

SENATE BILL NO. 582

September 24, 2025, Introduced by Senator CHANG and referred to Committee on Appropriations.

A bill to amend 1993 PA 327, entitled
"Tobacco products tax act,"
by amending the title and sections 2, 3, 6, 6a, 6c, 6d, 7, 8, 9,
11, 12, and 14 (MCL 205.422, 205.423, 205.426, 205.426a, 205.426c,
205.426d, 205.427, 205.428, 205.429, 205.431, 205.432, and
205.434), the title as amended by 2012 PA 188 and sections 2, 3, 6,
6a, 6c, 6d, 7, 8, 9, 11, and 12 as amended by 2022 PA 171.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

1 An act to provide for a tax ~~upon~~**on** the sale and distribution
2 of tobacco, **nicotine, vapor, and other similar** products; to
3 regulate and license manufacturers, wholesalers, secondary
4 wholesalers, vending machine operators, unclassified acquirers,
5 transportation companies, transporters, and retailers of tobacco,
6 **nicotine, vapor, and other similar** products; to prescribe the
7 powers and duties of ~~the revenue division and the~~ department of
8 treasury in regard to tobacco, **nicotine, vapor, and other similar**
9 products; to provide for the administration, collection, and
10 disposition of the tax; to levy an assessment; to provide for the
11 administration, collection, defense, and disposition of the
12 assessment; to provide for the enforcement of this act; to provide
13 for the appointment of special investigators as peace officers for
14 the enforcement of this act; to prescribe penalties and provide
15 remedies for the violation of this act; to make and supplement
16 appropriations; and to repeal acts and parts of acts.

17 Sec. 2. As used in this act:

18 (a) "Alternative nicotine product" means a noncombustible
19 product that contains nicotine derived from any source and that is
20 intended for human consumption, whether chewed, absorbed,
21 dissolved, or ingested by any other means. Alternative nicotine
22 product does not include any of the following:

23 (i) A product containing any amount of tobacco.

24 (ii) A tobacco cessation product.

25 (iii) A vapor product.

26 (iv) Consumable material.

27 (b) "Authorized consumable material" means consumable material
28 that has been authorized to be sold in the United States by the
29 United States Food and Drug Administration, including an authorized

1 vapor product if the consumable material is an integral and
2 nonremovable part of the authorized vapor product, such as in a
3 closed system or an authorized vapor product that is disposable, or
4 is sold together as a single item or in a single package with the
5 authorized vapor product.

6 (c) "Authorized vapor product" means a vapor product that has
7 been authorized to be sold in the United States by the United
8 States Food and Drug Administration. An authorized vapor product
9 includes authorized consumable material.

10 (d) ~~(a)~~ "Cigar" means any roll of tobacco wrapped in leaf
11 tobacco or in any substance containing tobacco. Cigar does not
12 include a cigarette.

13 (e) ~~(b)~~ "Cigarette" means a roll for smoking or heating that
14 is made wholly or in part of tobacco, irrespective of size or shape
15 and irrespective of the tobacco being flavored, adulterated, or
16 mixed with any other ingredient, ~~which roll~~ and has a wrapper or
17 cover made of paper or any other material. Cigarette does not
18 include ~~cigars~~ a cigar.

19 (f) ~~(c)~~ "Cigarette making machine" means any machine or other
20 mechanical device that meets all of the following criteria:

21 (i) Is capable of being loaded with loose tobacco, cigarette
22 tubes or cigarette papers, and any other components related to the
23 production of cigarettes, including, but not limited to, cigarette
24 filters.

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

27 (iii) Is commercial-grade or otherwise designed or suitable for
28 commercial use.

29 (iv) Is designed to be powered or otherwise operated by a main

1 or primary power source other than human power.

2 (g) "Consumable material" means a substance in any form that
3 contains nicotine, derived from any source, that is sold, marketed,
4 designed, or intended for use in a vapor product and is depleted
5 when used in a vapor product. Consumable material does not include
6 an alternative nicotine product. Consumable material includes all
7 of the following:

8 (i) A cartridge, pod, vessel, vial, bottle, or other receptacle
9 that contains consumable material that is marketed, designed,
10 intended, or offered for sale to consumers or sold to consumers.

11 (ii) A vapor product, if the consumable material is an integral
12 and nonremovable part of the vapor product, such as with a vapor
13 product that is disposable, or is sold together in a single package
14 with the vapor product.

15 (h) ~~(d)~~ "Container" or "shipping case" means an individual
16 receptacle within which a tobacco product or group of tobacco
17 products is placed for shipment, storage, or distribution, such as
18 a box, case, or tote. A container or shipping case does not include
19 any of the following:

20 (i) An individual package of cigarettes or cigarette carton
21 containing cigarettes that are not counterfeit cigarettes.

22 (ii) Except for counterfeit cigarettes, the package or other
23 article containing the tobacco product, **including a cartridge, pod,**
24 **or other vessel containing consumable material,** that is sold or
25 transferred directly to the ultimate consumer.

26 (iii) A bag or similar package containing bulk or loose hookah
27 tobacco, pipe tobacco, or roll-your-own cigarette tobacco that a
28 retailer uses to fill bins, barrels, or tubs located at the
29 retailer's place of business from which either the retailer sells a

1 specified quantity of those tobacco products or a blend or mixture
2 of those tobacco products to the consumer, or the consumer removes
3 or draws a specified quantity of those tobacco products or a blend
4 or mixture of those tobacco products for purchase at retail from
5 the retailer.

6 (iv) A pallet or similar article or device ~~upon~~**on** which an
7 individual receptacle or group of receptacles, containing the
8 tobacco products, is placed for shipment, storage, or distribution.

9 (v) Property used as a protective covering for, or to keep
10 together during shipment, storage, or distribution, a receptacle or
11 group of receptacles within which the tobacco product is placed for
12 shipment, storage, or distribution including shrink wrap or other
13 wrapping materials, but excluding the protective covering that
14 forms, gives shape to, or otherwise constitutes the receptacle
15 within which the tobacco product is placed for shipment, storage,
16 or distribution.

17 (i) ~~(e)~~—"Counterfeit cigarette" means a cigarette in an
18 individual package of cigarettes or other container with a false
19 manufacturing label or a cigarette in an individual package of
20 cigarettes or other container with a counterfeit stamp.

21 (j) ~~(f)~~—"Counterfeit cigarette paper" means a cigarette paper
22 with a false manufacturing label or that has not been printed,
23 manufactured, or made by authority of the trademark owner.

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

1 ~~(h)~~ (l) "Department" means the department of treasury.

2 ~~(i)~~ (m) "Financially sound" means a determination by the
3 department that the wholesaler or unclassified acquirer is able to
4 pay the tax due on the tobacco products it sells, imports, or
5 acquires, as applicable, in the ordinary course of business based
6 on criteria including, but not limited to, all of the following:

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

8 (ii) Outstanding liabilities.

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

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

13 (v) Ability to pay for its stamps, if required under this act.

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

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

27 ~~(l)~~ (p) "Hookah tobacco" means tobacco that is designed,
28 manufactured, or otherwise intended for consumption by smoking in a
29 hookah and that is **typically** flavored with honey, molasses, fruit,

1 or other natural or artificial flavors. Hookah tobacco includes
 2 those products commonly known or referred to as narghile, argileh,
 3 shisha, hubble-bubble, molasses tobacco, waterpipe tobacco,
 4 maassel, or goza.

5 **(q)** ~~(m)~~ "Hookah" means a device, including a waterpipe, **that**
 6 **is designed or intended to be** used for smoking hookah tobacco that
 7 consists of a tube connected to a chamber where the smoke is cooled
 8 passing through water.

9 **(r)** ~~(n)~~ "Individual package" means an individual packet or
 10 pack used to contain or to convey cigarettes to the consumer.
 11 Individual package does not include cartons, cases, or shipping or
 12 storage containers that contain smaller packaging units of
 13 cigarettes.

14 **(s)** ~~(o)~~ "Licensee" means a person licensed under this act.

15 **(t)** ~~(p)~~ "Manufacturer" means, except as otherwise provided in
 16 subdivision ~~(q)~~, **(u)**, any of the following:

17 (i) A person ~~who~~ **that** manufactures or produces a tobacco
 18 product.

19 (ii) A person ~~who~~ **that** operates or ~~who~~ permits any other person
 20 to operate a cigarette making machine in this state for the purpose
 21 of producing, filling, rolling, dispensing, or otherwise generating
 22 cigarettes. A person ~~who~~ **that** is a manufacturer under this
 23 subparagraph constitutes a nonparticipating manufacturer for
 24 purposes of sections 6c and 6d.

25 **(iii) A person that mixes or blends 2 or more different**
 26 **substances or consumable materials, regardless of whether any of**
 27 **those substances or consumable materials is a finished product, or**
 28 **that otherwise modifies consumable material that is a finished**
 29 **product, to create a custom mix, blend, or flavor of consumable**

1 material that is a finished product. As used in this subparagraph,
2 "finished product" means a product that a person sells or offers to
3 sell, or is suitable for sale, for resale or for retail sale to
4 consumers.

5 (u) ~~(g)~~ Manufacturer does not include any of the following:

6 (i) A person ~~who~~**that** operates or otherwise uses a machine or
7 other mechanical device, other than a cigarette making machine, to
8 produce, roll, fill, dispense, or otherwise generate cigarettes ~~as~~
9 ~~long as~~**if** the cigarettes are produced or otherwise generated in
10 that person's dwelling and for that person's self-consumption. As
11 used in this subparagraph and subparagraph (ii), "self-consumption"
12 means production for personal consumption or use and not for sale,
13 resale, or any other **commercial or** profit-making endeavor.

14 (ii) A person ~~who~~**that** does any of the following:

15 (A) Mixes or blends 2 or more different tobacco products to
16 create a custom mix or blend of those products if each of the
17 constituent tobacco products mixed or blended together is a
18 finished tobacco product ~~that the person could or does otherwise~~
19 ~~sell to consumers and upon~~**on** which the tax under this act has been
20 paid. **As used in this sub-subparagraph, "finished tobacco product"**
21 **means a tobacco product that a person sells or offers to sell, or**
22 **is suitable for sale, for resale or for retail sale to consumers.**

23 (B) Creates or produces, by filling a fruit with hookah
24 tobacco, what is commonly known as a fruit bowl or fruit head for
25 use in a hookah.

26 (C) Rolls a cigar for ~~his or her~~**the person's** own self-
27 consumption.

28 (D) **Mixes, modifies, or blends 2 or more different substances**
29 **or consumable materials to create a custom mix, blend, or flavor of**

1 consumable material for that person's self-consumption.

2 (v) "Marihuana" means that term as defined in section 3 of the
3 Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL
4 333.27953. For purposes of this act, "marihuana" and "marijuana"
5 are synonymous.

6 (w) ~~(r)~~ "Noncigarette smoking tobacco" means tobacco sold in
7 loose or bulk form that is intended for consumption by smoking and
8 also includes roll-your-own cigarette tobacco, hookah tobacco, pipe
9 tobacco, or a wrap.

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

13 (y) ~~(t)~~ "Pipe tobacco" means any tobacco that, because of its
14 appearance, type, packaging, or labeling, is suitable for use and
15 likely to be offered to, or purchased by, consumers as tobacco to
16 smoke in a pipe.

17 (z) ~~(u)~~ "Place of business" means a place where a tobacco
18 product is sold or where a tobacco product is brought or kept for
19 the purpose of sale or consumption, including a vessel, airplane,
20 train, or vending machine.

21 (aa) ~~(v)~~ "Remote retail sale" means a sale of a tobacco
22 product to a consumer in this state if either of the following
23 applies:

24 (i) The consumer submits the order for the sale by means of a
25 telephone or other method of voice transmission, the mail, or the
26 internet or other online service, or the seller is otherwise not in
27 the physical presence of the purchaser when the request for
28 purchase or order is made.

29 (ii) The tobacco product is delivered to the purchaser by

1 common carrier, private delivery service, or other method of remote
 2 delivery, or the seller is not in the physical presence of the
 3 purchaser when the purchaser obtains possession of the tobacco
 4 product.

5 **(bb)** ~~(w)~~ "Retailer" means a person other than a transportation
 6 company ~~who~~ **that** operates a place of business in this state, or ~~who~~
 7 **that** directs, manages, or has control over the day-to-day
 8 operations of a place of business in this state, for the purpose of
 9 making, or ~~who~~ **that** does make, sales of a tobacco product at retail
 10 other than a remote retail sale. A person described in this
 11 subdivision qualifies as a retailer regardless of whether that
 12 person owns the place of business.

13 **(cc)** ~~(x)~~ "Roll-your-own cigarette tobacco" means any tobacco
 14 that, because of its appearance, type, packaging, or labeling, is
 15 suitable for use and likely to be offered to, or purchased by,
 16 consumers as tobacco for making cigarettes.

17 **(dd)** ~~(y)~~ "Sale" means a transaction by which the ownership of
 18 tangible personal property is transferred for consideration and
 19 applies also to use, gifts, exchanges, barter, and theft.

20 **(ee)** ~~(z)~~ "Secondary wholesaler" means either of the following:

21 (i) A person, other than a manufacturer, **a person that is a**
 22 **representative of a licensed manufacturer for purposes of section**
 23 **8(2)**, or a person licensed under this act as a vending machine
 24 operator, wholesaler, or unclassified acquirer, ~~who~~ **that** engages in
 25 the sale of a tobacco product for resale.

26 (ii) A retailer, not otherwise licensed under this act, ~~who~~
 27 **that** transfers or exchanges a tobacco product from ~~one~~ **a** place of
 28 business of the retailer to another place of business of the
 29 retailer.

