

SUBSTITUTE FOR  
HOUSE BILL NO. 5668

A bill to amend 1993 PA 327, entitled  
"Tobacco products tax act,"  
by amending sections 2, 8, 9, and 11 (MCL 205.422, 205.428,  
205.429, and 205.431), sections 2, 8, and 9 as amended by 1997 PA  
187.

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

1       Sec. 2. As used in this act:

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

7       (b) "Commissioner" means the ~~revenue commissioner~~ **state**  
8 **treasurer**.

9       (c) "Counterfeit cigarette" means a cigarette in an

1 individual package of cigarettes or other container with a false  
2 manufacturing label or a cigarette in an individual package of  
3 cigarettes or other container with a counterfeit stamp.

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

10 (e) ~~—(d)—~~ "Department" means the department of treasury.

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

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

16 (ii) Outstanding liabilities.

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

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

21 (g) ~~—(f)—~~ "Individual package" means an individual packet or  
22 pack used to contain or to convey cigarettes to the consumer.  
23 Individual package does not include cartons, cases, or shipping  
24 or storage containers that contain smaller packaging units of  
25 cigarettes.

26 (h) ~~—(g)—~~ "Licensee" means a person licensed under this act.

27 (i) ~~—(h)—~~ "Manufacturer" means a person who manufactures or

1 produces a tobacco product.

2       (j) ~~(i)~~ "Noncigarette smoking tobacco" means tobacco sold  
3 in loose or bulk form that is intended for consumption by smoking  
4 and includes roll-your-own cigarette tobacco.

5       (k) ~~(j)~~ "Person" means an individual, partnership,  
6 fiduciary, association, limited liability company, corporation,  
7 or other legal entity.

8       (l) ~~(k)~~ "Place of business" means a place where a tobacco  
9 product is sold or where a tobacco product is brought or kept for  
10 the purpose of sale or consumption, including a vessel, airplane,  
11 train, or vending machine.

12       (m) ~~(l)~~ "Retailer" means a person other than a  
13 transportation company who operates a place of business for the  
14 purpose of making sales of a tobacco product at retail.

15       (n) ~~(m)~~ "Sale" means a transaction by which the ownership  
16 of tangible personal property is transferred for consideration  
17 and applies also to use, gifts, exchanges, barter, and theft.

18       (o) ~~(n)~~ "Secondary wholesaler" means a person who sells a  
19 tobacco product for resale, who purchases a tobacco product from  
20 a wholesaler or unclassified acquirer licensed under this act,  
21 and who maintains an established place of business in this state  
22 where a substantial portion of the business is the sale of  
23 tobacco products and related merchandise at wholesale, and where  
24 at all times a substantial stock of tobacco products and related  
25 merchandise is available to retailers for resale.

26       (p) ~~(o)~~ "Smokeless tobacco" means snuff, chewing tobacco,  
27 and any other tobacco that is intended to be consumed by means

1 other than smoking.

2       **(q)** ~~—(p)—~~ "Stamp" means a distinctive character, indication,  
3 or mark, as determined by the department, attached or affixed to  
4 an individual package of cigarettes by mechanical device or other  
5 means authorized by the department to indicate that the tax  
6 imposed under this act has been paid.

7       **(r)** ~~—(q)—~~ "Stamping agent" means a wholesaler or unclassified  
8 acquirer other than a manufacturer who is licensed and authorized  
9 by the department to affix stamps to individual packages of  
10 cigarettes on behalf of themselves and other wholesalers or  
11 unclassified acquirers other than manufacturers.

12       **(s)** ~~—(r)—~~ "Tobacco product" means cigarettes, cigars,  
13 noncigarette smoking tobacco, or smokeless tobacco.

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

18       **(u)** ~~—(t)—~~ "Transporter" means a person importing or  
19 transporting into this state, or transporting in this state, a  
20 tobacco product obtained from a source located outside this  
21 state, or from any person not duly licensed under this act.  
22 Transporter does not include an interstate commerce carrier  
23 licensed by the interstate commerce commission to carry  
24 commodities in interstate commerce, or a licensee maintaining a  
25 warehouse or place of business outside of this state if the  
26 warehouse or place of business is licensed under this act.

