

SENATE BILL No. 1018

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

A bill to amend 1993 PA 327, entitled "Tobacco products tax act," by amending sections 2, 6, 7, and 12 (MCL 205.422, 205.426, 205.427, and 205.432), sections 2 and 12 as amended by 2012 PA 188, section 6 as amended by 1997 PA 187, and section 7 as amended by 2012 PA 325.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (A) "ALTERNATIVE NICOTINE PRODUCT" MEANS A NONCOMBUSTIBLE
3 PRODUCT CONTAINING NICOTINE THAT IS INTENDED FOR HUMAN CONSUMPTION,
4 WHETHER CHEWED, ABSORBED, DISSOLVED, OR INGESTED BY ANY OTHER
5 MEANS. ALTERNATIVE NICOTINE PRODUCT DOES NOT INCLUDE A TOBACCO
6 PRODUCT, A VAPOR PRODUCT, OR A PRODUCT REGULATED AS A DRUG OR
7 DEVICE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION UNDER

1 SUBCHAPTER V OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT, 21 USC
2 351 TO 360EEE-4.

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

8 (C) ~~(b)~~—"Cigarette making machine" means any machine or other
9 mechanical device which meets all of the following criteria:

10 (i) Is capable of being loaded with loose tobacco, cigarette
11 tubes or cigarette papers, and any other components related to the
12 production of cigarettes, including, but not limited to, cigarette
13 filters.

14 (ii) Is designed to automatically or mechanically produce,
15 roll, fill, dispense, or otherwise generate cigarettes.

16 (iii) Is commercial-grade or otherwise designed or suitable for
17 commercial use.

18 (iv) Is designed to be powered or otherwise operated by a main
19 or primary power source other than human power.

20 (D) ~~(c)~~—"Commissioner" means the state treasurer.

21 (E) "CONSUMABLE MATERIAL" MEANS ANY LIQUID NICOTINE SOLUTION
22 OR OTHER MATERIAL CONTAINING NICOTINE THAT IS DEPLETED AS A VAPOR
23 PRODUCT IS USED.

24 (F) ~~(d)~~—"Counterfeit cigarette" means a cigarette in an
25 individual package of cigarettes or other container with a false
26 manufacturing label or a cigarette in an individual package of
27 cigarettes or other container with a counterfeit stamp.

1 (G) ~~(e)~~—"Counterfeit cigarette paper" means a cigarette paper
2 with a false manufacturing label or that has not been printed,
3 manufactured, or made by authority of the trademark owner.

4 (H) ~~(f)~~—"Counterfeit stamp" means any stamp, label, or print,
5 indicium, or character, that evidences, or purports to evidence,
6 the payment of any tax levied under this act and that has not been
7 printed, manufactured, or made by authority of the department as
8 provided in this act and has not been issued, sold, or circulated
9 by the department.

10 (I) ~~(g)~~—"Department" means the department of treasury.

11 (J) ~~(h)~~—"Financially sound" means a determination by the
12 department that the wholesaler or unclassified acquirer is able to
13 pay for its stamps in the ordinary course of business based on
14 criteria including, but not limited to, all of the following:

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

16 (ii) Outstanding liabilities.

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

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

21 (K) ~~(i)~~—"Gray market cigarette" means any cigarette the
22 package of which bears any statement, label, stamp, sticker, or
23 notice indicating that the manufacturer did not intend the
24 cigarettes to be sold, distributed, or used in the United States,
25 including, but not limited to, a label stating "For Export Only",
26 "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording.

27 (L) ~~(j)~~—"Gray market cigarette paper" means any cigarette paper

1 the package of which bears any statement, label, stamp, sticker, or
2 notice indicating that the manufacturer did not intend the
3 cigarette papers to be sold, distributed, or used in the United
4 States, including, but not limited to, a label stating "For Export
5 Only", "U.S. Tax Exempt", "For Use Outside U.S.", "For Use in
6 _____ (another country) Only", or similar wording.

