

**SUBSTITUTE FOR
SENATE BILL NO. 720**

A bill to amend 1993 PA 327, entitled
"Tobacco products tax act,"
by amending sections 2, 3, 4, 5, 5a, 6, 6a, 6b, 6c, 6d, 7, 7b, 8,
9, 11, 12, and 13 (MCL 205.422, 205.423, 205.424, 205.425,
205.425a, 205.426, 205.426a, 205.426b, 205.426c, 205.426d, 205.427,
205.427b, 205.428, 205.429, 205.431, 205.432, and 205.433),
sections 2 and 11 as amended by 2020 PA 326, sections 3, 5, and 6
as amended and section 6b as added by 1997 PA 187, sections 5a and
6a as amended by 2012 PA 188, section 6c as added by 2002 PA 503,
section 6d as added by 2003 PA 285, section 7 as amended by 2021 PA
102, section 7b as added by 2002 PA 607, section 8 as amended by
2008 PA 458, section 9 as amended by 2004 PA 474, section 12 as
amended by 2018 PA 639, and section 13 as amended by 1995 PA 131,



and by adding sections 3a and 6f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Cigar" means any roll of tobacco wrapped in leaf tobacco
3 or in any substance containing tobacco. Cigar does not include a
4 cigarette.

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

10 (c) "Cigarette making machine" means any machine or other
11 mechanical device ~~which~~**that** meets all of the following criteria:

12 (i) Is capable of being loaded with loose tobacco, cigarette
13 tubes or cigarette papers, and any other components related to the
14 production of cigarettes, including, but not limited to, cigarette
15 filters.

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

18 (iii) Is commercial-grade or otherwise designed or suitable for
19 commercial use.

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

22 ~~(d) "Commissioner" means the state treasurer.~~

23 (d) ~~(e)~~ "Container" or "shipping case" means an individual
24 receptacle within which a tobacco product or group of tobacco
25 products is placed for shipment, storage, or distribution, such as
26 a box, case, or tote. A container or shipping case does not include
27 any of the following:



1 (i) An individual package of cigarettes or cigarette carton
2 containing cigarettes that are not counterfeit cigarettes.

3 (ii) Except for counterfeit cigarettes, the package or other
4 article containing the tobacco product that is sold or transferred
5 directly to the ultimate consumer.

6 (iii) A bag or similar package containing bulk or loose hookah
7 tobacco, pipe tobacco, or roll-your-own cigarette tobacco that a
8 retailer uses to fill bins, barrels, or tubs located at the
9 retailer's place of business from which either the retailer sells a
10 specified quantity of those tobacco products or a blend or mixture
11 of those tobacco products to the consumer, or the consumer removes
12 or draws a specified quantity of those tobacco products or a blend
13 or mixture of those tobacco products for purchase at retail from
14 the retailer.

15 (iv) A pallet or similar article or device upon which an
16 individual receptacle or group of receptacles, containing the
17 tobacco products, is placed for shipment, storage, or distribution.

18 (v) Property used as a protective covering for, or to keep
19 together during shipment, storage, or distribution, a receptacle or
20 group of receptacles within which the tobacco product is placed for
21 shipment, storage, or distribution including shrink wrap or other
22 wrapping materials, but excluding the protective covering ~~which~~
23 **that** forms, gives shape to, or otherwise constitutes the receptacle
24 within which the tobacco product is placed for shipment, storage,
25 or distribution.

26 (e) ~~(f)~~—"Counterfeit cigarette" means a cigarette in an
27 individual package of cigarettes or other container with a false
28 manufacturing label or a cigarette in an individual package of
29 cigarettes or other container with a counterfeit stamp.



1 **(f)** ~~(g)~~—"Counterfeit cigarette paper" means a cigarette paper
 2 with a false manufacturing label or that has not been printed,
 3 manufactured, or made by authority of the trademark owner.

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

10 **(h)** ~~(i)~~—"Department" means the department of treasury.

11 **(i)** ~~(j)~~—"Financially sound" means a determination by the
 12 department that the wholesaler or unclassified acquirer is able to
 13 pay the tax due on the tobacco products it sells, imports, or
 14 acquires, as applicable, in the ordinary course of business based
 15 on criteria including, but not limited to, all of the following:

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

17 (ii) Outstanding liabilities.

