

**SUBSTITUTE FOR
SENATE BILL NO. 781**

A bill to amend 1993 PA 327, entitled
"Tobacco products tax act,"
by amending sections 2, 6, 7, and 12 (MCL 205.422, 205.426,
205.427, and 205.432), section 2 as amended by 2012 PA 188, section
6 as amended by 1997 PA 187, section 7 as amended by 2016 PA 86,
and section 12 as amended by 2018 PA 639.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:
2 (a) "Alternative nicotine product" means a noncombustible
3 product containing nicotine that is intended for human consumption,
4 whether chewed, absorbed, dissolved, or ingested by any other
5 means. Alternative nicotine product does not include a product
6 regulated as a drug or device by the United States Food and Drug



1 **Administration under 21 USC 351 to 360fff-8.**

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

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

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

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

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

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

19 (d) ~~(e)~~—"Commissioner" means the state treasurer.

20 (e) **"Consumable material" means any volume of liquid nicotine**
21 **solution, other than marihuana, that is depleted as an electronic**
22 **smoking device is used.**

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

27 (g) ~~(e)~~—"Counterfeit cigarette paper" means a cigarette paper
28 with a false manufacturing label or that has not been printed,
29 manufactured, or made by authority of the trademark owner.



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

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

(j) **"Electronic smoking device" means any device that can be used to deliver aerosolized or vaporized consumable material to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, whether or not sold separately, and includes any consumable material intended to be aerosolized or vaporized during the use of the device. Electronic smoking device does not include any battery or battery charger when sold separately. In addition, electronic smoking device does not include drugs, devices, or combination products authorized for sale as tobacco cessation products by the United States Food and Drug Administration, as those terms are defined under subchapter V of the federal food, drug, and cosmetic act, 21 USC 351 to 360fff-8.**

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

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

(ii) Outstanding liabilities.

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



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

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

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

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

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

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

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

(ii) A person who operates or who permits any other person to operate a cigarette making machine in this state for the purpose of producing, filling, rolling, dispensing, or otherwise generating cigarettes. A person who is a manufacturer under this subparagraph shall constitute a nonparticipating manufacturer for purposes of sections 6c and 6d. A person who operates or otherwise uses a



1 machine or other mechanical device, other than a cigarette making
 2 machine, to produce, roll, fill, dispense, or otherwise generate
 3 cigarettes shall not be considered a manufacturer as long as the
 4 cigarettes are produced or otherwise generated in that person's
 5 dwelling and for that person's self-consumption. For purposes of
 6 this act, "self-consumption" means production for personal
 7 consumption or use and not for sale, resale, or any other profit-
 8 making endeavor.

9 **(q) "Marihuana" means that term as defined in section 7106 of**
 10 **the public health code, 1976 PA 368, MCL 333.7106. For purposes of**
 11 **this act, "marihuana" and "marijuana" are synonymous.**

12 **(r) ~~(n)~~**—"Noncigarette smoking tobacco" means tobacco sold in
 13 loose or bulk form that is intended for consumption by smoking and
 14 includes roll-your-own cigarette tobacco.

15 **(s) ~~(o)~~**—"Person" means an individual, partnership, fiduciary,
 16 association, limited liability company, corporation, or other legal
 17 entity.

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

22 **(u) ~~(q)~~**—"Retailer" means a person other than a transportation
 23 company who operates a place of business for the purpose of making
 24 sales of a tobacco product at retail.

25 **(v) ~~(r)~~**—"Sale" means a transaction by which the ownership of
 26 tangible personal property is transferred for consideration and
 27 applies also to use, gifts, exchanges, barter, and theft.

28 **(w) ~~(s)~~**—"Secondary wholesaler" means a person who sells a
 29 tobacco product for resale, who purchases a tobacco product from a



1 wholesaler or unclassified acquirer licensed under this act, and
 2 who maintains an established place of business in this state where
 3 a substantial portion of the business is the sale of tobacco
 4 products and related merchandise at wholesale, and where at all
 5 times a substantial stock of tobacco products and related
 6 merchandise is available to retailers for resale.