7 (M) ~~(k)~~—"Individual package" means an individual packet or
8 pack used to contain or to convey cigarettes to the consumer.
9 Individual package does not include cartons, cases, or shipping or
10 storage containers that contain smaller packaging units of
11 cigarettes.

12 (N) ~~(l)~~—"Licensee" means a person licensed under this act.

13 (O) ~~(m)~~—"Manufacturer" means any of the following:

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

15 (ii) A person who operates or who permits any other person to
16 operate a cigarette making machine in this state for the purpose of
17 producing, filling, rolling, dispensing, or otherwise generating
18 cigarettes. A person who is a manufacturer under this subparagraph
19 shall constitute a nonparticipating manufacturer for purposes of
20 sections 6c and 6d. A person who operates or otherwise uses a
21 machine or other mechanical device, other than a cigarette making
22 machine, to produce, roll, fill, dispense, or otherwise generate
23 cigarettes shall not be considered a manufacturer as long as the
24 cigarettes are produced or otherwise generated in that person's
25 dwelling and for that person's self-consumption. For purposes of
26 this act, "self-consumption" means production for personal
27 consumption or use and not for sale, resale, or any other profit-

1 making endeavor.

2 (P) "MOIST SNUFF" MEANS ANY FINELY CUT, GROUND, OR POWDERED
3 TOBACCO THAT IS NOT INTENDED TO BE SMOKED, BUT IS INTENDED TO BE
4 CONSUMED ORALLY, EITHER IN LOOSE FORM OR IN A POUCH. MOIST SNUFF
5 DOES NOT INCLUDE ANY FINELY CUT, GROUND, OR POWDERED TOBACCO THAT
6 IS INTENDED TO BE PLACED IN THE NASAL CAVITY.

7 (Q) ~~(n)~~"Noncigarette smoking tobacco" means tobacco sold in
8 loose or bulk form that is intended for consumption by smoking and
9 includes roll-your-own cigarette tobacco.

10 (R) ~~(e)~~"Person" means an individual, partnership, fiduciary,
11 association, limited liability company, corporation, or other legal
12 entity.

13 (S) ~~(p)~~"Place of business" means a place where a tobacco
14 product is sold or where a tobacco product is brought or kept for
15 the purpose of sale or consumption, including a vessel, airplane,
16 train, or vending machine.

17 (T) ~~(q)~~"Retailer" means a person other than a transportation
18 company who operates a place of business for the purpose of making
19 sales of a tobacco product at retail.

20 (U) ~~(r)~~"Sale" means a transaction by which the ownership of
21 tangible personal property is transferred for consideration and
22 applies also to use, gifts, exchanges, barter, and theft.

23 (V) ~~(s)~~"Secondary wholesaler" means a person who sells a
24 tobacco product for resale, who purchases a tobacco product from a
25 wholesaler or unclassified acquirer licensed under this act, and
26 who maintains an established place of business in this state where
27 a substantial portion of the business is the sale of tobacco

1 products and related merchandise at wholesale, and where at all
2 times a substantial stock of tobacco products and related
3 merchandise is available to retailers for resale.

4 (W) ~~(t)~~—"Smokeless tobacco" means snuff, chewing tobacco,
5 **MOIST SNUFF**, and any other tobacco that is intended to be consumed
6 by means other than smoking. **BEGINNING JANUARY 1, 2015, SMOKELESS**
7 **TOBACCO INCLUDES VAPOR PRODUCTS AND ALTERNATIVE NICOTINE PRODUCTS.**

8 (X) ~~(u)~~—"Stamp" means a distinctive character, indication, or
9 mark, as determined by the department, attached or affixed to an
10 individual package of cigarettes by mechanical device or other
11 means authorized by the department to indicate that the tax imposed
12 under this act has been paid.