1 **(ff)** ~~(aa)~~ "Smokeless tobacco" means snuff, snus, chewing
 2 tobacco, moist snuff, and any other tobacco that is intended to be
 3 used or consumed, whether chewed, absorbed, dissolved, inhaled,
 4 snorted, sniffed, or ingested, by any means other than smoking or
 5 combustion.

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

11 **(hh)** ~~(cc)~~ "Stamping agent" means a wholesaler or unclassified
 12 acquirer ~~who~~ **that** is licensed and authorized by the department to
 13 affix stamps to individual packages of cigarettes on behalf of
 14 themselves and other wholesalers or unclassified acquirers.

15 **(ii) "Tobacco cessation product" means drugs, devices, or**
 16 **combination products authorized for sale as tobacco cessation**
 17 **products by the United States Food and Drug Administration, as**
 18 **those terms are defined for purposes of subchapter V of the federal**
 19 **food, drug, and cosmetic act, 21 USC 351 to 360fff-8.**

20 **(jj)** ~~(dd)~~ "Tobacco product" means a product **designed, made,**
 21 **marketed, or otherwise intended for human consumption** containing
 22 any amount of tobacco regardless of form including, but not limited
 23 to, cigarettes, cigars, noncigarette smoking tobacco, or smokeless
 24 tobacco. ~~A tobacco~~ **Tobacco** product does not include ~~drugs, devices,~~
 25 ~~or combination products authorized for sale as marihuana, a vapor~~
 26 **product that is not an authorized vapor product, consumable**
 27 **material that is not authorized consumable material, or** tobacco
 28 cessation products. ~~by the United States Food and Drug~~
 29 ~~Administration, as those terms are defined in subchapter V of the~~

~~federal food, drug, and cosmetic act, 21 USC 351 to 360fff-8.~~

Beginning January 1, 2026, tobacco product includes both of the following products:

(i) An alternative nicotine product.

(ii) An authorized consumable material.

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

(ll) ~~(ff)~~—"Transporter" means a person importing or transporting into this state, or transporting in this state, a tobacco product obtained from a source located outside this state, or from any person not duly licensed under this act. Transporter does not include an interstate commerce carrier licensed by the ~~Interstate Commerce Commission,~~ **Federal Motor Carrier Safety Administration**, or its successor federal agency, to carry commodities in interstate commerce, or a licensee maintaining a warehouse or place of business outside of this state if the warehouse or place of business is licensed under this act.

(mm) ~~(gg)~~—"Unclassified acquirer" means a person, except a transportation company or a purchaser at retail from a retailer licensed under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, ~~who~~ **that** imports or acquires a tobacco product from a source other than a wholesaler or secondary wholesaler licensed under this act for use, sale, or distribution in this state. Unclassified acquirer also means a person ~~who~~ **that** purchases or receives tobacco products directly from a manufacturer licensed under this act or from another source outside this state, which source is not licensed under this act. An unclassified acquirer

1 also includes a person not located in this state that sells a
 2 tobacco product, through a mail order, catalog sale, telephone
 3 order, internet sale, or any other means, to a retailer or other
 4 person in this state that is not licensed under this act as a
 5 wholesaler, unclassified acquirer, or secondary wholesaler.
 6 ~~Unclassified~~ **Except as otherwise provided in section 6(16),**
 7 **unclassified** acquirer also includes a person located within or
 8 outside of this state that makes a remote retail sale of a tobacco
 9 product to a consumer in this state. An unclassified acquirer does
 10 not include a wholesaler.

11 **(nn) "Vapor product" means a noncombustible product that**
 12 **employs a heating element, power source, electronic circuit, or**
 13 **other electronic, chemical, or mechanical means, regardless of**
 14 **shape or size, to produce an aerosol or vapor from a consumable**
 15 **material and the use or inhalation of which simulates smoking.**
 16 **Vapor product includes an electronic cigarette, electronic cigar,**
 17 **electronic cigarillo, electronic pipe, electronic hookah, vape pen,**
 18 **or a similar product or device. Vapor product does not include an**
 19 **alternative nicotine product or a tobacco cessation product.**

20 **(oo) ~~(hh)~~ "Vending machine operator" means a person ~~who~~ that**
 21 **operates 1 or more vending machines in this state for the sale of a**
 22 **tobacco product.**

23 **(pp) ~~(ii)~~ "Wholesale price" means the actual price paid to a**
 24 **seller for a tobacco product, by a wholesaler or unclassified**
 25 **acquirer to acquire that tobacco product from the seller. The**
 26 **wholesale price includes any tax, fee, licensing, or other charge,**
 27 **except as otherwise provided in this subdivision, reflected on the**
 28 **invoice, bill of sale, purchase order, or other document evidencing**
 29 **the sale or purchase of the tobacco product. Wholesale price does**

1 not include, if separately stated on the invoice, bill of sale,
2 purchase order, or other document evidencing the sale of the
3 tobacco product, shipping or handling charges for cigarettes, and
4 reasonable shipping or handling charges for tobacco products other
5 than cigarettes such as transportation, shipping, postage,
6 handling, crating, or packing. If items or products, other than
7 tobacco products, are included in a transaction for the purchase of
8 tobacco products by a wholesaler or unclassified acquirer, charges
9 for those products or items that are not tobacco products,
10 including shipping and handling charges, may be excluded from the
11 wholesale price if **those items or products are not packaged**
12 **together with the tobacco product as a single item or unit intended**
13 **to be sold together with the tobacco product at retail and if**
14 separately stated on the invoice, bill of sale, purchase order, or
15 other document evidencing the sale or purchase. The wholesale price
16 ~~shall~~**is** not ~~be~~ reduced due to any rebate, trade allowance,
17 licensing or exclusivity agreement, volume or other discount, or
18 any other reduction given by the seller or passed on to or
19 otherwise received by the wholesaler or unclassified acquirer from
20 the seller. If the wholesaler or unclassified acquirer fails to
21 keep or maintain the records as required under section 6, or has a
22 relationship as described in section 267(b) of the internal revenue
23 code of 1986, 26 USC 267, with the seller, the department may
24 establish the wholesale price for the tobacco products based on the
25 best available information or any other reasonable proxy for the
26 wholesale price including, but not limited to, the wholesale price
27 paid by other taxpayers for those tobacco products within the past
28 4 years. If an unclassified acquirer makes a remote retail sale and
29 fails to keep or maintain the records required under section 6 for

1 the remote retail sale, the department may determine the wholesale
 2 price of the tobacco product sold to the consumer in that remote
 3 retail sale based on the average price paid, during the immediately
 4 preceding calendar year, by the unclassified acquirer to acquire or
 5 purchase the same type of tobacco product if that information is
 6 made available to the department by the unclassified acquirer.

7 **(qq)** ~~(jj)~~ "Wholesaler" means a person ~~who~~**that** purchases all
 8 or part of its tobacco products from a manufacturer and ~~who~~**that**
 9 sells 75% or more of those tobacco products to others for resale.
 10 Wholesaler includes a chain of stores retailing a tobacco product
 11 to the consumer if 75% of its stock of tobacco products is
 12 purchased directly from the manufacturer.

13 **(rr)** ~~(kk)~~ "Wrap" means an individual tobacco wrapper that is
 14 made wholly or in part from tobacco, including reconstituted
 15 tobacco, whether in the form of tobacco leaf, sheet, or tube, if
 16 the wrap is designed to be offered, or is offered, for sale to
 17 consumers to create or to use as a component part of a tobacco
 18 product.

19 Sec. 3. (1) Except as otherwise provided in section 3a and
 20 section 6(15), a person shall not purchase, possess, acquire for
 21 resale, import, or sell a tobacco product as a manufacturer,
 22 wholesaler, secondary wholesaler, vending machine operator,
 23 unclassified acquirer, transportation company, or transporter in or
 24 into this state unless licensed to do so. A person shall not make a
 25 remote retail sale to a consumer in this state unless that person
 26 is licensed under this act as an unclassified acquirer. A license
 27 granted under this act is not assignable.

28 (2) Upon proper application and the payment of the applicable
 29 fee, and subject to subsection (6), the department shall issue a

1 license to each manufacturer, wholesaler, secondary wholesaler,
2 vending machine operator, unclassified acquirer, transportation
3 company, or transporter. The application must be on a form
4 prescribed by the department and signed under penalty of perjury.
5 The application must state the applicant's regular business hours.
6 Except for transportation companies, each place of business must be
7 separately licensed. If a person acts in more than 1 capacity at
8 any 1 place of business, a license must be procured for each
9 capacity. Each machine for vending tobacco products is considered a
10 place of retail business. Each license or a duplicate copy must be
11 prominently displayed on the premises covered by the license. In
12 the case of vending machines, a disc or marker furnished by the
13 department showing it to be licensed must be attached to the front
14 of the machine in a place clearly visible to the public. For
15 unclassified acquirers that do not maintain a place of business
16 where tobacco products are sold, brought, or kept, the department
17 may issue a license based on the physical address of the
18 applicant's nonresidential building, office, or other facility
19 where the records required under this act are to be kept and
20 maintained.

21 (3) The fees for licenses are as follows:

22 (a) A wholesaler's license, \$100.00.

23 (b) A secondary wholesaler's license, \$25.00.

24 (c) A license for vending machine operators, \$25.00.

25 (d) An unclassified acquirer's license, as follows:

26 (i) State of Michigan, no fee.

27 (ii) Retail importer of tobacco products other than cigarettes,
28 \$10.00.

29 (iii) Retail importer of cigarettes, \$100.00.

(iv) Vending machine operator buying direct from a manufacturer, \$100.00.

(v) Any other importer, \$100.00.

(e) A transportation company's license, \$5.00.

(f) A transporter's license, \$50.00.

(g) A manufacturer's license, \$100.00.

(4) If a manufacturer, wholesaler, secondary wholesaler, or vending machine operator maintains more than 1 place of business, the fee for each additional place of business is 1/4 of the fee otherwise prescribed in subsection (3). A fee, or a part of a fee, ~~shall~~**must** not be refunded by reason of relinquishment, suspension, or revocation of the license, or, except under order of a court of competent jurisdiction, for any other reason or cause.

(5) A person shall not possess a machine for vending tobacco products for a period in excess of 72 hours, or operate a machine for vending tobacco products, unless there is a disc or marker attached as provided by this section. This requirement does not apply to a machine not containing or used in selling a tobacco product. If a person possesses or operates a vending machine containing or used in selling a tobacco product that is not properly licensed or identified as required by this section, the department may seal or seize the machine, together with any tobacco products contained in the machine. ~~The provisions of section 9 govern~~**Section 9 governs** the seizure and subsequent disposition of a machine or tobacco product seized.

(6) Applications from persons applying for an initial license under this act must be accompanied by satisfactory proof, as determined by the department, of all **of** the following:

(a) The applicant's financial responsibility, including but

1 not limited to, satisfactory proof of a minimum net worth of
2 ~~\$25,000.00.~~ **\$50,000.00.**

3 (b) That the applicant owns, or has an executed lease for, a
4 secure nonresidential facility for the purpose of receiving,
5 storing, and distributing tobacco products, if applicable, and
6 conducting its business in accordance with this act if the
7 applicant owns or has an executed lease for such a facility. If the
8 applicant carries on another business in conjunction with the
9 secure nonresidential facility, the other business must also be
10 identified.

11 (c) United States citizenship or eligibility to obtain
12 employment within the United States if not a citizen. If the
13 applicant is not an individual, the controlling shareholders,
14 partners, directors, and principal officers ~~shall~~**must** be United
15 States citizens or eligible to obtain employment within the United
16 States if not a citizen.

17 (7) The department may require an applicant ~~who~~**that** is
18 purchasing the business of a licensee to file a copy of the
19 contract of sale and any related documents with its application.
20 The department may require a licensee under this section to furnish
21 a surety bond with a surety company authorized to do business in
22 this state in an amount the department may fix, conditioned upon
23 the payment of the tax provided by this act. The department may
24 also require a licensee under this section to file a financial
25 statement with the department showing all assets and liabilities
26 and any other information the department may prescribe, to be filed
27 ~~within~~**not later than** 30 days after the date requested. If there is
28 a change of more than 50% of ownership or control or a change in
29 the general partnership of a licensee, the department may require

1 that licensee to file a new application for a license or an updated
2 financial statement.

3 (8) Each place of business of a retailer, and any place of
4 business or other nonresidential building, office, or facility
5 licensed under this section, must display the name and address of
6 the retailer or licensee in a manner that is readily visible to the
7 general public from outside the place of business, nonresidential
8 building, office, or facility, as applicable.

9 (9) Notwithstanding anything in this act to the contrary, the
10 following requirements apply to a **manufacturer**, secondary
11 wholesaler, vending machine operator, or wholesaler, as applicable:

12 (a) A secondary wholesaler may purchase or acquire a tobacco
13 product for resale in this state only if that purchase or
14 acquisition is directly from a wholesaler or unclassified acquirer
15 that is licensed under this act and the tax imposed under this act
16 has been paid on that tobacco product.

17 (b) Except for a secondary wholesaler described in section
18 ~~2(z)(ii),~~ **2(ee)(ii)**, a secondary wholesaler shall maintain an
19 established place of business in this state where a substantial
20 portion of the business is the sale of tobacco products and related
21 merchandise at wholesale and where, at all times, a substantial
22 stock of tobacco products and related merchandise is available for
23 sale to retailers for resale.

24 (c) A wholesaler shall maintain an established place of
25 business in this state where substantially all of the business is
26 the sale of tobacco products and related merchandise at wholesale
27 and where, at all times, a substantial stock of tobacco products
28 and related merchandise is available for sale to retailers for
29 resale.