7 (x) ~~(t)~~—"Smokeless tobacco" means snuff, chewing tobacco, and
 8 any other tobacco that is intended to be consumed by means other
 9 than smoking.

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

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

20 (aa) ~~(w)~~—"Tobacco product" means cigarettes, cigars,
 21 noncigarette smoking tobacco, or smokeless tobacco. **Beginning**
 22 **January 1, 2021, tobacco product includes alternative nicotine**
 23 **products and consumable material.**

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

28 (cc) ~~(y)~~—"Transporter" means a person importing or
 29 transporting into this state, or transporting in this state, a



1 tobacco product obtained from a source located outside this state,
2 or from any person not duly licensed under this act. Transporter
3 does not include an interstate commerce carrier licensed by the
4 interstate commerce commission to carry commodities in interstate
5 commerce, or a licensee maintaining a warehouse or place of
6 business outside of this state if the warehouse or place of
7 business is licensed under this act.

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

19 **(ee)** ~~(aa)~~—"Vending machine operator" means a person who
20 operates 1 or more vending machines for the sale of a tobacco
21 product and who purchases a tobacco product from a manufacturer,
22 licensed wholesaler, or secondary wholesaler.

23 **(ff)** ~~(bb)~~—"Wholesale price" means the actual price paid for a
24 tobacco product, including any tax, by a wholesaler or unclassified
25 acquirer to a manufacturer, excluding any discounts or reductions.

26 **(gg)** ~~(cc)~~—"Wholesaler" means a person who purchases all or
27 part of his or her tobacco products from a manufacturer, who sells
28 75% or more of those tobacco products to others for resale, and who
29 maintains an established business where substantially all of the



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

7 Sec. 6. (1) A manufacturer, wholesaler, secondary wholesaler,
8 vending machine operator, transportation company, unclassified
9 acquirer, or retailer shall keep a complete and accurate record of
10 each tobacco product manufactured, purchased, or otherwise
11 acquired. Except for a manufacturer, the records shall include a
12 written statement containing the name and address of both the
13 seller and the purchaser, the date of delivery, the quantity, the
14 trade name or brand, and the price paid for each tobacco product
15 purchased. **If the consumable material is sold in the same package**
16 **as an electronic smoking device, the record required under this**
17 **subsection must segregate the price paid for the consumable**
18 **material from the price paid for the electronic smoking device.** A
19 licensee shall keep as part of the records a true copy of all
20 purchase orders, invoices, bills of lading, and other written
21 matter substantiating the purchase or acquisition of each tobacco
22 product at the location where the tobacco product is stored or
23 offered for sale. A retailer shall keep as part of the records a
24 true copy of all purchase orders, invoices, bills of lading, and
25 other written matter substantiating the purchase or acquisition of
26 each tobacco product at the location where the tobacco product is
27 offered for sale for a period of 4 months from the date of purchase
28 or acquisition. The department may, by giving prior written
29 approval, authorize a person licensed under this act or a retailer



1 to maintain records in a manner other than that required by this
2 subsection. Other records shall be kept by these persons as the
3 department reasonably prescribes.

4 (2) A manufacturer, wholesaler, unclassified acquirer, and
5 secondary wholesaler shall deliver with each sale or consignment of
6 a tobacco product a written statement containing the name or trade
7 name and address of both the seller and the purchaser, the date of
8 delivery, the quantity, and the trade name or brand of the tobacco
9 product, correctly itemizing the prices paid for each brand
10 purchased, and, **if the consumable material is sold in the same**
11 **package as an electronic smoking device, the statement must**
12 **segregate the price paid for the consumable material from the price**
13 **paid for the electronic smoking device. The manufacturer,**
14 **wholesaler, unclassified acquirer, and secondary wholesaler** shall
15 retain a duplicate of 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 his or her own
25 name and address, the name and address of the owner or the tenant,
26 the date when the machine was filled, and the quantity of each
27 brand of tobacco product sold from the machine since the date when
28 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 shall
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) All statements and other records required by this section
17 shall be in a form prescribed by the department and shall be
18 preserved for a period of 4 years and offered for inspection at any
19 time upon oral or written demand by the department or its
20 authorized agent by every wholesaler, secondary wholesaler, vending
21 machine operator, unclassified acquirer, and retailer.