13 (Y) ~~(v)~~—"Stamping agent" means a wholesaler or unclassified
14 acquirer other than a manufacturer who is licensed and authorized
15 by the department to affix stamps to individual packages of
16 cigarettes on behalf of themselves and other wholesalers or
17 unclassified acquirers other than manufacturers.

18 (Z) ~~(w)~~—"Tobacco product" means cigarettes, cigars,
19 noncigarette smoking tobacco, or smokeless tobacco.

20 (AA) ~~(x)~~—"Transportation company" means a person operating, or
21 supplying to common carriers, cars, boats, or other vehicles for
22 the transportation or accommodation of passengers and engaged in
23 the sale of a tobacco product at retail.

24 (BB) ~~(y)~~—"Transporter" means a person importing or
25 transporting into this state, or transporting in this state, a
26 tobacco product obtained from a source located outside this state,
27 or from any person not duly licensed under this act. Transporter

1 does not include an interstate commerce carrier licensed by the
2 interstate commerce commission to carry commodities in interstate
3 commerce, or a licensee maintaining a warehouse or place of
4 business outside of this state if the warehouse or place of
5 business is licensed under this act.

6 (CC) ~~(z)~~—"Unclassified acquirer" means a person, except a
7 transportation company or a purchaser at retail from a retailer
8 licensed under the general sales tax act, 1933 PA 167, MCL 205.51
9 to 205.78, who imports or acquires a tobacco product from a source
10 other than a wholesaler or secondary wholesaler licensed under this
11 act for use, sale, or distribution. Unclassified acquirer also
12 means a person who receives cigars, noncigarette smoking tobacco,
13 or smokeless tobacco directly from a manufacturer licensed under
14 this act or from another source outside this state, which source is
15 not licensed under this act. An unclassified acquirer does not
16 include a wholesaler.

17 (DD) "VAPOR PRODUCT" MEANS A NONCOMBUSTIBLE PRODUCT CONTAINING
18 NICOTINE THAT EMPLOYS A HEATING ELEMENT, POWER SOURCE, ELECTRONIC
19 CIRCUIT, OR OTHER ELECTRONIC, CHEMICAL, OR MECHANICAL MEANS,
20 REGARDLESS OF SHAPE OR SIZE, THAT CAN BE USED TO PRODUCE VAPOR FROM
21 NICOTINE IN A SOLUTION OR OTHER FORM. VAPOR PRODUCT INCLUDES AN
22 ELECTRONIC CIGARETTE, ELECTRONIC CIGAR, ELECTRONIC CIGARILLO,
23 ELECTRONIC PIPE, OR SIMILAR PRODUCT OR DEVICE AND A VAPOR CARTRIDGE
24 OR OTHER CONTAINER OF NICOTINE IN A SOLUTION OR OTHER FORM THAT IS
25 INTENDED TO BE USED WITH OR IN AN ELECTRONIC CIGARETTE, ELECTRONIC
26 CIGAR, ELECTRONIC CIGARILLO, ELECTRONIC PIPE, OR SIMILAR PRODUCT OR
27 DEVICE. VAPOR PRODUCT DOES NOT INCLUDE A PRODUCT REGULATED AS A

1 DRUG OR DEVICE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION
2 UNDER SUBCHAPTER V OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT, 21
3 USC 351 TO 360EEE-4.

4 (EE) ~~(aa)~~—"Vending machine operator" means a person who
5 operates 1 or more vending machines for the sale of a tobacco
6 product and who purchases a tobacco product from a manufacturer,
7 licensed wholesaler, or secondary wholesaler.

8 (FF) ~~(bb)~~—"Wholesale price" means the actual price paid for a
9 tobacco product, including any tax, by a wholesaler or unclassified
10 acquirer to a manufacturer, excluding any discounts or reductions.