27       **(v)** ~~—(u)—~~ "Unclassified acquirer" means a person, except a

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

11       **(w)** ~~-(v)-~~ "Vending machine operator" means a person who  
12 operates 1 or more vending machines for the sale of a tobacco  
13 product and who purchases a tobacco product from a manufacturer,  
14 licensed wholesaler, or secondary wholesaler.

15       **(x)** ~~-(w)-~~ "Wholesale price" means the actual price paid for a  
16 tobacco product, including any tax, by a wholesaler or  
17 unclassified acquirer to a manufacturer, excluding any discounts  
18 or reductions.

19       **(y)** ~~-(x)-~~ "Wholesaler" means a person who purchases all or  
20 part of his or her tobacco products from a manufacturer, who  
21 sells 75% or more of those tobacco products to others for resale,  
22 and who maintains an established business where substantially all  
23 of the business is the sale of tobacco products or cigarettes and  
24 related merchandise at wholesale and where at all times a  
25 substantial stock of tobacco products and related merchandise is  
26 available to retailers for resale. Wholesaler includes a chain  
27 of stores retailing a tobacco product to the consumer if 75% of

1 its stock of tobacco products is purchased directly from the  
2 manufacturer.

3       Sec. 8. (1) A person, other than a licensee, who is in  
4 control or in possession of a tobacco product contrary to this  
5 act, who after August 31, 1998 is in control or in possession of  
6 an individual package of cigarettes without a stamp in violation  
7 of this act, or who offers to sell or does sell a tobacco product  
8 to another for purposes of resale without being licensed to do so  
9 under this act, shall be personally liable for the tax imposed by  
10 this act, plus a penalty of ~~100%~~ **500%** of the amount of tax due  
11 under this act.

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

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

25 (3) A person who possesses, acquires, transports, or offers  
26 for sale contrary to this act 3,000 or more cigarettes, ~~or~~  
27 tobacco products other than cigarettes with an aggregate

1 wholesale price of \$250.00 or more, **or 3,000 or more counterfeit**  
2 **cigarettes** is guilty of a felony, punishable by a fine of not  
3 more than \$50,000.00 or imprisonment for not more than 5 years,  
4 or both.

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

13 (5) A person who violates a provision of this act for which a  
14 criminal punishment is not otherwise provided is guilty of a  
15 misdemeanor, punishable by a fine of not more than \$1,000.00 **or 5**  
16 **times the retail value of the tobacco products involved,**  
17 **whichever is greater,** or imprisonment for not more than 1 year,  
18 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, **or who falsifies a**  
24 **manufacturer's label on cigarettes or counterfeit cigarettes,** is  
25 guilty of a felony and shall be punished by imprisonment for not  
26 less than 1 year or more than 10 years and may be punished by a  
27 fine of not more than \$50,000.00.



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) The attorney general has concurrent power with the  
14 prosecuting attorneys of the state to enforce this act.

15           (9) At the request of the department or its duly authorized  
16 agent, the state police and all local police authorities shall  
17 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  
21 property containing a tobacco product in violation of this act  
22 and any related books and records are contraband and may be  
23 seized and confiscated by the department as provided in this  
24 section.

25           (2) If an authorized inspector of the department or a police  
26 officer has reasonable cause to believe and does believe that a  
27 tobacco product is being acquired, possessed, transported, kept,

House Bill No. 5668 as amended December 7, 2004

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

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

1 published at least 3 times in a newspaper of general circulation  
2 in the county where the seizure was made. Within 10 business  
3 days after the date of service of the inventory statement, or in  
4 the case of publication, within 10 business days after the date  
5 of last publication, the person from whom the property was seized  
6 or any person claiming an interest in the property may by  
7 registered mail, facsimile transmission, or personal service file  
8 with the ~~commissioner~~ **state treasurer** a demand for a hearing  
9 before the ~~commissioner~~ **state treasurer** or a person designated  
10 by the ~~commissioner~~ **state treasurer** for a determination as to  
11 whether the property was lawfully subject to seizure and  
12 forfeiture. The person shall verify a request for hearing filed  
13 by facsimile transmission by also providing a copy of the  
14 original request for hearing by registered mail or personal  
15 service. The person or persons are entitled to appear before the  
16 department, to be represented by counsel, and to present  
17 testimony and argument. Upon receipt of a request for hearing,  
18 the department shall hold the hearing within 15 business days.  
19 The hearing is not a contested case proceeding and is not subject  
20 to the administrative procedures act of 1969, 1969 PA 306, MCL  
21 24.201 to 24.328. After the hearing, the department shall render  
22 its decision in writing within 10 business days of the hearing  
23 and, by order, shall either declare the seized property subject  
24 to seizure and forfeiture, or declare the property returnable in  
25 whole or in part to the person entitled to possession. If,  
26 within 10 business days after the date of service of the  
27 inventory statement, the person from whom the property was seized

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

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

1 **destruction or** sale of the property with public notice as  
2 determined by the court and require the proceeds to be deposited  
3 with the court until the lawfulness of the seizure and forfeiture  
4 is finally adjudicated.