22 (6) If a tobacco product other than cigarettes is received or
23 acquired within this state by a wholesaler, secondary wholesaler,
24 vending machine operator, unclassified acquirer, or retailer, each
25 original manufacturer's shipping case shall bear the name and
26 address of the person making the first purchase or any other
27 markings the department prescribes. If a tobacco product other than
28 cigarettes is found in a place of business or otherwise in the
29 possession of a wholesaler, secondary wholesaler, vending machine



1 operator, unclassified acquirer, transporter, or retailer without
2 proper markings on the shipping case, box, or container of the
3 tobacco product or if an individual package of cigarettes is found
4 without a stamp affixed as provided under this act or if a tobacco
5 product is found without proper substantiation by invoices or other
6 records as required by this section, the presumption shall be that
7 the tobacco product is kept in violation of this act. If a tobacco
8 product is shipped outside the state, the licensee shipping the
9 tobacco product shall cause to be placed on every shipping case or
10 other container in which the tobacco product is shipped the name
11 and address of the consignee or purchaser to whom the shipment is
12 made outside of the state. The department may require reports from
13 a common carrier who transports a tobacco product to a point within
14 this state from another person who, under contract, transports a
15 tobacco product, or from a bonded warehouseperson or bailee who has
16 in his or her possession a tobacco product. A carrier, bailee,
17 warehouseperson, or other person shall permit the inspection of the
18 tobacco products and examination by the department or its duly
19 authorized agent of any records relating to the shipment of a
20 tobacco product into, from, or within the state.

21 (7) A transporter or other licensee transporting, possessing,
22 or acquiring for the purpose of transporting a tobacco product upon
23 a public highway, road, or street of this state shall have in his
24 or her actual possession invoices or bills of lading containing the
25 name and address of both the seller and the purchaser, the date of
26 delivery, the name and address of the transporter, the quantity and
27 trade name or brand of each tobacco product, the price paid for
28 each trade name or brand in the transporter's possession or
29 custody, and the license as prescribed under this act. **If**



1 consumable material is transported in the same package as an
2 electronic smoking device, the invoices or bills of lading must
3 segregate the price paid for the consumable material from the price
4 paid for the electronic smoking device.

5 (8) A transporter desiring to possess or acquire for
6 transportation or transport a tobacco product upon a highway, road,
7 or street of this state shall obtain a permit from the department
8 authorizing the transporter to possess or acquire for
9 transportation or transport tobacco products and shall have the
10 permit in his or her possession while the tobacco product is in his
11 or her possession. This permit shall be obtained for each load
12 being transported and shall contain a statement setting forth the
13 name and address of the purchaser, seller, and transporter, the
14 license number of the purchaser, the date of the delivery of the
15 tobacco product or date of importation into this state, the route
16 to be followed if a tobacco product is being transported from an
17 out-of-state source, and any other information the department
18 requires. The department shall provide a permit on a form
19 prescribed by it upon the application of a transporter with the
20 remittance of a fee of \$1.00. If a transporter transports a tobacco
21 product into this state, the transporter shall stop at the nearest
22 state police post within this state on the route authorized by the
23 permit and disclose the tobacco products in his or her possession
24 and the papers required by this section to be in his or her
25 possession.

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

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



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

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

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

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

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

14 (g) Beginning July 1, 2004, **except as otherwise provided in**
15 **this subdivision**, for cigars, noncigarette smoking tobacco, and
16 smokeless tobacco, **excluding consumable material**, 32% of the
17 wholesale price. However, beginning November 1, 2012 and through
18 October 31, ~~2021~~**2020**, the amount of tax levied under this
19 subdivision on cigars shall not exceed 50 cents per individual
20 cigar. **Beginning November 1, 2020 through October 31, 2021, the**
21 **amount of the tax levied under this subdivision shall not exceed 65**
22 **cents per individual cigar. Beginning November 1, 2021, the amount**
23 **of the tax levied under this subdivision shall not exceed 75 cents**
24 **per individual cigar.**

25 (h) Beginning January 1, 2021, for consumable materials, 18%
26 of the wholesale price.