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

21 Sec. 6. (1) A manufacturer, wholesaler, secondary wholesaler,
22 vending machine operator, transportation company, unclassified
23 acquirer, or retailer shall keep a complete and accurate record of
24 each tobacco product manufactured, purchased, or otherwise
25 acquired. Except for a manufacturer, the records shall include a
26 written statement containing the name and address of both the
27 seller and the purchaser, the date of delivery, the quantity, the

1 trade name or brand, and the price paid for each tobacco product
2 purchased. A licensee shall keep as part of the records a true copy
3 of all purchase orders, invoices, bills of lading, and other
4 written matter substantiating the purchase or acquisition of each
5 tobacco product at the location where the tobacco product is stored
6 or offered for sale. A retailer shall keep as part of the records a
7 true copy of all purchase orders, invoices, bills of lading, and
8 other written matter substantiating the purchase or acquisition of
9 each tobacco product at the location where the tobacco product is
10 offered for sale for a period of 4 months from the date of purchase
11 or acquisition. The department may, by giving prior written
12 approval, authorize a person licensed under this act or a retailer
13 to maintain records in a manner other than that required by this
14 subsection. Other records shall be kept by these persons as the
15 department reasonably prescribes.

16 (2) A manufacturer, wholesaler, unclassified acquirer, and
17 secondary wholesaler shall deliver with each sale or consignment of
18 a tobacco product a written statement containing the name or trade
19 name and address of both the seller and the purchaser, the date of
20 delivery, the quantity, and the trade name or brand of the tobacco
21 product, correctly itemizing the prices paid for each brand
22 purchased, and shall retain a duplicate of each statement.

23 (3) A vending machine operator shall keep a detailed record of
24 each vending machine owned for the sale of tobacco products showing
25 the location of the machine, the date of placing the machine on the
26 location, the quantity of each tobacco product placed in the
27 machine, the date when placed there, and the amount of the

1 commission paid or earned on sales through the vending machine.
2 When filling or refilling the vending machine, the operator shall
3 deliver to the owner or tenant occupying the premises where the
4 machine is located a written statement containing his or her own
5 name and address, the name and address of the owner or the tenant,
6 the date when the machine was filled, and the quantity of each
7 brand of tobacco product sold from the machine since the date when
8 tobacco products were last placed in the machine. A person in
9 possession of premises where a vending machine is located shall
10 keep a record of each tobacco product sold through the vending
11 machine located on the premises and the amount of commission paid
12 by the person operating the vending machine. The records shall
13 consist of written statements required to be given by each person
14 operating a vending machine for the sale of tobacco products as
15 provided in this section.

16 (4) A licensee under this act shall not issue or accept a
17 written statement or invoice that is known to the licensee to
18 contain a statement or omission that falsely indicates the name of
19 the customer, the type, trade name, or brand of merchandise, the
20 quantity of each type, trade name, or brand of merchandise, the
21 prices, the discounts, the date of the transaction, or the terms of
22 sale. A person shall not use a device or game of chance to aid,
23 promote, or induce sales or purchases of a tobacco product, or give
24 a tobacco product in connection with a device or game of chance.

25 (5) All statements and other records required by this section
26 shall be in a form prescribed by the department and shall be
27 preserved for a period of 4 years and offered for inspection at any

1 time upon oral or written demand by the department or its
2 authorized agent by every wholesaler, secondary wholesaler, vending
3 machine operator, unclassified acquirer, and retailer.