1 (d) A vending machine operator may purchase a tobacco product
2 only from a secondary wholesaler, a wholesaler, or an unclassified
3 acquirer that is licensed under this act.

4 (e) A manufacturer shall obtain and maintain all licenses,
5 permits, orders, or similar approvals from the federal Alcohol and
6 Tobacco Tax Trade Bureau and the United States Food and Drug
7 Administration, or their successor federal agencies, to manufacture
8 tobacco products under federal law, as applicable.

9 Sec. 6. (1) A manufacturer, wholesaler, secondary wholesaler,
10 vending machine operator, transportation company, unclassified
11 acquirer, or retailer shall keep a complete and accurate record of
12 each tobacco product manufactured, purchased, or otherwise
13 acquired. Except for a manufacturer, the records must include a
14 written statement containing the name and address of both the
15 seller and the purchaser, the date of delivery, the quantity, the
16 trade name or brand, and the price paid for each tobacco product
17 purchased or otherwise acquired. Except as otherwise provided in
18 this section, a licensee shall keep as part of the records a true
19 copy of all purchase orders, invoices, bills of lading, and other
20 written matter substantiating the purchase or acquisition of each
21 tobacco product at the location where the tobacco product is stored
22 or offered for sale. For an unclassified acquirer that does not
23 maintain a place of business where tobacco products are sold,
24 brought, or kept, the records required by this section must be kept
25 at the physical address licensed under section 3. A retailer shall
26 keep as part of the records a true copy of all purchase orders,
27 invoices, bills of lading, and other written matter substantiating
28 the purchase or acquisition of each tobacco product and related to
29 any tobacco products subject to subsection (15), if applicable, at

1 the location where the tobacco product is offered for sale for a
2 period of 4 months from the date of purchase or acquisition. The
3 department may, by giving prior written approval, authorize a
4 person licensed under this act or a retailer to maintain records in
5 a manner other than that required by this subsection. Other records
6 shall be kept by these persons as the department reasonably
7 prescribes.

8 (2) A manufacturer, wholesaler, unclassified acquirer, and
9 secondary wholesaler shall deliver with each sale or consignment of
10 a tobacco product a written statement containing the name or trade
11 name and address of both the seller and the purchaser, the date of
12 delivery, the quantity, and the trade name or brand of the tobacco
13 product, correctly itemizing the prices paid for each brand
14 purchased **or otherwise acquired**, and shall retain a duplicate of
15 each statement.

16 (3) A vending machine operator shall keep a detailed record of
17 each vending machine owned for the sale of tobacco products showing
18 the location of the machine, the date of placing the machine on the
19 location, the quantity of each tobacco product placed in the
20 machine, the date when placed there, and the amount of the
21 commission paid or earned on sales through the vending machine.
22 When filling or refilling the vending machine, the operator shall
23 deliver to the owner or tenant occupying the premises where the
24 machine is located a written statement containing the operator's
25 own name and address, the name and address of the owner or the
26 tenant, the date when the machine was filled, and the quantity of
27 each brand of tobacco product sold from the machine since the date
28 when tobacco products were last placed in the machine. A person in
29 possession of premises where a vending machine is located shall

1 keep a record of each tobacco product sold through the vending
2 machine located on the premises and the amount of commission paid
3 by the person operating the vending machine. The records must
4 consist of written statements required to be given by each person
5 operating a vending machine for the sale of tobacco products as
6 provided in this section.

7 (4) A licensee ~~under this act~~ shall not issue or accept a
8 written statement or invoice that is known to the licensee to
9 contain a statement or omission that falsely indicates the name of
10 the customer, the type, trade name, or brand of merchandise, the
11 quantity of each type, trade name, or brand of merchandise, the
12 prices, the discounts, the date of the transaction, or the terms of
13 sale. A person shall not use a device or game of chance to aid,
14 promote, or induce sales or purchases of a tobacco product, or give
15 a tobacco product in connection with a device or game of chance.

16 (5) Except as otherwise provided in subsection (6), all
17 statements and other records required by this section must be in a
18 form prescribed by the department and must be preserved for a
19 period of 4 years ~~from~~**after** the date of purchase or acquisition of
20 the tobacco product and offered for inspection at any time upon
21 oral or written demand by the department or its authorized agent by
22 every wholesaler, secondary wholesaler, vending machine operator,
23 unclassified acquirer, and retailer.

24 (6) A licensee or retailer in possession or control of a
25 tobacco product that has not preserved the statements and records
26 required by this section because the licensee or retailer claims
27 the tobacco product was purchased or acquired more than 4 years ago
28 has the burden of proving that the tobacco product was purchased or
29 acquired more than 4 years ago. A licensee or retailer that fails

1 to preserve documentation sufficient to meet this burden of proof
2 is in violation of the record-keeping requirements under this
3 section for that tobacco product.

4 (7) A shipping case or container of a tobacco product other
5 than cigarettes received or acquired within this state by a
6 wholesaler or unclassified acquirer from a manufacturer or any
7 person located outside this state must bear ~~either~~ the name and
8 address of the wholesaler or unclassified acquirer that made the
9 first purchase of that shipping case or container or any other
10 markings the department prescribes. The point at which a shipping
11 case or container is considered to be received or acquired in this
12 state is to be determined based on the facts and circumstances
13 including, but not limited to, all of the following:

14 (a) Ownership of the shipping case or container when it enters
15 this state's borders or when it is delivered to the wholesaler or
16 unclassified acquirer.

17 (b) The risk of loss.

18 (c) The use of a common carrier or a vehicle owned or leased
19 by the wholesaler or unclassified acquirer to import or transport
20 the shipping case or container into this state or deliver the
21 shipping case or container to the wholesaler or unclassified
22 acquirer.

23 (8) A wholesaler or unclassified acquirer, licensed under this
24 act, shall place or otherwise affix the markings prescribed by the
25 department on every shipping case or container of a tobacco product
26 other than cigarettes that is sold, transferred, shipped, or
27 delivered by the wholesaler or unclassified acquirer to a retailer
28 or another licensee, in this state.

29 (9) If a marking prescribed by the department is to be affixed

1 to a shipping case or container of tobacco products other than
2 cigarettes by means of a mechanical or other device that applies
3 the marking, the wholesaler or unclassified acquirer must obtain
4 prior approval from the department to purchase, possess, or
5 otherwise be permitted to use such a device. A wholesaler or
6 unclassified acquirer whose license is revoked, is terminated, or
7 has expired shall return all such devices in its possession to the
8 department ~~within~~ **not later than** 60 days ~~of~~ **after** the revocation,
9 termination, or expiration of its license. In addition to any other
10 fine or any civil or criminal penalty or charge allowed by law, a
11 wholesaler or unclassified acquirer that fails to return each
12 device in its possession as required by this subsection is liable
13 for a fine of \$500.00 for each device not ~~timely~~ returned **as**
14 **required under this subsection.**

15 (10) The markings required by this section on shipping cases
16 and containers of tobacco products other than cigarettes must not
17 be affixed in a manner that makes the markings illegible or that
18 covers up, in whole or in part, or that otherwise obstructs or
19 makes illegible the information or markings described in subsection
20 (7).

21 (11) If a tobacco product other than cigarettes is found in a
22 place of business or otherwise in the possession of a wholesaler,
23 secondary wholesaler, vending machine operator, unclassified
24 acquirer, transporter, or retailer without the markings prescribed
25 by the department or the information required by this section on
26 the shipping case or container of the tobacco product, if required
27 by this section, or if an individual package of cigarettes is found
28 without a stamp affixed as provided under this act or if a tobacco
29 product is found, or was acquired, imported, transferred, or sold,

1 without proper substantiation by invoices or other records as
2 required by this section, the presumption ~~shall be~~ **is** that the
3 tobacco product is kept in violation of this act and constitutes
4 contraband subject to seizure and forfeiture under section 9.
5 Notwithstanding anything in this act to the contrary, if ~~any~~ **a**
6 tobacco product is adjudicated by a court of competent jurisdiction
7 to have been lawfully seized under this act, and if the
8 adjudication of lawful seizure survives the exhaustion or lapse of
9 any appeal rights, the tobacco product ~~shall~~ **must** be automatically
10 forfeited to this state and the person from whom that tobacco
11 product was seized ~~shall be~~ **is** liable for the tax imposed under
12 this act on that tobacco product.

13 (12) If a tobacco product is to be or is being transported on
14 a public highway, road, or street in this state for shipment
15 outside this state, as indicated by the bills of lading, invoices,
16 packing slips, or other documentation related to that shipment, the
17 licensee shipping the tobacco product shall cause to be placed on
18 every shipping case or container in which the tobacco product is
19 shipped the name and address of the consignee or purchaser to whom
20 the shipment is made outside of the state and, for tobacco products
21 other than cigarettes, the marking prescribed by the department
22 unless the shipping case or other container already bears that
23 marking from the licensee. A tobacco product that was located in
24 this state is considered to have been shipped outside this state
25 for purposes of this subsection if the tobacco product crosses the
26 border of this state regardless of whether the tobacco product is
27 delivered to or accepted by the consignee or purchaser to whom the
28 shipment is made outside this state.

29 (13) The department may require reports from a common carrier

1 ~~who~~**that** transports a tobacco product to a point within this state
 2 from another person ~~who~~**that**, under contract, transports a tobacco
 3 product, or from a bonded warehouseperson or bailee ~~who~~**that** has in
 4 ~~his or her~~**that person's** possession a tobacco product. A carrier,
 5 bailee, warehouseperson, or other person shall permit the
 6 inspection of the tobacco products and examination by the
 7 department or its duly authorized agent of any records relating to
 8 the shipment of a tobacco product into, from, or within this state.

9 (14) Except as otherwise provided in subsection (15), ~~any a~~
 10 person transporting, possessing, or acquiring for the purpose of
 11 transporting a tobacco product upon a public highway, road, or
 12 street of this state ~~shall~~**must** be licensed under this act as a
 13 transporter, unless that person is licensed under this act as an
 14 unclassified acquirer, wholesaler, transportation company, vending
 15 machine operator, or secondary wholesaler, and ~~shall~~**must** have in
 16 the person's actual possession invoices or bills of lading
 17 containing the name and address of both the seller and the
 18 purchaser, the actual or estimated date of delivery, the person's
 19 name and address, the quantity and trade name or brand of each
 20 tobacco product, the price paid for each trade name or brand in the
 21 person's possession or custody, and a copy of the license as
 22 prescribed under this act.

23 (15) Notwithstanding anything in this act to the contrary, a
 24 retailer in this state, or other person acting on behalf of a
 25 retailer in this state, is not required to be licensed under this
 26 act to transport a tobacco product upon a public highway, road, or
 27 street of this state for the purpose of delivering a tobacco
 28 product to a consumer in this state if all of the following
 29 conditions are met:

1 (a) The tobacco product was purchased by the consumer from the
2 retailer at retail and the tax levied under this act was previously
3 paid or accrued to a wholesaler, secondary wholesaler, or
4 unclassified acquirer licensed under this act by the retailer on
5 the tobacco product.

6 (b) The consumer has paid for the tobacco product in full
7 before the shipment and delivery of the tobacco product to the
8 consumer.

9 (c) The retailer or other person making the delivery has in
10 its possession, at all times during which the tobacco product is
11 being transported on a public highway, road, or street of this
12 state, an invoice, receipt, or other documentation substantiating
13 the sale to the consumer that states the name and address of the
14 retailer, the name and address of the consumer, the delivery date,
15 the trade name or brand of the tobacco product, the quantity, and
16 the price paid for the tobacco product.

17 (d) The retailer making the sale maintains a substantial stock
18 of product, including, but not limited to, tobacco products, that
19 the retailer sells that are readily available to be sold, and are
20 generally sold, to consumers that purchase and obtain possession of
21 those products in the physical presence of the retailer at the
22 retailer's place of business.

23 (16) Notwithstanding anything in this act to the contrary, a
24 retail sale that meets the conditions under subsection (15), a
25 retailer making a sale that meets the conditions under subsection
26 (15), or the act of transporting or delivering a tobacco product to
27 a consumer in this state in accordance with subsection (15), is not
28 considered a remote retail sale and does not constitute making a
29 remote retail sale for purposes of this act.

1 Sec. 6a. (1) A wholesaler or unclassified acquirer may apply
2 to the department for stamps to affix as provided in this act. The
3 department may prescribe the method of shipment of the stamps. The
4 department shall keep a record of all stamps disbursed, name of
5 wholesaler or unclassified acquirer, and date of disbursement. The
6 department may release the identity of the wholesaler or
7 unclassified acquirer to whom specific stamps were disbursed to
8 state or local police agencies.

9 (2) Except as otherwise provided in this subsection, before
10 delivery, sale, or transfer to ~~any~~ a person in this state, a
11 wholesaler or an unclassified acquirer shall place or cause to be
12 placed on the bottom of each individual package of cigarettes to be
13 sold within this state a stamp provided by the department. If
14 approved by the department, a stamp may be placed in a location
15 other than the bottom of each individual package of cigarettes.

16 (3) Stamps must be firmly affixed in such a manner that the
17 stamps cannot be removed without being mutilated or destroyed. A
18 stamp must be affixed to each individual package in an aggregate
19 denomination equal to the amount of the tax upon the contents of
20 the individual package of cigarettes. A stamp is considered affixed
21 if 90% or more of the stamp is affixed to the individual package.

22 (4) A retailer or person licensed under this act, other than a
23 wholesaler or unclassified acquirer or a person acting as a
24 transporter for a wholesaler or unclassified acquirer, shall not
25 acquire for resale an individual package of cigarettes or a
26 cigarette from an individual package unless that individual package
27 of cigarettes has affixed to it a stamp as provided in this act.

