

SUBSTITUTE FOR
SENATE BILL NO. 930

A bill to amend 1993 PA 327, entitled
"Tobacco products tax act,"
by amending the title and sections 2, 5a, 6a, 7, and 12 (MCL
205.422, 205.425a, 205.426a, 205.427, and 205.432), the title as
amended by 2003 PA 285, section 2 as amended by 2005 PA 238,
sections 5a and 6a as added by 1997 PA 187, section 7 as amended by
2008 PA 458, and section 12 as amended by 2004 PA 164.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to provide for a tax upon the sale and distribution of
tobacco products; to regulate and license manufacturers,
wholesalers, secondary wholesalers, vending machine operators,
unclassified acquirers, transportation companies, transporters, and
retailers of tobacco products; to prescribe the powers and duties

1 of the revenue division and the department of treasury in regard to
2 tobacco products; to provide for the administration, collection,
3 and disposition of the tax; to levy an assessment; to provide for
4 the administration, collection, defense, and disposition of the
5 assessment; to provide for the enforcement of this act; to provide
6 for the appointment of special investigators as peace officers for
7 the enforcement of this act; to prescribe penalties and provide
8 remedies for the violation of this act; **TO MAKE AND SUPPLEMENT**
9 **APPROPRIATIONS;** and to repeal acts and parts of acts.

10 Sec. 2. As used in this act:

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

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

18 (i) **IS CAPABLE OF BEING LOADED WITH LOOSE TOBACCO, CIGARETTE**
19 **TUBES OR CIGARETTE PAPERS, AND ANY OTHER COMPONENTS RELATED TO THE**
20 **PRODUCTION OF CIGARETTES, INCLUDING, BUT NOT LIMITED TO, CIGARETTE**
21 **FILTERS.**

22 (ii) **IS DESIGNED TO AUTOMATICALLY OR MECHANICALLY PRODUCE,**
23 **ROLL, FILL, DISPENSE, OR OTHERWISE GENERATE CIGARETTES.**

24 (iii) **IS COMMERCIAL-GRADE OR OTHERWISE DESIGNED OR SUITABLE FOR**
25 **COMMERCIAL USE.**

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

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

2 (D) ~~(c)~~—"Counterfeit cigarette" means a cigarette in an
3 individual package of cigarettes or other container with a false
4 manufacturing label or a cigarette in an individual package of
5 cigarettes or other container with a counterfeit stamp.

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

9 (F) ~~(e)~~—"Counterfeit stamp" means any stamp, label, or print,
10 indicium, or character, that evidences, or purports to evidence,
11 the payment of any tax levied under this act and that has not been
12 printed, manufactured, or made by authority of the department as
13 provided in this act and has not been issued, sold, or circulated
14 by the department.

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

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

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

21 (ii) Outstanding liabilities.

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

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

26 (I) ~~(h)~~—"Gray market cigarette" means any cigarette the
27 package of which bears any statement, label, stamp, sticker, or

1 notice indicating that the manufacturer did not intend the
 2 cigarettes to be sold, distributed, or used in the United States,
 3 including, but not limited to, a label stating "For Export Only",
 4 "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording.

5 (J) ~~(i)~~—"Gray market cigarette paper" means any cigarette
 6 paper the package of which bears any statement, label, stamp,
 7 sticker, or notice indicating that the manufacturer did not intend
 8 the cigarette papers to be sold, distributed, or used in the United
 9 States, including, but not limited to, a label stating "For Export
 10 Only", "U.S. Tax Exempt", "For Use Outside U.S.", "For Use in
 11 _____ (another country) Only", or similar wording.

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

17 (L) ~~(k)~~—"Licensee" means a person licensed under this act.

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

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

20 (ii) **A PERSON WHO OPERATES OR WHO PERMITS ANY OTHER PERSON TO**
 21 **OPERATE A CIGARETTE MAKING MACHINE IN THIS STATE FOR THE PURPOSE OF**
 22 **PRODUCING, FILLING, ROLLING, DISPENSING, OR OTHERWISE GENERATING**
 23 **CIGARETTES. A PERSON WHO IS A MANUFACTURER UNDER THIS SUBPARAGRAPH**
 24 **SHALL CONSTITUTE A NONPARTICIPATING MANUFACTURER FOR PURPOSES OF**
 25 **SECTIONS 6C AND 6D. A PERSON WHO OPERATES OR OTHERWISE USES A**
 26 **MACHINE OR OTHER MECHANICAL DEVICE, OTHER THAN A CIGARETTE MAKING**
 27 **MACHINE, TO PRODUCE, ROLL, FILL, DISPENSE, OR OTHERWISE GENERATE**

