

SENATE BILL No. 517

June 22, 2011, Introduced by Senators HUNE, JANSEN and BRANDENBURG and referred to the Committee on Finance.

A bill to amend 1993 PA 327, entitled
"Tobacco products tax act,"
by amending sections 7 and 12 (MCL 205.427 and 205.432), section 7
as amended by 2008 PA 458 and section 12 as amended by 2004 PA 164.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

5 (b) ~~For~~ **THROUGH SEPTEMBER 30, 2011, FOR** cigarettes, 37.5 mills
6 per cigarette. **BEGINNING OCTOBER 1, 2011, FOR CIGARETTES, 18.75**
7 **MILLS PER CIGARETTE.**

8 (c) Beginning August 1, 2002 **AND THROUGH SEPTEMBER 30, 2011,**
9 for cigarettes, in addition to the tax levied in subdivision (b),

1 an additional 15 mills per cigarette. **BEGINNING OCTOBER 1, 2011,**
2 **FOR CIGARETTES, IN ADDITION TO THE TAX LEVIED IN SUBDIVISION (B),**
3 **AN ADDITIONAL 7.5 MILLS PER CIGARETTE.**

4 (d) Beginning August 1, 2002 **AND THROUGH SEPTEMBER 30, 2011,**
5 for cigarettes, in addition to the tax levied in subdivisions (b)
6 and (c), an additional 10 mills per cigarette. **BEGINNING OCTOBER 1,**
7 **2011, FOR CIGARETTES, IN ADDITION TO THE TAX LEVIED IN SUBDIVISIONS**
8 **(B) AND (C), AND ADDITIONAL 5 MILLS PER CIGARETTE.**

9 (e) Beginning July 1, 2004 **AND THROUGH SEPTEMBER 30, 2011,** for
10 cigarettes, in addition to the tax levied in subdivisions (b), (c),
11 and (d), an additional 37.5 mills per cigarette. **BEGINNING OCTOBER**
12 **1, 2011, FOR CIGARETTES, IN ADDITION TO THE TAX LEVIED IN**
13 **SUBDIVISIONS (B), (C), AND (D), AN ADDITIONAL 18.75 MILLS PER**
14 **CIGARETTE.**

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

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

20 (2) On or before the twentieth day of each calendar month,
21 every licensee under section 3 other than a retailer, unclassified
22 acquirer licensed as a manufacturer, or vending machine operator
23 shall file a return with the department stating the wholesale price
24 of each tobacco product other than cigarettes purchased, the
25 quantity of cigarettes purchased, the wholesale price charged for
26 all tobacco products other than cigarettes sold, the number of
27 individual packages of cigarettes and the number of cigarettes in

1 those individual packages, and the number and denominations of
2 stamps affixed to individual packages of cigarettes sold by the
3 licensee for each place of business in the preceding calendar
4 month. The return shall also include the number and denomination of
5 unaffixed stamps in the possession of the licensee at the end of
6 the preceding calendar month. Wholesalers shall also report
7 accurate inventories of cigarettes, both stamped and unstamped at
8 the end of the preceding calendar month. Wholesalers and
9 unclassified acquirers shall also report accurate inventories of
10 affixed and unaffixed stamps by denomination at the beginning and
11 end of each calendar month and all stamps acquired during the
12 preceding calendar month. The return shall be signed under penalty
13 of perjury. The return shall be on a form prescribed by the
14 department and shall contain or be accompanied by any further
15 information the department requires.

16 (3) To cover the cost of expenses incurred in the
17 administration of this act, at the time of the filing of the
18 return, the licensee shall pay to the department the tax levied in
19 subsection (1) for tobacco products sold during the calendar month
20 covered by the return, less compensation equal to both of the
21 following:

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

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

26 (c) Beginning August 1, 2002, 1.5% of the total amount of the
27 tax due on cigarettes sold.

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

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

1 before August 1, 2004 and shall pay to the department at the time
2 of filing this inventory a tax equal to the difference between the
3 tax imposed in subsection (1)(g) and the tax that has been paid
4 under subsection (1)(f). The proceeds derived under this subsection
5 shall be credited to the **MICHIGAN** medicaid benefits trust fund
6 created under section 5 of the Michigan trust fund act, 2000 PA
7 489, MCL 12.255.

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

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

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

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

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

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

27 (12) Each wholesaler or unclassified acquirer shall submit to

1 the department an unstamped cigarette sales report on or before the
2 twentieth day of each month covering the sale, delivery, or
3 distribution of unstamped cigarettes during the preceding calendar
4 month to points outside of Michigan. A separate schedule shall be
5 filed for each state, country, or province into which shipments are
6 made. For purposes of the report described in this subsection,
7 "unstamped cigarettes" means individual packages of cigarettes that
8 do not bear a Michigan stamp. The department may provide the
9 information contained in this report to a proper officer of another
10 state, country, or province reciprocating in this privilege.

11 Sec. 12. (1) The proceeds derived from the payment of taxes,
12 fees, and penalties provided for under this act and the license
13 fees received by the department shall be deposited with the state
14 treasurer and disbursed only as provided in this section and
15 section 7(5).

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

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

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

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

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

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

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

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

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

17 (f) 6% of the proceeds shall be credited to the healthy
18 Michigan fund created under section 5953 of the public health code,
19 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
20 in this subdivision that are used for smoking prevention programs
21 shall be used by the department of community health to expand the
22 free smokers quit kit program to include the nicotine patch or
23 nicotine gum.

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

26 (a) Through June 30, 2004, 74.2%, and beginning July 1, 2004,
27 9.0% of the proceeds shall be credited to the general fund of this

1 state.

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

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

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

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

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

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

26 (b) 6.0% of the proceeds shall be credited to the healthy
27 Michigan fund created under section 5953 of the public health code,

1 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
2 in this subdivision that are used for smoking prevention programs
3 shall be used by the department of community health to expand the
4 free smokers quit kit program to include the nicotine patch or
5 nicotine gum.

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

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

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

13 (b) 6.0% of the proceeds shall be credited to the healthy
14 Michigan fund created under section 5953 of the public health code,
15 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
16 in this subdivision that are used for smoking prevention programs
17 shall be used by the department of community health to expand the
18 free smokers quit kit program to include the nicotine patch or
19 nicotine gum.

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

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

26 (b) Beginning October 1, 2005, 75.0% of the proceeds shall be
27 credited to the **MICHIGAN** medicaid benefits trust fund created under

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

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

4 (8) Beginning July 1, 2004, the tax imposed under section
5 7(1)(g) shall be disbursed as follows:

6 (a) Beginning July 1, 2004 and through September 30, 2005,
7 100% of the proceeds shall be credited to the Michigan medicaid
8 benefits trust fund created under section 5 of the Michigan trust
9 fund act, 2000 PA 489, MCL 12.255.

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

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

15 (9) The proceeds of the fees and penalties ~~provided for~~
16 **DESCRIBED** in this act shall be used for the administration of this
17 act.