

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4215**

A bill to amend 1993 PA 327, entitled  
"Tobacco products tax act,"  
by amending the title and sections 2, 3, 5, 6, 7, 8, 9, and 12  
(MCL 205.422, 205.423, 205.425, 205.426, 205.427, 205.428,  
205.429, and 205.432), section 9 as amended by 1995 PA 118, and  
by adding sections 5a, 5b, 6a, 6b, and 7a.

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

1

TITLE

2

An act to provide for a tax upon the sale and distribution

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of tobacco products; to regulate and license manufacturers,

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wholesalers, secondary wholesalers, vending machine operators,

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unclassified acquirers, transportation companies, transporters,

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and retailers of tobacco products; to prescribe the powers and

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duties of the revenue division and the department of treasury in

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regard to tobacco products; to provide for the ADMINISTRATION,

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1 collection, and disposition of the tax; to provide for the  
2 enforcement of this act; to provide for the appointment of spe-  
3 cial investigators as peace officers for the enforcement of this  
4 act; to prescribe penalties and provide remedies for the viola-  
5 tion of this act; and to repeal ~~certain~~ acts and parts of acts.  
6 ~~on a specific date.~~

7 Sec. 2. As used in this act:

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

13 (b) "Commissioner" means the revenue commissioner.

14 (c) "COUNTERFEIT STAMP" MEANS ANY STAMP, LABEL, OR PRINT,  
15 INDICIUM, OR CHARACTER, THAT EVIDENCES, OR PURPORTS TO EVIDENCE,  
16 THE PAYMENT OF ANY TAX LEVIED UNDER THIS ACT AND THAT HAS NOT  
17 BEEN PRINTED, MANUFACTURED, OR MADE BY AUTHORITY OF THE DEPART-  
18 MENT AS PROVIDED IN THIS ACT AND HAS NOT BEEN ISSUED, SOLD, OR  
19 CIRCULATED BY THE DEPARTMENT.

20 (D) ~~(c)~~ "Department" means the department of treasury.

21 (E) "FINANCIALLY SOUND" MEANS A DETERMINATION BY THE DEPART-  
22 MENT THAT THE WHOLESALER OR UNCLASSIFIED ACQUIRER IS ABLE TO PAY  
23 FOR ITS STAMPS IN THE ORDINARY COURSE OF BUSINESS BASED ON CRI-  
24 TERIA INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

25 (i) PAST FILING AND PAYMENT HISTORY WITH THE DEPARTMENT.

26 (ii) OUTSTANDING LIABILITIES.

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1       (*iii*) REVIEW OF CURRENT FINANCIAL STATEMENTS INCLUDING, BUT  
2 NOT LIMITED TO, BALANCE SHEETS AND INCOME STATEMENTS.

3       (*iv*) DURATION THAT THE WHOLESALER OR UNCLASSIFIED ACQUIRER  
4 HAS BEEN LICENSED UNDER THIS ACT.

5       (F) "INDIVIDUAL PACKAGE" MEANS AN INDIVIDUAL PACKET OR PACK  
6 USED TO CONTAIN OR TO CONVEY CIGARETTES TO THE CONSUMER.

7 INDIVIDUAL PACKAGE DOES NOT INCLUDE CARTONS, CASES, OR SHIPPING  
8 OR STORAGE CONTAINERS THAT CONTAIN SMALLER PACKAGING UNITS OF  
9 CIGARETTES.

10       (G) ~~(d)~~ "Licensee" means a person licensed under this  
11 act.

12       (H) ~~(e)~~ "Manufacturer" means a person who manufactures or  
13 produces a tobacco product.

14       (I) ~~(f)~~ "Noncigarette smoking tobacco" means tobacco sold  
15 in loose or bulk form that is intended for consumption by smoking  
16 AND INCLUDES ROLL-YOUR-OWN CIGARETTE TOBACCO.

17       (J) ~~(g)~~ "Person" means an individual, partnership, fidu-  
18 ciary, association, LIMITED LIABILITY COMPANY, corporation, or  
19 other legal entity.

20       (K) ~~(h)~~ "Place of business" means a place where a tobacco  
21 product is sold or where a tobacco product is brought or kept for  
22 the purpose of sale or consumption, including a vessel, airplane,  
23 train, or vending machine.

24       (l) ~~(i)~~ "Retailer" means a person other than a transporta-  
25 tion company who operates a place of business for the purpose of  
26 making sales of a tobacco product at retail.

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1 (M) ~~(j)~~ "Sale" means a transaction by which the ownership  
2 of tangible personal property is transferred for consideration  
3 and applies also to use, gifts, exchanges, barter, and theft.

4 (N) ~~(k)~~ "Secondary wholesaler" means a person who sells a  
5 tobacco product for resale, who purchases a tobacco product from  
6 a wholesaler OR UNCLASSIFIED ACQUIRER licensed under this act,  
7 and who maintains an established place of business in this state  
8 WHERE A SUBSTANTIAL PORTION OF THE BUSINESS IS THE SALE OF  
9 TOBACCO PRODUCTS AND RELATED MERCHANDISE AT WHOLESALE, AND WHERE  
10 AT ALL TIMES A SUBSTANTIAL STOCK OF TOBACCO PRODUCTS AND RELATED  
11 MERCHANDISE IS AVAILABLE TO RETAILERS FOR RESALE.

12 (O) ~~(i)~~ "Smokeless tobacco" means snuff, chewing tobacco,  
13 and any other tobacco that is intended to be consumed by means  
14 other than smoking.

15 (P) "STAMP" MEANS A DISTINCTIVE CHARACTER, INDICATION, OR  
16 MARK, AS DETERMINED BY THE DEPARTMENT, ATTACHED OR AFFIXED TO AN  
17 INDIVIDUAL PACKAGE OF CIGARETTES BY MECHANICAL DEVICE OR OTHER  
18 MEANS AUTHORIZED BY THE DEPARTMENT TO INDICATE THAT THE TAX  
19 IMPOSED UNDER THIS ACT HAS BEEN PAID.

20 (Q) "STAMPING AGENT" MEANS A WHOLESALER OR UNCLASSIFIED  
21 ACQUIRER OTHER THAN A MANUFACTURER WHO IS LICENSED AND AUTHORIZED  
22 BY THE DEPARTMENT TO AFFIX STAMPS TO INDIVIDUAL PACKAGES OF CIGA-  
23 RETTES ON BEHALF OF THEMSELVES AND OTHER WHOLESALERS OR UNCLASSI-  
24 FIED ACQUIRERS OTHER THAN MANUFACTURERS.

25 (R) ~~(m)~~ "Tobacco product" means cigarettes, cigars, non-  
26 cigarette smoking tobacco, or smokeless tobacco.

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1 (S) ~~(n)~~ "Transportation company" means a person operating,  
2 or supplying to common carriers, cars, boats, or other vehicles  
3 for the transportation or accommodation of passengers and engaged  
4 in the sale of a tobacco product at retail.

5 (T) ~~(o)~~ "Transporter" means a person importing or trans-  
6 porting into this state, or transporting in this state, a tobacco  
7 product obtained from a source located outside this state, or  
8 from any person not duly licensed under this act. Transporter  
9 does not include an interstate commerce carrier licensed by the  
10 interstate commerce commission to carry commodities in interstate  
11 commerce, or a licensee maintaining a warehouse or place of busi-  
12 ness outside of this state if the warehouse or place of business  
13 is licensed under this act.

14 (U) ~~(p)~~ "Unclassified acquirer" means a person, except a  
15 transportation company or a purchaser at retail from a retailer  
16 licensed under the general sales tax act, ~~Act No. 167 of the~~  
17 ~~Public Acts of 1933, being sections 205.51 to 205.78 of the~~  
18 ~~Michigan Compiled Laws~~ 1933 PA 167, MCL 205.51 TO 205.78, who  
19 imports or acquires a tobacco product from a source other than a  
20 wholesaler or secondary wholesaler licensed under this act for  
21 use, sale, or distribution. UNCLASSIFIED ACQUIRER ALSO MEANS A  
22 PERSON WHO RECEIVES CIGARS, NONCIGARETTE SMOKING TOBACCO, OR  
23 SMOKELESS TOBACCO DIRECTLY FROM A MANUFACTURER LICENSED UNDER  
24 THIS ACT OR FROM ANOTHER SOURCE OUTSIDE THIS STATE, WHICH SOURCE  
25 IS NOT LICENSED UNDER THIS ACT. AN UNCLASSIFIED ACQUIRER DOES  
26 NOT INCLUDE A WHOLESALER.

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1       (V) ~~(q)~~ "Vending machine operator" means a person who  
2 operates 1 or more vending machines for the sale of a tobacco  
3 product and who purchases a tobacco product from a manufacturer,  
4 licensed wholesaler, or secondary wholesaler.

5       (W) ~~(r)~~ "Wholesale price" means the actual price paid for  
6 a tobacco product, including any tax, by a wholesaler OR UNCLAS-  
7 SIFIED ACQUIRER to a manufacturer, excluding any discounts or  
8 reductions.

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

20       Sec. 3. (1) Beginning May 1, 1994, a person shall not pur-  
21 chase, possess, acquire for resale, or sell a tobacco product as  
22 a manufacturer, wholesaler, secondary wholesaler, vending machine  
23 operator, unclassified acquirer, transportation company, or  
24 transporter in this state unless licensed to do so. A LICENSE  
25 GRANTED UNDER THIS ACT IS NOT ASSIGNABLE.