27 (i) Beginning January 1, 2021, for alternative nicotine
28 products, 50 cents per ounce of alternative nicotine product on the
29 basis of net weight of the alternative nicotine product as listed



1 **by the manufacturer.**

2 (2) On or before the twentieth day of each calendar month,
3 every licensee under section 3 other than a retailer, unclassified
4 acquirer licensed as a manufacturer, or vending machine operator
5 shall file a return with the department stating the wholesale price
6 of each tobacco product other than cigarettes purchased, the
7 quantity of cigarettes purchased, the wholesale price charged for
8 all tobacco products other than cigarettes sold, the number of
9 individual packages of cigarettes and the number of cigarettes in
10 those individual packages, and the number and denominations of
11 stamps affixed to individual packages of cigarettes sold by the
12 licensee for each place of business in the preceding calendar
13 month. The return ~~shall~~**must** also include the number and
14 denomination of unaffixed stamps in the possession of the licensee
15 at the end of the preceding calendar month. Wholesalers shall also
16 report accurate inventories of cigarettes, both stamped and
17 unstamped at the end of the preceding calendar month. Wholesalers
18 and unclassified acquirers shall also report accurate inventories
19 of affixed and unaffixed stamps by denomination at the beginning
20 and end of each calendar month and all stamps acquired during the
21 preceding calendar month. The return ~~shall~~**must** be signed under
22 penalty of perjury. The return ~~shall~~**must** be on a form prescribed
23 by the department and shall contain or be accompanied by any
24 further information the department requires. The department may
25 also require licensees to report cigarette acquisition, purchase,
26 and sales information in other formats and frequency.

27 (3) To cover the cost of expenses incurred in the
28 administration of this act, at the time of the filing of the
29 return, the licensee shall pay to the department the tax levied in



1 subsection (1) for tobacco products sold during the calendar month
2 covered by the return, less compensation equal to the following:

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

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

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

13 (d) Beginning on the first calendar month following the
14 implementation of the use of digital stamps as provided in section
15 5a(2), for licensees who are stamping agents, 0.5% of the total
16 amount of the tax due on cigarettes sold and, for sales of untaxed
17 cigarettes to Indian tribes in this state, 0.5% of the total amount
18 of the tax due on those cigarettes sold as if those cigarette sales
19 were taxable sales under this act, until the stamping agent is
20 compensated in an amount equal to the direct cost actually incurred
21 by the stamping agent for the purchase of upgrades to technology
22 and equipment, excluding the equipment reimbursed under subdivision
23 (e), that are necessary to affix the digital stamp as determined by
24 the department. Compensation under this subdivision may also be
25 claimed by a stamping agent for the direct costs actually incurred
26 by the stamping agent, as determined by the department and
27 reflected in the net purchase price, for the initial and 1-time
28 purchase of case packers or similar machines or conveyors as
29 follows:



1 (i) Case packers or similar machines to be used exclusively to
2 repack cigarette cartons into case boxes after digital stamps have
3 been applied by eligible equipment to the individual packages of
4 cigarettes contained within those cigarette cartons. Compensation
5 under this subparagraph may only be claimed by a stamping agent if
6 the case packers or similar machines are in addition to, and not a
7 replacement for, 1 or more case packers or similar machines used in
8 connection with cigarette stamping machines which do not use the
9 digital stamp authorized under this act.

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

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

28 (e) Beginning in the first calendar month following the
29 implementation of the use of digital stamps as provided in section



1 5a(2) and continuing for the immediately succeeding 17 months, for
2 licensees who are stamping agents, reimbursement of direct costs
3 actually incurred by the stamping agent, as determined by the
4 department, for the initial purchase of eligible equipment in an
5 amount equal to 5.55% of the total net purchase price of the
6 eligible equipment necessary to affix the digital stamp. The
7 reimbursement provided under this subdivision shall also include
8 reimbursement for any applicable sales or use taxes paid and
9 shipping and crating charges actually incurred by the stamping
10 agent for the initial purchase of eligible equipment, but shall
11 exclude reimbursement for any other costs incurred by the stamping
12 agent not otherwise expressly provided for in this subdivision,
13 including, but not limited to, charges for installation and ongoing
14 maintenance related to eligible equipment. A stamping agent may
15 only receive reimbursement under this subdivision to the extent
16 that the eligible equipment purchased by the stamping agent does
17 not exceed the total number of the stamping agent's existing
18 equipment as certified by the stamping agent on a form prescribed
19 by the department.