4 (6) If a tobacco product other than cigarettes is received or
5 acquired within this state by a wholesaler, secondary wholesaler,
6 vending machine operator, unclassified acquirer, or retailer, each
7 original manufacturer's shipping case shall bear the name and
8 address of the person making the first purchase or any other
9 markings the department prescribes. If a tobacco product other than
10 cigarettes is found in a place of business or otherwise in the
11 possession of a wholesaler, secondary wholesaler, vending machine
12 operator, unclassified acquirer, transporter, or retailer without
13 proper markings on the shipping case, box, or container of the
14 tobacco product or if an individual package of cigarettes is found
15 without a stamp affixed as provided under this act or if a tobacco
16 product is found without proper substantiation by invoices or other
17 records as required by this section, the presumption shall be that
18 the tobacco product is kept in violation of this act. If a tobacco
19 product is shipped outside the state, the licensee shipping the
20 tobacco product shall cause to be placed on every shipping case or
21 other container in which the tobacco product is shipped the name
22 and address of the consignee or purchaser to whom the shipment is
23 made outside of the state. The department may require reports from
24 a common carrier who transports a tobacco product to a point within
25 this state from another person who, under contract, transports a
26 tobacco product, or from a bonded warehouseperson or bailee who has
27 in his or her possession a tobacco product. A carrier, bailee,

1 warehouseperson, or other person shall permit the inspection of the
2 tobacco products and examination by the department or its duly
3 authorized agent of any records relating to the shipment of a
4 tobacco product into, from, or within the state.

5 (7) A transporter or other licensee transporting, possessing,
6 or acquiring for the purpose of transporting a tobacco product upon
7 a public highway, road, or street of this state shall have in his
8 or her actual possession invoices or bills of lading containing the
9 name and address of both the seller and the purchaser, the date of
10 delivery, the name and address of the transporter, the quantity and
11 trade name or brand of each tobacco product, the price paid for
12 each trade name or brand in the transporter's possession or
13 custody, and the license as prescribed under this act.

14 (8) A transporter desiring to possess or acquire for
15 transportation or transport a tobacco product upon a highway, road,
16 or street of this state shall obtain a permit from the department
17 authorizing the transporter to possess or acquire for
18 transportation or transport tobacco products and shall have the
19 permit in his or her possession while the tobacco product is in his
20 or her possession. This permit shall be obtained for each load
21 being transported and shall contain a statement setting forth the
22 name and address of the purchaser, seller, and transporter, the
23 license number of the purchaser, the date of the delivery of the
24 tobacco product or date of importation into this state, the route
25 to be followed if a tobacco product is being transported from an
26 out-of-state source, and any other information the department
27 requires. The department shall provide a permit on a form

1 prescribed by it upon the application of a transporter with the
2 remittance of a fee of \$1.00. If a transporter transports a tobacco
3 product into this state, the transporter shall stop at the nearest
4 state police post within this state on the route authorized by the
5 permit and disclose the tobacco products in his or her possession
6 and the papers required by this section to be in his or her
7 possession.

8 (9) BEGINNING JANUARY 1, 2015, A RECORD, WRITTEN STATEMENT, OR
9 INVOICE DESCRIBED IN THIS SECTION, IN ADDITION TO ALL OTHER
10 REQUIREMENTS DESCRIBED IN THIS SECTION, SHALL ALSO DETAIL, IN
11 MILLILITERS, THE AMOUNT OF CONSUMABLE MATERIALS INCLUDED IN THE
12 TRANSACTION.

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

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

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

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

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

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

27 (f) Beginning August 1, 2002 and through June 30, 2004, for

1 cigars, noncigarette smoking tobacco, and smokeless tobacco, 20% of
2 the wholesale price.

3 (g) ~~Beginning~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS**
4 **SUBDIVISION, BEGINNING** July 1, 2004, for cigars, noncigarette
5 smoking tobacco, and smokeless tobacco **OTHER THAN ALTERNATIVE**
6 **NICOTINE PRODUCTS AND VAPOR PRODUCTS**, 32% of the wholesale price.
7 However, beginning November 1, 2012 and through October 31, 2016,
8 the amount of tax levied under this subdivision on cigars shall not
9 exceed 50 cents per individual cigar. **HOWEVER, BEGINNING JANUARY 1,**
10 **2015, MOIST SNUFF SHALL BE TAXED AT THE RATE DESCRIBED IN**
11 **SUBDIVISION (H) (i) .**