26       (2) Upon proper application and the payment of the  
27 applicable fee, AND SUBJECT TO SUBSECTION (6), the department

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1 shall issue a license to each manufacturer, wholesaler, secondary  
2 wholesaler, vending machine operator, unclassified acquirer,  
3 transportation company, or transporter. The application shall be  
4 on a form prescribed by the department and signed under penalty  
5 of perjury. Except for transportation companies, each place of  
6 business shall be separately licensed. If a person acts in more  
7 than 1 capacity at any 1 place of business, a license shall be  
8 procured for each capacity. Each machine for vending tobacco  
9 products shall be considered a place of retail business. Each  
10 license or a duplicate copy shall be prominently displayed on the  
11 premises covered by the license. In the case of vending  
12 machines, a disc or marker furnished by the department showing it  
13 to be licensed shall be attached to the FRONT OF THE machine IN A  
14 PLACE CLEARLY VISIBLE TO THE PUBLIC.

15 (3) The fees for licenses shall be the following:

16 ~~-(a) A manufacturer's license, \$100.00.-~~

17 (A) ~~-(b)-~~ A wholesaler's license, \$100.00.

18 (B) ~~-(c)-~~ A secondary wholesaler's license, \$25.00.

19 (C) ~~-(d)-~~ A license for vending machine operators, \$25.00.

20 ~~having 50 or more vending machines in operation, \$100.00-~~

21 ~~-(e) A license for vending machine operators having not less~~  
22 ~~than 25 and not more than 49 machines in operation, \$50.00.-~~

23 ~~-(f) A license for vending machine operators having not less~~  
24 ~~than 4 machines and not more than 24 machines in operation,~~  
25 ~~\$25.00.-~~

26 ~~-(g) A license for vending machine operators having not more~~  
27 ~~than 3 machines, \$5.00 for each machine.-~~

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1 (D) ~~(h)~~ An unclassified acquirer's license, ~~a sum~~  
2 ~~determined by the department, but not to exceed \$150.00.~~ AS  
3 FOLLOWS:

4 (i) STATE OF MICHIGAN, NO FEE.

5 (ii) RETAIL IMPORTER OF TOBACCO PRODUCTS OTHER THAN CIGA-  
6 RETTES, \$10.00.

7 (iii) RETAIL IMPORTER OF CIGARETTES, \$100.00.

8 (iv) VENDING MACHINE OPERATOR BUYING DIRECT FROM A MANUFAC-  
9 TURER, \$100.00.

10 (v) MANUFACTURER, \$100.00.

11 (vi) ANY OTHER IMPORTER, \$100.00.

12 (E) ~~(i)~~ A transportation company's license, \$5.00.

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

14 (4) If a manufacturer, wholesaler, secondary wholesaler, or  
15 vending machine operator maintains more than 1 place of business,  
16 the fee for each additional place of business shall be 1/4 of the  
17 fee otherwise prescribed in subsection (3). A fee, or a part of  
18 a fee, shall not be refunded by reason of relinquishment, suspen-  
19 sion, or revocation of the license, or, except under order of a  
20 court of competent jurisdiction, for any other reason or cause.

21 (5) A person shall not possess a machine for vending tobacco  
22 products for a period in excess of 72 hours unless there is a  
23 disc or marker attached as provided by this section. This  
24 requirement does not apply to a machine not containing a tobacco  
25 product. If a person possesses a vending machine containing a  
26 tobacco product that is not properly licensed or identified as  
27 required by this section, the department may seal or seize the

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1 machine, together with the tobacco products contained in the  
2 machine. The provisions of section 9 govern the seizure and sub-  
3 sequent disposition of a machine or tobacco product seized.

4 (6) APPLICATIONS FROM PERSONS APPLYING FOR AN INITIAL  
5 LICENSE UNDER THIS ACT SHALL BE  
6 ACCOMPANIED BY SATISFACTORY PROOF, AS DETERMINED BY THE DEPARTMENT,  
7 OF ALL THE FOLLOWING:

8 (A) THE APPLICANT'S FINANCIAL RESPONSIBILITY, INCLUDING BUT  
9 NOT LIMITED TO, SATISFACTORY PROOF OF A MINIMUM NET WORTH OF  
10 \$25,000.00.

11 (B) THAT THE APPLICANT OWNS, OR HAS AN EXECUTED LEASE FOR, A  
12 SECURE NONRESIDENTIAL FACILITY FOR THE PURPOSE OF RECEIVING AND  
13 DISTRIBUTING CIGARETTES AND CONDUCTING ITS BUSINESS IF THE APPLICANT  
14 OWNS OR HAS AN EXECUTED LEASE FOR SUCH A FACILITY. IF THE  
15 APPLICANT CARRIES ON ANOTHER BUSINESS IN CONJUNCTION WITH THE  
16 SECURE NONRESIDENTIAL FACILITY, THE OTHER BUSINESS SHALL ALSO BE  
17 IDENTIFIED.

18 (C) UNITED STATES CITIZENSHIP OR ELIGIBILITY TO OBTAIN  
19 EMPLOYMENT WITHIN THE UNITED STATES IF NOT A CITIZEN. IF THE  
20 APPLICANT IS NOT AN INDIVIDUAL, THE CONTROLLING SHAREHOLDERS,  
21 PARTNERS, DIRECTORS, AND PRINCIPAL OFFICERS SHALL BE UNITED  
22 STATES CITIZENS OR ELIGIBLE TO OBTAIN EMPLOYMENT WITHIN THE  
23 UNITED STATES IF NOT A CITIZEN.

24 (7) ~~(6)~~ THE DEPARTMENT MAY REQUIRE AN APPLICANT WHO IS  
25 PURCHASING THE BUSINESS OF A LICENSEE TO FILE A COPY OF THE CON-  
26 TRACT OF SALE AND ANY RELATED DOCUMENTS WITH ITS APPLICATION. The  
27 department may require a licensee under this section to furnish a  
surety bond with a surety company authorized to do business in  
this state in an amount the department may fix, conditioned upon

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1 the payment of the tax provided by this act. The department may  
2 also require a licensee under this section to file a financial  
3 statement with the department showing all assets and liabilities  
4 and any other information the department may prescribe, to be  
5 filed within 30 days after the date requested. IF THERE IS A  
6 CHANGE OF MORE THAN 50% OF OWNERSHIP OR CONTROL OR A CHANGE IN  
7 THE GENERAL PARTNERSHIP OF A LICENSEE, THE DEPARTMENT MAY REQUIRE  
8 THAT LICENSEE TO FILE A NEW APPLICATION FOR A LICENSE OR AN  
9 UPDATED FINANCIAL STATEMENT.

10       Sec. 5. (1) The department may suspend, revoke, or refuse  
11 to issue or renew a license issued under this act for failure to  
12 comply with this act or for any other good cause. A person whose  
13 license is suspended, revoked, or not renewed shall not ACT AS A  
14 STAMPING AGENT OR ACQUIRE A STAMP FROM THE DEPARTMENT OR ANY  
15 OTHER PERSON, OR sell a tobacco product during the period of sus-  
16 pension or revocation, or until the license is renewed.

17       (2) IF A PERSON WHO IS A MANUFACTURER, WHOLESALER, OR  
18 UNCLASSIFIED ACQUIRER LICENSED UNDER THIS ACT IS CONVICTED OF A  
19 FELONY UNDER ANY PROVISION OF THIS ACT, THE DEPARTMENT SHALL  
20 REVOKE ANY LICENSE ISSUED UNDER THIS ACT TO THAT PERSON.

21       (3) BEFORE THE DEPARTMENT SUSPENDS, REVOKES, OR REFUSES TO  
22 RENEW A LICENSE UNDER THIS ACT, THE DEPARTMENT SHALL NOTIFY THE  
23 PERSON OF ITS INTENT TO HOLD A HEARING BEFORE A REPRESENTATIVE OF  
24 THE COMMISSIONER FOR PURPOSES OF DETERMINING WHETHER TO SUSPEND,  
25 REVOKE, OR REFUSE TO RENEW A LICENSE AT LEAST 14 DAYS BEFORE THE  
26 SCHEDULED HEARING DATE.

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1 (4) A person aggrieved by the suspension, revocation, or  
2 refusal to issue or renew a license may apply to the revenue  
3 division of the department for a hearing within 20 days after  
4 notice of the suspension, revocation, or refusal to issue or  
5 renew the license. A hearing ~~and decision~~ shall be had in the  
6 same manner provided in section ~~9~~ 21 OF 1941 PA 122, MCL  
7 205.21. THE DECISION IN CASE OF SUSPENSION, REVOCATION, OR  
8 REFUSAL TO RENEW SHALL BE ISSUED WITHIN 45 DAYS OF RECEIPT OF THE  
9 REQUEST FOR HEARING.

10 SEC. 5A. THE DEPARTMENT SHALL PROCURE STAMPS AS NEEDED IN  
11 THE VARIOUS DESIGNS, DENOMINATIONS, AND FORMS NECESSARY AS DETER-  
12 MINED BY THE DEPARTMENT. THE DEPARTMENT SHALL PAY FOR THE STAMPS.