28 (5) A retailer or vending machine operator shall not sell or
29 offer for sale an individual package of cigarettes to the general

1 public that does not have affixed the stamp required by this act.
2 An individual package of cigarettes without a stamp may not be sold
3 from, or placed or stored in, a vending machine. Except as
4 otherwise provided by law, a person shall not sell a cigarette
5 separately from its individual package.

6 (6) The department or its authorized agents may inspect the
7 operations of a wholesaler and an unclassified acquirer for
8 purposes of ensuring compliance with this act and to conduct an
9 inventory of a wholesaler's or unclassified acquirer's stock of
10 cigarettes, tobacco products other than cigarettes, and stamps
11 during regular business hours and inspect the related statements
12 and other records required in section 6. This inspection ~~shall~~**must**
13 also verify that shipping cases and containers of tobacco products
14 other than cigarettes bear any markings required by this act. **To**
15 **ensure compliance with this act, the department or its authorized**
16 **agents may inspect the operations of a manufacturer, conduct an**
17 **inventory of a manufacturer's stock of tobacco products, and**
18 **inspect the related statements and other records required under**
19 **section 6.** An inspection under this section must be conducted
20 during the regular business hours of the **manufacturer**, wholesaler,
21 or unclassified acquirer. Unless otherwise approved by the
22 department, the regular business hours of a **manufacturer**,
23 wholesaler, or unclassified acquirer are those hours disclosed on
24 that **manufacturer's**, wholesaler's, or unclassified acquirer's
25 license application as required under section 3.

26 (7) The department or its authorized agents may inspect the
27 operations of a secondary wholesaler, vending machine operator, or
28 retailer, or the contents of a specific vending machine, during
29 regular business hours. This inspection ~~shall~~**must** include

1 inspection of all statements and other records required ~~by~~**under**
2 section 6, of packages of cigarettes and tobacco products other
3 than cigarettes, and of the contents of cartons and shipping or
4 storage containers to ascertain that all individual packages of
5 cigarettes have an affixed stamp of proper denomination as required
6 by this act. This inspection may also verify that all the stamps
7 were produced under the authority of the department and that
8 shipping cases and containers of tobacco products other than
9 cigarettes bear any markings required by this act. Unless otherwise
10 approved by the department, the regular business hours of a
11 secondary wholesaler or vending machine operator are those hours
12 disclosed on that secondary wholesaler's or vending machine
13 operator's license application as required under section 3. The
14 regular business hours of a retailer are those hours that the
15 retailer is open for business as evidenced by the retailer's
16 commercial activity and signage, advertisements, or other
17 information communicated to the general public.

18 (8) A person shall not prevent or hinder the department or its
19 authorized agents from conducting an inspection authorized by this
20 act.

21 (9) The department may require wholesalers and unclassified
22 acquirers to exchange unaffixed stamps with the department as the
23 department considers necessary. The department may require
24 wholesalers, unclassified acquirers, secondary wholesalers, vending
25 machine operators and retailers to discontinue offering for sale
26 any unsold individual packages of cigarettes bearing a prior
27 version of the stamp that the department has withdrawn from
28 circulation. The department may set a reasonable timeline after
29 which the prior version of the stamp may no longer be offered for

1 sale and the new version of the stamp is required. A secondary
2 wholesaler, retailer, or vending machine operator may return
3 cigarette packages bearing discontinued stamps to a wholesaler for
4 credit. A wholesaler or unclassified acquirer may take credit on
5 its tax returns for individual packages of cigarettes bearing
6 discontinued stamps that are returned to the manufacturer for
7 credit less the appropriate discount paid.

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

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

17 (12) Stamps may only be affixed to an individual package of
18 cigarettes if the manufacturer of the cigarettes is identified on
19 the lists of participating manufacturers or nonparticipating
20 manufacturers maintained by the department pursuant to sections 6c
21 and 6d.

22 (13) The department of state police shall initiate inquiries
23 to or otherwise access data from the department to support or in
24 furtherance of its enforcement activities under this act.

25 Sec. 6c. (1) ~~Every~~ **A** nonparticipating manufacturer whose
26 cigarettes are sold in this state, whether directly or through a
27 licensee or other distributor, retailer, or similar intermediary,
28 shall by April 30 of each year certify to the department that it is
29 not a participant in the master settlement agreement and that it

1 has performed its obligation to establish a qualified escrow
2 account and deposited funds into that account under 1999 PA 244,
3 MCL 445.2051 to 445.2052.

4 (2) The certification of compliance must be on a form
5 prescribed by the department, must contain all of the information
6 requested on the form, and must include a list of all brand names
7 of cigarettes sold by the nonparticipating manufacturer, whether
8 directly or through a licensee or other distributor, retailer, or
9 similar intermediary, for consumption in this state during the
10 calendar year immediately preceding the certification date.

11 (3) A nonparticipating manufacturer shall provide a copy of
12 the certification of compliance to the attorney general and any
13 wholesaler, unclassified acquirer, or other person to whom the
14 nonparticipating manufacturer makes a sale of its cigarettes for
15 subsequent sale or consumption in this state.

16 (4) A wholesaler, unclassified acquirer, or other person ~~who~~
17 **that** is provided with a certification of compliance under this
18 section shall retain the certification of compliance for not less
19 than 4 years from the date the certification of compliance was
20 received.

21 (5) A wholesaler or unclassified acquirer shall report to the
22 department all cigarettes that it acquires that were manufactured
23 by a nonparticipating manufacturer. The report must be on a form
24 prescribed by the department and attached to the return required
25 under section 7. A wholesaler or unclassified acquirer that has not
26 acquired any cigarettes from a nonparticipating manufacturer shall
27 file the report with the return required under section 7 stating
28 that it has not purchased, acquired, exported, or returned
29 cigarettes related to a nonparticipating manufacturer. The

1 information contained in this report is for the purposes of
2 enforcing 1999 PA 244, MCL 445.2051 to 445.2052, and does not
3 constitute information obtained in connection with the
4 administration of a tax under section 28(1)(f) of 1941 PA 122, MCL
5 205.28. A wholesaler or unclassified acquirer shall retain a copy
6 of the report for not less than 4 years ~~from~~**after** the date the
7 report was filed with the department. If a wholesaler or
8 unclassified acquirer does not file a report or knowingly files an
9 incomplete or inaccurate report under this subsection, the
10 department may do 1 or more of the following:

11 (a) Assess a penalty under this section.

12 (b) Prohibit the wholesaler or unclassified acquirer from
13 obtaining cigarette stamps from the department until a complete and
14 accurate report is filed.

15 (c) Revoke the wholesaler's or unclassified acquirer's license
16 under section 5, only after conducting a hearing.

17 (6) A nonparticipating manufacturer that has not provided the
18 certification of compliance required by this section shall not make
19 a sale of cigarettes in this state or a sale within or outside this
20 state to any person for sale, distribution, or consumption in this
21 state.

22 (7) A person shall not purchase, acquire, possess, or sell
23 cigarettes acquired from or manufactured by a nonparticipating
24 manufacturer that has not provided the certification of compliance
25 to the department as required under this section and that has not
26 provided the person with a copy of the certification of compliance
27 if required to do so under subsection (3).

28 (8) The department shall maintain and regularly update a list
29 of participating manufacturers and nonparticipating manufacturers

1 that have provided the certification of compliance required under
2 this section. The department shall publish the list on its website
3 and provide a copy of the list to a person upon request. Subject to
4 section 6f, the department may delist a manufacturer that no longer
5 complies with this section.

6 (9) If a wholesaler or unclassified acquirer receives a
7 certification of compliance from a nonparticipating manufacturer
8 that is not included in the list maintained by the department, the
9 wholesaler or unclassified acquirer shall ~~within~~**not later than** 10
10 business days after receiving the certification of compliance
11 provide a copy of the certification of compliance and the name and
12 address of the nonparticipating manufacturer to the department.

13 (10) Thirty days after the department posts on its website and
14 provides wholesalers and unclassified acquirers a notice of a
15 second or subsequent knowing violation of a provision of 1999 PA
16 244, MCL 445.2051 to 445.2052, or a notice of a judgment the
17 department has against a nonparticipating manufacturer, the
18 department may seize or confiscate from any person any cigarettes
19 in that person's possession that were acquired from or manufactured
20 by that nonparticipating manufacturer. The department may seize or
21 confiscate from any person any cigarettes in that person's
22 possession that were acquired from or manufactured by a
23 nonparticipating manufacturer if that nonparticipating manufacturer
24 has not provided the certification required by this section.
25 Seizure, confiscation, **and** forfeiture, ~~and sale~~ of cigarettes
26 under this section ~~shall~~**must** be accomplished under section 9.

27 (11) The department may impose on ~~any~~**a** person **that violates**
28 **this section** a civil fine **of** not ~~to exceed~~**more than** \$1,000.00 for
29 each violation of this section. The civil fine is in addition to

1 all other fines or penalties imposed by this act or 1941 PA 122,
2 MCL 205.1 to 205.31.

3 (12) As used in this section:

4 (a) "Cigarette" means that term as defined in **section 1 of**
5 1999 PA 244, MCL 445.2051. ~~to 445.2052.~~

6 (b) "Nonparticipating manufacturer" means a manufacturer of
7 cigarettes that is not a participating manufacturer as that term is
8 defined in **section 1 of** 1999 PA 244, MCL 445.2051. ~~to 445.2052.~~
9 Nonparticipating manufacturer also includes the first purchaser
10 anywhere for resale in the United States of cigarettes manufactured
11 anywhere that the manufacturer does not intend to be sold in the
12 United States.

13 Sec. 6d. (1) Before commencing sales of cigarettes in this
14 state, whether directly or through a licensee or other distributor,
15 retailer, or similar intermediary, a nonparticipating manufacturer
16 shall provide to the department the information described in
17 subsection (3) and shall pay the equity assessment as provided in
18 subsections (4) and (5).

19 (2) A nonparticipating manufacturer selling cigarettes in this
20 state on January 8, 2004, shall provide to the department the
21 information described in subsection (3) and pay the equity
22 assessment as provided in subsections (4) and (5) before February
23 8, 2004. If a nonparticipating manufacturer is not selling
24 cigarettes in this state on January 8, 2004, before selling
25 cigarettes in this state, the nonparticipating manufacturer shall
26 pay the equity assessment imposed under subsections (4) and (5) for
27 all cigarettes that are anticipated to be sold in the current
28 calendar year as described in subsection (5).

29 (3) A nonparticipating manufacturer shall provide to the

1 department on a form prescribed by the department the following
 2 information:

3 (a) The complete name, address, and telephone number of the
 4 nonparticipating manufacturer.

5 (b) The date that the nonparticipating manufacturer intends to
 6 begin or began selling cigarettes in this state.

7 (c) The brand names of the cigarettes the nonparticipating
 8 manufacturer will sell or is selling in this state.

9 (d) A statement of the nonparticipating manufacturer's
 10 intention to comply with its escrow obligation under 1999 PA 244,
 11 MCL 445.2051 to 445.2052, obligations under section 6c, and the
 12 obligations in this section.

13 (e) The name, address, and telephone number of the resident
 14 agent of the nonparticipating manufacturer.

15 (f) The name, address, telephone number, and signature of an
 16 officer of the nonparticipating manufacturer attesting to all of
 17 the information described in this subsection.

18 (4) An equity assessment in the amount of 17.5 mills per
 19 cigarette is imposed ~~upon~~**on** all cigarettes sold by a
 20 nonparticipating manufacturer, whether directly or through a
 21 licensee or other distributor, retailer, or similar intermediary,
 22 in this state. The purpose of the equity assessment is to fund
 23 enforcement and administration of 1999 PA 244, MCL 445.2051 to
 24 445.2052, and this act. The equity assessment is in addition to all
 25 other fees, assessments, and taxes levied by law. The ~~equity~~
 26 ~~assessment~~**department** ~~shall be collected by~~**collect** the ~~department~~
 27 **equity assessment** from each nonparticipating manufacturer selling
 28 cigarettes in this state. The equity assessment ~~shall~~**must** be
 29 collected and reconciled by April 15 of each year for cigarettes

1 sold in the previous calendar year. The department shall credit a
2 nonparticipating manufacturer with any prepayment made by the
3 nonparticipating manufacturer ~~pursuant to~~ **in accordance with**
4 subsection (5) for that calendar year.

5 (5) Except as provided in subsection (2), a nonparticipating
6 manufacturer selling cigarettes in this state, whether directly or
7 through a licensee or other distributor, retailer, or similar
8 intermediary, shall prepay the equity assessment imposed in
9 subsection (4) not later than March 1 for all cigarettes that are
10 anticipated to be sold in the current calendar year. The prepayment
11 amount ~~shall be~~ **is** determined by multiplying 17.5 mills times the
12 number of cigarettes that the department reasonably determines that
13 the nonparticipating manufacturer will sell in this state in the
14 current calendar year or \$10,000.00, whichever is more. The
15 department may require a nonparticipating manufacturer to provide
16 any information reasonably necessary to determine the equity
17 assessment prepayment amount. Not later than February 15 of each
18 year, the department shall notify the nonparticipating manufacturer
19 of the amount of the prepayment due for the current year. The
20 department shall increase the equity assessment prepayment amount
21 during the year if the increase is justified by the
22 nonparticipating manufacturer's actual sales of cigarettes.

