot be removed  
3 without being mutilated or destroyed. A stamp shall be affixed to  
4 each individual package in an aggregate denomination equal to the  
5 amount of the tax upon the contents of the individual package of  
6 cigarettes. ~~A-EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A~~  
7 stamp is considered affixed if more than 50% of the stamp is  
8 affixed to the individual package, as determined by the department.  
9 **UPON IMPLEMENTATION OF THE DIGITAL STAMPS AS PROVIDED IN SECTION**  
10 **5A(2), A DIGITAL STAMP IS CONSIDERED AFFIXED IF ALL UNIQUE**  
11 **IDENTIFYING FEATURES OF THE STAMP ARE READABLE.**

12 (3) ~~Beginning May 1, 1998, a~~ ~~A~~ retailer or person licensed  
13 under this act, other than a wholesaler or unclassified acquirer or  
14 a person acting as a transporter for a wholesaler or unclassified  
15 acquirer, shall not acquire for resale an individual package of  
16 cigarettes or a cigarette from an individual package unless that  
17 individual package of cigarettes has affixed to it a stamp as  
18 provided in this act.

19 (4) ~~Beginning September 1, 1998, a~~ ~~A~~ retailer or vending  
20 machine operator shall not sell or offer for sale an individual  
21 package of cigarettes to the general public that does not have  
22 affixed the stamp required by this act. ~~Beginning September 1,~~  
23 ~~1998, cigarettes~~ **CIGARETTES** without stamps may not be placed or  
24 stored in a vending machine.

25 (5) The department or its authorized agents may inspect or  
26 conduct an inventory of a wholesaler's or unclassified acquirer's  
27 stock of cigarettes, tobacco products other than cigarettes, and

1 stamps during regular business hours and inspect the related  
2 statements and other records required in section 6.

3 (6) The department or its authorized agents may inspect the  
4 operations of a secondary wholesaler, vending machine operator, or  
5 retailer, or the contents of a specific vending machine, during  
6 regular business hours. This inspection shall include inspection of  
7 all statements and other records required by section 6 of this act,  
8 of packages of cigarettes and tobacco products other than  
9 cigarettes, and of the contents of cartons and shipping or storage  
10 containers to ascertain that all individual packages of cigarettes  
11 have an affixed stamp of proper denomination as required by this  
12 act. This inspection may also verify that all the stamps were  
13 produced under the authority of the department.

14 (7) A person shall not prevent or hinder the department or its  
15 authorized agents from making a full inspection of any place or  
16 vending machine where cigarettes or tobacco products other than  
17 cigarettes subject to the tax under this act are sold or stored, or  
18 prevent or hinder the full inspection of invoices, books, records,  
19 or other papers required to be kept by this act.

20 (8) The department may require wholesalers and unclassified  
21 acquirers to exchange unaffixed stamps with the department as the  
22 department considers necessary. The department may require  
23 wholesalers, unclassified acquirers, secondary wholesalers, vending  
24 machine operators and retailers to discontinue offering for sale  
25 any unsold individual packages of cigarettes bearing a prior  
26 version of the stamp that the department has withdrawn from  
27 circulation. The department may set a reasonable timeline after

1 which the prior version of the stamp may no longer be offered for  
2 sale and the new version of the stamp is required. A secondary  
3 wholesaler, retailer, or vending machine operator may return  
4 cigarette packages bearing discontinued stamps to a wholesaler for  
5 credit. A wholesaler or unclassified acquirer may take credit on  
6 its tax returns for individual packages of cigarettes bearing  
7 discontinued stamps that are returned to the manufacturer for  
8 credit less the appropriate discount paid.

9 (9) Except as provided in subsection (10), a wholesaler or  
10 unclassified acquirer shall not give, sell, or lend any unaffixed  
11 stamps to another person and except as otherwise provided in this  
12 act, a person shall not accept, purchase, or borrow any unaffixed  
13 stamps from another person.

14 (10) Upon written authorization of the department, a  
15 wholesaler or unclassified acquirer licensed under this act may  
16 appoint a stamping agent to affix stamps to individual packages of  
17 cigarettes.