13

14 SEC. 5B. THE DEPARTMENT SHALL ADVISE ALL STAMPING AGENTS OF  
15 ALL PERSONS LICENSED UNDER THIS ACT AND ANY MANUFACTURER, WHOLE-  
16 SALER, SECONDARY WHOLESALER, UNCLASSIFIED ACQUIRER, OR OTHER  
17 PERSON WHOSE LICENSE IS SUSPENDED, REVOKED, OR NOT RENEWED UNDER  
18 THIS ACT. THE DEPARTMENT SHALL ADVISE ALL STAMPING AGENTS OF ANY  
19 PERSON WHOSE LICENSE IS REINSTATED. A STAMPING AGENT SHALL NOT  
20 DISCLOSE LICENSING INFORMATION PROVIDED TO THE AGENT BY THE  
21 DEPARTMENT. THE DEPARTMENT MAY DISCLOSE WHETHER A PERSON HOLDS A  
22 LICENSE UNDER THIS ACT.

23 Sec. 6. (1) ~~Beginning May 1, 1994, a~~ A manufacturer,  
24 wholesaler, secondary wholesaler, vending machine operator,  
25 transportation company, unclassified acquirer, or retailer shall  
26 keep a complete and accurate record of each tobacco product  
27 manufactured, purchased, or otherwise acquired. Except for a

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1 manufacturer, the records shall include a written statement  
2 containing the name and address of both the seller and the pur-  
3 chaser, the date of delivery, the quantity, the trade name or  
4 brand, and the price paid for each tobacco product purchased. A  
5 licensee [REDACTED] shall keep as part of the records a true  
6 copy of all purchase orders, invoices, bills of lading, and other  
7 written matter substantiating the purchase or acquisition of each  
8 tobacco product AT THE LOCATION WHERE THE TOBACCO PRODUCT IS  
9 STORED OR OFFERED FOR SALE. A RETAILER SHALL KEEP AS PART OF THE  
10 RECORDS A TRUE COPY OF ALL PURCHASE ORDERS, INVOICES, BILLS OF  
11 LADING, AND OTHER WRITTEN MATTER SUBSTANTIATING THE PURCHASE OR  
12 ACQUISITION OF EACH TOBACCO PRODUCT AT THE LOCATION WHERE THE  
13 TOBACCO PRODUCT IS OFFERED FOR SALE FOR A PERIOD OF 4 MONTHS FROM  
14 THE DATE OF PURCHASE OR ACQUISITION. THE DEPARTMENT MAY, BY  
15 GIVING PRIOR WRITTEN APPROVAL, AUTHORIZE A PERSON LICENSED UNDER  
16 THIS ACT OR A RETAILER TO MAINTAIN RECORDS IN A MANNER OTHER THAN  
17 THAT REQUIRED BY THIS SUBSECTION. Other records shall be kept by  
18 these persons as the department reasonably prescribes.

19 (2) ~~Beginning May 1, 1994, a~~ A manufacturer, wholesaler,  
20 UNCLASSIFIED ACQUIRER, and secondary wholesaler shall deliver  
21 with each sale or consignment of a tobacco product a written  
22 statement containing the name or trade name and address of both  
23 the seller and the purchaser, the date of delivery, the quantity,  
24 and the trade name or brand of the tobacco product, correctly  
25 itemizing the prices paid for each brand purchased, and shall  
26 retain a duplicate of each statement.

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1       (3) ~~Beginning May 1, 1994, a~~ A vending machine operator  
2 shall keep a detailed record of each vending machine owned for  
3 the sale of tobacco products showing the location of the machine,  
4 the date of placing the machine on the location, the quantity of  
5 each tobacco product placed in the machine, the date when placed  
6 there, and the amount of the commission paid or earned on sales  
7 through the vending machine. When filling or refilling the vend-  
8 ing machine, the operator shall deliver to the owner or tenant  
9 occupying the premises where the machine is located a written  
10 statement containing his or her own name and address, the name  
11 and address of the owner or the tenant, the date when the machine  
12 was filled, and the quantity of each brand of tobacco product  
13 sold from the machine since the date when tobacco products were  
14 last placed in the machine. A person in possession of premises  
15 where a vending machine is located shall keep a record of each  
16 tobacco product sold through the vending machine located on the  
17 premises and the amount of commission paid by the person operat-  
18 ing the vending machine. The records shall consist of written  
19 statements required to be given by each person operating a vend-  
20 ing machine for the sale of tobacco products as provided in this  
21 section.

22       (4) ~~Beginning May 1, 1994, a~~ A licensee under this act  
23 shall not issue or accept a written statement or invoice that is  
24 known to the licensee to contain a statement or omission that  
25 falsely indicates the name of the customer, the type, TRADE NAME,  
26 OR BRAND of merchandise, THE QUANTITY OF EACH TYPE, TRADE NAME,  
27 OR BRAND OF MERCHANDISE, the prices, the discounts, THE DATE OF

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1 THE TRANSACTION, or the terms of sale. A person shall not use a  
2 device or game of chance to aid, promote, or induce sales or pur-  
3 chases of a tobacco product, or give a tobacco product in connec-  
4 tion with a device or game of chance.

5 (5) ~~Beginning May 1, 1994, all~~ ALL statements and other  
6 records required by this section shall be in a form prescribed by  
7 the department and shall be preserved for a period of 4 years and  
8 offered for inspection at any time upon oral or written demand by  
9 the department or its authorized agent BY EVERY WHOLESALER, SEC-  
10 ONDARY WHOLESALER, VENDING MACHINE OPERATOR, UNCLASSIFIED ACQUIR-  
11 ER, AND RETAILER.

12 (6) ~~Beginning May 1, 1994, if~~ IF a tobacco product OTHER  
13 THAN CIGARETTES is received or acquired within this state by a  
14 wholesaler, secondary wholesaler, vending machine operator,  
15 unclassified acquirer, or retailer, each original manufacturer's  
16 shipping case shall bear the name and address of the person  
17 making the first purchase or any other markings the department  
18 prescribes. If a tobacco product OTHER THAN CIGARETTES is found  
19 in a place of business or otherwise in the possession of a whole-  
20 saler, secondary wholesaler, vending machine operator, unclassi-  
21 fied acquirer, transporter, or retailer without proper markings  
22 on the shipping case, box, or container of the tobacco product  
23 ~~and~~ OR IF AN INDIVIDUAL PACKAGE OF CIGARETTES IS FOUND WITHOUT  
24 A STAMP AFFIXED AS PROVIDED UNDER THIS ACT OR IF A TOBACCO PRO-  
25 DUCT IS FOUND without proper substantiation by invoices or other  
26 records as required by this section, the presumption shall be  
27 that the tobacco product is kept in violation of this act. If a

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1 tobacco product is shipped outside the state, the licensee  
2 shipping the tobacco product shall cause to be placed on every  
3 shipping case or other container in which the tobacco product is  
4 shipped the name and address of the consignee OR PURCHASER to  
5 whom the shipment is made outside of the state. The department  
6 may require reports from a common carrier who transports a  
7 tobacco product to a point within this state from another person  
8 who, under contract, transports a tobacco product, or from a  
9 bonded warehouseperson or bailee who has in his or her possession  
10 a tobacco product. A carrier, bailee, warehouseperson, or other  
11 person shall permit the INSPECTION OF THE TOBACCO PRODUCTS AND  
12 examination by the department or its duly authorized agent of any  
13 records relating to the shipment of a tobacco product into, from,  
14 or within the state.

15       (7) ~~Beginning May 1, 1994, a~~ A transporter OR OTHER  
16 LICENSEE transporting, possessing, or acquiring for the purpose  
17 of transporting a tobacco product upon a public highway, road, or  
18 street of this state shall have in his or her actual possession  
19 invoices or bills of lading containing the name and address of  
20 both the seller and the purchaser, the date of delivery, the name  
21 and address of the transporter, the quantity and trade name or  
22 brand of each tobacco product, the price paid for each trade name  
23 or brand in the transporter's possession or custody, and the  
24 license as prescribed under this act.

25       (8) ~~Beginning May 1, 1994, a~~ A transporter desiring to  
26 possess or acquire for transportation or transport a tobacco  
27 product upon a highway, road, or street of this state shall

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

19       SEC. 6A. (1) BEGINNING APRIL 15, 1998, A WHOLESALER OR  
20 UNCLASSIFIED ACQUIRER OTHER THAN A MANUFACTURER MAY APPLY TO THE  
21 DEPARTMENT FOR STAMPS TO AFFIX AS PROVIDED IN THIS ACT. THE  
22 DEPARTMENT MAY PRESCRIBE THE METHOD OF SHIPMENT OF THE STAMPS.  
23 THE DEPARTMENT SHALL KEEP A RECORD OF ALL STAMPS DISBURSED, NAME  
24 OF WHOLESALER OR UNCLASSIFIED ACQUIRER, AND DATE OF  
25 DISBURSEMENT. THE DEPARTMENT MAY RELEASE THE IDENTITY OF THE  
26 WHOLESALER OR UNCLASSIFIED ACQUIRER TO WHOM SPECIFIC STAMPS WERE  
27 DISBURSED TO STATE OR LOCAL POLICE AGENCIES.