1 CIGARETTES SHALL NOT BE CONSIDERED A MANUFACTURER AS LONG AS THE
2 CIGARETTES ARE PRODUCED OR OTHERWISE GENERATED IN THAT PERSON'S
3 DWELLING AND FOR THAT PERSON'S SELF-CONSUMPTION. FOR PURPOSES OF
4 THIS ACT, "SELF-CONSUMPTION" MEANS PRODUCTION FOR PERSONAL
5 CONSUMPTION OR USE AND NOT FOR SALE, RESALE, OR ANY OTHER PROFIT-
6 MAKING ENDEAVOR.

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

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

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

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

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

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

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

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

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

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

17 (W) ~~(v)~~—"Tobacco product" means cigarettes, cigars,
18 noncigarette smoking tobacco, or smokeless tobacco.

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

23 (Y) ~~(x)~~—"Transporter" means a person importing or transporting
24 into this state, or transporting in this state, a tobacco product
25 obtained from a source located outside this state, or from any
26 person not duly licensed under this act. Transporter does not
27 include an interstate commerce carrier licensed by the interstate

1 commerce commission to carry commodities in interstate commerce, or
2 a licensee maintaining a warehouse or place of business outside of
3 this state if the warehouse or place of business is licensed under
4 this act.

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

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

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

23 (CC) ~~(bb)~~—"Wholesaler" means a person who purchases all or
24 part of his or her tobacco products from a manufacturer, who sells
25 75% or more of those tobacco products to others for resale, and who
26 maintains an established business where substantially all of the
27 business is the sale of tobacco products or cigarettes and related

1 merchandise at wholesale and where at all times a substantial stock
2 of tobacco products and related merchandise is available to
3 retailers for resale. Wholesaler includes a chain of stores
4 retailing a tobacco product to the consumer if 75% of its stock of
5 tobacco products is purchased directly from the manufacturer.

6 Sec. 5a. (1) The department shall procure stamps as needed in
7 the various designs, denominations, and forms necessary as
8 determined by the department. The department shall pay for the
9 stamps.

10 (2) NOT LATER THAN 45 DAYS AFTER THE EFFECTIVE DATE OF THE
11 AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE DEPARTMENT SHALL
12 ISSUE A REQUEST FOR PROPOSAL TO ACQUIRE AND USE DIGITAL STAMPS THAT
13 CONTAIN A UNIQUE NONREPEATING CODE THAT CAN BE READ BY A DEVICE
14 THAT IDENTIFIES THE TAXED PRODUCT AND ALSO CONTAIN OTHER SECURITY
15 AND ENFORCEMENT FEATURES AS DETERMINED BY THE DEPARTMENT. THE
16 REQUEST FOR PROPOSAL SHALL INCLUDE A PROVISION THAT REQUIRES THE
17 SUCCESSFUL BIDDER ON THE PROPOSAL TO SHARE DIGITAL STAMP TECHNOLOGY
18 SO THAT HANDHELD DEVICES, INCLUDING, BUT NOT LIMITED TO,
19 SMARTPHONES, CAN BE READILY UTILIZED IN FURTHERANCE OF THE
20 IMPLEMENTATION OF THE USE OF DIGITAL STAMPS AND SO THAT THE
21 TECHNOLOGY AND EQUIPMENT USED BY THE STAMPING AGENTS TO AFFIX THE
22 STAMP TO THE PRODUCT CAN BE SUPPLIED, AS MAY BE PERMITTED BY THE
23 DEPARTMENT, BY THE SUCCESSFUL BIDDER ON THE PROPOSAL OR BY ANY
24 OTHER PROVIDERS. THE REQUEST FOR PROPOSAL SHALL ALSO INCLUDE A
25 PROVISION PERMITTING THE DEPARTMENT TO MANAGE OR RESTRICT ACCESS
26 RIGHTS TO ALL OR PART OF THE INFORMATION CONTAINED WITHIN, OR
27 ACCESSIBLE FROM, THE STAMPS AND A PROVISION REQUIRING THE

1 SUCCESSFUL BIDDER ON THE PROPOSAL TO GUARANTEE THAT THE STAMPS WILL
2 BE DESIGNED AND MANUFACTURED TO ENSURE THAT STAMPS CAN BE AFFIXED
3 TO INDIVIDUAL PACKAGES OF CIGARETTES IN ACCORDANCE WITH THE
4 REQUIREMENTS UNDER SECTION 6A(2).

