

# HOUSE BILL No. 4893

August 16, 2017, Introduced by Rep. Albert and referred to the Committee on Regulatory Reform.

A bill to amend 1993 PA 327, entitled  
"Tobacco products tax act,"  
by amending sections 2, 7, 11, and 12 (MCL 205.422, 205.427,  
205.431, and 205.432), section 2 as amended by 2012 PA 188,  
sections 7 and 11 as amended by 2016 PA 86, and section 12 as  
amended by 2016 PA 309.

## 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 of  
4 the tobacco being flavored, adulterated, or mixed with any other  
5 ingredient, which roll has a wrapper or cover made of paper or any  
6 other material. Cigarette does not include cigars.

7       (b) "Cigarette making machine" means any machine or other

1 mechanical device which meets all of the following criteria:

2 (i) Is capable of being loaded with loose tobacco, cigarette  
3 tubes or cigarette papers, and any other components related to the  
4 production of cigarettes, including, but not limited to, cigarette  
5 filters.

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

8 (iii) Is commercial-grade or otherwise designed or suitable  
9 for commercial use.

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

12 (c) "Commissioner" means the state treasurer.

13 (d) "Counterfeit cigarette" means a cigarette in an individual  
14 package of cigarettes or other container with a false manufacturing  
15 label or a cigarette in an individual package of cigarettes or  
16 other container with a counterfeit stamp.

17 (e) "Counterfeit cigarette paper" means a cigarette paper with  
18 a false manufacturing label or that has not been printed,  
19 manufactured, or made by authority of the trademark owner.

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

26 (g) "Department" means the department of treasury.

27 **(H) "ELECTRONIC SMOKING DEVICE" MEANS ANY DEVICE THAT CAN BE**

1 USED TO DELIVER AEROSOLIZED OR VAPORIZED NICOTINE TO THE PERSON  
2 INHALING FROM THE DEVICE, INCLUDING, BUT NOT LIMITED TO, AN E-  
3 CIGARETTE, E-CIGAR, E-PIPE, VAPE PEN, OR E-HOOKAH. ELECTRONIC  
4 SMOKING DEVICE INCLUDED ANY COMPONENT, PART, OR ACCESSORY OF SUCH A  
5 DEVICE, WHETHER OR NOT SOLD SEPARATELY, AND INCLUDES ANY SUBSTANCE  
6 INTENDED TO BE AEROSOLIZED OR VAPORIZED DURING THE USE OF THE  
7 DEVICE. ELECTRONIC SMOKING DEVICE DOES NOT INCLUDE ANY BATTERY OR  
8 BATTERY CHARGER WHEN SOLD SEPARATELY. IN ADDITION, ELECTRONIC  
9 SMOKING DEVICE DOES NOT INCLUDE DRUGS, DEVICES, OR COMBINATION  
10 PRODUCTS AUTHORIZED FOR SALE AS TOBACCO CESSATION PRODUCTS BY THE  
11 UNITED STATES FOOD AND DRUG ADMINISTRATION, AS THOSE TERMS ARE  
12 DEFINED UNDER SUBCHAPTER V OF THE FEDERAL FOOD, DRUG, AND COSMETIC  
13 ACT, 21 USC 351 TO 360FFF-7.

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

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

19 (ii) Outstanding liabilities.

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

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

24 (J) ~~(i)~~—"Gray market cigarette" means any cigarette the  
25 package of which bears any statement, label, stamp, sticker, or  
26 notice indicating that the manufacturer did not intend the  
27 cigarettes to be sold, distributed, or used in the United States,

including, but not limited to, a label stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording.

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

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

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

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

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

(ii) A person who operates or who permits any other person to operate a cigarette making machine in this state for the purpose of producing, filling, rolling, dispensing, or otherwise generating cigarettes. A person who is a manufacturer under this subparagraph shall constitute a nonparticipating manufacturer for purposes of sections 6c and 6d. A person who operates or otherwise uses a machine or other mechanical device, other than a cigarette making machine, to produce, roll, fill, dispense, or otherwise generate cigarettes shall not be considered a manufacturer as long as the cigarettes are produced or otherwise generated in that person's

1 dwelling and for that person's self-consumption. For purposes of  
2 this act, "self-consumption" means production for personal  
3 consumption or use and not for sale, resale, or any other profit-  
4 making endeavor.

