

Taxation; tobacco; fees; increase and replace revenue commissioner with state treasurer.

TAXATION: Tobacco; STATE AGENCIES (EXISTING): Treasury

A bill to amend 1993 PA 327, entitled "Tobacco products tax act," by amending sections 3 and 13 (MCL 205.423 and 205.433), section 3 as amended by 1997 PA 187 and section 13 as amended by 1995 PA 131.

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

1           Sec. 3. (1) Beginning May 1, 1994, a person shall not pur-  
2 chase, possess, acquire for resale, or sell a tobacco product as  
3 a manufacturer, wholesaler, secondary wholesaler, vending machine  
4 operator, unclassified acquirer, transportation company, or  
5 transporter in this state unless licensed to do so. A license  
6 granted under this act is not assignable.

7           (2) Upon proper application and the payment of the  
8 applicable fee, and subject to subsection (6), the department  
9 shall issue a license to each manufacturer, wholesaler, secondary

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

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

15 (a) A wholesaler's license, ~~-\$100.00~~ \$110.00.

16 (b) A secondary wholesaler's license, ~~-\$25.00~~ \$27.50.

17 (c) A license for vending machine operators, ~~-\$25.00~~  
18 \$27.50.

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

20 (i) State of Michigan, no fee.

21 (ii) Retail importer of tobacco products other than ciga-  
22 rettes, \$10.00.

23 (iii) Retail importer of cigarettes, ~~-\$100.00~~ \$110.00.

24 (iv) Vending machine operator buying direct from a manufac-  
25 turer, ~~-\$100.00~~ \$110.00.

26 (v) Manufacturer, ~~-\$100.00~~ \$110.00.

1 (vi) Any other importer, ~~-\$100.00~~ \$110.00.

2 (e) A transportation company's license, ~~-\$5.00~~ \$5.50.

3 (f) A transporter's license, ~~-\$50.00~~ \$55.00.

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

11 (5) A person shall not possess a machine for vending tobacco  
12 products for a period in excess of 72 hours unless there is a  
13 disc or marker attached as provided by this section. This  
14 requirement does not apply to a machine not containing a tobacco  
15 product. If a person possesses a vending machine containing a  
16 tobacco product that is not properly licensed or identified as  
17 required by this section, the department may seal or seize the  
18 machine, together with the tobacco products contained in the  
19 machine. The provisions of section 9 govern the seizure and sub-  
20 sequent disposition of a machine or tobacco product seized.

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

24 (a) The applicant's financial responsibility, including but  
25 not limited to, satisfactory proof of a minimum net worth of  
26 \$25,000.00.

1           (b) That the applicant owns, or has an executed lease for, a  
2 secure nonresidential facility for the purpose of receiving and  
3 distributing cigarettes and conducting its business if the appli-  
4 cant owns or has an executed lease for such a facility. If the  
5 applicant carries on another business in conjunction with the  
6 secure nonresidential facility, the other business shall also be  
7 identified.

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

14           (7) The department may require an applicant who is purchas-  
15 ing the business of a licensee to file a copy of the contract of  
16 sale and any related documents with its application. The depart-  
17 ment may require a licensee under this section to furnish a  
18 surety bond with a surety company authorized to do business in  
19 this state in an amount the department may fix, conditioned upon  
20 the payment of the tax provided by this act. The department may  
21 also require a licensee under this section to file a financial  
22 statement with the department showing all assets and liabilities  
23 and any other information the department may prescribe, to be  
24 filed within 30 days after the date requested. If there is a  
25 change of more than 50% of ownership or control or a change in  
26 the general partnership of a licensee, the department may require

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

3       Sec. 13. (1) The tax imposed by this act shall be adminis-  
4 tered ~~by the revenue commissioner pursuant to Act No. 122 of the~~  
5 ~~Public Acts of 1941, being sections 205.1 to 205.31 of the~~  
6 ~~Michigan Compiled Laws~~ UNDER 1941 PA 122, MCL 205.1 TO 205.31,  
7 and this act. In case of conflict between ~~Act No. 122 of the~~  
8 ~~Public Acts of 1941~~ 1941 PA 122, MCL 205.1 TO 205.31, and this  
9 act, the provisions of this act control.

10       (2) The ~~revenue commissioner~~ STATE TREASURER may promul-  
11 gate rules to implement this act ~~pursuant to~~ UNDER the adminis-  
12 trative procedures act of 1969, ~~Act No. 306 of the Public Acts~~  
13 ~~of 1969, being sections 24.201 to 24.328 of the Michigan Compiled~~  
14 ~~Laws~~ 1969 PA 306, MCL 24.201 TO 24.328.

15       (3) The department shall prescribe forms for use by  
16 taxpayers.

17       (4) The tax imposed by this act is in addition to all other  
18 taxes for which the taxpayer may be liable.

19       (5) The ~~commissioner~~ STATE TREASURER may appoint any  
20 ~~revenue division~~ DEPARTMENT OF TREASURY employee as a special  
21 investigator, who shall be vested with the power to arrest a  
22 person violating this act.