5 Sec. 6a. (1) ~~Beginning April 15, 1998, a~~ A wholesaler or
6 unclassified acquirer other than a manufacturer may apply to the
7 department for stamps to affix as provided in this act. The
8 department may prescribe the method of shipment of the stamps. The
9 department shall keep a record of all stamps disbursed, name of
10 wholesaler or unclassified acquirer, and date of disbursement. The
11 department may release the identity of the wholesaler or
12 unclassified acquirer to whom specific stamps were disbursed to
13 state or local police agencies.

14 (2) ~~Beginning May 1, 1998, before~~ BEFORE delivery, sale, or
15 transfer to any person in this state, a wholesaler or an
16 unclassified acquirer shall place or cause to be placed on the
17 bottom of each individual package of cigarettes to be sold within
18 this state a stamp provided by the department. Stamps shall be
19 firmly affixed in such a manner that the stamps cannot be removed
20 without being mutilated or destroyed. A stamp shall be affixed to
21 each individual package in an aggregate denomination equal to the
22 amount of the tax upon the contents of the individual package of
23 cigarettes. ~~A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A
24 stamp is considered affixed if more than 50% of the stamp is
25 affixed to the individual package, as determined by the department.
26 UPON IMPLEMENTATION OF THE DIGITAL STAMPS AS PROVIDED IN SECTION
27 5A(2), A STAMP IS CONSIDERED AFFIXED IF 90% OR MORE OF THE STAMP IS

1 **AFFIXED TO THE INDIVIDUAL PACKAGE.**

2 (3) ~~Beginning May 1, 1998, a~~ **A** retailer or person licensed
3 under this act, other than a wholesaler or unclassified acquirer or
4 a person acting as a transporter for a wholesaler or unclassified
5 acquirer, shall not acquire for resale an individual package of
6 cigarettes or a cigarette from an individual package unless that
7 individual package of cigarettes has affixed to it a stamp as
8 provided in this act.

9 (4) ~~Beginning September 1, 1998, a~~ **A** retailer or vending
10 machine operator shall not sell or offer for sale an individual
11 package of cigarettes to the general public that does not have
12 affixed the stamp required by this act. ~~Beginning September 1,~~
13 ~~1998, cigarettes~~ **CIGARETTES** without stamps may not be placed or
14 stored in a vending machine.

15 (5) The department or its authorized agents may inspect or
16 conduct an inventory of a wholesaler's or unclassified acquirer's
17 stock of cigarettes, tobacco products other than cigarettes, and
18 stamps during regular business hours and inspect the related
19 statements and other records required in section 6.

20 (6) The department or its authorized agents may inspect the
21 operations of a secondary wholesaler, vending machine operator, or
22 retailer, or the contents of a specific vending machine, during
23 regular business hours. This inspection shall include inspection of
24 all statements and other records required by section 6 of this act,
25 of packages of cigarettes and tobacco products other than
26 cigarettes, and of the contents of cartons and shipping or storage
27 containers to ascertain that all individual packages of cigarettes

1 have an affixed stamp of proper denomination as required by this
2 act. This inspection may also verify that all the stamps were
3 produced under the authority of the department.

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

10 (8) The department may require wholesalers and unclassified
11 acquirers to exchange unaffixed stamps with the department as the
12 department considers necessary. The department may require
13 wholesalers, unclassified acquirers, secondary wholesalers, vending
14 machine operators and retailers to discontinue offering for sale
15 any unsold individual packages of cigarettes bearing a prior
16 version of the stamp that the department has withdrawn from
17 circulation. The department may set a reasonable timeline after
18 which the prior version of the stamp may no longer be offered for
19 sale and the new version of the stamp is required. A secondary
20 wholesaler, retailer, or vending machine operator may return
21 cigarette packages bearing discontinued stamps to a wholesaler for
22 credit. A wholesaler or unclassified acquirer may take credit on
23 its tax returns for individual packages of cigarettes bearing
24 discontinued stamps that are returned to the manufacturer for
25 credit less the appropriate discount paid.