5       **(O)** ~~(n)~~—"Noncigarette smoking tobacco" means tobacco sold in  
6 loose or bulk form that is intended for consumption by smoking and  
7 includes roll-your-own cigarette tobacco.

8       **(P)** ~~(e)~~—"Person" means an individual, partnership, fiduciary,  
9 association, limited liability company, corporation, or other legal  
10 entity.

11       **(Q)** ~~(p)~~—"Place of business" means a place where a tobacco  
12 product is sold or where a tobacco product is brought or kept for  
13 the purpose of sale or consumption, including a vessel, airplane,  
14 train, or vending machine.

15       **(R)** ~~(q)~~—"Retailer" means a person other than a transportation  
16 company who operates a place of business for the purpose of making  
17 sales of a tobacco product at retail.

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

21       **(T)** ~~(s)~~—"Secondary wholesaler" means a person who sells a  
22 tobacco product for resale, who purchases a tobacco product from a  
23 wholesaler or unclassified acquirer licensed under this act, and  
24 who maintains an established place of business in this state where  
25 a substantial portion of the business is the sale of tobacco  
26 products and related merchandise at wholesale, and where at all  
27 times a substantial stock of tobacco products and related

1 merchandise is available to retailers for resale.

2       **(U)** ~~(t)~~—"Smokeless tobacco" means snuff, chewing tobacco, and  
3 any other tobacco that is intended to be consumed by **ANY** means  
4 other than smoking. **BEGINNING OCTOBER 1, 2018, SMOKELESS TOBACCO**  
5 **INCLUDES ELECTRONIC SMOKING DEVICES.**

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

11       **(W)** ~~(v)~~—"Stamping agent" means a wholesaler or unclassified  
12 acquirer other than a manufacturer who is licensed and authorized  
13 by the department to affix stamps to individual packages of  
14 cigarettes on behalf of themselves and other wholesalers or  
15 unclassified acquirers other than manufacturers.

16       **(X)** ~~(w)~~—"Tobacco product" means cigarettes, cigars,  
17 noncigarette smoking tobacco, or smokeless tobacco.

18       **(Y)** ~~(x)~~—"Transportation company" means a person operating, or  
19 supplying to common carriers, cars, boats, or other vehicles for  
20 the transportation or accommodation of passengers and engaged in  
21 the sale of a tobacco product at retail.

22       **(Z)** ~~(y)~~—"Transporter" means a person importing or transporting  
23 into this state, or transporting in this state, a tobacco product  
24 obtained from a source located outside this state, or from any  
25 person not duly licensed under this act. Transporter does not  
26 include an interstate commerce carrier licensed by the interstate  
27 commerce commission to carry commodities in interstate commerce, or

1 a licensee maintaining a warehouse or place of business outside of  
2 this state if the warehouse or place of business is licensed under  
3 this act.

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

15 **(BB)** ~~(aa)~~—"Vending machine operator" means a person who  
16 operates 1 or more vending machines for the sale of a tobacco  
17 product and who purchases a tobacco product from a manufacturer,  
18 licensed wholesaler, or secondary wholesaler.

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

22 **(DD)** ~~(cc)~~—"Wholesaler" means a person who purchases all or  
23 part of his or her tobacco products from a manufacturer, who sells  
24 75% or more of those tobacco products to others for resale, and who  
25 maintains an established business where substantially all of the  
26 business is the sale of tobacco products or cigarettes and related  
27 merchandise at wholesale and where at all times a substantial stock

1 of tobacco products and related merchandise is available to  
2 retailers for resale. Wholesaler includes a chain of stores  
3 retailing a tobacco product to the consumer if 75% of its stock of  
4 tobacco products is purchased directly from the manufacturer.

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

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

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

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

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

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

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

22 (g) Beginning July 1, 2004, for cigars, noncigarette smoking  
23 tobacco, and smokeless tobacco **OTHER THAN ELECTRONIC SMOKING**  
24 **DEVICES**, 32% of the wholesale price. However, beginning November 1,  
25 2012 and through October 31, 2021, the amount of tax levied under  
26 this subdivision on cigars shall not exceed 50 cents per individual  
27 cigar.