5 (5) **The department shall destroy all cigarettes forfeited to**  
6 **this state.** The department may sell ~~a~~ all tobacco ~~product or~~  
7 **products, except cigarettes, and** other property forfeited  
8 pursuant to this section at public sale. Public notice of the  
9 sale shall be given at least 5 days before the day of sale. The  
10 department may pay an amount not to exceed 25% of the proceeds of  
11 the sale to the local governmental unit whose law enforcement  
12 agency performed the seizure. The balance of the proceeds  
13 derived from the sale by the department shall be credited to the  
14 general fund of the state.

15 (6) The seizure and **destruction or** sale of a tobacco product  
16 or other property under this section does not relieve a person  
17 from a fine, imprisonment, or other penalty for violation of this  
18 act.

19 (7) A person who is not an employee or officer of this state  
20 or a political subdivision of this state who furnishes to the  
21 department or to any law enforcement agency original information  
22 concerning a violation of this act, which information results in  
23 the collection and recovery of any tax or penalty or leads to the  
24 forfeiture of any cigarettes, or other property, may be awarded  
25 and paid by the state treasurer, ~~upon the certification of the~~  
26 ~~commissioner,~~ compensation of not more than 10% of the net  
27 amount received from the sale of any forfeited cigarettes or

1 other property, but not to exceed \$5,000.00 which shall be paid  
2 out of the receipts from the sale of the property. If any amount  
3 is issued to the local governmental unit under subsection (5),  
4 the amount awarded under this subsection to a person who provides  
5 original information that results in a seizure of cigarettes or  
6 other property by a local law enforcement agency shall be paid  
7 from that amount issued under subsection (5). If in the opinion  
8 of the attorney general ~~, the commissioner,~~ and the director of  
9 the department of state police it is deemed necessary to preserve  
10 the identity of the person furnishing the information, the  
11 attorney general ~~, the commissioner,~~ and the director of the  
12 department of state police shall file with the state treasurer an  
13 affidavit setting forth that necessity and a warrant may be  
14 issued jointly to the attorney general ~~, the commissioner,~~ and  
15 the director of the department of state police. Upon payment to  
16 the person furnishing that information, the attorney general ~~,  
17 the commissioner,~~ and the director of the department of state  
18 police shall file with the state treasurer an affidavit that the  
19 money has been by them paid to the person entitled to the money  
20 under this section.

21 (8) Beginning September 1, 1998, if a retailer possesses or  
22 sells cigarettes on which the tax imposed under this act has not  
23 been paid or accrued to a wholesaler, secondary wholesaler, or  
24 unclassified acquirer licensed under this act, the retailer shall  
25 be prohibited from purchasing, possessing, or selling any  
26 cigarettes or other tobacco products as follows:

27 (a) For a first violation, for a period of not more than 6

1 months.

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

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

7 (9) The prohibition described in subsection (8) shall be  
8 effective upon service by certified mail or personal service on  
9 the retailer of notice issued by the department ordering the  
10 retailer to cease all sales and purchases of cigarettes and other  
11 tobacco products. Upon receipt of this notice, the retailer may  
12 return any tobacco products in the possession of the retailer  
13 upon which the tax imposed by this act has been paid or accrued  
14 to a wholesaler, secondary wholesaler, or unclassified acquirer  
15 licensed under this act. The department shall notify all  
16 licensed wholesalers, manufacturers, secondary wholesalers,  
17 vending machine operators, and unclassified acquirers of any  
18 retailer who has been prohibited from purchasing cigarettes or  
19 other tobacco products and the duration of the prohibition. A  
20 wholesaler, secondary wholesaler, or unclassified acquirer shall  
21 not sell cigarettes or other tobacco products to a retailer after  
22 receipt of notice from the department that the retailer is  
23 prohibited from purchasing tobacco products. Any cigarettes or  
24 other tobacco products found on the premises of the retailer  
25 during the period of prohibition shall be considered contraband  
26 and subject to seizure under this section, and shall constitute  
27 an additional improper possession under this subsection. The