12 (H) **BEGINNING JANUARY 1, 2015, THE TAX ON MOIST SNUFF,**
13 **ALTERNATIVE NICOTINE PRODUCTS, AND VAPOR PRODUCTS SHALL BE AS**
14 **FOLLOWS:**

15 (i) **FOR MOIST SNUFF, 53 CENTS PER OUNCE AND A PROPORTIONATE**
16 **RATE ON ALL FRACTIONS OF AN OUNCE.**

17 (ii) **FOR VAPOR PRODUCTS, 15 CENTS PER 1.5 MILLILITERS AND A**
18 **PROPORTIONATE RATE ON ALL FRACTIONS OF 1.5 MILLILITERS.**

19 (iii) **FOR ALTERNATIVE NICOTINE PRODUCTS, 15 CENTS PER 500**
20 **MILLIGRAMS AND A PROPORTIONATE RATE ON ALL FRACTIONS OF 500**
21 **MILLIGRAMS.**

22 (2) On or before the twentieth day of each calendar month,
23 every licensee under section 3 other than a retailer, unclassified
24 acquirer licensed as a manufacturer, or vending machine operator
25 shall file a return with the department stating the wholesale price
26 of each tobacco product other than cigarettes purchased, the
27 quantity of cigarettes purchased, the wholesale price charged for

1 all tobacco products other than cigarettes sold, the number of
2 individual packages of cigarettes and the number of cigarettes in
3 those individual packages, and the number and denominations of
4 stamps affixed to individual packages of cigarettes sold by the
5 licensee for each place of business in the preceding calendar
6 month. The return shall also include the number and denomination of
7 unaffixed stamps in the possession of the licensee at the end of
8 the preceding calendar month. Wholesalers shall also report
9 accurate inventories of cigarettes, both stamped and unstamped at
10 the end of the preceding calendar month. Wholesalers and
11 unclassified acquirers shall also report accurate inventories of
12 affixed and unaffixed stamps by denomination at the beginning and
13 end of each calendar month and all stamps acquired during the
14 preceding calendar month. The return shall be signed under penalty
15 of perjury. The return shall be on a form prescribed by the
16 department and shall contain or be accompanied by any further
17 information the department requires. The department may also
18 require licensees to report cigarette acquisition, purchase, and
19 sales information in other formats and frequency.

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

25 (a) One **AND ONE-HALF** percent of the total amount of the tax
26 due on tobacco products sold other than cigarettes.

27 (b) Through July 31, 2002, 1.25% of the total amount of the

1 tax due on cigarettes sold.

2 (c) Beginning August 1, 2002, 1.5% of the total amount of the
3 tax due on cigarettes sold and, beginning on June 20, 2012, for
4 sales of untaxed cigarettes to Indian tribes in this state, an
5 amount equal to 1.5% of the total amount of the tax due on those
6 cigarettes sold as if those cigarette sales were taxable sales
7 under this act.

8 (d) Beginning on the first calendar month following the
9 implementation of the use of digital stamps as provided in section
10 5a(2), for licensees who are stamping agents, 0.5% of the total
11 amount of the tax due on cigarettes sold and, for sales of untaxed
12 cigarettes to Indian tribes in this state, 0.5% of the total amount
13 of the tax due on those cigarettes sold as if those cigarette sales
14 were taxable sales under this act, until the stamping agent is
15 compensated in an amount equal to the direct cost actually incurred
16 by the stamping agent for upgrades to technology and equipment,
17 excluding the equipment reimbursed under subdivision (e), that are
18 necessary to affix the digital stamp as determined by the
19 department.

20 (e) Beginning in the first calendar month following the
21 implementation of the use of digital stamps as provided in section
22 5a(2) and continuing for the immediately succeeding 17 months, for
23 licensees who are stamping agents, reimbursement of direct costs
24 actually incurred by the stamping agent, as determined by the
25 department, for the initial purchase of eligible equipment in an
26 amount equal to 5.55% of the total net purchase price of the
27 eligible equipment necessary to affix the digital stamp. The

1 reimbursement provided under this subdivision shall exclude
2 reimbursement for any costs for installation or for ongoing
3 maintenance related to eligible equipment. A stamping agent may
4 only receive reimbursement under this subdivision to the extent
5 that the eligible equipment purchased by the stamping agent does
6 not exceed the total number of the stamping agent's existing
7 equipment as certified by the stamping agent on a form prescribed
8 by the department.