18 **(11) STAMPS MAY ONLY BE AFFIXED TO AN INDIVIDUAL PACKAGE OF**  
19 **CIGARETTES IF THE MANUFACTURER OF THE CIGARETTES IS IDENTIFIED ON**  
20 **THE LISTS OF PARTICIPATING MANUFACTURERS OR NONPARTICIPATING**  
21 **MANUFACTURERS MAINTAINED BY THE DEPARTMENT PURSUANT TO SECTION**  
22 **6C(8).**

23 **(12) THE DEPARTMENT OF STATE POLICE SHALL INITIATE INQUIRIES**  
24 **TO OR OTHERWISE ACCESS DATA FROM THE DEPARTMENT TO SUPPORT OR IN**  
25 **FURTHERANCE OF ITS ENFORCEMENT ACTIVITIES UNDER THIS ACT.**

26 Sec. 7. (1) Beginning May 1, 1994, a tax is levied on the sale  
27 of tobacco products sold in this state as follows:

1 (a) Through July 31, 2002, for cigars, noncigarette smoking  
2 tobacco, and smokeless tobacco, 16% of the wholesale price.

3 (b) For cigarettes, 37.5 mills per cigarette.

4 (c) Beginning August 1, 2002, for cigarettes, in addition to  
5 the tax levied in subdivision (b), an additional 15 mills per  
6 cigarette.

7 (d) Beginning August 1, 2002, for cigarettes, in addition to  
8 the tax levied in subdivisions (b) and (c), an additional 10 mills  
9 per cigarette.

10 (e) Beginning July 1, 2004, for cigarettes, in addition to the  
11 tax levied in subdivisions (b), (c), and (d), an additional 37.5  
12 mills per cigarette.

13 (f) Beginning August 1, 2002 and through June 30, 2004, for  
14 cigars, noncigarette smoking tobacco, and smokeless tobacco, 20% of  
15 the wholesale price.

16 (g) Beginning July 1, 2004, for cigars, noncigarette smoking  
17 tobacco, and smokeless tobacco, 32% of the wholesale price.

18 (2) On or before the twentieth day of each calendar month,  
19 every licensee under section 3 other than a retailer, unclassified  
20 acquirer licensed as a manufacturer, or vending machine operator  
21 shall file a return with the department stating the wholesale price  
22 of each tobacco product other than cigarettes purchased, the  
23 quantity of cigarettes purchased, the wholesale price charged for  
24 all tobacco products other than cigarettes sold, the number of  
25 individual packages of cigarettes and the number of cigarettes in  
26 those individual packages, and the number and denominations of  
27 stamps affixed to individual packages of cigarettes sold by the

1 licensee for each place of business in the preceding calendar  
2 month. The return shall also include the number and denomination of  
3 unaffixed stamps in the possession of the licensee at the end of  
4 the preceding calendar month. Wholesalers shall also report  
5 accurate inventories of cigarettes, both stamped and unstamped at  
6 the end of the preceding calendar month. Wholesalers and  
7 unclassified acquirers shall also report accurate inventories of  
8 affixed and unaffixed stamps by denomination at the beginning and  
9 end of each calendar month and all stamps acquired during the  
10 preceding calendar month. The return shall be signed under penalty  
11 of perjury. The return shall be on a form prescribed by the  
12 department and shall contain or be accompanied by any further  
13 information the department requires.

14 (3) To cover the cost of expenses incurred in the  
15 administration of this act, at the time of the filing of the  
16 return, the licensee shall pay to the department the tax levied in  
17 subsection (1) for tobacco products sold during the calendar month  
18 covered by the return, less compensation equal to ~~both of the~~  
19 following:

20 (a) One percent of the total amount of the tax due on tobacco  
21 products sold other than cigarettes.

22 (b) Through July 31, 2002, 1.25% of the total amount of the  
23 tax due on cigarettes sold.