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1 (2) BEGINNING MAY 1, 1998, BEFORE DELIVERY, SALE, OR  
2 TRANSFER TO ANY PERSON IN THIS STATE, A WHOLESALER OR AN UNCLAS-  
3 SIFIED ACQUIRER SHALL PLACE OR CAUSE TO BE PLACED ON THE BOTTOM  
4 OF EACH INDIVIDUAL PACKAGE OF CIGARETTES TO BE SOLD WITHIN THIS  
5 STATE A STAMP PROVIDED BY THE DEPARTMENT. STAMPS SHALL BE FIRMLY  
6 AFFIXED IN SUCH A MANNER THAT THE STAMPS CANNOT BE REMOVED WITH-  
7 OUT BEING MUTILATED OR DESTROYED. A STAMP SHALL BE AFFIXED TO  
8 EACH INDIVIDUAL PACKAGE IN AN AGGREGATE DENOMINATION EQUAL TO THE  
9 AMOUNT OF THE TAX UPON THE CONTENTS OF THE INDIVIDUAL PACKAGE OF  
10 CIGARETTES. A STAMP IS CONSIDERED AFFIXED IF MORE THAN 50% OF  
11 THE STAMP IS AFFIXED TO THE INDIVIDUAL PACKAGE, AS DETERMINED BY  
12 THE DEPARTMENT.

13 (3) BEGINNING MAY 1, 1998, A RETAILER OR PERSON LICENSED  
14 UNDER THIS ACT, OTHER THAN A WHOLESALER OR UNCLASSIFIED ACQUIRER  
15 OR A PERSON ACTING AS A TRANSPORTER FOR A WHOLESALER OR UNCLASSI-  
16 FIED ACQUIRER, SHALL NOT ACQUIRE FOR RESALE AN INDIVIDUAL PACKAGE  
17 OF CIGARETTES OR A CIGARETTE FROM AN INDIVIDUAL PACKAGE UNLESS  
18 THAT INDIVIDUAL PACKAGE OF CIGARETTES HAS AFFIXED TO IT A STAMP  
19 AS PROVIDED IN THIS ACT.

20 (4) BEGINNING SEPTEMBER 1, 1998, A RETAILER OR VENDING  
21 MACHINE OPERATOR SHALL NOT SELL OR OFFER FOR SALE AN INDIVIDUAL  
22 PACKAGE OF CIGARETTES TO THE GENERAL PUBLIC THAT DOES NOT HAVE  
23 AFFIXED THE STAMP REQUIRED BY THIS ACT. BEGINNING SEPTEMBER 1,  
24 1998, CIGARETTES WITHOUT STAMPS MAY NOT BE PLACED OR STORED IN A  
25 VENDING MACHINE.

26 (5) THE DEPARTMENT OR ITS AUTHORIZED AGENTS MAY INSPECT OR  
27 CONDUCT AN INVENTORY OF A WHOLESALER'S OR UNCLASSIFIED ACQUIRER'S

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18

1 STOCK OF CIGARETTES, TOBACCO PRODUCTS OTHER THAN CIGARETTES, AND  
2 STAMPS DURING REGULAR BUSINESS HOURS AND INSPECT THE RELATED  
3 STATEMENTS AND OTHER RECORDS REQUIRED IN SECTION 6.

4 (6) THE DEPARTMENT OR ITS AUTHORIZED AGENTS MAY INSPECT THE  
5 OPERATIONS OF A SECONDARY WHOLESALER, VENDING MACHINE OPERATOR,  
6 OR RETAILER, OR THE CONTENTS OF A SPECIFIC VENDING MACHINE,  
7 DURING REGULAR BUSINESS HOURS. THIS INSPECTION SHALL INCLUDE  
8 INSPECTION OF ALL STATEMENTS AND OTHER RECORDS REQUIRED BY  
9 SECTION 6 OF THIS ACT, OF PACKAGES OF CIGARETTES AND TOBACCO PRO-  
10 DUCTS OTHER THAN CIGARETTES, AND OF THE CONTENTS OF CARTONS AND  
11 SHIPPING OR STORAGE CONTAINERS TO ASCERTAIN THAT ALL INDIVIDUAL  
12 PACKAGES OF CIGARETTES HAVE AN AFFIXED STAMP OF PROPER DENOMINA-  
13 TION AS REQUIRED BY THIS ACT. THIS INSPECTION MAY ALSO VERIFY  
14 THAT ALL THE STAMPS WERE PRODUCED UNDER THE AUTHORITY OF THE  
15 DEPARTMENT.

16 (7) A PERSON SHALL NOT PREVENT OR HINDER THE DEPARTMENT OR  
17 ITS AUTHORIZED AGENTS FROM MAKING A FULL INSPECTION OF ANY PLACE  
18 OR VENDING MACHINE WHERE CIGARETTES OR TOBACCO PRODUCTS OTHER  
19 THAN CIGARETTES SUBJECT TO THE TAX UNDER THIS ACT ARE SOLD OR  
20 STORED, OR PREVENT OR HINDER THE FULL INSPECTION OF INVOICES,  
21 BOOKS, RECORDS, OR OTHER PAPERS REQUIRED TO BE KEPT BY THIS ACT.

22 (8) THE DEPARTMENT MAY REQUIRE WHOLESALERS AND UNCLASSIFIED  
23 ACQUIRERS TO EXCHANGE UNAFFIXED STAMPS WITH THE DEPARTMENT AS THE  
24 DEPARTMENT CONSIDERS NECESSARY. THE DEPARTMENT MAY REQUIRE  
25 WHOLESALERS, UNCLASSIFIED ACQUIRERS, SECONDARY WHOLESALERS, VEND-  
26 ING MACHINE OPERATORS AND RETAILERS TO DISCONTINUE OFFERING FOR  
27 SALE ANY UNSOLD INDIVIDUAL PACKAGES OF CIGARETTES BEARING A PRIOR

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19

1 VERSION OF THE STAMP THAT THE DEPARTMENT HAS WITHDRAWN FROM  
2 CIRCULATION. THE DEPARTMENT MAY SET A REASONABLE TIMELINE AFTER  
3 WHICH THE PRIOR VERSION OF THE STAMP MAY NO LONGER BE OFFERED FOR  
4 SALE AND THE NEW VERSION OF THE STAMP IS REQUIRED. A SECONDARY  
5 WHOLESALER, RETAILER, OR VENDING MACHINE OPERATOR MAY RETURN CIG-  
6 ARETTE PACKAGES BEARING DISCONTINUED STAMPS TO A WHOLESALER FOR  
7 CREDIT. A WHOLESALER OR UNCLASSIFIED ACQUIRER MAY TAKE CREDIT ON  
8 ITS TAX RETURNS FOR INDIVIDUAL PACKAGES OF CIGARETTES BEARING  
9 DISCONTINUED STAMPS THAT ARE RETURNED TO THE MANUFACTURER FOR  
10 CREDIT LESS THE APPROPRIATE DISCOUNT PAID.

11 (9) EXCEPT AS PROVIDED IN SUBSECTION (10), A WHOLESALER OR  
12 UNCLASSIFIED ACQUIRER SHALL NOT GIVE, SELL, OR LEND ANY UNAFFIXED  
13 STAMPS TO ANOTHER PERSON AND EXCEPT AS OTHERWISE PROVIDED IN THIS  
14 ACT, A PERSON SHALL NOT ACCEPT, PURCHASE, OR BORROW ANY UNAFFIXED  
15 STAMPS FROM ANOTHER PERSON.

16 (10) UPON WRITTEN AUTHORIZATION OF THE DEPARTMENT, A WHOLE-  
17 SALER OR UNCLASSIFIED ACQUIRER LICENSED UNDER THIS ACT MAY  
18 APPOINT A STAMPING AGENT TO AFFIX STAMPS TO INDIVIDUAL PACKAGES  
19 OF CIGARETTES.

20 SEC. 6B. (1) BEGINNING APRIL 15, 1998, A WHOLESALER OR  
21 UNCLASSIFIED ACQUIRER MAY OBTAIN STAMPS FROM THE DEPARTMENT AND  
22 SHALL REMIT THE UNPAID BALANCE OF THE TAX AT THE TIME OF FILING  
23 THE RETURN PROVIDED IN SECTION 7 AT A DISCOUNT FROM THE FACE  
24 AMOUNT OF THE STAMPS AS PROVIDED IN SECTION 7(3). IF THE DEPART-  
25 MENT DETERMINES THAT A WHOLESALER OR UNCLASSIFIED ACQUIRER IS NOT  
26 FINANCIALLY SOUND, THE DEPARTMENT SHALL ISSUE STAMPS ONLY IF 1 OF  
27 THE FOLLOWING IS MET:

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20

1 (A) ON THE FILING WITH THE DEPARTMENT OF A BOND OR OTHER  
2 SECURITY AS DETERMINED BY THE DEPARTMENT IN AN AMOUNT TO BE  
3 DETERMINED BY THE DEPARTMENT.

4 (B) THE DEPARTMENT REQUIRES RETURNS AND PAYMENTS TO BE MADE  
5 MORE FREQUENTLY THAN PROVIDED IN SECTION 7.