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

24 (5) Every licensee and retailer who, on July 1, 2004, has on
25 hand for sale any cigarettes upon which a tax has been paid
26 pursuant to subsection (1)(b), (c), and (d) shall file a complete
27 inventory of those cigarettes before August 1, 2004 and shall pay

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

16 (6) EVERY LICENSEE AND RETAILER WHO, ON JANUARY 1, 2015, HAS
17 ON HAND FOR SALE ANY MOIST SNUFF UPON WHICH A TAX HAS BEEN PAID
18 PURSUANT TO SUBSECTION (1)(G) SHALL FILE A COMPLETE INVENTORY OF
19 MOIST SNUFF BEFORE FEBRUARY 1, 2015 AND SHALL PAY TO THE DEPARTMENT
20 AT THE TIME OF FILING THIS INVENTORY A TAX EQUAL TO THE DIFFERENCE
21 BETWEEN THE TAX IMPOSED IN SUBSECTION (1)(H) (i) AND THE TAX THAT HAS
22 BEEN PAID UNDER SUBSECTION (1)(G). THE PROCEEDS DERIVED UNDER THIS
23 SUBSECTION SHALL BE CREDITED TO THE GENERAL FUND OF THIS STATE.

24 (7) EVERY LICENSEE AND RETAILER WHO, ON JANUARY 1, 2015, HAS
25 ON HAND FOR SALE ANY ALTERNATIVE NICOTINE PRODUCTS, CONSUMABLE
26 MATERIALS, OR VAPOR PRODUCTS SHALL FILE A COMPLETE INVENTORY OF
27 THOSE PRODUCTS BEFORE FEBRUARY 1, 2015 TO THE DEPARTMENT. A TAX IS

1 NOT IMPOSED ON THE ALTERNATIVE NICOTINE PRODUCTS, CONSUMABLE
2 MATERIALS, AND VAPOR PRODUCTS DESCRIBED IN THE COMPLETE INVENTORY
3 FILED WITH THE DEPARTMENT.

4 (8) ~~(6)~~—The department may require the payment of the tax
5 imposed by this act upon the importation or acquisition of a
6 tobacco product. A tobacco product for which the tax under this act
7 has once been imposed and that has not been refunded if paid is not
8 subject upon a subsequent sale to the tax imposed by this act.

9 (9) ~~(7)~~—An abatement or refund of the tax provided by this act
10 may be made by the department for causes the department considers
11 expedient. The department shall certify the amount and the state
12 treasurer shall pay that amount out of the proceeds of the tax.

13 (10) ~~(8)~~—A person liable for the tax may reimburse itself by
14 adding to the price of the tobacco products an amount equal to the
15 tax levied under this act.

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

24 (12) ~~(10)~~—If the wholesaler or unclassified acquirer has
25 unsalable packs returned from a retailer, secondary wholesaler,
26 vending machine operator, wholesaler, or unclassified acquirer with
27 stamps affixed, the department shall refund the amount of the tax

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

18 (13) ~~(11)~~—On or before the twentieth of each month, each
19 manufacturer shall file a report with the department listing all
20 sales of tobacco products to wholesalers and unclassified acquirers
21 during the preceding calendar month and any other information the
22 department finds necessary for the administration of this act. This
23 report shall be in the form and manner specified by the department.