20 (f) Beginning in the first calendar month following the
21 implementation of the use of digital stamps as provided in section
22 5a(2), for licensees who are stamping agents, reimbursement of
23 qualified equipment costs actually incurred by the stamping agent,
24 not otherwise compensated or reimbursed under subdivision (d) or
25 (e), as determined by the department. The reimbursement provided
26 under this subdivision shall not exceed \$60,000.00 for all stamping
27 agents combined.

28 (4) Every licensee and retailer who, on August 1, 2002, has on
29 hand for sale any cigarettes upon which a tax has been paid



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

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



1 shall be credited to the Michigan Medicaid benefits trust fund
 2 created under section 5 of the Michigan trust fund act, 2000 PA
 3 489, MCL 12.255.

4 **(6) Every licensee and retailer who, on January 1, 2021, has**
 5 **on hand for sale any consumable materials shall file a complete**
 6 **inventory of those consumable materials before February 1, 2021 to**
 7 **the department. A tax is not imposed on the consumable materials**
 8 **described in the complete inventory filed with the department.**

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

14 **(8) ~~(7)~~**—An abatement or refund of the tax provided by this act
 15 may be made by the department for causes the department considers
 16 expedient. The department shall certify the amount and the state
 17 treasurer shall pay that amount out of the proceeds of the tax.

18 **(9) ~~(8)~~**—A person liable for the tax may reimburse itself by
 19 adding to the price of the tobacco products an amount equal to the
 20 tax levied under this act.

21 **(10) ~~(9)~~**—A wholesaler, unclassified acquirer, or other person
 22 shall not sell or transfer any unaffixed stamps acquired by the
 23 wholesaler or unclassified acquirer from the department. A
 24 wholesaler or unclassified acquirer who has any unaffixed stamps on
 25 hand at the time its license is revoked or expires, or at the time
 26 it discontinues the business of selling cigarettes, shall return
 27 those stamps to the department. The department shall refund the
 28 value of the stamps, less the appropriate discount paid.

29 **(11) ~~(10)~~**—If the wholesaler or unclassified acquirer has



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

21 (12) ~~(11)~~—On or before the twentieth of each month, each
22 manufacturer shall file a report with the department listing all
23 sales of tobacco products to wholesalers and unclassified acquirers
24 during the preceding calendar month and any other information the
25 department finds necessary for the administration of this act. This
26 report shall be in the form and manner specified by the department.

27 (13) ~~(12)~~—Each wholesaler or unclassified acquirer shall
28 submit to the department an unstamped cigarette sales report on or
29 before the twentieth day of each month covering the sale, delivery,



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

(14) ~~(13)~~ As used in subsection (3):

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

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

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

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

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

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

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



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

8 Sec. 12. (1) The proceeds derived from the payment of taxes,
9 fees, and penalties provided for under this act and the license
10 fees received by the department shall be deposited with the state
11 treasurer and disbursed only as provided in this section and
12 section 7(5). However, before a distribution of funds is made under
13 this section, subject to appropriation, the funds described in this
14 section may be used by the department, the attorney general, and
15 the department of state police for enforcement and administration
16 of this act.

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

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

22 (b) 6% of the proceeds shall be credited to the Healthy
23 Michigan fund created under section 5953 of the public health code,
24 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
25 in this subdivision that are used for smoking prevention programs
26 shall be used by the department of health and human services to
27 expand the free smokers quit kit program to include the nicotine
28 patch or nicotine gum.

29 (3) The tax imposed on cigarettes under section 7(1)(b) shall



1 be disbursed as follows:

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

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

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

11 (d) Beginning July 1, 2004 and through September 30, 2014,
12 24.1% of the proceeds shall be credited to the general fund of this
13 state.

14 (e) 63.4% 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 (f) 6% 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 health and human services to
22 expand the free smokers quit kit program to include the nicotine
23 patch or nicotine gum.