26 (9) Except as provided in subsection (10), a wholesaler or
27 unclassified acquirer shall not give, sell, or lend any unaffixed

1 stamps to another person and except as otherwise provided in this
2 act, a person shall not accept, purchase, or borrow any unaffixed
3 stamps from another person.

4 (10) Upon written authorization of the department, a
5 wholesaler or unclassified acquirer licensed under this act may
6 appoint a stamping agent to affix stamps to individual packages of
7 cigarettes.

8 (11) STAMPS MAY ONLY BE AFFIXED TO AN INDIVIDUAL PACKAGE OF
9 CIGARETTES IF THE MANUFACTURER OF THE CIGARETTES IS IDENTIFIED ON
10 THE LISTS OF PARTICIPATING MANUFACTURERS OR NONPARTICIPATING
11 MANUFACTURERS MAINTAINED BY THE DEPARTMENT PURSUANT TO SECTION
12 6C(8).

13 (12) THE DEPARTMENT OF STATE POLICE SHALL INITIATE INQUIRIES
14 TO OR OTHERWISE ACCESS DATA FROM THE DEPARTMENT TO SUPPORT OR IN
15 FURTHERANCE OF ITS ENFORCEMENT ACTIVITIES UNDER THIS ACT.

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

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

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

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

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

27 (e) Beginning July 1, 2004, for cigarettes, in addition to the

1 tax levied in subdivisions (b), (c), and (d), an additional 37.5
2 mills per cigarette.

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

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

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

1 of perjury. The return shall be on a form prescribed by the
2 department and shall contain or be accompanied by any further
3 information the department requires. **THE DEPARTMENT MAY ALSO**
4 **REQUIRE LICENSEES TO REPORT CIGARETTE ACQUISITION, PURCHASE, AND**
5 **SALES INFORMATION IN OTHER FORMATS AND FREQUENCY.**

6 (3) To cover the cost of expenses incurred in the
7 administration of this act, at the time of the filing of the
8 return, the licensee shall pay to the department the tax levied in
9 subsection (1) for tobacco products sold during the calendar month
10 covered by the return, less compensation equal to ~~both of the~~
11 following:

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

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

16 (c) Beginning August 1, 2002, 1.5% of the total amount of the
17 tax due on cigarettes sold **AND, BEGINNING ON THE EFFECTIVE DATE OF**
18 **THE AMENDATORY ACT THAT ADDED SUBDIVISION (E), FOR SALES OF UNTAXED**
19 **CIGARETTES TO INDIAN TRIBES IN THIS STATE, AN AMOUNT EQUAL TO 1.5%**
20 **OF THE TOTAL AMOUNT OF THE TAX DUE ON THOSE CIGARETTES SOLD AS IF**
21 **THOSE CIGARETTE SALES WERE TAXABLE SALES UNDER THIS ACT.**

22 (D) **BEGINNING ON THE FIRST CALENDAR MONTH FOLLOWING THE**
23 **IMPLEMENTATION OF THE USE OF DIGITAL STAMPS AS PROVIDED IN SECTION**
24 **5A(2), FOR LICENSEES WHO ARE STAMPING AGENTS, 0.5% OF THE TOTAL**
25 **AMOUNT OF THE TAX DUE ON CIGARETTES SOLD AND, FOR SALES OF UNTAXED**
26 **CIGARETTES TO INDIAN TRIBES IN THIS STATE, 0.5% OF THE TOTAL AMOUNT**
27 **OF THE TAX DUE ON THOSE CIGARETTES SOLD AS IF THOSE CIGARETTE SALES**

1 WERE TAXABLE SALES UNDER THIS ACT, UNTIL THE STAMPING AGENT IS
2 COMPENSATED IN AN AMOUNT EQUAL TO THE DIRECT COST ACTUALLY INCURRED
3 BY THE STAMPING AGENT FOR UPGRADES TO TECHNOLOGY AND EQUIPMENT,
4 EXCLUDING THE EQUIPMENT REIMBURSED UNDER SUBDIVISION (E), THAT ARE
5 NECESSARY TO AFFIX THE DIGITAL STAMP AS DETERMINED BY THE
6 DEPARTMENT.