1           **(H) BEGINNING OCTOBER 1, 2018, FOR SMOKELESS TOBACCO THAT IS**  
2           **AN ELECTRONIC SMOKING DEVICE, 32% OF THE WHOLESALE PRICE.**

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

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

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

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

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

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

1 claimed by a stamping agent for the direct costs actually incurred  
2 by the stamping agent, as determined by the department and  
3 reflected in the net purchase price, for the initial and 1-time  
4 purchase of case packers or similar machines or conveyors as  
5 follows:

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

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

26 (iii) Compensation under subparagraphs (i) and (ii) shall also  
27 include any applicable sales or use taxes paid, and shipping and

1 crating charges actually incurred, by the stamping agent in  
2 connection with the purchase, but shall exclude any other costs  
3 incurred by the stamping agent not otherwise expressly provided for  
4 in this subdivision, including, but not limited to, charges for  
5 installation and ongoing maintenance.

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

27 (f) Beginning in the first calendar month following the

1 implementation of the use of digital stamps as provided in section  
2 5a(2), for licensees who are stamping agents, reimbursement of  
3 qualified equipment costs actually incurred by the stamping agent,  
4 not otherwise compensated or reimbursed under subdivision (d) or  
5 (e), as determined by the department. The reimbursement provided  
6 under this subdivision shall not exceed \$60,000.00 for all stamping  
7 agents combined.

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

23 (5) Every licensee and retailer who, on July 1, 2004, has on  
24 hand for sale any cigarettes upon which a tax has been paid  
25 pursuant to subsection (1)(b), (c), and (d) shall file a complete  
26 inventory of those cigarettes before August 1, 2004 and shall pay  
27 to the department at the time of filing this inventory a tax equal

1 to the difference between the tax imposed in subsection (1) (b),  
2 (c), (d), and (e) and the tax that has been paid under subsection  
3 (1) (b), (c), and (d). Every licensee and retailer who, on July 1,  
4 2004, has on hand for sale any cigars, noncigarette smoking  
5 tobacco, or smokeless tobacco upon which a tax has been paid  
6 pursuant to subsection (1) (f) shall file a complete inventory of  
7 those cigars, noncigarette smoking tobacco, and smokeless tobacco  
8 before August 1, 2004 and shall pay to the department at the time  
9 of filing this inventory a tax equal to the difference between the  
10 tax imposed in subsection (1) (g) and the tax that has been paid  
11 under subsection (1) (f). The proceeds derived under this subsection  
12 shall be credited to the Michigan Medicaid benefits trust fund  
13 created under section 5 of the Michigan trust fund act, 2000 PA  
14 489, MCL 12.255.

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

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

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

27 (9) A wholesaler, unclassified acquirer, or other person shall

1 not sell or transfer any unaffixed stamps acquired by the  
2 wholesaler or unclassified acquirer from the department. A  
3 wholesaler or unclassified acquirer who has any unaffixed stamps on  
4 hand at the time its license is revoked or expires, or at the time  
5 it discontinues the business of selling cigarettes, shall return  
6 those stamps to the department. The department shall refund the  
7 value of the stamps, less the appropriate discount paid.

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

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

7           (12) Each wholesaler or unclassified acquirer shall submit to  
8 the department an unstamped cigarette sales report on or before the  
9 twentieth day of each month covering the sale, delivery, or  
10 distribution of unstamped cigarettes during the preceding calendar  
11 month to points outside of this state. A separate schedule shall be  
12 filed for each state, country, or province into which shipments are  
13 made. For purposes of the report described in this subsection,  
14 "unstamped cigarettes" means individual packages of cigarettes that  
15 do not bear a Michigan stamp. The department may provide the  
16 information contained in this report to a proper officer of another  
17 state, country, or province reciprocating in this privilege.

18           (13) As used in subsection (3):

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

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

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

26           (iii) Was purchased to be used for the primary purpose of  
27 permitting the stamping agent to affix digital stamps to individual

1 packages of cigarettes to be sold in this state following the  
2 implementation of the use of digital stamps as provided in section  
3 5a(2).

