

# SENATE BILL No. 1017

July 16, 2014, Introduced by Senator KAHN and referred to the Committee on Finance.

A bill to amend 1993 PA 327, entitled  
"Tobacco products tax act,"  
by amending section 7 (MCL 205.427), as amended by 2012 PA 325.

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

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

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

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

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

9           (d) Beginning August 1, 2002, for cigarettes, in addition to

1 the tax levied in subdivisions (b) and (c), an additional 10 mills  
2 per cigarette.

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

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

9 (g) Beginning July 1, 2004, for cigars, noncigarette smoking  
10 tobacco, and smokeless tobacco, 32% of the wholesale price.  
11 However, beginning November 1, 2012 and through October 31, 2016,  
12 the amount of tax levied under this subdivision on cigars shall not  
13 exceed 50 cents per individual cigar.

14 (2) On or before the twentieth day of each calendar month,  
15 every licensee under section 3 other than a retailer, unclassified  
16 acquirer licensed as a manufacturer, or vending machine operator  
17 shall file a return with the department stating the wholesale price  
18 of each tobacco product other than cigarettes purchased, the  
19 quantity of cigarettes purchased, the wholesale price charged for  
20 all tobacco products other than cigarettes sold, the number of  
21 individual packages of cigarettes and the number of cigarettes in  
22 those individual packages, and the number and denominations of  
23 stamps affixed to individual packages of cigarettes sold by the  
24 licensee for each place of business in the preceding calendar  
25 month. The return shall also include the number and denomination of  
26 unaffixed stamps in the possession of the licensee at the end of  
27 the preceding calendar month. Wholesalers shall also report

1 accurate inventories of cigarettes, both stamped and unstamped at  
2 the end of the preceding calendar month. Wholesalers and  
3 unclassified acquirers shall also report accurate inventories of  
4 affixed and unaffixed stamps by denomination at the beginning and  
5 end of each calendar month and all stamps acquired during the  
6 preceding calendar month. The return shall be signed under penalty  
7 of perjury. The return shall be on a form prescribed by the  
8 department and shall contain or be accompanied by any further  
9 information the department requires. The department may also  
10 require licensees to report cigarette acquisition, purchase, and  
11 sales information in other formats and frequency.

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

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

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

21 (c) Beginning August 1, 2002, 1.5% of the total amount of the  
22 tax due on cigarettes sold and, beginning on June 20, 2012, for  
23 sales of untaxed cigarettes to Indian tribes in this state, an  
24 amount equal to 1.5% of the total amount of the tax due on those  
25 cigarettes sold as if those cigarette sales were taxable sales  
26 under this act.

27 (d) Beginning on the first calendar month following the

1 implementation of the use of digital stamps as provided in section  
2 5a(2), for licensees who are stamping agents, 0.5% of the total  
3 amount of the tax due on cigarettes sold and, for sales of untaxed  
4 cigarettes to Indian tribes in this state, 0.5% of the total amount  
5 of the tax due on those cigarettes sold as if those cigarette sales  
6 were taxable sales under this act, until the stamping agent is  
7 compensated in an amount equal to the direct cost actually incurred  
8 by the stamping agent for **THE PURCHASE OF** upgrades to technology  
9 and equipment, excluding the equipment reimbursed under subdivision  
10 (e), that are necessary to affix the digital stamp as determined by  
11 the department.

12 (e) Beginning in the first calendar month following the  
13 implementation of the use of digital stamps as provided in section  
14 5a(2) and continuing for the immediately succeeding 17 months, for  
15 licensees who are stamping agents, reimbursement of direct costs  
16 actually incurred by the stamping agent, as determined by the  
17 department, for the initial purchase of eligible equipment in an  
18 amount equal to 5.55% of the total net purchase price of the  
19 eligible equipment necessary to affix the digital stamp. The  
20 reimbursement provided under this subdivision shall exclude  
21 reimbursement for any costs for installation or for ongoing  
22 maintenance related to eligible equipment. A stamping agent may  
23 only receive reimbursement under this subdivision to the extent  
24 that the eligible equipment purchased by the stamping agent does  
25 not exceed the total number of the stamping agent's existing  
26 equipment as certified by the stamping agent on a form prescribed  
27 by the department.

1           (4) Every licensee and retailer who, on August 1, 2002, has on  
2 hand for sale any cigarettes upon which a tax has been paid  
3 pursuant to subsection (1)(b) shall file a complete inventory of  
4 those cigarettes 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)(b), (c), and  
7 (d) and the tax that has been paid under subsection (1)(b). Every  
8 licensee and retailer who, on August 1, 2002, has on hand for sale  
9 any cigars, noncigarette smoking tobacco, or smokeless tobacco upon  
10 which a tax has been paid pursuant to subsection (1)(a) shall file  
11 a complete inventory of those cigars, noncigarette smoking tobacco,  
12 and smokeless tobacco before September 1, 2002 and shall pay to the  
13 department at the time of filing this inventory a tax equal to the  
14 difference between the tax imposed in subsection (1)(f) and the tax  
15 that has been paid under subsection (1)(a).