23 (6) A stamping agent shall not affix to any package of
24 cigarettes or shipping container of roll-your-own tobacco of a
25 nonparticipating manufacturer the stamp required under this act
26 unless the nonparticipating manufacturer is listed on the
27 department website as provided in subsection (9) or after receiving
28 notice that the nonparticipating manufacturer has not prepaid or
29 paid in full the equity assessment imposed under this section. A

1 stamping agent that violates this subsection is subject to the
2 penalties described in section 5. If a stamping agent intentionally
3 and knowingly violates this subsection, the department may seize or
4 confiscate any cigarettes in the stamping agent's possession that
5 were stamped in violation of this subsection. Seizure,
6 confiscation, forfeiture, and sale of cigarettes shall be
7 accomplished under section 9.

8 (7) A nonparticipating manufacturer that does not provide the
9 information required under subsection (3) or pay the equity
10 assessment required by this section shall not make a sale of
11 cigarettes in this state to any person for sale, distribution, or
12 consumption in this state.

13 (8) A person shall not purchase, acquire, possess, or sell
14 cigarettes acquired from or manufactured by a nonparticipating
15 manufacturer that has not provided the information required under
16 subsection (3) or made the payment of the equity assessment
17 required by this section.

18 (9) The department shall maintain and regularly update a list
19 of nonparticipating manufacturers that have complied with the
20 requirements of this section. The department shall publish the list
21 on its website and provide a copy of the list to a person upon
22 request. Subject to section 6f, the department may delist a
23 manufacturer that no longer complies with this section.

24 (10) Ninety days after the department posts on its website and
25 provides wholesalers and unclassified acquirers notice that a
26 nonparticipating manufacturer is in violation of subsection (1) or
27 (2), the department may seize or confiscate from any person any
28 cigarettes in that person's possession that were acquired from or
29 manufactured by that nonparticipating manufacturer. Seizure,

1 confiscation, **and** forfeiture ~~, and sale~~ of cigarettes under this
2 section ~~shall~~ **must** be accomplished under section 9.

3 (11) The department may impose on any person a civil fine not
4 to exceed \$1,000.00 for each violation of this section. The civil
5 fine is in addition to all other fines or penalties imposed by this
6 act or 1941 PA 122, MCL 205.1 to 205.31.

7 (12) A nonparticipating manufacturer shall appoint and
8 continually engage a resident agent for service of process. That
9 service constitutes legal and valid service of process on the
10 nonparticipating manufacturer.

11 (13) For purposes of this section, a nonparticipating
12 manufacturer that intends to sell or is selling a brand of
13 cigarettes in or into this state is presumed to be the same
14 manufacturer that previously sold that same brand in or into the
15 state, unless the nonparticipating manufacturer can prove that the
16 2 manufacturers are not affiliated. A nonparticipating manufacturer
17 shall not sell in or into this state a cigarette brand that was
18 previously sold in or into this state by another nonparticipating
19 manufacturer if that other nonparticipating manufacturer did not
20 escrow the entire amount due under 1999 PA 244, MCL 445.2051 to
21 445.2052, or pay the equity assessment due under this section.

22 (14) The department shall conduct an audit or review of
23 nonparticipating manufacturers to ensure compliance with this
24 section.

25 (15) As used in this section:

26 (a) "Cigarette" means that term as defined in **section 1 of**
27 1999 PA 244, MCL 445.2051. ~~to 445.2052.~~

28 (b) "Nonparticipating manufacturer" means a manufacturer of
29 cigarettes that is not a participating manufacturer as that term is

defined in 1999 PA 244, MCL 445.2051 to 445.2052. Nonparticipating manufacturer also includes the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States.

Sec. 7. (1) Subject to subsection (2), a tax is levied on the sale of tobacco products sold in this state or sold for consumption in this state, which consumption is presumed ~~when~~**if** sold to a retailer or consumer in this state, as follows:

(a) For cigarettes, 100 mills per cigarette.

(b) For cigars, noncigarette smoking tobacco, smokeless tobacco, and any tobacco product other than cigarettes, 32% of the wholesale price. However, ~~beginning November 1, 2012,~~ the amount of tax levied under this subdivision on cigars shall not exceed 50 cents per individual cigar.

(c) Beginning January 1, 2026, for a tobacco product that is authorized consumable material, 32% of the wholesale price.

(d) Beginning January 1, 2026, for a tobacco product that is an alternative nicotine product, 32% of the wholesale price.

(2) Notwithstanding any other provision of law and beginning ~~180 days after the effective date of the amendatory act that added this subsection,~~ **January 17, 2023**, if the Secretary of the United States Department of Health and Human Services has issued an order for a product under 21 USC 387k(g) and the manufacturer has notified the department of that order on a form and in a manner prescribed by the department, subject to subsections (3), (4), and (5), the tax imposed on the sale of that product under this section is as follows:

(a) If the order is a modified risk tobacco product order issued under 21 USC 387k(g) (1), reduced by 50% of the otherwise

1 applicable rate under subsection (1).

2 (b) If the order is issued under 21 USC 387k(g) (2), reduced by
3 25% of the otherwise applicable rate under subsection (1).

4 (3) A rate under subsection (2) ~~shall~~**does** not take effect
5 unless the department has received notice of the modified risk
6 tobacco order by the manufacturer of the tobacco product, in the
7 form and manner prescribed by the department, and the department
8 has published notice of the rate for the tobacco product. The
9 department shall publish notice of the rate not later than 10 days
10 after receipt of the notice from the manufacturer. The effective
11 date of a rate under subsection (2) for a tobacco product ~~shall be~~
12 **is** the first day of the month following the month in which the
13 department publishes notice of the rate as provided in this
14 subsection.

15 (4) If a modified risk tobacco product order described in
16 subsection (2) is renewed by the United States Food and Drug
17 Administration, the manufacturer of the tobacco product subject to
18 that order must provide notice of the renewal to the department not
19 later than 10 days after issuance of the order or determination of
20 renewal by the United States Food and Drug Administration, for the
21 rate provided under subsection (2) to remain in effect for that
22 tobacco product. If a modified risk tobacco product order described
23 in subsection (2) is rescinded or withdrawn by the United States
24 Food and Drug Administration or otherwise expires, the manufacturer
25 of the tobacco product subject to that order shall notify the
26 department of the rescission, withdrawal, or expiration of the
27 order not later than 10 days after the issuance of the rescission
28 or withdrawal order or determination by the United States Food and
29 Drug Administration or the date of expiration, as applicable. The

1 department shall publish notice of the rescission, withdrawal, or
2 expiration of the modified risk tobacco product order not later
3 than 10 days after receipt of the notice from the manufacturer or,
4 if the manufacturer fails to provide the notice as required under
5 this subsection, 10 days after the department becomes aware of the
6 rescission, withdrawal, or expiration of the order. Except as
7 otherwise provided in subsection (5), beginning on the first day of
8 the month following the month in which the department publishes a
9 notice of rescission, withdrawal, or expiration of a modified risk
10 tobacco product order for a tobacco product, the rate under
11 subsection (2) ~~shall~~ no longer apply **applies** to that tobacco
12 product. Notices required to be made by a manufacturer to the
13 department under this subsection ~~shall~~ **must** be made in the form and
14 manner prescribed by the department.

15 (5) Except as otherwise provided in this subsection, a tobacco
16 product subject to the rate provided under subsection (2) that was
17 purchased or otherwise acquired before the date a rescission,
18 withdrawal, or expiration of a modified risk tobacco product order
19 for that tobacco product becomes effective remains eligible for the
20 rate provided under subsection (2). The tax rate provided in
21 subsection (2) does not apply, and the otherwise applicable tax
22 rate applies, to any of the following:

23 (a) A tobacco product purchased or otherwise acquired before
24 the effective date of the rate provided under subsection (2) for
25 that tobacco product.

26 (b) A tobacco product that is seized and forfeited as
27 contraband as provided under this act.

28 (c) A person described in section 8(1) for purposes of
29 determining the amount of tax and penalty under section 8(1).

(6) On or before the twentieth day of each calendar month, every licensee under section 3 other than a manufacturer or vending machine operator shall file a return with the department stating the wholesale price of each tobacco product other than cigarettes purchased, the quantity of cigarettes purchased, the wholesale price charged for all tobacco products other than cigarettes sold, the number of individual packages of cigarettes and the number of cigarettes in those individual packages, and the number and denominations of stamps affixed to individual packages of cigarettes sold by the licensee for each place of business in the preceding calendar month. The return must also include the number and denomination of unaffixed stamps in the possession of the licensee at the end of the preceding calendar month and any other reasonable information the department requires to ensure compliance with this act. Wholesalers shall also report accurate inventories of cigarettes, both stamped and unstamped at the end of the preceding calendar month. Wholesalers and unclassified acquirers shall also report accurate inventories of affixed and unaffixed stamps by denomination at the beginning and end of each calendar month and all stamps acquired during the preceding calendar month. The return must be signed under penalty of perjury. The return must be on a form, and filed in the manner, prescribed by the department and must contain or be accompanied by any further information the department requires. The department may **require licensees to remit the tax levied under this act using an electronic funds transfer acceptable to the department and may** also require licensees to report tobacco product acquisition, purchase, and sales information in other formats and frequency.

(7) To cover the cost of expenses incurred in the

1 administration of this act, at the time of the filing of the
2 return, the licensee shall pay to the department the tax levied in
3 this section for tobacco products sold during the calendar month
4 covered by the return, less compensation equal to the following:

5 (a) 1% of the total amount of the tax due on tobacco products
6 sold other than cigarettes.

7 (b) 1.5% of the total amount of the tax due on cigarettes sold
8 and, for sales of untaxed cigarettes to Indian tribes in this
9 state, an amount equal to 1.5% of the total amount of the tax due
10 on those cigarettes sold as if those cigarette sales were taxable
11 sales under this act.

12 (c) For licensees ~~who~~**that** are stamping agents, 0.5% of the
13 total amount of the tax due on cigarettes sold and, for sales of
14 untaxed cigarettes to Indian tribes in this state, 0.5% of the
15 total amount of the tax due on those cigarettes sold as if those
16 cigarette sales were taxable sales under this act, until the
17 stamping agent is compensated in an amount equal to the direct cost
18 actually incurred by the stamping agent for the purchase of
19 upgrades to technology and equipment, excluding the equipment
20 reimbursed under subdivision (d), that are necessary to affix the
21 digital stamp as determined by the department. Compensation under
22 this subdivision may also be claimed by a stamping agent for the
23 direct costs actually incurred by the stamping agent, as determined
24 by the department and reflected in the net purchase price, for the
25 initial and 1-time purchase of case packers or similar machines or
26 conveyors as follows:

27 (i) Case packers or similar machines to be used exclusively to
28 repack cigarette cartons into case boxes after digital stamps have
29 been applied by eligible equipment to the individual packages of

1 cigarettes contained within those cigarette cartons. Compensation
2 under this subparagraph may ~~only~~ be claimed by a stamping agent
3 **only** if the case packers or similar machines are in addition to,
4 and not a replacement for, 1 or more case packers or similar
5 machines used in connection with cigarette stamping machines that
6 do not use the digital stamp authorized under this act.

7 (ii) Conveyors to be used exclusively for that portion of a
8 cigarette stamping line that is necessary for and dedicated to
9 cigarette stamping operations using eligible equipment to affix
10 digital stamps to individual packages of cigarettes to be sold in
11 this state. Compensation under this subparagraph may ~~only~~ be
12 claimed by a stamping agent **only** if the cigarette stamping line
13 served by the conveyors is in addition to 1 or more distinct and
14 existing cigarette stamping lines using stamping machines that do
15 not use the digital stamp authorized under this act and that
16 compensation ~~shall~~ **must** not exceed a total of 50% of the amount
17 reimbursed under subdivision (d) for any particular stamping agent.

18 (iii) Compensation under subparagraphs (i) and (ii) ~~shall~~ **must**
19 also include any applicable sales or use taxes paid, and shipping
20 and crating charges actually incurred, by the stamping agent in
21 connection with the purchase, but ~~shall~~ **must** exclude any other
22 costs incurred by the stamping agent not otherwise expressly
23 provided for in this subdivision, including, but not limited to,
24 charges for installation and ongoing maintenance.

25 (d) Beginning in the first calendar month following the
26 implementation of the use of digital stamps as provided in section
27 5a(2) and continuing for the immediately succeeding 17 months, for
28 licensees ~~who~~ **that** are stamping agents, reimbursement of direct
29 costs actually incurred by the stamping agent, as determined by the

1 department, for the initial purchase of eligible equipment in an
2 amount equal to 5.55% of the total net purchase price of the
3 eligible equipment necessary to affix the digital stamp. The
4 reimbursement provided under this subdivision ~~shall~~**must** also
5 include reimbursement for any applicable sales or use taxes paid
6 and shipping and crating charges actually incurred by the stamping
7 agent for the initial purchase of eligible equipment, but ~~shall~~
8 **must** exclude reimbursement for any other costs incurred by the
9 stamping agent not otherwise expressly provided for in this
10 subdivision, including, but not limited to, charges for
11 installation and ongoing maintenance related to eligible equipment.
12 A stamping agent may ~~only~~ receive reimbursement under this
13 subdivision **only** to the extent that the eligible equipment
14 purchased by the stamping agent does not exceed the total number of
15 the stamping agent's existing equipment as certified by the
16 stamping agent on a form prescribed by the department.

17 (e) For licensees ~~who~~**that** are stamping agents, reimbursement
18 of qualified equipment costs actually incurred by the stamping
19 agent, not otherwise compensated or reimbursed under subdivision
20 (c) or (d), as determined by the department. The reimbursement
21 provided under this subdivision ~~shall~~**must** not exceed \$60,000.00
22 for all stamping agents combined.