24 (c) Beginning August 1, 2002, 1.5% of the total amount of the  
25 tax due on cigarettes sold **AND, FOR SALES OF UNTAXED CIGARETTES TO**  
26 **INDIAN TRIBES IN THIS STATE, AN AMOUNT EQUAL TO 1.5% OF THE TOTAL**  
27 **AMOUNT OF THE TAX DUE ON THOSE CIGARETTES SOLD AS IF THOSE**

1 CIGARETTE SALES WERE TAXABLE SALES UNDER THIS ACT.

2 (D) BEGINNING ON THE FIRST CALENDAR MONTH FOLLOWING THE  
3 IMPLEMENTATION OF THE USE OF DIGITAL STAMPS AS PROVIDED IN SECTION  
4 5A(2), FOR LICENSEES WHO ARE STAMPING AGENTS, 0.5% OF THE TOTAL  
5 AMOUNT OF THE TAX DUE ON CIGARETTES SOLD AND, FOR SALES OF UNTAXED  
6 CIGARETTES TO INDIAN TRIBES IN THIS STATE, 0.5% OF THE TOTAL AMOUNT  
7 OF THE TAX DUE ON THOSE CIGARETTES SOLD AS IF THOSE CIGARETTE SALES  
8 WERE TAXABLE SALES UNDER THIS ACT, UNTIL THE STAMPING AGENT IS  
9 COMPENSATED IN AN AMOUNT EQUAL TO THE DIRECT COST ACTUALLY INCURRED  
10 BY THE STAMPING AGENT FOR UPGRADES TO TECHNOLOGY AND EQUIPMENT,  
11 EXCLUDING THE EQUIPMENT REIMBURSED UNDER SUBDIVISION (E), THAT ARE  
12 NECESSARY TO AFFIX THE DIGITAL STAMP AS DETERMINED BY THE  
13 DEPARTMENT.

14 (E) BEGINNING ON THE FIRST CALENDAR MONTH FOLLOWING THE  
15 IMPLEMENTATION OF THE USE OF DIGITAL STAMPS AS PROVIDED IN SECTION  
16 5A(2) AND CONTINUING FOR THE IMMEDIATELY SUCCEEDING 17 MONTHS, FOR  
17 LICENSEES WHO ARE STAMPING AGENTS, REIMBURSEMENT OF AN AMOUNT EQUAL  
18 TO 5.55% OF THE TOTAL PURCHASE PRICE OF THE EQUIPMENT NECESSARY TO  
19 AFFIX THE DIGITAL STAMP.

20 (4) Every licensee and retailer who, on August 1, 2002, has on  
21 hand for sale any cigarettes upon which a tax has been paid  
22 pursuant to subsection (1)(b) shall file a complete inventory of  
23 those cigarettes before September 1, 2002 and shall pay to the  
24 department at the time of filing this inventory a tax equal to the  
25 difference between the tax imposed in subsection (1)(b), (c), and  
26 (d) and the tax that has been paid under subsection (1)(b). Every  
27 licensee and retailer who, on August 1, 2002, has on hand for sale

1 any cigars, noncigarette smoking tobacco, or smokeless tobacco upon  
2 which a tax has been paid pursuant to subsection (1)(a) shall file  
3 a complete inventory of those cigars, noncigarette smoking tobacco,  
4 and smokeless tobacco before September 1, 2002 and shall pay to the  
5 department at the time of filing this inventory a tax equal to the  
6 difference between the tax imposed in subsection (1)(f) and the tax  
7 that has been paid under subsection (1)(a).