16           (5) Every licensee and retailer who, on July 1, 2004, has on  
17 hand for sale any cigarettes upon which a tax has been paid  
18 pursuant to subsection (1)(b), (c), and (d) shall file a complete  
19 inventory of those cigarettes before August 1, 2004 and shall pay  
20 to the department at the time of filing this inventory a tax equal  
21 to the difference between the tax imposed in subsection (1)(b),  
22 (c), (d), and (e) and the tax that has been paid under subsection  
23 (1)(b), (c), and (d). Every licensee and retailer who, on July 1,  
24 2004, has on hand for sale any cigars, noncigarette smoking  
25 tobacco, or smokeless tobacco upon which a tax has been paid  
26 pursuant to subsection (1)(f) shall file a complete inventory of  
27 those cigars, noncigarette smoking tobacco, and smokeless tobacco

1 before August 1, 2004 and shall pay to the department at the time  
2 of filing this inventory a tax equal to the difference between the  
3 tax imposed in subsection (1)(g) and the tax that has been paid  
4 under subsection (1)(f). The proceeds derived under this subsection  
5 shall be credited to the Michigan medicaid benefits trust fund  
6 created under section 5 of the Michigan trust fund act, 2000 PA  
7 489, MCL 12.255.

8 (6) The department may require the payment of the tax imposed  
9 by this act upon the importation or acquisition of a tobacco  
10 product. A tobacco product for which the tax under this act has  
11 once been imposed and that has not been refunded if paid is not  
12 subject upon a subsequent sale to the tax imposed by this act.

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

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

20 (9) A wholesaler, unclassified acquirer, or other person shall  
21 not sell or transfer any unaffixed stamps acquired by the  
22 wholesaler or unclassified acquirer from the department. A  
23 wholesaler or unclassified acquirer who has any unaffixed stamps on  
24 hand at the time its license is revoked or expires, or at the time  
25 it discontinues the business of selling cigarettes, shall return  
26 those stamps to the department. The department shall refund the  
27 value of the stamps, less the appropriate discount paid.

1           (10) If the wholesaler or unclassified acquirer has unsalable  
2 packs returned from a retailer, secondary wholesaler, vending  
3 machine operator, wholesaler, or unclassified acquirer with stamps  
4 affixed, the department shall refund the amount of the tax less the  
5 appropriate discount paid. If the wholesaler or unclassified  
6 acquirer has unaffixed unsalable stamps, the department shall  
7 exchange with the wholesaler or unclassified acquirer new stamps in  
8 the same quantity as the unaffixed unsalable stamps. An application  
9 for refund of the tax shall be filed on a form prescribed by the  
10 department for that purpose, within 4 years from the date the  
11 stamps were originally acquired from the department. A wholesaler  
12 or unclassified acquirer shall make available for inspection by the  
13 department the unused or spoiled stamps and the stamps affixed to  
14 unsalable individual packages of cigarettes. The department may, at  
15 its own discretion, witness and certify the destruction of the  
16 unused or spoiled stamps and unsalable individual packages of  
17 cigarettes that are not returnable to the manufacturer. The  
18 wholesaler or unclassified acquirer shall provide certification  
19 from the manufacturer for any unsalable individual packages of  
20 cigarettes that are returned to the manufacturer.

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

27           (12) Each wholesaler or unclassified acquirer shall submit to

1 the department an unstamped cigarette sales report on or before the  
2 twentieth day of each month covering the sale, delivery, or  
3 distribution of unstamped cigarettes during the preceding calendar  
4 month to points outside of ~~Michigan~~. **THIS STATE**. A separate  
5 schedule shall be filed for each state, country, or province into  
6 which shipments are made. For purposes of the report described in  
7 this subsection, "unstamped cigarettes" means individual packages  
8 of cigarettes that do not bear a Michigan stamp. The department may  
9 provide the information contained in this report to a proper  
10 officer of another state, country, or province reciprocating in  
11 this privilege.

12 (13) As used in subsection (3):

13 (a) "Eligible equipment" means a cigarette tax stamping  
14 machine that meets all of the following conditions:

15 (i) Was purchased by a stamping agent who was licensed as a  
16 stamping agent as of December 31, 2011.

17 (ii) Enables the stamping agent to affix digital stamps to  
18 individual packages of cigarettes in accordance with the  
19 requirements under section 6a(2).

20 (iii) Was purchased to be used for the primary purpose of  
21 permitting the stamping agent to affix digital stamps to individual  
22 packages of cigarettes to be sold in this state following the  
23 implementation of the use of digital stamps as provided in section  
24 5a(2).

25 (b) "Existing equipment" means a cigarette tax stamping  
26 machine that meets all of the following conditions:

27 (i) Was owned by a person who was licensed as a stamping agent



1 as of December 31, 2011.

2 (ii) Was a cigarette tax stamping machine used prior to January  
3 1, 2012 by the stamping agent to apply stamps using stamp rolls of  
4 30,000 stamps.