7 (E) BEGINNING IN THE FIRST CALENDAR MONTH FOLLOWING THE
8 IMPLEMENTATION OF THE USE OF DIGITAL STAMPS AS PROVIDED IN SECTION
9 5A(2) AND CONTINUING FOR THE IMMEDIATELY SUCCEEDING 17 MONTHS, FOR
10 LICENSEES WHO ARE STAMPING AGENTS, REIMBURSEMENT OF DIRECT COSTS
11 ACTUALLY INCURRED BY THE STAMPING AGENT, AS DETERMINED BY THE
12 DEPARTMENT, FOR THE INITIAL PURCHASE OF ELIGIBLE EQUIPMENT IN AN
13 AMOUNT EQUAL TO 5.55% OF THE TOTAL NET PURCHASE PRICE OF THE
14 ELIGIBLE EQUIPMENT NECESSARY TO AFFIX THE DIGITAL STAMP. THE
15 REIMBURSEMENT PROVIDED UNDER THIS SUBDIVISION SHALL EXCLUDE
16 REIMBURSEMENT FOR ANY COSTS FOR INSTALLATION OR FOR ONGOING
17 MAINTENANCE RELATED TO ELIGIBLE EQUIPMENT. A STAMPING AGENT MAY
18 ONLY RECEIVE REIMBURSEMENT UNDER THIS SUBDIVISION TO THE EXTENT
19 THAT THE ELIGIBLE EQUIPMENT PURCHASED BY THE STAMPING AGENT DOES
20 NOT EXCEED THE TOTAL NUMBER OF THE STAMPING AGENT'S EXISTING
21 EQUIPMENT AS CERTIFIED BY THE STAMPING AGENT ON A FORM PRESCRIBED
22 BY THE DEPARTMENT.

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

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

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

1 section 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

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

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

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

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

22 (10) If the wholesaler or unclassified acquirer has unsalable
23 packs returned from a retailer, secondary wholesaler, vending
24 machine operator, wholesaler, or unclassified acquirer with stamps
25 affixed, the department shall refund the amount of the tax less the
26 appropriate discount paid. If the wholesaler or unclassified
27 acquirer has unaffixed unsalable stamps, the department shall

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

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

21 (12) Each wholesaler or unclassified acquirer shall submit to
22 the department an unstamped cigarette sales report on or before the
23 twentieth day of each month covering the sale, delivery, or
24 distribution of unstamped cigarettes during the preceding calendar
25 month to points outside of Michigan. A separate schedule shall be
26 filed for each state, country, or province into which shipments are
27 made. For purposes of the report described in this subsection,

1 "unstamped cigarettes" means individual packages of cigarettes that
2 do not bear a Michigan stamp. The department may provide the
3 information contained in this report to a proper officer of another
4 state, country, or province reciprocating in this privilege.

5 (13) AS USED IN SUBSECTION (3):

6 (A) "ELIGIBLE EQUIPMENT" MEANS A CIGARETTE TAX STAMPING
7 MACHINE THAT MEETS ALL OF THE FOLLOWING CONDITIONS:

8 (i) WAS PURCHASED BY A STAMPING AGENT WHO WAS LICENSED AS A
9 STAMPING AGENT AS OF DECEMBER 31, 2011.

10 (ii) ENABLES THE STAMPING AGENT TO AFFIX DIGITAL STAMPS TO
11 INDIVIDUAL PACKAGES OF CIGARETTES IN ACCORDANCE WITH THE
12 REQUIREMENTS UNDER SECTION 6A(2).

13 (iii) WAS PURCHASED TO BE USED FOR THE PRIMARY PURPOSE OF
14 PERMITTING THE STAMPING AGENT TO AFFIX DIGITAL STAMPS TO INDIVIDUAL
15 PACKAGES OF CIGARETTES TO BE SOLD IN THIS STATE FOLLOWING THE
16 IMPLEMENTATION OF THE USE OF DIGITAL STAMPS AS PROVIDED IN SECTION
17 5A(2).

18 (B) "EXISTING EQUIPMENT" MEANS A CIGARETTE TAX STAMPING
19 MACHINE THAT MEETS ALL OF THE FOLLOWING CONDITIONS:

20 (i) WAS OWNED BY A PERSON WHO WAS LICENSED AS A STAMPING AGENT
21 AS OF DECEMBER 31, 2011.

22 (ii) WAS A CIGARETTE TAX STAMPING MACHINE USED PRIOR TO JANUARY
23 1, 2012 BY THE STAMPING AGENT TO APPLY STAMPS USING STAMP ROLLS OF
24 30,000 STAMPS.