8 (5) Every licensee and retailer who, on July 1, 2004, has on  
9 hand for sale any cigarettes upon which a tax has been paid  
10 pursuant to subsection (1)(b), (c), and (d) shall file a complete  
11 inventory of those cigarettes before August 1, 2004 and shall pay  
12 to the department at the time of filing this inventory a tax equal  
13 to the difference between the tax imposed in subsection (1)(b),  
14 (c), (d), and (e) and the tax that has been paid under subsection  
15 (1)(b), (c), and (d). Every licensee and retailer who, on July 1,  
16 2004, has on hand for sale any cigars, noncigarette smoking  
17 tobacco, or smokeless tobacco upon which a tax has been paid  
18 pursuant to subsection (1)(f) shall file a complete inventory of  
19 those cigars, noncigarette smoking tobacco, and smokeless tobacco  
20 before August 1, 2004 and shall pay to the department at the time  
21 of filing this inventory a tax equal to the difference between the  
22 tax imposed in subsection (1)(g) and the tax that has been paid  
23 under subsection (1)(f). The proceeds derived under this subsection  
24 shall be credited to the medicaid benefits trust fund created under  
25 section 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

26 (6) The department may require the payment of the tax imposed  
27 by this act upon the importation or acquisition of a tobacco

1 product. A tobacco product for which the tax under this act has  
2 once been imposed and that has not been refunded if paid is not  
3 subject upon a subsequent sale to the tax imposed by this act.

4 (7) An abatement or refund of the tax provided by this act may  
5 be made by the department for causes the department considers  
6 expedient. The department shall certify the amount and the state  
7 treasurer shall pay that amount out of the proceeds of the tax.

8 (8) A person liable for the tax may reimburse itself by adding  
9 to the price of the tobacco products an amount equal to the tax  
10 levied under this act.

11 (9) A wholesaler, unclassified acquirer, or other person shall  
12 not sell or transfer any unaffixed stamps acquired by the  
13 wholesaler or unclassified acquirer from the department. A  
14 wholesaler or unclassified acquirer who has any unaffixed stamps on  
15 hand at the time its license is revoked or expires, or at the time  
16 it discontinues the business of selling cigarettes, shall return  
17 those stamps to the department. The department shall refund the  
18 value of the stamps, less the appropriate discount paid.

19 (10) If the wholesaler or unclassified acquirer has unsalable  
20 packs returned from a retailer, secondary wholesaler, vending  
21 machine operator, wholesaler, or unclassified acquirer with stamps  
22 affixed, the department shall refund the amount of the tax less the  
23 appropriate discount paid. If the wholesaler or unclassified  
24 acquirer has unaffixed unsalable stamps, the department shall  
25 exchange with the wholesaler or unclassified acquirer new stamps in  
26 the same quantity as the unaffixed unsalable stamps. An application  
27 for refund of the tax shall be filed on a form prescribed by the



1 department for that purpose, within 4 years from the date the  
2 stamps were originally acquired from the department. A wholesaler  
3 or unclassified acquirer shall make available for inspection by the  
4 department the unused or spoiled stamps and the stamps affixed to  
5 unsalable individual packages of cigarettes. The department may, at  
6 its own discretion, witness and certify the destruction of the  
7 unused or spoiled stamps and unsalable individual packages of  
8 cigarettes that are not returnable to the manufacturer. The  
9 wholesaler or unclassified acquirer shall provide certification  
10 from the manufacturer for any unsalable individual packages of  
11 cigarettes that are returned to the manufacturer.

12 (11) On or before the twentieth of each month, each  
13 manufacturer shall file a report with the department listing all  
14 sales of tobacco products to wholesalers and unclassified acquirers  
15 during the preceding calendar month and any other information the  
16 department finds necessary for the administration of this act. This  
17 report shall be in the form and manner specified by the department.

18 (12) Each wholesaler or unclassified acquirer shall submit to  
19 the department an unstamped cigarette sales report on or before the  
20 twentieth day of each month covering the sale, delivery, or  
21 distribution of unstamped cigarettes during the preceding calendar  
22 month to points outside of Michigan. A separate schedule shall be  
23 filed for each state, country, or province into which shipments are  
24 made. For purposes of the report described in this subsection,  
25 "unstamped cigarettes" means individual packages of cigarettes that  
26 do not bear a Michigan stamp. The department may provide the  
27 information contained in this report to a proper officer of another

1 state, country, or province reciprocating in this privilege.