6 (C) THE DEPARTMENT REQUIRES THE WHOLESALER OR UNCLASSIFIED  
7 ACQUIRER TO PAY FOR THE STAMPS AT THE TIME OF OBTAINING THEM,  
8 LESS A DISCOUNT FROM THE FACE AMOUNT OF THE STAMPS EQUAL TO THE  
9 DISCOUNT PROVIDED IN SECTION 7(3).

10 (2) THE DEPARTMENT SHALL NOT ISSUE ANY STAMPS TO A WHOLE-  
11 SALER OR UNCLASSIFIED ACQUIRER WHO IS DELINQUENT IN PAYING THE  
12 TAX UNDER THIS ACT.

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

15 (a) For cigars, noncigarette smoking tobacco, and smokeless  
16 tobacco, 16% of the wholesale price.

17 (b) For cigarettes, ~~if the sales tax is levied at a rate of~~  
18 ~~4% under the general sales tax act, Act No. 167 of the Public~~  
19 ~~Acts of 1933, being sections 205.51 to 205.78 of the Michigan~~  
20 ~~Compiled Laws, 20~~ 37.5 mills per cigarette.

21 ~~-(c) For cigarettes, if the sales tax is levied at a rate of~~  
22 ~~6% under the general sales tax act, Act No. 167 of the Public~~  
23 ~~Acts of 1933, being sections 205.51 to 205.78 of the Michigan~~  
24 ~~Compiled Laws, 37.5 mills per cigarette.~~

25 (2) On or before the twentieth day of each calendar month,  
26 every licensee under section 3 other than a retailer, secondary  
27 wholesaler, UNCLASSIFIED ACQUIRER LICENSED AS A MANUFACTURER, or

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21

1 vending machine operator shall file a return with the department  
2 stating the ~~amount~~ WHOLESale PRICE of each tobacco product  
3 ~~sold and specifying~~ OTHER THAN CIGARETTES PURCHASED, THE QUAN-  
4 TITY OF CIGARETTES PURCHASED, the wholesale price charged for all  
5 tobacco products OTHER THAN CIGARETTES SOLD, THE NUMBER OF INDI-  
6 VIDUAL PACKAGES OF CIGARETTES AND THE NUMBER OF CIGARETTES IN  
7 THOSE INDIVIDUAL PACKAGES, AND THE NUMBER AND DENOMINATIONS OF  
8 STAMPS AFFIXED TO INDIVIDUAL PACKAGES OF CIGARETTES sold by the  
9 licensee for each place of business in the preceding calendar  
10 month. THE RETURN SHALL ALSO INCLUDE THE NUMBER AND DENOMINATION  
11 OF UNAFFIXED STAMPS IN THE POSSESSION OF THE LICENSEE AT THE END  
12 OF THE PRECEDING CALENDAR MONTH. WHOLESALERS SHALL ALSO REPORT  
13 ACCURATE INVENTORIES OF CIGARETTES, BOTH STAMPED AND UNSTAMPED AT  
14 THE END OF THE PRECEDING CALENDAR MONTH. WHOLESALERS AND UNCLAS-  
15 SIFIED ACQUIRERS SHALL ALSO REPORT ACCURATE INVENTORIES OF  
16 AFFIXED AND UNAFFIXED STAMPS BY DENOMINATION AT THE BEGINNING AND  
17 END OF EACH CALENDAR MONTH AND ALL STAMPS ACQUIRED DURING THE  
18 PRECEDING CALENDAR MONTH. The return shall be signed under pen-  
19 alty of perjury. The return shall be on a form prescribed by the  
20 department and shall contain or be accompanied by any further  
21 information the department requires.

22 (3) ~~At~~ TO COVER THE COST OF EXPENSES INCURRED IN THE  
23 ADMINISTRATION OF THIS ACT, AT the time of the filing of the  
24 return, the licensee shall pay to the department the tax levied  
25 in subsection (1) for tobacco products sold during the calendar  
26 month covered by the return, less compensation equal to ~~1%~~ BOTH  
27 OF THE FOLLOWING:

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22

1 (A) ONE PERCENT of the total amount of the tax due ~~to cover~~  
2 ~~the cost of expenses incurred in the administration of this act~~  
3 ON TOBACCO PRODUCTS SOLD OTHER THAN CIGARETTES.

4 (B) ONE AND ONE-FOURTH PERCENT OF THE TOTAL AMOUNT OF THE  
5 TAX DUE ON CIGARETTES SOLD.

6 (4) Every licensee and retailer who, on May 1, 1994, has on  
7 hand for sale any cigarettes acquired after February 1, 1994 upon  
8 which a tax has been paid pursuant to ~~Act No. 265 of the Public~~  
9 ~~Acts of 1947, being sections 205.501 to 205.522 of the Michigan~~  
10 ~~Compiled Laws,~~ FORMER 1947 PA 265 shall file a complete inven-  
11 tory of those cigarettes before June 1, 1994 and shall pay to the  
12 department at the time of filing this inventory a tax equal to  
13 the difference between the tax imposed in subsection (1) and the  
14 tax that has been paid pursuant to ~~Act No. 265 of the Public~~  
15 ~~Acts of 1947~~ FORMER 1947 PA 265.

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

22 (6) An abatement or refund of the tax provided by this act  
23 may be made by the department for causes the department considers  
24 expedient. The department shall certify the amount and the state  
25 treasurer shall pay that amount out of the proceeds of the tax.

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23

1 (7) A person liable for the tax may reimburse itself by  
2 adding to the price of the tobacco products an amount equal to  
3 the tax levied under this act.

4 (8) A WHOLESALER, UNCLASSIFIED ACQUIRER, OR OTHER PERSON  
5 SHALL NOT SELL OR TRANSFER ANY UNAFFIXED STAMPS ACQUIRED BY THE  
6 WHOLESALER OR UNCLASSIFIED ACQUIRER FROM THE DEPARTMENT. A  
7 WHOLESALER OR UNCLASSIFIED ACQUIRER WHO HAS ANY UNAFFIXED STAMPS  
8 ON HAND AT THE TIME ITS LICENSE IS REVOKED OR EXPIRES, OR AT THE  
9 TIME IT DISCONTINUES THE BUSINESS OF SELLING CIGARETTES, SHALL  
10 RETURN THOSE STAMPS TO THE DEPARTMENT. THE DEPARTMENT SHALL  
11 REFUND THE VALUE OF THE STAMPS, LESS THE APPROPRIATE DISCOUNT  
12 PAID.

13 (9) IF THE WHOLESALER OR UNCLASSIFIED ACQUIRER HAS UNSALABLE  
14 PACKS RETURNED FROM A RETAILER, SECONDARY WHOLESALER, VENDING  
15 MACHINE OPERATOR, WHOLESALER, OR UNCLASSIFIED ACQUIRER WITH  
16 STAMPS AFFIXED, THE DEPARTMENT SHALL REFUND THE AMOUNT OF THE TAX  
17 LESS THE APPROPRIATE DISCOUNT PAID. IF THE WHOLESALER OR UNCLAS-  
18 SIFIED ACQUIRER HAS UNAFFIXED UNSALABLE STAMPS, THE DEPARTMENT  
19 SHALL EXCHANGE WITH THE WHOLESALER OR UNCLASSIFIED ACQUIRER NEW  
20 STAMPS IN THE SAME QUANTITY AS THE UNAFFIXED UNSALABLE STAMPS.  
21 AN APPLICATION FOR REFUND OF THE TAX SHALL BE FILED ON A FORM  
22 PRESCRIBED BY THE DEPARTMENT FOR THAT PURPOSE, WITHIN 4 YEARS  
23 FROM THE DATE THE STAMPS WERE ORIGINALLY ACQUIRED FROM THE  
24 DEPARTMENT. A WHOLESALER OR UNCLASSIFIED ACQUIRER SHALL MAKE  
25 AVAILABLE FOR INSPECTION BY THE DEPARTMENT THE UNUSED OR SPOILED  
26 STAMPS AND THE STAMPS AFFIXED TO UNSALABLE INDIVIDUAL PACKAGES OF  
27 CIGARETTES. THE DEPARTMENT MAY, AT ITS OWN DISCRETION, WITNESS

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24

1 AND CERTIFY THE DESTRUCTION OF THE UNUSED OR SPOILED STAMPS AND  
2 UNSALABLE INDIVIDUAL PACKAGES OF CIGARETTES THAT ARE NOT RETURN-  
3 ABLE TO THE MANUFACTURER. THE WHOLESALER OR UNCLASSIFIED  
4 ACQUIRER SHALL PROVIDE CERTIFICATION FROM THE MANUFACTURER FOR  
5 ANY UNSALABLE INDIVIDUAL PACKAGES OF CIGARETTES THAT ARE RETURNED  
6 TO THE MANUFACTURER.

7 (10) ON OR BEFORE THE TWENTIETH OF EACH MONTH, EACH MANUFAC-  
8 TURER SHALL FILE A REPORT WITH THE DEPARTMENT LISTING ALL SALES  
9 OF TOBACCO PRODUCTS TO WHOLESALERS AND UNCLASSIFIED ACQUIRERS  
10 DURING THE PRECEDING CALENDAR MONTH AND ANY OTHER INFORMATION THE  
11 DEPARTMENT FINDS NECESSARY FOR THE ADMINISTRATION OF THIS ACT.  
12 THIS REPORT SHALL BE IN THE FORM AND MANNER SPECIFIED BY THE  
13 DEPARTMENT.