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

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

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

11 (c) "Qualified equipment" means equipment that was placed in  
12 service by a stamping agent that included conveyors and additional  
13 associated electrical line and compressed air line before August  
14 15, 2014 in connection with the implementation of a digital  
15 stamping line under a pilot program with the department as  
16 determined by the department. Qualified equipment does not include  
17 the cost of installation of a conveyor.

18 Sec. 11. (1) A person, either as principal or agent, shall not  
19 sell or solicit a sale of a tobacco product to be shipped, mailed,  
20 or otherwise sent or brought into the state, to a person not a  
21 licensed manufacturer, licensed wholesaler, licensed secondary  
22 wholesaler, licensed vending machine operator, licensed  
23 unclassified acquirer, licensed transporter, or licensed  
24 transportation company, unless the tobacco product is to be sold to  
25 or through a licensed wholesaler.

26 (2) All sales conducted through the ~~Internet~~, **INTERNET**, by  
27 telephone, or in a mail-order transaction shall not be completed

1 unless, before each delivery of ~~cigarettes~~**TOBACCO PRODUCTS** is  
2 made, whether through the mail, through a transportation company,  
3 or through any other delivery system, the seller has obtained from  
4 the purchaser an affirmation that includes a copy of a valid  
5 government-issued document that confirms the purchaser's name,  
6 address, and date of birth showing that the purchaser is at least  
7 the legal minimum age to purchase ~~cigarettes~~**TOBACCO PRODUCTS**;  
8 that the ~~cigarettes~~**TOBACCO PRODUCTS** purchased are not intended for  
9 consumption by an individual who is younger than the legal minimum  
10 age to purchase ~~cigarettes~~**TOBACCO PRODUCTS**; and a written  
11 statement signed by the purchaser that affirms the purchaser's  
12 address and that the purchaser is at least the minimum legal age to  
13 purchase ~~cigarettes~~**TOBACCO PRODUCTS**. The statement shall also  
14 confirm that the purchaser understands that signing another  
15 person's name to the affirmation is illegal; that the sale of  
16 ~~cigarettes~~**TOBACCO PRODUCTS** to individuals under the legal minimum  
17 purchase age is illegal; and that the purchase of ~~cigarettes~~  
18 **TOBACCO PRODUCTS** by individuals under the legal minimum purchase  
19 age is illegal under the laws of the state of Michigan. The seller  
20 shall verify the information contained in the affirmation provided  
21 by the purchaser against a commercially available database of  
22 governmental records, or obtain a photocopy, fax copy, or other  
23 image of the valid, government-issued identification stating the  
24 date of birth or age of the purchaser.

25 (3) All invoices, bills of lading, sales receipts, or other  
26 documents related to ~~cigarette~~**TOBACCO PRODUCT** sales conducted  
27 through the internet, by telephone, or in a mail-order transaction

1 shall contain the current seller's valid Michigan sales tax  
2 registration number, business name and address of the seller, and a  
3 statement as to whether all sales taxes and taxes levied under this  
4 act have been paid. All packages of ~~cigarettes~~**TOBACCO PRODUCTS**  
5 shipped from a ~~cigarette~~**TOBACCO PRODUCT** seller to purchasers who  
6 reside in Michigan shall clearly print or stamp the package with  
7 the word "~~CIGARETTES~~"**"TOBACCO PRODUCTS"** on the outside of all  
8 sides of the package so it is clearly visible to the shipper. In  
9 addition, the package shall contain an externally visible and  
10 clearly legible notice located on the same side of the package as  
11 the address to which the package is delivered, as follows:

12 "IF THESE ~~CIGARETTES~~**TOBACCO PRODUCTS** HAVE BEEN SHIPPED TO YOU  
13 FROM A SELLER LOCATED OUTSIDE OF THE STATE IN WHICH YOU RESIDE, THE  
14 SELLER HAS REPORTED UNDER FEDERAL LAW THE SALE OF THESE ~~CIGARETTES~~  
15 **TOBACCO PRODUCTS** TO OUR STATE TAX COLLECTION AGENCY, INCLUDING YOUR  
16 NAME AND ADDRESS. YOU ARE LEGALLY RESPONSIBLE FOR ALL APPLICABLE  
17 UNPAID STATE TAXES ON THESE ~~CIGARETTES~~**"TOBACCO PRODUCTS."**

18 If an order is made as a result of advertisement over the  
19 ~~Internet~~**,INTERNET**, the tobacco retailer shall request the  
20 electronic mail address of the purchaser and shall receive payment  
21 by credit card or check before shipping. This subsection and  
22 subsection (2) do not apply to sales by wholesalers and  
23 unclassified acquirers.