2       Sec. 12. (1) The proceeds derived from the payment of taxes,  
3 fees, and penalties provided for under this act and the license  
4 fees received by the department shall be deposited with the state  
5 treasurer and disbursed only as provided in this section and  
6 section 7(5). **HOWEVER, FOR FISCAL YEAR 2011-2012 ONLY, BEFORE A  
7 DISTRIBUTION OF FUNDS IS MADE UNDER SUBSECTIONS (3) (D), (4) (A),  
8 (5) (C), (7) (C), AND (8) (C), PROPORTIONATELY FROM THOSE FUNDS,  
9 \$6,000,000.00 SHALL BE USED BY THE DEPARTMENT, THE ATTORNEY  
10 GENERAL, AND THE DEPARTMENT OF STATE POLICE FOR ENFORCEMENT AND  
11 ADMINISTRATION OF THIS ACT.**

12       (2) The tax imposed under section 7(1) (a) shall be disbursed  
13 as follows:

14       (a) 94% of the proceeds shall be credited to the state school  
15 aid fund established by section 11 of article IX of the state  
16 constitution of 1963.

17       (b) 6% of the proceeds shall be credited to the healthy  
18 Michigan fund created under section 5953 of the public health code,  
19 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described  
20 in this subdivision that are used for smoking prevention programs  
21 shall be used by the department of community health to expand the  
22 free smokers quit kit program to include the nicotine patch or  
23 nicotine gum.

24       (3) The tax imposed on cigarettes under section 7(1) (b) shall  
25 be disbursed as follows:

26       (a) Beginning May 1, 1994 and through June 30, 2004, 5.3% of  
27 the proceeds shall be credited to the health and safety fund

1 created in the health and safety fund act, 1987 PA 264, MCL 141.471  
2 to 141.479.

3 (b) Beginning July 1, 2004, 6.5% of the proceeds shall be  
4 credited to the health and safety fund created in the health and  
5 safety fund act, 1987 PA 264, MCL 141.471 to 141.479.

6 (c) Through June 30, 2004, 25.3% of the proceeds shall be  
7 credited to the general fund of this state.

8 (d) Beginning July 1, 2004, 24.1% of the proceeds shall be  
9 credited to the general fund of this state.

10 (e) 63.4% of the proceeds shall be credited to the state  
11 school aid fund established by section 11 of article IX of the  
12 state constitution of 1963.

13 (f) 6% of the proceeds shall be credited to the healthy  
14 Michigan fund created under section 5953 of the public health code,  
15 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described  
16 in this subdivision that are used for smoking prevention programs  
17 shall be used by the department of community health to expand the  
18 free smokers quit kit program to include the nicotine patch or  
19 nicotine gum.

20 (4) Beginning August 1, 2002, the tax imposed on cigarettes  
21 under section 7(1)(c) shall be disbursed as follows:

22 (a) Through June 30, 2004, 74.2%, and beginning July 1, 2004,  
23 9.0% of the proceeds shall be credited to the general fund of this  
24 state.

25 (b) Through June 30, 2004, 4.6%, and beginning July 1, 2004,  
26 56.3% of the proceeds shall be credited to the state school aid  
27 fund established by section 11 of article IX of the state

1 constitution of 1963.

2 (c) 6.0% of the proceeds shall be credited to the healthy  
3 Michigan fund created under section 5953 of the public health code,  
4 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described  
5 in this subdivision that are used for smoking prevention programs  
6 shall be used by the department of community health to expand the  
7 free smokers quit kit program to include the nicotine patch or  
8 nicotine gum.

9 (d) Through June 30, 2004, 3.0%, and beginning July 1, 2004,  
10 3.7% of the proceeds shall be paid to counties with a 2000  
11 population of more than 2,000,000, to be used only for indigent  
12 health care.

13 (e) Through June 30, 2004, 12.2%, and beginning July 1, 2004,  
14 25.0% of the proceeds shall be credited to the medicaid benefits  
15 trust fund created under section 5 of the Michigan trust fund act,  
16 2000 PA 489, MCL 12.255.