14 (11) EACH WHOLESALER OR UNCLASSIFIED ACQUIRER SHALL SUBMIT  
15 TO THE DEPARTMENT AN UNSTAMPED CIGARETTE SALES REPORT ON OR  
16 BEFORE THE TWENTIETH DAY OF EACH MONTH COVERING THE SALE, DELIV-  
17 ERY, OR DISTRIBUTION OF UNSTAMPED CIGARETTES DURING THE PRECEDING  
18 CALENDAR MONTH TO POINTS OUTSIDE OF MICHIGAN. A SEPARATE SCHED-  
19 ULE SHALL BE FILED FOR EACH STATE, COUNTRY, OR PROVINCE INTO  
20 WHICH SHIPMENTS ARE MADE. FOR PURPOSES OF THE REPORT DESCRIBED  
21 IN THIS SUBSECTION, "UNSTAMPED CIGARETTES" MEANS INDIVIDUAL PACK-  
22 AGES OF CIGARETTES THAT DO NOT BEAR A MICHIGAN STAMP. THE  
23 DEPARTMENT MAY PROVIDE THE INFORMATION CONTAINED IN THIS REPORT  
24 TO A PROPER OFFICER OF ANOTHER STATE, COUNTRY, OR PROVINCE RECIPI-  
25 ROCATING IN THIS PRIVILEGE.

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25

1           SEC. 7A. IT IS THE INTENT OF THIS ACT TO IMPOSE THE TAX  
2 LEVIED UNDER THIS ACT UPON THE CONSUMER OF THE TOBACCO PRODUCTS  
3 BY REQUIRING THE CONSUMER TO PAY THE TAX AT THE SPECIFIED RATE.

4           Sec. 8. (1) ~~Beginning May 1, 1994, a~~ A person, other than  
5 a licensee, who is in control or in possession of a tobacco pro-  
6 duct contrary to this act, WHO AFTER AUGUST 31, 1998 IS IN CON-  
7 TROL OR IN POSSESSION OF AN INDIVIDUAL PACKAGE OF CIGARETTES  
8 WITHOUT A STAMP IN VIOLATION OF THIS ACT, or who offers to sell  
9 or does sell a tobacco product to another for purposes of resale  
10 without being licensed to do so under this act, ~~shall be consid-~~  
11 ~~ered to have possession of that tobacco product as an unclassi-~~  
12 ~~fied acquirer and~~ shall be personally liable for the tax imposed  
13 by this act, plus a penalty of 100% of the amount of tax due  
14 under this act.

15           (2) THE COMMISSIONER OF REVENUE MAY PERMIT A REPRESENTATIVE  
16 OF A LICENSED MANUFACTURER OF TOBACCO PRODUCTS WHOSE DUTIES  
17 REQUIRE TRAVEL IN THIS STATE TO TRANSPORT UP TO 138,000 CIGA-  
18 RETTES, OF WHICH NOT MORE THAN 36,000 CIGARETTES MAY BEAR NO TAX  
19 INDICIA OR THE TAX INDICIA OF ANOTHER STATE. ALL 138,000 CIGA-  
20 RETTES MUST BEAR THE STAMP APPROVED BY THE DEPARTMENT OR THE TAX  
21 INDICIA OF ANOTHER STATE, IF ANY. THE TOTAL VALUE OF TOBACCO  
22 PRODUCTS, EXCLUDING CIGARETTES, CARRIED BY A REPRESENTATIVE SHALL  
23 NOT EXCEED A WHOLESALE VALUE OF \$5,000.00. A MANUFACTURER SHALL  
24 NOTIFY THE DEPARTMENT OF THE MANUFACTURER'S REPRESENTATIVES THAT  
25 IT CURRENTLY EMPLOYS WHO CARRY CIGARETTES OR TOBACCO PRODUCTS  
26 OTHER THAN CIGARETTES IN PERFORMING WORK DUTIES IN THIS STATE.  
27 THE MANUFACTURER SHALL MAINTAIN A RECORD OF EACH TRANSACTION BY

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26

1 THE MANUFACTURER'S REPRESENTATIVE FOR A PERIOD OF 4 YEARS  
2 IMMEDIATELY FOLLOWING THE TRANSACTION AND SHALL PRODUCE THE  
3 RECORDS UPON REQUEST OF THE COMMISSIONER OR THE COMMISSIONER'S  
4 AUTHORIZED AGENT. EACH RECORD SHALL IDENTIFY THE QUANTITY AND  
5 IDENTITY OF THE TOBACCO PRODUCTS, DETAIL WHETHER EXCHANGED,  
6 RECEIVED, REMOVED, OR OTHERWISE DISPOSED OF AND THE IDENTITY OF  
7 THE RETAILER, WHOLESALER, SECONDARY WHOLESALER, VENDING MACHINE  
8 OPERATOR, OR UNCLASSIFIED ACQUIRER INVOLVED. THE REPRESENTATIVE  
9 OF THE MANUFACTURER SHALL PROVIDE A COPY OF THE RECORD TO THE  
10 RETAILER, WHOLESALER, SECONDARY WHOLESALER, VENDING MACHINE OPER-  
11 ATOR, OR UNCLASSIFIED ACQUIRER AT THE TIME OF THE EXCHANGE OR  
12 DISPOSAL. THE RETAILER, WHOLESALER, SECONDARY WHOLESALER, VEND-  
13 ING MACHINE OPERATOR, OR UNCLASSIFIED ACQUIRER SHALL RETAIN THE  
14 COPY OF THE RECORD IN THE SAME PLACE AND FOR THE SAME TIME PERIOD  
15 AS OTHER RECORDS REQUIRED BY THIS SECTION. A REPRESENTATIVE  
16 SHALL NOT EXCHANGE, OR OTHERWISE DISPOSE OF, WITHIN THIS STATE  
17 TOBACCO PRODUCTS BEARING THE TAX INDICIA OF ANOTHER STATE OR  
18 RECEIVE TOBACCO PRODUCTS BEARING THE TAX INDICIA OF ANOTHER STATE  
19 FROM RETAILERS LOCATED WITHIN THIS STATE. A REPRESENTATIVE WHO  
20 SELLS, EXCHANGES, OR OTHERWISE DISPOSES OF CIGARETTES OR TOBACCO  
21 PRODUCTS OTHER THAN CIGARETTES THAT DO NOT BEAR THE STAMP OR  
22 OTHER MARKING REQUIRED BY THE DEPARTMENT OR SELLS, EXCHANGES, OR  
23 OTHERWISE DISPOSES OF CIGARETTES OR TOBACCO PRODUCTS OTHER THAN  
24 CIGARETTES BEARING THE TAX INDICIA OF ANOTHER STATE IS GUILTY OF  
25 A FELONY, PUNISHABLE BY A FINE OF NOT MORE THAN \$5,000.00 OR  
26 IMPRISONMENT FOR NOT MORE THAN 5 YEARS, OR BOTH.

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27

1           (3) ~~(2)~~ A person who possesses, acquires, transports, or  
2 offers for sale contrary to this act 3,000 OR MORE CIGARETTES OR  
3 tobacco products ~~whose~~ OTHER THAN CIGARETTES WITH AN AGGREGATE  
4 wholesale price ~~is \$50.00~~ OF \$250.00 or more is guilty of a  
5 felony, punishable by a fine of not more than ~~\$5,000.00~~  
6 \$50,000.00 or imprisonment for not more than 5 years, or both.

7           (4) A PERSON WHO POSSESSES, ACQUIRES, TRANSPORTS, OR OFFERS  
8 FOR SALE CONTRARY TO THIS ACT 1,200 OR MORE, BUT NOT MORE THAN  
9 2,999, CIGARETTES OR TOBACCO PRODUCTS OTHER THAN CIGARETTES WITH  
10 AN AGGREGATE WHOLESALE VALUE OF \$100.00 OR MORE BUT LESS THAN  
11 \$250.00, IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT  
12 MORE THAN \$5,000.00 OR IMPRISONMENT OF NOT MORE THAN 1 YEAR, OR  
13 BOTH.

14           (5) ~~(3) Beginning May 1, 1994, a~~ A person who violates a  
15 provision of this act for which a criminal punishment is not oth-  
16 erwise provided is guilty of a misdemeanor, punishable by a fine  
17 of not more than \$1,000.00 or imprisonment for not more than 1  
18 year, or both.

19           (6) A PERSON WHO MANUFACTURES, POSSESSES, OR USES A STAMP OR  
20 MANUFACTURES, POSSESSES, OR USES A COUNTERFEIT STAMP OR WRITING  
21 OR DEVICE INTENDED TO REPLICATE A STAMP WITHOUT AUTHORIZATION OF  
22 THE DEPARTMENT, OR A LICENSEE WHO PURCHASES OR OBTAINS A STAMP  
23 FROM ANY PERSON OTHER THAN THE DEPARTMENT, IS GUILTY OF A FELONY  
24 AND SHALL BE PUNISHED BY IMPRISONMENT FOR NOT LESS THAN 1 YEAR OR  
25 MORE THAN 10 YEARS AND MAY BE PUNISHED BY A FINE OF NOT MORE THAN  
26 \$50,000.00.