23 (8) **A licensee or retailer that, on January 1, 2026, has in**
24 **its possession or control an authorized consumable material or**
25 **alternative nicotine product must report the authorized consumable**
26 **material or alternative nicotine product to the department in the**
27 **form and manner required by the department. A tax is levied on all**
28 **authorized consumable material or alternative nicotine products**
29 **required to be reported to the department under this section equal**

1 to 32% of the wholesale price of the authorized consumable material
2 or alternative nicotine products, as applicable. The report and tax
3 described in this subsection are due not later than February 1,
4 2026.

5 (9) ~~(8)~~—The department may require the payment of the tax
6 imposed by this act upon the importation or acquisition of a
7 tobacco product in or into this state. A tobacco product for which
8 the tax under this act has once been imposed and that has not been
9 refunded if paid is not subject ~~upon~~**on** a subsequent sale to the
10 tax imposed by this act.

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

16 (11) ~~(10)~~—A person liable for the tax may reimburse itself by
17 adding to the price of the tobacco products an amount equal to the
18 tax levied under this act.

19 (12) ~~(11)~~—A wholesaler, unclassified acquirer, or other person
20 shall not sell or transfer any unaffixed stamps acquired by the
21 wholesaler or unclassified acquirer from the department. A
22 wholesaler or unclassified acquirer ~~who~~**that** has any unaffixed
23 stamps on hand when its license is revoked or expires, or when it
24 discontinues the business of selling cigarettes, shall return those
25 stamps to the department. The department shall refund the value of
26 the stamps, less the appropriate discount paid.

27 (13) ~~(12)~~—If the wholesaler or unclassified acquirer has
28 unsalable packs returned from a retailer, secondary wholesaler,
29 vending machine operator, wholesaler, or unclassified acquirer with

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

19 **(14)** ~~(13)~~ On or before the twentieth of each month, each
 20 manufacturer shall file a report with the department ~~listing in the~~
 21 **form and manner specified by the department that lists** all of the
 22 **following:**

23 **(a) All of the manufacturer's** sales of tobacco products to
 24 wholesalers and unclassified acquirers **in this state or for sale or**
 25 **consumption in this state** during the preceding calendar month. ~~and~~
 26 ~~any~~

27 **(b) All of the manufacturer's sales of cigarettes as described**
 28 **in, and that are sold in accordance with, subsection (16) during**
 29 **the preceding calendar month.**

1 (c) All consumable material and vapor products that do not
2 qualify as tobacco products under this act sold in this state or
3 sold for consumption in this state by the manufacturer during the
4 preceding calendar month.

5 (d) Any other information the department finds necessary for
6 the administration of this act. ~~This report must be in the form and~~
7 ~~manner specified by the department.~~

8 (15) ~~(14)~~ Each wholesaler or unclassified acquirer shall
9 submit to the department an unstamped cigarette sales report on or
10 before the twentieth day of each month covering the sale, delivery,
11 or distribution of unstamped cigarettes during the preceding
12 calendar month to points outside of this state. A separate schedule
13 must be filed for each state, country, or province into which
14 shipments are made. For purposes of the report described in this
15 subsection, "unstamped cigarettes" means individual packages of
16 cigarettes that do not bear a Michigan stamp. The department may
17 provide the information contained in this report to a proper
18 officer of another state, country, or province reciprocating in
19 this privilege.

20 (16) Notwithstanding anything in this act to the contrary, a
21 research facility in this state that receives cigarettes in
22 accordance with and for the purposes described in this section is
23 not required to be licensed under this act when purchasing or
24 otherwise acquiring cigarettes from a manufacturer, and cigarettes
25 are exempt from the stamping requirements and tax levied under this
26 act, if the cigarettes meet all of the following conditions:

27 (a) Are contained in an individual package labeled with
28 "Experimental Use Only," "Reference Cigarettes," or other similar
29 wording indicating that the manufacturer intends for the product to

1 be used exclusively for experimental purposes in compliance with 27
2 CFR 40.232.

3 (b) Are sold or transferred directly by a manufacturer
4 licensed under this act to a research facility in this state,
5 including any of the following facilities:

6 (i) A laboratory, hospital, medical center, college, or
7 university.

8 (ii) A facility designated as a Tobacco Center of Regulatory
9 Science by the National Institutes of Health.

10 (c) Are used by the research facility after completion of the
11 authorized use under this subsection.

12 (17) ~~(15)~~ As used in subsection (7):

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~~**that** was licensed as
16 a 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) and (3).

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~~**that** was licensed as a stamping
28 agent as of December 31, 2011.

29 (ii) Was a cigarette tax stamping machine used ~~prior to~~**before**

1 January 1, 2012 by the stamping agent to apply stamps using stamp
2 rolls of 30,000 stamps.

3 (c) "Qualified equipment" means equipment that was placed in
4 service by a stamping agent that included conveyors and additional
5 associated electrical line and compressed air line before August
6 15, 2014 in connection with the implementation of a digital
7 stamping line under a pilot program with the department as
8 determined by the department. Qualified equipment does not include
9 the cost of installation of a conveyor.

10 Sec. 8. (1) A person, other than a licensee, is personally
11 liable for the tax imposed by this act, plus a penalty of 500% of
12 the amount of that tax, under any of the following circumstances:

13 (a) The person is in control or in possession of a tobacco
14 product contrary to this act or is in control or in possession of
15 an individual package of cigarettes without a stamp in violation of
16 this act.

17 (b) The person offers to sell or does sell a tobacco product
18 to another for purposes of resale without being licensed to do so
19 under this act.

20 (c) ~~The~~ **Except as otherwise provided in subdivision (d), the**
21 person offers to sell at retail, or does sell at retail, an
22 individual package of cigarettes without a stamp or any tobacco
23 product purchased or acquired from a person that was not licensed
24 under this act as secondary wholesaler, wholesaler, or unclassified
25 acquirer, **or was not an authorized representative of a licensed**
26 **manufacturer in accordance with subsection (2),** at the time of
27 purchase or acquisition.

28 (d) **Beginning January 1, 2026, the person offers to sell at**
29 **retail, or does sell at retail, authorized consumable material or**

1 an alternative nicotine product that was purchased or acquired from
 2 a person that was not licensed under this act as a secondary
 3 wholesaler, wholesaler, or unclassified acquirer, or was not an
 4 authorized representative of a licensed manufacturer in accordance
 5 with subsection (2), at the time of purchase or acquisition. This
 6 subdivision does not apply to authorized consumable material or an
 7 alternative nicotine product that the person purchased or acquired
 8 before January 1, 2026 if the person discloses in the report
 9 required under section 7(8) the authorized consumable material or
 10 alternative nicotine product, as applicable, and pays the tax due
 11 on the authorized consumable or alternative nicotine product, as
 12 applicable, under section 7(8).

13 (2) The department may permit a representative of a licensed
 14 manufacturer of tobacco products whose duties require travel in
 15 this state to transport up to 138,000 cigarettes, **all** of which **must**
 16 **bear the stamp approved by the department, except that** not more
 17 than 36,000 cigarettes may bear no tax indicia or the tax indicia
 18 of another state. ~~All 138,000 cigarettes must bear the stamp~~
 19 ~~approved by the department or the tax indicia of another state, if~~
 20 ~~any.~~ The total value of tobacco products, excluding cigarettes,
 21 carried by a representative ~~shall~~ **must** not exceed a wholesale value
 22 of ~~\$5,000.00.~~ **\$10,000.00.** A manufacturer shall notify the
 23 department of the manufacturer's representatives that it currently
 24 employs ~~who~~ **that** carry cigarettes or tobacco products ~~other than~~
 25 ~~cigarettes~~ in performing work duties in this state. The
 26 manufacturer shall maintain a record of each transaction by the
 27 manufacturer's representative for a period of 4 years immediately
 28 following the transaction and shall produce the records upon
 29 request of the state treasurer or the state treasurer's authorized

1 agent. Each record must identify the quantity and identity of the
 2 tobacco products, detail whether exchanged, received, removed,
 3 **sold**, or otherwise disposed of, and identify the retailer,
 4 wholesaler, secondary wholesaler, vending machine operator, or
 5 unclassified acquirer involved. The representative of the
 6 manufacturer shall provide a copy of the record to the retailer,
 7 wholesaler, secondary wholesaler, vending machine operator, or
 8 unclassified acquirer at the time of the exchange, **sale**, or
 9 disposal. The retailer, wholesaler, secondary wholesaler, vending
 10 machine operator, or unclassified acquirer shall retain the copy of
 11 the record in the same place and for the same time period as other
 12 records required by this section. A representative shall not **sell**,
 13 exchange, or otherwise dispose of, within this state tobacco
 14 products bearing the tax indicia of another state or receive
 15 tobacco products bearing the tax indicia of another state from
 16 retailers located within this state. A representative ~~who~~**that**
 17 sells, exchanges, or otherwise disposes of cigarettes or tobacco
 18 products other than cigarettes that do not bear the stamp or other
 19 marking required by the department or sells, exchanges, or
 20 otherwise disposes of cigarettes or tobacco products other than
 21 cigarettes bearing the tax indicia of another state is guilty of a
 22 felony, punishable by a fine of not more than \$5,000.00 or
 23 imprisonment for not more than 5 years, or both.

24 (3) A person ~~who~~**that** possesses, acquires, transports, or
 25 offers for sale contrary to this act 3,000 or more cigarettes,
 26 tobacco products other than cigarettes with an aggregate wholesale
 27 price of ~~\$250.00~~**\$500.00** or more, 3,000 or more counterfeit
 28 cigarettes, 3,000 or more counterfeit cigarette papers, 3,000 or
 29 more gray market cigarettes, or 3,000 or more gray market cigarette

1 papers is guilty of a felony, punishable by a fine of not more than
2 \$50,000.00 or imprisonment for not more than 5 years, or both.

3 (4) A person ~~who~~**that** possesses, acquires, transports, or
4 offers for sale contrary to this act 1,200 or more, but not more
5 than 2,999, cigarettes, tobacco products other than cigarettes with
6 an aggregate wholesale value of ~~\$100.00~~**\$200.00** or more but less
7 than ~~\$250.00~~**\$500.00**, or 1,200 or more, but not more than 2,999,
8 counterfeit cigarettes, counterfeit cigarette papers, gray market
9 cigarettes, or gray market cigarette papers is guilty of a
10 misdemeanor punishable by a fine of not more than \$5,000.00 or
11 imprisonment of not more than 1 year, or both.

12 (5) A person ~~who~~**that** violates a provision of this act for
13 which a criminal punishment is not otherwise provided is guilty of
14 a misdemeanor, punishable by a fine of not more than \$1,000.00 or 5
15 times the retail value of the tobacco products involved, whichever
16 is greater, or imprisonment for not more than 1 year, or both. This
17 subsection does not apply to conduct described in subsection (12).

18 (6) A person ~~who~~**that** manufactures, possesses, or uses a stamp
19 or manufactures, possesses, or uses a counterfeit stamp or writing
20 or device intended to replicate a stamp without authorization of
21 the department, a licensee ~~who~~**that** purchases or obtains a stamp
22 from any person other than the department, or ~~who~~**that** falsifies a
23 manufacturer's label on cigarettes, counterfeit cigarettes, gray
24 market cigarette papers, or counterfeit cigarette papers is guilty
25 of a felony and ~~shall~~**must** be punished by imprisonment for not less
26 than 1 year or more than 10 years and may be punished by a fine of
27 not more than \$50,000.00.

28 (7) A person ~~who~~**that** falsely makes, counterfeits, or alters a
29 license, vending machine disc, or marker, or ~~who~~**that** purchases or

1 receives a false or altered license, vending machine disc, or
2 marker, or ~~who-that~~ assists in or causes to be made a false or
3 altered license, vending machine disc, or marker, or ~~who-that~~
4 possesses a device used to forge, alter, or counterfeit a license,
5 vending machine disc, or marker is guilty of a felony punishable by
6 a fine of not more than \$5,000.00 or imprisonment for not more than
7 5 years, or both. A person ~~who-that~~ alters or falsifies records or
8 markings required under this act is guilty of a felony punishable
9 by a fine of not more than \$5,000.00 or imprisonment for not more
10 than 5 years, or both.

11 (8) The attorney general has concurrent power with the
12 prosecuting attorneys of this state to enforce this act.

13 (9) At the request of the department or its duly authorized
14 agent, the state police and all local police authorities shall
15 enforce the provisions of this act.

16 (10) The department does not have the authority to enforce the
17 provisions of this section regarding gray market cigarette papers
18 or counterfeit cigarette papers.

19 (11) A person ~~who-that~~ knowingly possesses, acquires,
20 transports, or offers for sale contrary to this act 600 or more,
21 but not more than 1,199, cigarettes, tobacco products other than
22 cigarettes with an aggregate wholesale value of \$50.00 or more but
23 less than ~~\$100.00, \$200.00~~, or 600 or more, but not more than
24 1,199, counterfeit cigarettes, counterfeit cigarette papers, gray
25 market cigarettes, or gray market cigarette papers is guilty of a
26 misdemeanor punishable by a fine of not more than \$1,000.00 or
27 imprisonment of not more than 90 days, or both.

28 (12) A person shall not possess, acquire, transport, or offer
29 for sale contrary to this act less than 600 cigarettes, tobacco

1 products other than cigarettes with an aggregate wholesale value of
2 less than ~~\$50.00~~, ~~\$100.00~~, or less than 600 counterfeit cigarettes,
3 counterfeit cigarette papers, gray market cigarettes, or gray
4 market cigarette papers. A person ~~who~~ **that** possesses, acquires,
5 transports, or offers for sale contrary to this act 180 or more,
6 but not more than 599, cigarettes, tobacco products other than
7 cigarettes with an aggregate wholesale value of ~~\$25.00~~ ~~\$50.00~~ or
8 more but less than ~~\$50.00~~, ~~\$100.00~~, or 180 or more, but not more
9 than 599, counterfeit cigarettes, counterfeit cigarette papers,
10 gray market cigarettes, or gray market cigarette papers is
11 responsible for a state civil infraction and may be ordered to pay
12 a civil fine of not more than \$100.00.