17 (5) Beginning August 1, 2002, the tax imposed under section  
18 7(1)(f) shall be disbursed as follows:

19 (a) 75.6% of the proceeds shall be credited to the state  
20 school aid fund established by section 11 of article IX of the  
21 state constitution of 1963.

22 (b) 6.0% of the proceeds shall be credited to the healthy  
23 Michigan fund created under section 5953 of the public health code,  
24 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described  
25 in this subdivision that are used for smoking prevention programs  
26 shall be used by the department of community health to expand the  
27 free smokers quit kit program to include the nicotine patch or

1 nicotine gum.

2 (c) 18.4% of the proceeds shall be credited to the general  
3 fund of this state.

4 (6) Beginning August 1, 2002, the tax imposed on cigarettes  
5 under section 7(1)(d) shall be disbursed as follows:

6 (a) 94.0% of the proceeds shall be credited to the state  
7 school aid fund established by section 11 of article IX of the  
8 state constitution of 1963.

9 (b) 6.0% of the proceeds shall be credited to the healthy  
10 Michigan fund created under section 5953 of the public health code,  
11 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described  
12 in this subdivision that are used for smoking prevention programs  
13 shall be used by the department of community health to expand the  
14 free smokers quit kit program to include the nicotine patch or  
15 nicotine gum.

16 (7) Beginning July 1, 2004, the tax imposed on cigarettes  
17 under section 7(1)(e) shall be disbursed as follows:

18 (a) Beginning July 1, 2004 and through September 30, 2005,  
19 100% of the proceeds shall be credited to the Michigan medicaid  
20 benefits trust fund created under section 5 of the Michigan trust  
21 fund act, 2000 PA 489, MCL 12.255.

22 (b) Beginning October 1, 2005, 75.0% of the proceeds shall be  
23 credited to the medicaid benefits trust fund created under section  
24 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

25 (c) Beginning October 1, 2005, 25.0% of the proceeds shall be  
26 credited to the general fund of this state.

27 (8) Beginning July 1, 2004, the tax imposed under section

1 7(1)(g) shall be disbursed as follows:

2 (a) Beginning July 1, 2004 and through September 30, 2005,  
3 100% of the proceeds shall be credited to the Michigan medicaid  
4 benefits trust fund created under section 5 of the Michigan trust  
5 fund act, 2000 PA 489, MCL 12.255.

6 (b) Beginning October 1, 2005, 75.0% of the proceeds shall be  
7 credited to the medicaid benefits trust fund created under section  
8 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

9 (c) Beginning October 1, 2005, 25.0% of the proceeds shall be  
10 credited to the general fund of this state.

11 (9) The proceeds of the fees and penalties provided for in  
12 this act shall be used for the administration of this act.

13 **SEC. 17. (1) THE DEPARTMENT OF STATE POLICE MAY UTILIZE**  
14 **ELECTRONIC RESOURCES, INCLUDING, BUT NOT LIMITED TO, THE LAW**  
15 **ENFORCEMENT INFORMATION NETWORK AND THE NATIONAL CRIME INFORMATION**  
16 **CENTER, IN ORDER TO PERFORM CRIMINAL BACKGROUND CHECKS ON**  
17 **APPLICANTS FOR LICENSES UNDER THIS ACT AND ON CURRENT LICENSEES**  
18 **UNDER THIS ACT. THE DEPARTMENT OF STATE POLICE SHALL INFORM THE**  
19 **DEPARTMENT OF THE RESULTS OF THE BACKGROUND CHECKS, INDICATING**  
20 **WHETHER OR NOT AN APPLICANT FOR A LICENSE UNDER THIS ACT OR A**  
21 **CURRENT LICENSEE UNDER THIS ACT HAS A CRIMINAL HISTORY.**

22 (2) THE DEPARTMENT MAY CONSIDER THE CRIMINAL HISTORY REPORTED  
23 UNDER SUBSECTION (1) AS GOOD CAUSE TO SUSPEND, REVOKE, OR REFUSE TO  
24 ISSUE OR RENEW A LICENSE ISSUED UNDER THIS ACT UNDER SECTION 5(1).