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1           (7) A PERSON WHO FALSELY MAKES, COUNTERFEITS, OR ALTERS A  
2 LICENSE, VENDING MACHINE DISC, OR MARKER, OR WHO PURCHASES OR  
3 RECEIVES A FALSE OR ALTERED LICENSE, VENDING MACHINE DISC, OR  
4 MARKER, OR WHO ASSISTS IN OR CAUSES TO BE MADE A FALSE OR ALTERED  
5 LICENSE, VENDING MACHINE DISC, OR MARKER, OR WHO POSSESSES A  
6 DEVICE USED TO FORGE, ALTER, OR COUNTERFEIT A LICENSE, VENDING  
7 MACHINE DISC, OR MARKER IS GUILTY OF A FELONY PUNISHABLE BY A  
8 FINE OF NOT MORE THAN \$5,000.00 OR IMPRISONMENT FOR NOT MORE THAN  
9 5 YEARS, OR BOTH. A PERSON WHO ALTERS OR FALSIFIES RECORDS OR  
10 MARKINGS REQUIRED UNDER THIS ACT IS GUILTY OF A FELONY PUNISHABLE  
11 BY A FINE OF NOT MORE THAN \$5,000.00 OR IMPRISONMENT FOR NOT MORE  
12 THAN 5 YEARS, OR BOTH.

13           (8) ~~-(4)-~~ The attorney general has concurrent power with the  
14 prosecuting attorneys of the state to enforce this act.

15           (9) ~~-(5)-~~ At the request of the department or its duly  
16 authorized agent, the state police and all local police authori-  
17 ties shall enforce the provisions of this act.

18           Sec. 9. (1) A tobacco product held, owned, possessed,  
19 transported, or in control of a person in violation of this act,  
20 and a vending machine, vehicle, and other tangible personal prop-  
21 erty containing a tobacco product in violation of this act AND  
22 ANY RELATED BOOKS AND RECORDS are contraband and may be seized  
23 and confiscated by the department as provided in this section.

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

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1 penalty is a felony, the inspector or police officer may  
2 investigate or search the vehicle of transportation in which the  
3 tobacco product is believed to be located. If a tobacco product  
4 is found in ~~the~~ A vehicle SEARCHED UNDER THIS SUBSECTION OR IN  
5 A PLACE OF BUSINESS INSPECTED UNDER THIS ACT, the tobacco pro-  
6 duct, vending machine, vehicle, or other tangible personal prop-  
7 erty containing those tobacco products and any books and records  
8 in possession of the person in control or possession of the  
9 tobacco product may be seized by the inspector or police officer  
10 and are subject to forfeiture as contraband as provided in this  
11 section.

12 (3) As soon as possible, but not more than 5 business days  
13 after seizure of any alleged contraband, the person making the  
14 seizure shall deliver personally or by registered mail to the  
15 last known address of the person from whom the seizure was made,  
16 if known, an inventory statement of the property seized. A copy  
17 of the inventory statement shall also be filed with the  
18 commissioner. The inventory statement shall also contain a  
19 notice to the effect that unless demand for hearing as provided  
20 in this section is made within 10 business days, the designated  
21 property is forfeited to the state. If the person from whom the  
22 seizure was made is not known, the person making the seizure  
23 shall cause a copy of the inventory statement, together with the  
24 notice provided for in this subsection, to be published at least  
25 3 times in a newspaper of general circulation in the county where  
26 the seizure was made. Within 10 business days after the date of  
27 service of the inventory statement, or in the case of

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1 publication, within 10 business days after the date of last  
2 publication, the person from whom the property was seized or any  
3 person claiming an interest in the property may by registered  
4 mail, facsimile transmission, or personal service file with the  
5 commissioner a demand for a hearing before the commissioner or a  
6 person designated by the commissioner for a determination as to  
7 whether the property was lawfully subject to seizure and  
8 forfeiture. The person shall verify a request for hearing filed  
9 by facsimile transmission by also providing a copy of the origi-  
10 nal request for hearing by registered mail or personal service.  
11 The person or persons are entitled to appear before the depart-  
12 ment, to be represented by counsel, and to present testimony and  
13 argument. Upon receipt of a request for hearing, the department  
14 shall hold the hearing within 15 business days. The hearing is  
15 not a contested case proceeding and is not subject to the admin-  
16 istrative procedures act of 1969, ~~Act No. 306 of the Public Acts~~  
17 ~~of 1969, being sections 24.201 to 24.328 of the Michigan Compiled~~  
18 ~~Laws~~ 1969 PA 306, MCL 24.201 TO 24.328. After the hearing, the  
19 department shall render its decision in writing within 10 busi-  
20 ness days of the hearing and, by order, shall either declare the  
21 seized property subject to seizure and forfeiture, or declare the  
22 property returnable in whole or in part to the person entitled to  
23 possession. If, within 10 business days after the date of serv-  
24 ice of the inventory statement, the person from whom the property  
25 was seized or any person claiming an interest in the property  
26 does not file with the commissioner a demand for a hearing before  
27 the department, the property seized shall be considered forfeited

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1 to the state by operation of law and may be disposed of by the  
2 department as provided in this section. If, after a hearing  
3 before the commissioner or person designated by the commissioner,  
4 the department determines that the property is lawfully subject  
5 to seizure and forfeiture and the person from whom the property  
6 was seized or any persons claiming an interest in the property do  
7 not take an appeal to the circuit court of the county in which  
8 the seizure was made within the time prescribed in this section,  
9 the property seized shall be considered forfeited to the state by  
10 operation of law and may be disposed of by the department as pro-  
11 vided in this section.

12 (4) If a person is aggrieved by the decision of the depart-  
13 ment, that person may appeal to the circuit court of the county  
14 where the seizure was made to obtain a judicial determination of  
15 the lawfulness of the seizure and forfeiture. The action shall  
16 be commenced within 20 days after notice of the department's  
17 determination is sent to the person or persons claiming an inter-  
18 est in the seized property. The court shall hear the action and  
19 determine the issues of fact and law involved in accordance with  
20 rules of practice and procedure as in other in rem proceedings.  
21 If a judicial determination of the lawfulness of the seizure and  
22 forfeiture cannot be made before deterioration of any of the  
23 property seized, the court shall order the sale of the property  
24 with public notice as determined by the court and require the  
25 proceeds to be deposited with the court until the lawfulness of  
26 the seizure and forfeiture is finally adjudicated.

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1 (5) The department may sell a tobacco product or other  
2 property forfeited pursuant to this section at public sale.  
3 Public notice of the sale shall be given at least 5 days before  
4 the day of sale. THE DEPARTMENT MAY PAY AN AMOUNT NOT TO EXCEED  
5 25% OF THE PROCEEDS OF THE SALE TO THE LOCAL GOVERNMENTAL UNIT  
6 WHOSE LAW ENFORCEMENT AGENCY PERFORMED THE SEIZURE. The BALANCE  
7 OF THE proceeds derived from the sale by the department shall be  
8 credited to the general fund of the state.

9 (6) The seizure and sale of a tobacco product or other prop-  
10 erty under this section does not relieve a person from a fine,  
11 imprisonment, or other penalty for violation of this act.

12 (7) A person who is not an employee or officer of this state  
13 or a political subdivision of this state who furnishes to the  
14 department or to any law enforcement agency original information  
15 concerning a violation of this act, which information results in  
16 the collection and recovery of any tax or penalty or leads to the  
17 forfeiture of any cigarettes, or other property, may be awarded  
18 and paid by the state treasurer upon the certification of the  
19 commissioner, compensation of not more than 10% of the net amount  
20 received from the sale of any forfeited cigarettes or other prop-  
21 erty, but not to exceed \$5,000.00 which shall be paid out of the  
22 receipts from the sale of the property. IF ANY AMOUNT IS ISSUED  
23 TO THE LOCAL GOVERNMENTAL UNIT UNDER SUBSECTION (5), THE AMOUNT  
24 AWARDED UNDER THIS SUBSECTION TO A PERSON WHO PROVIDES ORIGINAL  
25 INFORMATION THAT RESULTS IN A SEIZURE OF CIGARETTES OR OTHER  
26 PROPERTY BY A LOCAL LAW ENFORCEMENT AGENCY SHALL BE PAID FROM  
27 THAT AMOUNT ISSUED UNDER SUBSECTION (5). If in the opinion of the

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1 attorney general, the commissioner, and the director of the  
2 department of state police it is deemed necessary to preserve the  
3 identity of the person furnishing the information, the attorney  
4 general, the commissioner, and the director of the department of  
5 state police shall file with the state treasurer an affidavit  
6 setting forth that necessity and a warrant may be issued jointly  
7 to the attorney general, the commissioner, and the director of  
8 the department of state police. Upon payment to the person fur-  
9 nishing that information, the attorney general, the commissioner,  
10 and the director of the department of state police shall file  
11 with the state treasurer an affidavit that the money has been by  
12 them paid to the person entitled to the money under this  
13 section.