13 **(13) A licensee or any other person shall not hold, own,**
14 **possess, transport, acquire, import, transfer, be in control of,**
15 **sell, or offer for sale in, into, or for consumption in this state**
16 **a consumable material that is not an authorized consumable material**
17 **or a vapor product that is not an authorized vapor product.**

18 **(14) A person that violates subsection (13) is subject to the**
19 **same fines, terms of imprisonment, and criminal punishments under**
20 **subsection (3), (4), (11), and (12) for tobacco products other than**
21 **cigarettes utilizing the same aggregate wholesale price dollar**
22 **thresholds applicable to tobacco products other than cigarettes**
23 **under those subsections. A person that violates subsection (13) is**
24 **also subject to an additional fine equal to \$100.00 for each**
25 **violation of subsection (13). Each occurrence constitutes a**
26 **separate violation.**

27 **(15) A person described in subsection (14) for which a**
28 **criminal punishment is not otherwise provided under this act is**
29 **guilty of a misdemeanor, punishable by a fine of not more than**

1 \$1,000.00 or 5 times the retail value of the consumable material or
2 vapor product involved, whichever is greater, or imprisonment for
3 not more than 1 year, or both. This subsection does not apply to
4 conduct described in subsection (12) as applied to a consumable
5 material or vapor product under subsection (14).

6 Sec. 9. (1) A tobacco product held, owned, possessed,
7 transported, **acquired, imported, transferred, or sold or offered**
8 **for sale by**, or in control of, a person in violation of this act,
9 and a vending machine, vehicle, and other tangible personal
10 property containing, **or used to transport or bring in or into this**
11 **state**, a tobacco product in violation of this act and any related
12 books and records are contraband and may be seized and confiscated
13 by the department as provided in this section.

14 (2) **A consumable material other than an authorized consumable**
15 **material, and a vapor product other than an authorized vapor**
16 **product, that is held, owned, possessed, transported, acquired,**
17 **imported, or sold or offered for sale by, or in control of, a**
18 **person in this state in violation of this act, and a vending**
19 **machine, vehicle, or other tangible personal property that contains**
20 **or is used to transport or bring in or into this state a consumable**
21 **material other than authorized consumable material or a vapor**
22 **product other than an authorized vapor product, and any related**
23 **books and records, are contraband and may be seized and confiscated**
24 **by the department as provided in this section.**

25 (3) ~~(2)~~—If an authorized inspector of the department or a
26 police officer has reasonable cause to believe and does believe
27 that a tobacco product is being acquired, possessed, transported,
28 kept, sold, or offered for sale in violation of this act for which
29 the penalty is a felony, the inspector or police officer may

1 investigate or search the vehicle of transportation in which the
2 tobacco product is believed to be located. If a tobacco product is
3 found in a vehicle searched under this subsection or in a place of
4 business inspected under this act, the tobacco product, vending
5 machine, vehicle, other than a vehicle owned or operated by a
6 transportation company otherwise transporting tobacco products in
7 compliance with this act, or other tangible personal property
8 containing those tobacco products and any books and records in
9 possession of the person in control or possession of the tobacco
10 product may be seized by the inspector or police officer and are
11 subject to forfeiture as contraband as provided in this section.

12 **(4) If an authorized inspector of the department or a police**
13 **officer has reasonable cause to believe and does believe that a**
14 **consumable material other than an authorized consumable material,**
15 **or a vapor product other than an authorized vapor product, is being**
16 **acquired, possessed, transported, kept, sold, or offered for sale**
17 **in violation of this act for which the penalty is a felony, the**
18 **inspector or police officer may investigate or search the vehicle**
19 **of transportation in which the consumable material or vapor product**
20 **is believed to be located. If a consumable material or vapor**
21 **product is found in a vehicle searched under this subsection or in**
22 **a place of business inspected under this act, the consumable**
23 **material, vapor product, vending machine, vehicle, other than a**
24 **vehicle owned or operated by a transportation company otherwise**
25 **transporting consumable material or a vapor product in compliance**
26 **with this act, or other tangible personal property containing the**
27 **consumable material or vapor product and any books and records in**
28 **possession of the person in control or possession of the consumable**
29 **material or vapor product may be seized by the inspector or police**

1 officer and are subject to forfeiture as contraband as provided in
2 this section.

3 (5) ~~(3)~~—As soon as possible, but not more than 5 business days
4 after seizure of any alleged contraband, the person making the
5 seizure shall deliver personally or by registered mail to the last
6 known address of the person from whom the seizure was made, if
7 known, an inventory statement of the property seized. A copy of the
8 inventory statement must also be filed with the state treasurer.
9 The inventory statement must also contain a notice to the effect
10 that unless demand for hearing as provided in this section is made
11 within 10 business days, the designated property is forfeited to
12 the state. If the person from whom the seizure was made is not
13 known, the person making the seizure shall cause a copy of the
14 inventory statement, together with the notice provided for in this
15 subsection, to be published ~~at least~~ **not fewer than** 3 times in a
16 newspaper of general circulation in the county where the seizure
17 was made. ~~Within~~ **Not more than** 10 business days after the date of
18 service of the inventory statement, or in the case of publication,
19 ~~within~~ **not more than** 10 business days after the date of last
20 publication, the person from whom the property was seized or any
21 person claiming an interest in the property may by registered mail,
22 facsimile transmission, or personal service file with the state
23 treasurer a demand for a hearing before the state treasurer or a
24 person designated by the state treasurer for a determination as to
25 whether the property was lawfully subject to seizure and
26 forfeiture. The person shall verify a request for hearing filed by
27 facsimile transmission by also providing a copy of the original
28 request for hearing by registered mail or personal service. The
29 person or persons are entitled to appear before the department, to

1 be represented by counsel, and to present testimony and argument.
 2 Upon receipt of a request for hearing, the department shall hold
 3 the hearing within 15 business days. The hearing is not a contested
 4 case proceeding and is not subject to the administrative procedures
 5 act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After the hearing,
 6 the department shall render its decision in writing ~~within not more~~
 7 ~~than~~ 10 business days ~~of after~~ the hearing and, by order, shall
 8 ~~either~~ declare the seized property subject to seizure and
 9 forfeiture, or declare the property returnable in whole or in part
 10 to the person entitled to possession. If, ~~within not more than~~ 10
 11 business days after the date of service of the inventory statement,
 12 the person from whom the property was seized or ~~any a~~ person
 13 claiming an interest in the property does not file with the state
 14 treasurer a demand for a hearing before the department, the
 15 property seized is considered forfeited to the state by operation
 16 of law and may be disposed of by the department as provided in this
 17 section. If, after a hearing before the state treasurer or person
 18 designated by the state treasurer, the department determines that
 19 the property is lawfully subject to seizure and forfeiture and the
 20 person from whom the property was seized or any persons claiming an
 21 interest in the property do not take an appeal to the circuit court
 22 of the county in which the seizure was made within the time
 23 prescribed in this section, the property seized ~~shall be is~~
 24 considered forfeited to the state by operation of law and may be
 25 disposed of by the department as provided in this section.

26 (6) ~~(4)~~ If a person is aggrieved by the decision of the
 27 department, ~~that the~~ person may appeal to the circuit court of the
 28 county where the seizure was made to obtain a judicial
 29 determination of the lawfulness of the seizure and forfeiture. The

1 action must be commenced ~~within~~**not more than** 20 days after notice
 2 of the department's determination is sent to the person or persons
 3 claiming an interest in the seized property. The court shall hear
 4 the action and determine the issues of fact and law involved in
 5 accordance with rules of practice and procedure as in other in rem
 6 proceedings. If a judicial determination of the lawfulness of the
 7 seizure and forfeiture cannot be made before deterioration of any
 8 of the property seized, the court shall order the destruction or
 9 sale of the property with public notice as determined by the court
 10 and require the proceeds to be deposited with the court until the
 11 lawfulness of the seizure and forfeiture is finally adjudicated.

12 (7) ~~(5)~~The department shall destroy all cigarettes,
 13 **consumable material, and vapor products** forfeited to this state.
 14 The department may sell all tobacco products **and other property**
 15 **forfeited in accordance with this section at public sale**, except
 16 cigarettes, ~~and other property forfeited pursuant to this section~~
 17 ~~at public sale.~~**consumable material, and vapor products.** Public
 18 notice of the sale must be given ~~at least~~**not less than** 5 days
 19 before the day of sale. The department may pay an amount not to
 20 exceed 25% of the proceeds of the sale to the local governmental
 21 unit whose law enforcement agency performed the seizure. ~~The~~**Except**
 22 **for an award and payment to a person described in subsection (9),**
 23 **the** balance of the proceeds derived from the sale by the department
 24 must be credited to the general fund of the state.

25 (8) ~~(6)~~The seizure and destruction or sale of a tobacco
 26 product, **consumable material, vapor product,** or other property
 27 under this section does not relieve a person from a fine,
 28 imprisonment, or other penalty for violation of this act.

29 (9) ~~(7)~~A person ~~who~~**that** is not an employee or officer of

1 this state or a political subdivision of this state ~~who~~**that**
2 furnishes to the department or to any law enforcement agency
3 original information concerning a violation of this act, which
4 information results in the collection and recovery of any tax,
5 **fine, or penalty under this act** or leads to the forfeiture of any
6 ~~cigarettes, tobacco products, consumable material, vapor products,~~
7 or other property **under this act**, may be awarded and paid by the
8 state treasurer, compensation of not more than 10% of the net
9 amount received from the sale of any forfeited ~~cigarettes tobacco~~
10 **products other than cigarettes** or other property, **or from the**
11 **collection of any fine or penalty on such forfeited tobacco**
12 **products or other property**, but not to exceed \$5,000.00, which must
13 be paid out of the receipts from the sale of the property, **or the**
14 **collection of the fine or penalty, as applicable.** If any amount is
15 issued to the local governmental unit under subsection ~~(5), (7),~~
16 the amount awarded under this subsection to a person ~~who~~**that**
17 provides original information that results in a seizure of **tobacco**
18 **products other than** cigarettes or other property by a local law
19 enforcement agency must be paid from that amount issued under
20 subsection ~~(5), (7).~~ If in the opinion of the attorney general and
21 the director of the department of state police it is considered
22 necessary to preserve the identity of the person furnishing the
23 information, the attorney general and the director of the
24 department of state police shall file with the state treasurer an
25 affidavit setting forth that necessity and a warrant may be issued
26 jointly to the attorney general and the director of the department
27 of state police. Upon payment to the person furnishing that
28 information, the attorney general and the director of the
29 department of state police shall file with the state treasurer an

1 affidavit that the money has been by them paid to the person
2 entitled to the money under this section.

3 (10) ~~(8)~~ If a retailer possesses or sells ~~cigarettes~~ **tobacco**
4 **products** on which the tax imposed under this act has not been paid
5 or accrued to a wholesaler, secondary wholesaler, or unclassified
6 acquirer licensed under this act, **or if a retailer violates section**
7 **8 (13)**, the retailer ~~shall be~~ **is** prohibited from purchasing,
8 possessing, or selling any ~~cigarettes or other~~ tobacco products as
9 follows:

10 (a) For a first violation, for a period of not more than 6
11 months.

12 (b) For a second violation within a period of 5 years, for a
13 period of at least 6 months and not more than 36 months.

14 (c) For a third or subsequent violation within a period of 5
15 years, for a period of at least 1 year and not more than 5 years.

16 (11) ~~(9)~~ The prohibition described in subsection ~~(8)~~ **(10)** is
17 effective upon service by certified mail or personal service on the
18 retailer of notice issued by the department ordering the retailer
19 to cease all sales and purchases of ~~cigarettes and other~~ tobacco
20 products. Upon receipt of ~~this~~ **the** notice, the retailer may return
21 any tobacco products in the possession of the retailer ~~upon~~ **on**
22 which the tax imposed by this act has been paid or accrued to a
23 wholesaler, secondary wholesaler, or unclassified acquirer licensed
24 under this act. The department shall notify all licensed
25 wholesalers, manufacturers, secondary wholesalers, vending machine
26 operators, and unclassified acquirers of any retailer ~~who~~ **that** has
27 been prohibited from purchasing ~~cigarettes or other~~ tobacco
28 products and the duration of the prohibition. A wholesaler,
29 secondary wholesaler, or unclassified acquirer shall not sell

~~cigarettes or other~~ tobacco products to a retailer after receipt of
 notice from the department that the retailer is prohibited from
 purchasing tobacco products. ~~Any cigarettes or other~~ **A** tobacco
~~products~~ **product** found on the premises of the retailer during the
 period of prohibition ~~are~~ **is** considered contraband, ~~and is~~ subject
 to seizure under this section, and ~~constitute~~ **constitutes** an
 additional improper possession under this subsection. The retailer
 may contest the order prohibiting purchase, possession, or sale of
 tobacco products in accordance with the appeal procedures and time
 limits provided in subsection ~~(3) of this section.~~ **(5)**. After
 completion of the appeals provided or upon expiration of the period
 to request such appeal, the department shall issue a final order
 and make service ~~upon~~ **on** the retailer of an order to cease all
 purchases, possession, and sale of ~~all cigarettes and other~~ tobacco
 products for a specified period as appropriate. This order does not
 relieve the retailer from seizure and sale of a tobacco product or
 other property under this section, or relieve the retailer from a
 fine, imprisonment, or other penalty for violation of this act.