24 (4) The deliverer of the ~~cigarettes~~**TOBACCO PRODUCTS** is  
25 required to obtain proof from a valid government-issued document  
26 that the person signing for the ~~cigarettes~~**TOBACCO PRODUCTS** is the  
27 purchaser.

1           (5) Beginning November 1, 2012, a retailer that is not  
2     licensed as an unclassified acquirer, retail importer of tobacco  
3     products other than cigarettes, shall post a sign, visible to the  
4     public inside the retail establishment that informs purchasers of  
5     cigars through catalog sales or ~~Internet~~**INTERNET** sales of their  
6     responsibility to pay all applicable unpaid state taxes on those  
7     cigars.

8           (6) As used in this section:

9           (a) "Computer" means any connected, directly interoperable or  
10    interactive device, equipment, or facility that uses a computer  
11    program or other instructions to perform specific operations,  
12    including logical, arithmetic, or memory functions with or on  
13    computer data or a computer program, and that can store, retrieve,  
14    alter, or communicate the results of the operations to a person,  
15    computer program, computer, computer system, or computer network.

16          (b) "Computer network" means the interconnection of hardwire  
17    or wireless communication lines with a computer through remote  
18    terminals or a complex consisting of 2 or more interconnected  
19    computers.

20          (c) "Computer program" means a series of internal or external  
21    instructions communicated in a form acceptable to a computer that  
22    directs the functioning of a computer, computer system, or computer  
23    network in a manner designed to provide or produce products or  
24    results from the computer, computer system, or computer network.

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

27          (e) "Credit card" means a card or device issued by a person

1 licensed under 1984 PA 379, MCL 493.101 to 493.114, or under the  
2 consumer financial services act, 1988 PA 161, MCL 487.2051 to  
3 487.2072, or issued by a depository financial institution as  
4 defined in section 1a of the mortgage brokers, lenders, and  
5 services licensing act, 1987 PA 173, MCL 445.1651a, under a credit  
6 card arrangement.

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

11 (g) "Internet" means the connection to the World Wide Web  
12 through the use of a computer, a computer network, or a computer  
13 system.

14 (h) "Sale conducted through the ~~Internet~~-**INTERNET**" means a  
15 sale of, a solicitation to sell, a purchase of, or an offer to  
16 purchase ~~cigarettes~~-**TOBACCO PRODUCTS** conducted all or in part by  
17 accessing an ~~Internet~~-**INTERNET** website.

18 Sec. 12. (1) The proceeds derived from the payment of taxes,  
19 fees, and penalties provided for under this act and the license  
20 fees received by the department shall be deposited with the state  
21 treasurer and disbursed only as provided in this section and  
22 section 7(5). However, before a distribution of funds is made under  
23 this section, subject to appropriation, the funds described in this  
24 section may be used by the department, the attorney general, and  
25 the department of state police for enforcement and administration  
26 of this act.

27 (2) The tax imposed under section 7(1)(a) shall be disbursed

1 as follows:

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

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

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

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

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

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

23 (d) Beginning July 1, 2004 and through September 30, 2014,  
24 24.1% of the proceeds shall be credited to the general fund of this  
25 state.

26 (e) 63.4% of the proceeds shall be credited to the state  
27 school aid fund established by section 11 of article IX of the

1 state constitution of 1963.

2 (f) 6% of the proceeds shall be credited to the Healthy  
3 Michigan fund created under section 5953 of the public health code,  
4 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described  
5 in this subdivision that are used for smoking prevention programs  
6 shall be used by the department of health and human services to  
7 expand the free smokers quit kit program to include the nicotine  
8 patch or nicotine gum.

