



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 1017 (as enacted)
Sponsor: Senator Roger Kahn, M.D.
Senate Committee: Finance
House Committee: Regulatory Reform

PUBLIC ACT 298 of 2014

Date Completed: 11-25-14

CONTENT

The bill amended the Tobacco Products Tax Act to do the following with respect to stamping agents' compensation for upgraded technology and equipment, and the purchase of eligible equipment, necessary to affix digital stamps:

- **Allow compensation for the initial purchase of case packers or similar machines or conveyors, including sales or use taxes paid and shipping and crating charges.**
- **Provide that the reimbursement for the purchase of eligible digital stamping equipment and technology includes sales or use taxes paid and shipping and crating charges.**
- **Allow reimbursement of stamping agents' costs for qualified equipment (equipment that was placed in service before August 15, 2014, in connection with a digital stamping line under pilot program).**
- **Set a limit of \$60,000 on the reimbursement of qualified equipment costs for all stamping agents combined.**

The bill took effect on September 30, 2014.

The Act requires the Department of Treasury to obtain stamps that must be affixed to packs of cigarettes, and prohibits the sale of cigarettes if the packs are not stamped. Public Act 188 of 2012 amended the Act to require the Department to issue a request for proposal to acquire and use digital stamps that meet certain criteria and contain security and enforcement features determined by the Department. Public Act 188 also enacted provisions allowing licensees that are stamping agents to retain certain amounts from the tobacco products taxes they remit to the Department, as compensation for the equipment and technology upgrades necessitated by digital stamps.

Specifically, beginning in the first month after the use of digital stamps has been implemented, a licensee that is a stamping agent may retain, in addition to other amounts, 0.5% of the total amount of the tax due on cigarettes sold (and, for sales of untaxed cigarettes to Indian tribes in this State, 0.5% of the total amount of the tax due as if the cigarette sales were taxable), until the stamping agent is compensated in an amount equal to the direct cost actually incurred for upgrades to technology and equipment necessary to affix the digital stamp, as determined by the Department. The bill refers to the direct cost incurred for "the purchase of" upgrades to technology and equipment.

The bill allows a stamping agent also to claim compensation under this provision for the direct costs actually incurred, as determined by the Department and reflected in the net

purchase price, for the initial and one-time purchase of case packers or similar machines or conveyors.

Specifically, stamping agent may claim compensation for case packers or similar machines to be used exclusively to repack cigarette cartons into case boxes after digital stamps have been applied by eligible equipment to the individual packages of cigarettes contained in those cartons. The case packers or similar machines must be in addition to, and not a replacement for, one or more case packers or similar machines used in connection with cigarette stamping machines that do not use the digital stamp.

The bill also allows a stamping agent to claim compensation for conveyors to be used exclusively for that portion of a cigarette stamping line that is necessary for and dedicated to cigarette stamping operations using eligible equipment to affix digital stamps to individual packages of cigarette to be sold in this State. The cigarette stamping line served by the conveyor must be in addition to one or more distinct and existing cigarette stamping lines using stamping machines that do not use the digital stamp. This compensation may not exceed a total of 50% of the amount reimbursed for the purchase of eligible equipment for any particular stamping agent.

The bill specifies that the compensation for case packers or similar machines and for conveyors includes any applicable sales or use taxes paid, and shipping and crating charges actually incurred, by the stamping agent in connection with the purchase. The compensation does not include charges for installation and ongoing maintenance or any other costs the agent incurred not expressly provided for in this amendment.

In addition, beginning in the first month after the use of digital stamps has been implemented, and continuing for the next 17 months, the Act allows a stamping agent to retain reimbursement of direct costs actually incurred for the initial purchase of eligible equipment necessary to affix the digital stamp. The amount an agent may retain is equal to 5.55% of the total net purchase price of the equipment, excluding costs for installation and ongoing maintenance.

Under the bill, the amount a stamping agent may retain includes reimbursement for any applicable sales or use taxes paid, and shipping and crating charges actually incurred, by the agent for the initial purchase of eligible equipment. In addition to charges for installation and ongoing maintenance, this reimbursement does not include any other costs not expressly provided for.

Also, beginning in the first month after implementation of the use of digital stamps, the bill allows stamping agents to retain reimbursement of qualified equipment costs actually incurred by the agent, not otherwise compensated or reimbursed under the provisions described above, as determined by the Department. This reimbursement may not exceed \$60,000 for all stamping agents combined.

The bill defines "qualified equipment" as equipment that was placed in service by a stamping agent that included conveyors and additional associated electrical line and compressed air line before August 15, 2014, in connection with the implementation of a digital stamping line under a pilot program with the Department, as determined by the Department. Qualified equipment does not include the cost of installation of a conveyor.

The Act defines "eligible equipment" as a cigarette tax stamping machine that meets all of the following conditions:

- Was purchased by a stamping agent who was licensed as a stamping agent as of December 31, 2011.

- Enables the stamping agent to affix digital stamps to individual packs of cigarettes as required by the Act.
- Was purchased for the primary purpose of permitting the stamping agent to affix digital stamps to individual packs of cigarettes to be sold in this State after the implementation of the use of digital stamps.

MCL 205.427

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will reduce State tobacco tax revenue by up to \$6.0 million, according to the Department of Treasury. Based on Senate Fiscal Agency estimates by fiscal year, State revenue reductions will total an estimated \$4.0 million in FY 2014-15 (\$0.8 million General Fund/General Purpose, \$1.7 million School Aid Fund, and \$1.5 million other funds), and \$2.0 million in FY 2015-16 (\$0.4 million GF/GP, \$0.8 million School Aid Fund, and \$0.8 million other funds). The actual loss in revenue will depend on the Treasury-approved reimbursements for case packers and conveyors needed for the conversion to digital tobacco stamps. (As noted above, the State reimbursement for the cost of digital stamping machines and the direct cost of upgrades to technology and equipment was approved previously in Public Act 188 of 2012.)

The revenue loss will affect all of the funds that receive distributions from the tobacco tax: the General Fund (which receives 19.8% of the tobacco tax), School Aid Fund (41.6%), Medicaid Benefits Trust Fund (31.9%), Healthy Michigan Fund (3.8%), Health and Safety Fund (2.4%), and Wayne County Indigent Health Care (0.6%). The reimbursement will start beginning with the month following the implementation of digital tobacco stamps, which will vary by company, but implementation is expected to be complete by January 2015. An eligible stamper of cigarettes is authorized to retain an additional 0.5% of tax collections until reimbursement of the approved amount is complete. The duration of the reimbursements will vary by stamping company based on the relationship of the cost of the eligible machinery and the tax collections of the company. The bill also provides for reimbursement of up to \$60,000 to a stamping agent for qualified equipment that was installed before August 15, 2014, in connection with the implementation of a digital stamping line under a pilot program with the Department of Treasury. This also will reduce State tobacco tax revenue.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.