Sec. 11. (1) A person, not licensed under this act as ~~either~~ a
 wholesaler or unclassified acquirer, shall not sell or solicit a
 sale of a tobacco product to be shipped, mailed, or otherwise
 imported, sent or brought into this state, to a person in this
 state that is not licensed under this act, unless the tobacco
 product is to be sold through a wholesaler or unclassified
 acquirer, licensed under this act.

(2) A person, in this state, that is not licensed under this
 act, shall not order, purchase, or otherwise engage in a
 transaction to acquire a tobacco product that is to be shipped,
 mailed, imported, sent, or brought into this state unless that

1 tobacco product is to be sold through a wholesaler or unclassified
2 acquirer, licensed under this act. A consumer in this state shall
3 not purchase or otherwise acquire a tobacco product through a
4 remote retail sale unless the seller is licensed under this act as
5 an unclassified acquirer. A tobacco product ordered, purchased, or
6 acquired by a person in violation of this subsection is contraband
7 subject to seizure and forfeiture under section 9. A person ~~who~~
8 **that** violates this subsection is considered to be in control or
9 possession of a tobacco product in violation of this act for
10 purposes of section 8(1), regardless of whether that tobacco
11 product has been sold, consumed, or otherwise disposed of. Any
12 limitation on the tax applicable to cigars under section 7(1)(b)
13 ~~shall~~ **does** not apply ~~, or otherwise and must not~~ be taken into
14 account ~~, for~~ purposes of determining the liability for taxes and
15 penalties under section 8(1) arising from a violation of this
16 subsection.

17 (3) Except as provided in section 8(2) regarding
18 representatives of a licensed manufacturer, a retailer in this
19 state shall not purchase, possess, acquire for resale at retail, or
20 sell a tobacco product in this state unless that tobacco product
21 was purchased or otherwise acquired directly from a wholesaler,
22 unclassified acquirer, or secondary wholesaler, licensed under this
23 act. A retailer ~~who~~ **that** violates this subsection is considered to
24 be in control or possession of a tobacco product in violation of
25 this act for purposes of section 8(1), regardless of whether that
26 tobacco product has been sold, consumed, or otherwise disposed of.
27 Any limitation on the tax applicable to cigars under section
28 7(1)(b) ~~shall~~ **does** not apply ~~, or otherwise and must not~~ be taken
29 into account ~~, for~~ purposes of determining the liability for taxes

1 and penalties under section 8(1) arising from a violation of this
2 subsection.

3 (4) A retailer is considered to have purchased or otherwise
4 acquired a tobacco product in compliance with subsection (3) if all
5 of the following conditions are met:

6 (a) The retailer obtains a copy of the license of the
7 wholesaler, secondary wholesaler, or unclassified acquirer at the
8 time of purchase or acquisition.

9 (b) The license described in subdivision (a) was not expired
10 when the tobacco product was purchased or otherwise acquired by the
11 retailer.

12 (c) The copy of the license is preserved by the retailer in
13 the same manner, for the same period of time, and offered for
14 inspection as required of other statements and records under
15 section 6.

16 (5) Notwithstanding anything in this act to the contrary, a
17 licensee may provide a copy of its license to a retailer for
18 purposes of this section. A retailer that obtains a copy of the
19 license for a particular licensee under this section is not
20 required to obtain another copy of the license for subsequent
21 purchases or acquisitions of tobacco products from that licensee
22 that are made during the active license year and before the
23 expiration of that license.

24 (6) ~~Subject~~ **In addition to any other requirements or**
25 **conditions that may be imposed by the laws of this state,**
26 **including, but not limited to, the youth tobacco act, 1915 PA 31,**
27 **MCL 722.641 to 722.645, and subject** to subsection (1), all sales
28 conducted through the internet, by telephone, or in a mail-order
29 transaction must not be completed unless, before each delivery of

1 tobacco products is made, whether through the mail, through a
2 transportation company, or through any other delivery system, the
3 seller has obtained from the purchaser an affirmation that includes
4 a copy of a valid government-issued document that confirms the
5 purchaser's name, address, and date of birth showing that the
6 purchaser is at least the legal minimum age to purchase tobacco
7 products; that the tobacco products purchased are not intended for
8 consumption by an individual who is younger than the legal minimum
9 age to purchase tobacco products; and a written statement signed by
10 the purchaser that affirms the purchaser's address and that the
11 purchaser is at least the minimum legal age to purchase tobacco
12 products. The statement must also confirm that the purchaser
13 understands that signing another person's name to the affirmation
14 is illegal; that the sale of tobacco products to individuals under
15 the legal minimum purchase age is illegal; and that the purchase of
16 tobacco products by individuals under the legal minimum purchase
17 age is illegal under the laws of ~~the state of Michigan.~~ **this state.**
18 The seller shall verify the information contained in the
19 affirmation provided by the purchaser against a commercially
20 available database of governmental records, or obtain a photocopy,
21 fax copy, or other image of the valid, government-issued
22 identification stating the date of birth or age of the purchaser.

23 (7) Subject to subsection (1), all invoices, bills of lading,
24 sales receipts, or other documents related to tobacco product sales
25 conducted through the internet, by telephone, or in a mail-order
26 transaction must contain the current seller's valid Michigan sales
27 tax license number or use tax registration number, **if applicable,**
28 business name and address of the seller, and a statement as to
29 whether all sales taxes or use taxes, as applicable, and taxes

1 levied under this act have been paid. All packages of tobacco
 2 products shipped from a tobacco product seller to purchasers ~~who~~
 3 ~~that~~ reside in ~~Michigan, this state~~, including consumers in a
 4 remote retail sale, must be clearly printed or stamped with the
 5 word "TOBACCO PRODUCTS" on the outside of all sides of the package
 6 so it is clearly visible to the shipper. If an order is made as a
 7 result of advertisement over the internet, the tobacco retailer,
 8 and an unclassified acquirer making a remote retail sale, shall
 9 request the email address of the purchaser and shall receive
 10 payment by credit card or check before completing the sale. This
 11 subsection does not apply to sales by wholesalers and unclassified
 12 acquirers licensed under this act other than remote retail sales.

13 (8) The deliverer of the tobacco products shall obtain proof
 14 from a valid government-issued document that the person signing for
 15 the tobacco products is the purchaser.

16 ~~(9) A retailer not otherwise licensed or required to be~~
 17 ~~licensed under this act shall post a sign, visible to the public~~
 18 ~~inside the retail establishment that informs purchasers of cigars~~
 19 ~~through catalog sales, telephone or mail orders, or internet sales~~
 20 ~~of their liability for any applicable unpaid state taxes on those~~
 21 ~~cigars and that cigars purchased in violation of this act are~~
 22 ~~contraband.~~

23 (9) ~~(10)~~ As used in this section:

24 (a) "Computer" means any connected, directly interoperable or
 25 interactive device, equipment, or facility that uses a computer
 26 program or other instructions to perform specific operations,
 27 including logical, arithmetic, or memory functions with or on
 28 computer data or a computer program, and that can store, retrieve,
 29 alter, or communicate the results of the operations to a person,

1 computer program, computer, computer system, or computer network.

2 (b) "Computer network" means the interconnection of hardware
3 or wireless communication lines with a computer through remote
4 terminals or a complex consisting of 2 or more interconnected
5 computers.

6 (c) "Computer program" means a series of internal or external
7 instructions communicated in a form acceptable to a computer that
8 directs the functioning of a computer, computer system, or computer
9 network in a manner designed to provide or produce products or
10 results from the computer, computer system, or computer network.

11 (d) "Computer system" means related, connected or unconnected,
12 computer equipment, devices, software, or hardware.

13 (e) "Credit card" means a card or device issued by a person
14 licensed under 1984 PA 379, MCL 493.101 to 493.114, or under the
15 consumer financial services act, 1988 PA 161, MCL 487.2051 to
16 487.2072, or issued by a depository financial institution as **that**
17 **term is** defined in section 1a of the mortgage brokers, lenders, and
18 servicers licensing act, 1987 PA 173, MCL 445.1651a, under a credit
19 card arrangement.

20 (f) "Device" includes, but is not limited to, an electronic,
21 magnetic, electrochemical, biochemical, hydraulic, optical, or
22 organic object that performs input, output, or storage functions by
23 the manipulation of electronic, magnetic, or other impulses.

24 (g) "Internet" means the connection to the World Wide Web
25 through the use of a computer, a computer network, or a computer
26 system.

27 (h) "Sale conducted through the internet" means a sale of, a
28 solicitation to sell, a purchase of, or an offer to purchase
29 tobacco products conducted all or in part by accessing an internet

1 website and includes a remote retail sale.

2 Sec. 12. (1) The proceeds derived from the payment of taxes,
3 fees, **fin**es, and penalties provided for under this act and the
4 license fees received by the department ~~shall~~**must** be deposited
5 with the state treasurer and disbursed only as provided in this
6 section. However, before a distribution of funds is made under this
7 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 on cigarettes under section 7(1) (a) must
12 be disbursed as follows:

13 (a) 2.4375% of the proceeds must be credited to the health and
14 safety fund created in **section 3 of** the health and safety fund act,
15 1987 PA 264, MCL ~~141.471 to 141.479~~**.141.473**.

16 (b) 41.6200% of the proceeds must be credited to the state
17 school aid fund established by section 11 of article IX of the
18 state constitution of 1963.

19 (c) 3.7500% of the proceeds ~~shall~~**must** be credited to the
20 healthy Michigan fund created under section 5953 of the public
21 health code, 1978 PA 368, MCL 333.5953. Fifty percent of the
22 proceeds described in this subdivision that are used for smoking
23 prevention programs ~~shall~~**must** be used by the department of health
24 and human services to expand the free smokers quit kit program to
25 include the nicotine patch or nicotine gum.

26 (d) 19.7625% of the proceeds must be disbursed as follows:

27 (i) For each fiscal year, \$3,000,000.00 to the Michigan state
28 capitol historic site fund created in section 7 of the Michigan
29 state capitol historic site act, 2013 PA 240, MCL 4.1947. For each

fiscal year, the state treasurer shall adjust the figure described in this subparagraph by an amount determined by the state treasurer at the end of each calendar year to reflect the cumulative annual percentage change in the Consumer Price Index. For each fiscal year, if the cumulative annual percentage change in the Consumer Price Index is negative, then the adjustment for that fiscal year is zero. As used in this subsection, "Consumer Price Index" means the most comprehensive index of consumer prices available for this state from the Bureau of Labor Statistics of the United States Department of Labor. From the funds described in this subparagraph, not later than February 1 of each year, the Michigan state capitol commission created in section 5 of the Michigan state capitol historic site act, 2013 PA 240, MCL 4.1945, shall **submit a** report to the chairpersons of the house and senate appropriations committees. The report must contain all of the following:

(A) The proposed maintenance plan for the Michigan State Capitol Historical Site for the immediately following fiscal year.

(B) The projected 5-year maintenance plan for the Michigan State Capitol Historical Site for the immediately following 5 fiscal years.

(C) Projected large-scale projects for the Michigan State Capitol Historical Site that exceed \$1,000,000.00.

(ii) The remaining proceeds must be credited to the general fund of this state.

(e) 0.5550% of the proceeds must be paid to counties with a 2000 population of more than 2,000,000, to be used only for indigent health care.

(f) 31.8750% of the proceeds must be credited to the Michigan Medicaid benefits trust fund ~~created under~~ **established in** section 5

1 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

2 (3) The tax imposed under section 7(1)(b) must be disbursed as
3 follows:

4 (a) 75.0% of the proceeds must be credited to the Michigan
5 Medicaid benefits trust fund ~~created under~~**established in** section 5
6 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

7 (b) 25.0% of the proceeds must be credited to the general fund
8 of this state.

9 (4) **Beginning January 1, 2026, the tax imposed under section**
10 **7(1)(c), and any tax imposed on authorized consumable material**
11 **under section 7(8), must be disbursed as follows:**

12 (a) **50% must be deposited into the healthy Michigan fund**
13 **created in section 5953 of the public health code, 1978 PA 368, MCL**
14 **333.5953.**

15 (b) **50% of the proceeds must be deposited into the Michigan**
16 **Medicaid benefits trust fund established in section 5 of the**
17 **Michigan trust fund act, 2000 PA 489, MCL 12.255.**

18 (5) **Beginning January 1, 2026, the tax imposed under section**
19 **7(1)(d), and any tax imposed on alternative nicotine products under**
20 **section 7(8), must be disbursed as follows:**

21 (a) **50% must be deposited into the healthy Michigan fund**
22 **created in section 5953 of the public health code, 1978 PA 368, MCL**
23 **333.5953.**

24 (b) **50% of the proceeds must be deposited into the Michigan**
25 **Medicaid benefits trust fund established in section 5 of the**
26 **Michigan trust fund act, 2000 PA 489, MCL 12.255.**

27 (6) ~~(4) The~~ **Except as otherwise provided in section 9(9), the**
28 **proceeds of the** ~~from any~~ **fees, fines, and penalties provided for in**
29 **this act shall must be used for the administration and enforcement**

1 of this act.

2 Sec. 14. Notwithstanding any other provision of law, beginning
3 on the effective date of this act, a city, township, village,
4 county, other local unit of government, or political subdivision of
5 this state shall not impose ~~any~~**a tax on tobacco products or a** new
6 requirement or prohibition pertaining to the sale or licensure of
7 tobacco products for distribution purposes. This section does not
8 invalidate or otherwise restrict a requirement or prohibition
9 described in this section existing on the effective date of this
10 act.

11 Enacting section 1. This amendatory act takes effect January
12 1, 2026.