24 (14) ~~(12)~~—Each wholesaler or unclassified acquirer shall
25 submit to the department an unstamped cigarette sales report on or
26 before the twentieth day of each month covering the sale, delivery,
27 or distribution of unstamped cigarettes during the preceding

1 calendar month to points outside of Michigan. A separate schedule
2 shall be filed for each state, country, or province into which
3 shipments are made. For purposes of the report described in this
4 subsection, "unstamped cigarettes" means individual packages of
5 cigarettes that do not bear a Michigan stamp. The department may
6 provide the information contained in this report to a proper
7 officer of another state, country, or province reciprocating in
8 this privilege.

9 (15) ~~(13)~~—As used in subsection (3):

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

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

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

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

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

24 (i) Was owned by a person who was licensed as a stamping agent
25 as of December 31, 2011.

26 (ii) Was a cigarette tax stamping machine used prior to January
27 1, 2012 by the stamping agent to apply stamps using stamp rolls of

1 30,000 stamps.

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, before a distribution of funds is made under
7 this section, subject to appropriation, the funds described in this
8 section may be used by the department, the attorney general, and
9 the department of state police for enforcement and administration
10 of this act.

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

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

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

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

25 (a) Beginning May 1, 1994 and through June 30, 2004, 5.3% of
26 the proceeds shall be credited to the health and safety fund
27 created in the health and safety fund act, 1987 PA 264, MCL 141.471

1 to 141.479.

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

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

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

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

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

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

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

24 (b) Through June 30, 2004, 4.6%, and beginning July 1, 2004,
25 56.3% of the proceeds shall be credited to the state school aid
26 fund established by section 11 of article IX of the state
27 constitution of 1963.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (8) Beginning July 1, 2004, the tax imposed under section
27 7(1)(g) shall be disbursed as follows:

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

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

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

10 (9) BEGINNING JANUARY 1, 2015, THE TAX IMPOSED UNDER SECTION
11 7(1)(H)(i) SHALL BE DISBURSED AS FOLLOWS:

12 (A) BEGINNING JANUARY 1, 2015, 75.0% OF THE PROCEEDS SHALL BE
13 CREDITED TO THE MEDICAID BENEFITS TRUST FUND CREATED UNDER SECTION
14 5 OF THE MICHIGAN TRUST FUND ACT, 2000 PA 489, MCL 12.255.

15 (B) BEGINNING JANUARY 1, 2015, 25.0% OF THE PROCEEDS SHALL BE
16 CREDITED TO THE GENERAL FUND OF THIS STATE.

17 (10) BEGINNING JANUARY 1, 2015, THE TAX IMPOSED UNDER SECTION
18 7(1)(H)(ii) SHALL BE DISBURSED AS FOLLOWS:

19 (A) BEGINNING JANUARY 1, 2015, 75.0% OF THE PROCEEDS SHALL BE
20 CREDITED TO THE MEDICAID BENEFITS TRUST FUND CREATED UNDER SECTION
21 5 OF THE MICHIGAN TRUST FUND ACT, 2000 PA 489, MCL 12.255.

22 (B) BEGINNING JANUARY 1, 2015, 25.0% OF THE PROCEEDS SHALL BE
23 CREDITED TO THE GENERAL FUND OF THIS STATE.

24 (11) BEGINNING JANUARY 1, 2015, THE TAX IMPOSED UNDER SECTION
25 7(1)(H)(iii) SHALL BE DISBURSED AS FOLLOWS:

26 (A) BEGINNING JANUARY 1, 2015, 75.0% OF THE PROCEEDS SHALL BE
27 CREDITED TO THE MEDICAID BENEFITS TRUST FUND CREATED UNDER SECTION

1 5 OF THE MICHIGAN TRUST FUND ACT, 2000 PA 489, MCL 12.255.

2 (B) BEGINNING JANUARY 1, 2015, 25.0% OF THE PROCEEDS SHALL BE
3 CREDITED TO THE GENERAL FUND OF THIS STATE.

4 (12) ~~(9)~~—The proceeds of the fees and penalties provided for
5 in this act shall be used for the administration of this act.