25 Sec. 12. (1) The proceeds derived from the payment of taxes,
26 fees, and penalties provided for under this act and the license
27 fees received by the department shall be deposited with the state

1 treasurer and disbursed only as provided in this section and
2 section 7(5). **HOWEVER, BEFORE A DISTRIBUTION OF FUNDS IS MADE UNDER**
3 **THIS SECTION, SUBJECT TO APPROPRIATION, THE FUNDS DESCRIBED IN THIS**
4 **SECTION MAY BE USED BY THE DEPARTMENT, THE ATTORNEY GENERAL, AND**
5 **THE DEPARTMENT OF STATE POLICE FOR ENFORCEMENT AND ADMINISTRATION**
6 **OF THIS ACT.**

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

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

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

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

21 (a) Beginning May 1, 1994 and through June 30, 2004, 5.3% of
22 the proceeds shall be credited to the health and safety fund
23 created in the health and safety fund act, 1987 PA 264, MCL 141.471
24 to 141.479.

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

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

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

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

8 (f) 6% of the proceeds shall be credited to the healthy
9 Michigan fund created under section 5953 of the public health code,
10 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
11 in this subdivision that are used for smoking prevention programs
12 shall be used by the department of community health to expand the
13 free smokers quit kit program to include the nicotine patch or
14 nicotine gum.

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

17 (a) Through June 30, 2004, 74.2%, and beginning July 1, 2004,
18 9.0% of the proceeds shall be credited to the general fund of this
19 state.

20 (b) Through June 30, 2004, 4.6%, and beginning July 1, 2004,
21 56.3% of the proceeds shall be credited to the state school aid
22 fund established by section 11 of article IX of the state
23 constitution of 1963.

24 (c) 6.0% of the proceeds shall be credited to the healthy
25 Michigan fund created under section 5953 of the public health code,
26 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
27 in this subdivision that are used for smoking prevention programs

1 shall be used by the department of community health to expand the
2 free smokers quit kit program to include the nicotine patch or
3 nicotine gum.

4 (d) Through June 30, 2004, 3.0%, and beginning July 1, 2004,
5 3.7% of the proceeds shall be paid to counties with a 2000
6 population of more than 2,000,000, to be used only for indigent
7 health care.

8 (e) Through June 30, 2004, 12.2%, and beginning July 1, 2004,
9 25.0% of the proceeds shall be credited to the medicaid benefits
10 trust fund created under section 5 of the Michigan trust fund act,
11 2000 PA 489, MCL 12.255.

12 (5) Beginning August 1, 2002, the tax imposed under section
13 7(1)(f) shall be disbursed as follows:

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

17 (b) 6.0% of the proceeds shall be credited to the healthy
18 Michigan fund created under section 5953 of the public health code,
19 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
20 in this subdivision that are used for smoking prevention programs
21 shall be used by the department of community health to expand the
22 free smokers quit kit program to include the nicotine patch or
23 nicotine gum.

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

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

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

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

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

13 (a) Beginning July 1, 2004 and through September 30, 2005,
14 100% of the proceeds shall be credited to the Michigan medicaid
15 benefits trust fund created under section 5 of the Michigan trust
16 fund act, 2000 PA 489, MCL 12.255.

17 (b) Beginning October 1, 2005, 75.0% of the proceeds shall be
18 credited to the medicaid benefits trust fund created under section
19 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

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

22 (8) Beginning July 1, 2004, the tax imposed under section
23 7(1)(g) shall be disbursed as follows:

24 (a) Beginning July 1, 2004 and through September 30, 2005,
25 100% of the proceeds shall be credited to the Michigan medicaid
26 benefits trust fund created under section 5 of the Michigan trust
27 fund act, 2000 PA 489, MCL 12.255.

1 (b) Beginning October 1, 2005, 75.0% of the proceeds shall be
2 credited to the medicaid benefits trust fund created under section
3 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

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

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

8 (10) FOR FISCAL YEAR 2011-2012 ONLY, FROM THE FUNDS DESCRIBED
9 IN SUBSECTIONS (3) (D), (4) (A), (7) (C), AND (8) (C), \$6,000,000.00 IS
10 APPROPRIATED TO THE FOLLOWING DEPARTMENTS IN THE FOLLOWING AMOUNTS
11 FOR ENFORCEMENT AND ADMINISTRATION OF THIS ACT:

12 (A) DEPARTMENT OF TREASURY, \$1,500,000.00.

13 (B) DEPARTMENT OF ATTORNEY GENERAL, \$500,000.00.

14 (C) DEPARTMENT OF STATE POLICE, \$4,000,000.00.