House Bill No. 5668 (H-5) as amended November 30, 2004

1 retailer may contest the order prohibiting purchase, possession,  
2 or sale of tobacco products in accordance with the appeal  
3 procedures and time limits provided in subsection (3) of this  
4 section. After completion of the appeals provided or upon  
5 expiration of the period to request such appeal, the department  
6 shall issue a final order and make service upon the retailer of  
7 an order to cease all purchases, possession, and sale of all  
8 cigarettes and other tobacco products for a specified period as  
9 appropriate. This order does not relieve the retailer from  
10 seizure and sale of a tobacco product or other property under  
11 this section, or relieve the retailer from a fine, imprisonment,  
12 or other penalty for violation of this act.

13       Sec. 11. (1) ~~Beginning May 1, 1994, a~~ **A** person, either as  
14 principal or agent, shall not sell or solicit ~~orders for~~ **a sale**  
15 **of** a tobacco product to be shipped, mailed, or otherwise sent or  
16 brought into the state, to a person not a licensed manufacturer,  
17 licensed wholesaler, licensed secondary wholesaler, licensed  
18 vending machine operator, licensed unclassified acquirer,  
19 licensed transporter, or licensed transportation company, unless  
20 the tobacco product is to be sold to or through a licensed  
21 wholesaler. ~~Each violation of this act is a separate offense.~~

22       (2) **All sales conducted through the internet, by telephone,**  
23 **or in a mail-order transaction shall not be completed unless,**  
24 **before each delivery of cigarettes is made, whether through the**  
25 **mail, through a transportation company, or through any other**  
26 **delivery system, the seller has obtained from the purchaser an**  
27 **affirmation that includes a [copy of a] valid government-issued document**  
**that**



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

20 (3) All invoices, bills of lading, sales receipts, or other  
21 documents related to cigarette sales conducted through the  
22 internet, by telephone, or in a mail-order transaction shall  
23 contain the current seller's valid Michigan sales tax  
24 registration number, business name and address of the seller, and  
25 a statement as to whether all sales taxes and taxes levied under  
26 this act have been paid. All packages of cigarettes shipped from  
27 a cigarette seller to purchasers who reside in Michigan shall

1 clearly print or stamp the package with the word "CIGARETTES" on  
2 the outside of all sides of the package so it is clearly visible  
3 to the shipper. In addition, the package shall contain an  
4 externally visible and clearly legible notice located on the same  
5 side of the package as the address to which the package is  
6 delivered, as follows:

7 "IF THESE CIGARETTES HAVE BEEN SHIPPED TO YOU FROM A SELLER  
8 LOCATED OUTSIDE OF THE STATE IN WHICH YOU RESIDE, THE SELLER HAS  
9 REPORTED UNDER FEDERAL LAW THE SALE OF THESE CIGARETTES TO OUR  
10 STATE TAX COLLECTION AGENCY, INCLUDING YOUR NAME AND ADDRESS.  
11 YOU ARE LEGALLY RESPONSIBLE FOR ALL APPLICABLE UNPAID STATE TAXES  
12 ON THESE CIGARETTES."

13 If an order is made as a result of advertisement over the  
14 internet, the tobacco retailer shall request the electronic mail  
15 address of the purchaser and shall receive payment by credit card  
16 or check before shipping. This subsection and subsection (2) do  
17 not apply to sales by wholesalers and unclassified acquirers.

18 (4) The deliverer of the cigarettes is required to obtain  
19 proof from a valid government-issued document that the person  
20 signing for the cigarettes is the purchaser.

21 (5) As used in this section:

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

1 a person, computer program, computer, computer system, or  
2 computer network.

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

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

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

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

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

26 (g) "Internet" means the connection to the world wide web  
27 through the use of a computer, a computer network, or a computer

1 system.

2 (h) "Sale conducted through the internet" means a sale of, a  
3 solicitation to sell, a purchase of, or an offer to purchase  
4 cigarettes conducted all or in part by accessing an internet  
5 website.