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

11 (i) For the 2014-2015 fiscal year and each subsequent fiscal  
12 year, \$3,000,000.00 to the Michigan state capitol historic site  
13 fund created in section 7 of the Michigan state capitol historic  
14 site act, 2013 PA 240, MCL 4.1947. For the 2015-2016 fiscal year  
15 and each subsequent fiscal year, the state treasurer shall adjust  
16 the figure described in this subparagraph by an amount determined  
17 by the state treasurer at the end of each calendar year to reflect  
18 the cumulative annual percentage change in the consumer price  
19 index. Beginning for the 2015-2016 fiscal year and each subsequent  
20 fiscal year, if the cumulative annual percentage change in the  
21 consumer price index is negative, then the adjustment for that  
22 fiscal year is zero. As used in this subsection, "consumer price  
23 index" means the most comprehensive index of consumer prices  
24 available for this state from the Bureau of Labor Statistics of the  
25 United States Department of Labor. From the funds described in this  
26 subparagraph, not later than February 1 of each year, the Michigan  
27 state capitol commission created in section 5 of the Michigan state

1 capitol historic site act, 2013 PA 240, MCL 4.1945, shall report to  
2 the Michigan capitol committee created in section 701 of the  
3 legislative council act, 1986 PA 268, MCL 4.1701, and to the  
4 chairpersons of the house and senate appropriations committees. The  
5 report shall contain all of the following:

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

8 (B) The projected 5-year maintenance plan for the Michigan  
9 State Capitol Historical Site for the immediately following 5  
10 fiscal years.

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

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

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

17 (a) Through June 30, 2004, 74.2%, and beginning July 1, 2004,  
18 9.0% of the proceeds shall be credited to the general fund of this  
19 state.

20 (b) Through June 30, 2004, 4.6%, and beginning July 1, 2004,  
21 56.3% of the proceeds shall be credited to the state school aid  
22 fund established by section 11 of article IX of the state  
23 constitution of 1963.

24 (c) 6.0% of the proceeds shall be credited to the Healthy  
25 Michigan fund created under section 5953 of the public health code,  
26 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described  
27 in this subdivision that are used for smoking prevention programs

1 shall be used by the department of health and human services to  
2 expand the free smokers quit kit program to include the nicotine  
3 patch or nicotine gum.

4 (d) Through June 30, 2004, 3.0%, and beginning July 1, 2004,  
5 3.7% of the proceeds shall be paid to counties with a 2000  
6 population of more than 2,000,000, to be used only for indigent  
7 health care.

8 (e) Through June 30, 2004, 12.2%, and beginning July 1, 2004,  
9 25.0% of the proceeds shall be credited to the Medicaid benefits  
10 trust fund created under section 5 of the Michigan trust fund act,  
11 2000 PA 489, MCL 12.255.

12 (5) Beginning August 1, 2002, the tax imposed under section  
13 7(1)(f) shall be disbursed as follows:

14 (a) 75.6% 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) 6.0% of the proceeds shall be credited to the Healthy  
18 Michigan fund created under section 5953 of the public health code,  
19 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described  
20 in this subdivision that are used for smoking prevention programs  
21 shall be used by the department of health and human services to  
22 expand the free smokers quit kit program to include the nicotine  
23 patch or nicotine gum.

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

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

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

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

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

13 (a) Beginning July 1, 2004 and through September 30, 2005,  
14 100% of the proceeds shall be credited to the Michigan Medicaid  
15 benefits trust fund created under section 5 of the Michigan trust  
16 fund act, 2000 PA 489, MCL 12.255.

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

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

22 (8) Beginning July 1, 2004, the tax imposed under section  
23 7(1)(g) shall be disbursed as follows:

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

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

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

6 (9) BEGINNING OCTOBER 1, 2018, THE TAX IMPOSED UNDER SECTION  
7 7(1) (H) SHALL BE DISBURSED AS FOLLOWS:

8 (A) 75.0% OF THE PROCEEDS SHALL BE CREDITED TO THE MICHIGAN  
9 MEDICAID BENEFITS TRUST FUND CREATED UNDER SECTION 5 OF THE  
10 MICHIGAN TRUST FUND ACT, 2000 PA 489, MCL 12.255.

11 (B) 25.0% OF THE PROCEEDS SHALL BE CREDITED TO THE GENERAL  
12 FUND OF THIS STATE.

13 (10) ~~(9)~~—The proceeds of the fees and penalties provided for  
14 in this act shall be used for the administration of this act.