24 (g) Beginning October 1, 2014, 24.1% of the proceeds shall be
25 disbursed as follows:

26 (i) For the 2014-2015 fiscal year and each subsequent fiscal
27 year, \$3,000,000.00 to the Michigan state capitol historic site
28 fund created in section 7 of the Michigan state capitol historic
29 site act, 2013 PA 240, MCL 4.1947. For the 2015-2016 fiscal year



1 and each subsequent fiscal year, the state treasurer shall adjust
 2 the figure described in this subparagraph by an amount determined
 3 by the state treasurer at the end of each calendar year to reflect
 4 the cumulative annual percentage change in the ~~consumer price~~
 5 ~~index.~~ **Consumer Price Index.** Beginning for the 2015-2016 fiscal
 6 year and each subsequent fiscal year, if the cumulative annual
 7 percentage change in the ~~consumer price index~~ **Consumer Price Index**
 8 is negative, then the adjustment for that fiscal year is zero. As
 9 used in this subsection, "~~consumer price index~~" **"Consumer Price**
 10 **Index"** means the most comprehensive index of consumer prices
 11 available for this state from the Bureau of Labor Statistics of the
 12 United States Department of Labor. From the funds described in this
 13 subparagraph, not later than February 1 of each year, the Michigan
 14 state capitol commission created in section 5 of the Michigan state
 15 capitol historic site act, 2013 PA 240, MCL 4.1945, shall report to
 16 the chairpersons of the house and senate appropriations committees.
 17 The report ~~shall~~ **must** contain all of the following:

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

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

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

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

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

29 (a) Through June 30, 2004, 74.2%, and beginning July 1, 2004,



1 9.0% of the proceeds shall be credited to the general fund of this
2 state.

3 (b) Through June 30, 2004, 4.6%, and beginning July 1, 2004,
4 56.3% of the proceeds shall be credited to the state school aid
5 fund established by section 11 of article IX of the state
6 constitution of 1963.

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

14 (d) Through June 30, 2004, 3.0%, and beginning July 1, 2004,
15 3.7% of the proceeds shall be paid to counties with a 2000
16 population of more than 2,000,000, to be used only for indigent
17 health care.

18 (e) Through June 30, 2004, 12.2%, and beginning July 1, 2004,
19 25.0% of the proceeds shall be credited to the Medicaid benefits
20 trust fund created under section 5 of the Michigan trust fund act,
21 2000 PA 489, MCL 12.255.

22 (5) Beginning August 1, 2002, the tax imposed under section
23 7(1)(f) shall be disbursed as follows:

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

27 (b) 6.0% of the proceeds shall be credited to the Healthy
28 Michigan fund created under section 5953 of the public health code,
29 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described



1 in this subdivision that are used for smoking prevention programs
2 shall be used by the department of health and human services to
3 expand the free smokers quit kit program to include the nicotine
4 patch or nicotine gum.

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

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

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

12 (b) 6.0% 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 health and human services to
17 expand the free smokers quit kit program to include the nicotine
18 patch or nicotine gum.

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

21 (a) Beginning July 1, 2004 and through September 30, 2005,
22 100% of the proceeds shall be credited to the Michigan Medicaid
23 benefits trust fund created under section 5 of the Michigan trust
24 fund act, 2000 PA 489, MCL 12.255.

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

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



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

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

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

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

(9) Beginning October 1, 2021 and each fiscal year thereafter, the tax imposed under section 7(1)(h) shall be distributed as follows:

(a) The first \$250,000.00 shall be credited to the department of treasury for tax enforcement purposes.

(b) The next \$2,500,000.00 shall be distributed to local health departments for local public health programs.

(c) The next \$2,500,000.00 shall be credited to the department of health and human services for enforcement and compliance purposes under the youth tobacco act, 1915 PA 31, MCL 722.641 to 722.645.

(d) The remainder shall be credited to the general fund of this state.

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

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 100th Legislature are enacted into law:



- 1 (a) Senate Bill No. 782.
- 2 (b) Senate Bill No. 783.
- 3 (c) Senate Bill No. 784.