14 (8) BEGINNING SEPTEMBER 1, 1998, IF A RETAILER POSSESSES OR  
15 SELLS CIGARETTES ON WHICH THE TAX IMPOSED UNDER THIS ACT HAS NOT  
16 BEEN PAID OR ACCRUED TO A WHOLESALER, SECONDARY WHOLESALER, OR  
17 UNCLASSIFIED ACQUIRER LICENSED UNDER THIS ACT, THE RETAILER SHALL  
18 BE PROHIBITED FROM PURCHASING, POSSESSING, OR SELLING ANY CIGA-  
19 RETTES OR OTHER TOBACCO PRODUCTS AS FOLLOWS:

20 (A) FOR A FIRST VIOLATION, FOR A PERIOD OF NOT MORE THAN 6  
21 MONTHS.

22 (B) FOR A SECOND VIOLATION WITHIN A PERIOD OF 5 YEARS, FOR A  
23 PERIOD OF AT LEAST 6 MONTHS AND NOT MORE THAN 36 MONTHS.

24 (C) FOR A THIRD OR SUBSEQUENT VIOLATION WITHIN A PERIOD OF 5  
25 YEARS, FOR A PERIOD OF AT LEAST 1 YEAR AND NOT MORE THAN 5  
26 YEARS.

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1           (9) THE PROHIBITION DESCRIBED IN SUBSECTION (8) SHALL BE  
2 EFFECTIVE UPON SERVICE BY CERTIFIED MAIL OR PERSONAL SERVICE ON  
3 THE RETAILER OF NOTICE ISSUED BY THE DEPARTMENT ORDERING THE  
4 RETAILER TO CEASE ALL SALES AND PURCHASES OF CIGARETTES AND OTHER  
5 TOBACCO PRODUCTS. UPON RECEIPT OF THIS NOTICE, THE RETAILER MAY  
6 RETURN ANY TOBACCO PRODUCTS IN THE POSSESSION OF THE RETAILER  
7 UPON WHICH THE TAX IMPOSED BY THIS ACT HAS BEEN PAID OR ACCRUED  
8 TO A WHOLESALER, SECONDARY WHOLESALER, OR UNCLASSIFIED ACQUIRER  
9 LICENSED UNDER THIS ACT. THE DEPARTMENT SHALL NOTIFY ALL  
10 LICENSED WHOLESALERS, MANUFACTURERS, SECONDARY WHOLESALERS, VEND-  
11 ING MACHINE OPERATORS, AND UNCLASSIFIED ACQUIRERS OF ANY RETAILER  
12 WHO HAS BEEN PROHIBITED FROM PURCHASING CIGARETTES OR OTHER  
13 TOBACCO PRODUCTS AND THE DURATION OF THE PROHIBITION. A WHOLE-  
14 SALER, SECONDARY WHOLESALER, OR UNCLASSIFIED ACQUIRER SHALL NOT  
15 SELL CIGARETTES OR OTHER TOBACCO PRODUCTS TO A RETAILER AFTER  
16 RECEIPT OF NOTICE FROM THE DEPARTMENT THAT THE RETAILER IS PRO-  
17 HIBITED FROM PURCHASING TOBACCO PRODUCTS. ANY CIGARETTES OR  
18 OTHER TOBACCO PRODUCTS FOUND ON THE PREMISES OF THE RETAILER  
19 DURING THE PERIOD OF PROHIBITION SHALL BE CONSIDERED CONTRABAND  
20 AND SUBJECT TO SEIZURE UNDER THIS SECTION, AND SHALL CONSTITUTE  
21 AN ADDITIONAL IMPROPER POSSESSION UNDER THIS SUBSECTION. THE  
22 RETAILER MAY CONTEST THE ORDER PROHIBITING PURCHASE, POSSESSION,  
23 OR SALE OF TOBACCO PRODUCTS IN ACCORDANCE WITH THE APPEAL PROCE-  
24 DURES AND TIME LIMITS PROVIDED IN SUBSECTION (3) OF THIS  
25 SECTION. AFTER COMPLETION OF THE APPEALS PROVIDED OR UPON EXPI-  
26 RATION OF THE PERIOD TO REQUEST SUCH APPEAL, THE DEPARTMENT SHALL  
27 ISSUE A FINAL ORDER AND MAKE SERVICE UPON THE RETAILER OF AN

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1 ORDER TO CEASE ALL PURCHASES, POSSESSION, AND SALE OF ALL  
2 CIGARETTES AND OTHER TOBACCO PRODUCTS FOR A SPECIFIED PERIOD AS  
3 APPROPRIATE. THIS ORDER DOES NOT RELIEVE THE RETAILER FROM SEI-  
4 ZURE AND SALE OF A TOBACCO PRODUCT OR OTHER PROPERTY UNDER THIS  
5 SECTION, OR RELIEVE THE RETAILER FROM A FINE, IMPRISONMENT, OR  
6 OTHER PENALTY FOR VIOLATION OF THIS ACT.

7       Sec. 12. (1) The proceeds derived from the payment of  
8 taxes, fees, and penalties provided for under this act and the  
9 license fees received by the department shall be deposited with  
10 the state treasurer and disbursed only as provided in this  
11 section.

12       (2) The ~~proceeds of the~~ tax imposed under section 7 (1)(a)  
13 shall be DISBURSED AS FOLLOWS:

14       (A) 94% 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% OF THE PROCEEDS SHALL BE CREDITED TO THE HEALTHY  
18 MICHIGAN FUND CREATED UNDER SECTION 5953 OF THE PUBLIC HEALTH  
19 CODE, 1978 PA 368, MCL 333.5953.

20       ~~(3) If the sales tax is levied at a rate of 4% under the~~  
21 ~~general sales tax act, Act No. 167 of the Public Acts of 1933,~~  
22 ~~the tax imposed on cigarettes pursuant to section 7(1)(b) shall~~  
23 ~~be disbursed as follows:~~

24       ~~(a) The proceeds of 1.5 mills shall be credited to the~~  
25 ~~health and safety fund created in the health and safety fund act,~~  
26 ~~Act No. 264 of the Public Acts of 1987, being sections 141.471 to~~  
27 ~~141.479 of the Michigan Compiled Laws.~~

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1       ~~(b) The proceeds of 9.5 mills shall be credited to the~~  
2 ~~general fund of this state.~~

3       ~~(c) The proceeds of 8.5 mills shall be credited to the state~~  
4 ~~school aid fund established by section 11 of article IX of the~~  
5 ~~state constitution of 1963.~~

6       ~~(d) The proceeds of .5 mills shall be distributed to city,~~  
7 ~~district, and county health departments created pursuant to~~  
8 ~~sections 2413, 2415, and 2421 of the public health code, Act~~  
9 ~~No. 368 of the Public Acts of 1978, being sections 333.2413,~~  
10 ~~333.2415, and 333.2421 of the Michigan Compiled Laws, on a per~~  
11 ~~capita basis according to the most recent federal decennial~~  
12 ~~census. The distribution under this subdivision shall be used~~  
13 ~~only for public health prevention programs and services. This~~  
14 ~~distribution is in addition to and is not intended as a replace-~~  
15 ~~ment for any other state payments to these local health~~  
16 ~~departments.~~

17       ~~(3) (4) If the sales tax is levied at a rate of 6% under~~  
18 ~~the general sales tax act, Act No. 167 of the Public Acts of~~  
19 ~~1933, being sections 205.51 to 205.78 of the Michigan Compiled~~  
20 ~~Laws, the~~ THE tax imposed on cigarettes pursuant to section  
21 ~~7(1)(c)~~ 7(1)(B) shall be disbursed as follows:

22       ~~(a) 4%~~ BEGINNING MAY 1, 1994, 5.3% of the proceeds shall  
23 be credited to the health and safety fund created in the health  
24 and safety fund act, ~~Act No. 264 of the Public Acts of 1987,~~  
25 ~~being sections 141.471 to 141.479 of the Michigan Compiled Laws~~  
26 1987 PA 264, MCL 141.471 TO 141.479.

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1 (b) 25.3% of the proceeds shall be credited to the general  
2 fund of this state.

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

6 ~~(d) 1.3% of the proceeds shall be distributed to city, dis-~~  
7 ~~trict, and county health departments created pursuant to~~  
8 ~~sections 2413, 2415, and 2421 of the public health code, Act~~  
9 ~~No. 368 of the Public Acts of 1978, being sections 333.2413,~~  
10 ~~333.2415, and 333.2421 of the Michigan Compiled Laws, on a per~~  
11 ~~capita basis according to the most recent federal decennial~~  
12 ~~census. The distribution under this subdivision shall be used~~  
13 ~~only for public health prevention programs and services. This~~  
14 ~~distribution is in addition to and is not intended as a replace-~~  
15 ~~ment for any other state payments to these local health~~  
16 ~~departments.~~

17 (D) ~~(e) 6% of the proceeds shall be dedicated to improv-~~  
18 ~~ing the health care of the residents of this state~~ CREDITED TO  
19 THE HEALTHY MICHIGAN FUND CREATED UNDER SECTION 5953 OF THE  
20 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.5953.

21 (4) ~~(5)~~ The proceeds of the fees and penalties provided  
22 for in this act shall be used for the administration of this  
23 act.

24 Enacting section 1. (1) Sections 6, 7, and 8 of the tobacco  
25 products tax act, 1993 PA 327, MCL 205.426, 205.427, and 205.428,  
26 as amended by this amendatory act, take effect April 15, 1998.

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1 (2) Section 6b of the tobacco products tax act, 1993 PA 327,  
2 as added by this amendatory act, takes effect April 15, 1998.