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

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

22 (v) Ability to pay for its stamps, if required under this act.

23 **(j)** ~~(k)~~—"Gray market cigarette" means any cigarette the
 24 package of which bears any statement, label, stamp, sticker, or
 25 notice indicating that the manufacturer did not intend the
 26 cigarettes to be sold, distributed, or used in the United States,
 27 including, but not limited to, a label stating "For Export Only",
 28 "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording.

29 **(k)** ~~(l)~~—"Gray market cigarette paper" means any cigarette paper



1 the package of which bears any statement, label, stamp, sticker, or
 2 notice indicating that the manufacturer did not intend the
 3 cigarette papers to be sold, distributed, or used in the United
 4 States, including, but not limited to, a label stating "For Export
 5 Only", "U.S. Tax Exempt", "For Use Outside U.S.", "For Use in
 6 _____ (another country) Only", or similar wording.

7 (l) ~~(m)~~—"Hookah tobacco" means tobacco that is designed,
 8 manufactured, or otherwise intended for consumption by smoking in a
 9 hookah and that is flavored with honey, molasses, fruit, or other
 10 natural or artificial flavors. Hookah tobacco includes those
 11 products commonly known or referred to as narghile, argileh,
 12 shisha, hubble-bubble, molasses tobacco, waterpipe tobacco,
 13 maassel, or goza.

14 (m) ~~(n)~~—"Hookah" means a device, including a waterpipe, used
 15 for smoking hookah tobacco that consists of a tube connected to a
 16 chamber where the smoke is cooled passing through water.

17 (n) ~~(o)~~—"Individual package" means an individual packet or
 18 pack used to contain or to convey cigarettes to the consumer.
 19 Individual package does not include cartons, cases, or shipping or
 20 storage containers that contain smaller packaging units of
 21 cigarettes.

22 (o) ~~(p)~~—"Licensee" means a person licensed under this act.

23 (p) ~~(q)~~—"Manufacturer" means, **except as otherwise provided in**
 24 **subdivision (q)**, any of the following:

25 ~~(i) Except as otherwise provided in this subdivision, a~~ **A**
 26 person who manufactures or produces a tobacco product.

27 (ii) A person who operates or who permits any other person to
 28 operate a cigarette making machine in this state for the purpose of
 29 producing, filling, rolling, dispensing, or otherwise generating



1 cigarettes. A person who is a manufacturer under this subparagraph
 2 ~~shall constitute~~ **constitutes** a nonparticipating manufacturer for
 3 purposes of sections 6c and 6d.

4 **(q) Manufacturer does not include any of the following:**

5 **(i)** A person who operates or otherwise uses a machine or other
 6 mechanical device, other than a cigarette making machine, to
 7 produce, roll, fill, dispense, or otherwise generate cigarettes
 8 ~~shall not be considered a manufacturer~~ as long as the cigarettes
 9 are produced or otherwise generated in that person's dwelling and
 10 for that person's self-consumption. ~~For purposes of this act,~~ **As**
 11 **used in this subparagraph and subparagraph (ii)**, "self-consumption"
 12 means production for personal consumption or use and not for sale,
 13 resale, or any other profit-making endeavor.

14 **(ii)** ~~(iii)~~ A person who does any of the following: ~~shall not be~~
 15 ~~considered a manufacturer:~~

16 (A) Mixes or blends 2 or more different tobacco products to
 17 create a custom mix or blend of those products if each of the
 18 constituent tobacco products mixed or blended together is a
 19 finished tobacco product that the person could or does otherwise
 20 sell to consumers and upon which the tax under this act has been
 21 paid.

22 (B) Creates or produces, by filling a fruit with hookah
 23 tobacco, what is commonly known as a fruit bowl or fruit head for
 24 use in a hookah.

25 (C) Rolls a cigar for his or her own self-consumption.

26 (r) "Noncigarette smoking tobacco" means tobacco sold in loose
 27 or bulk form that is intended for consumption by smoking and also
 28 includes roll-your-own cigarette tobacco, hookah tobacco, pipe
 29 tobacco, or a wrap.



1 (s) "Person" means an individual, partnership, fiduciary,
2 association, limited liability company, corporation, or other legal
3 entity.

4 (t) "Pipe tobacco" means any tobacco that, because of its
5 appearance, type, packaging, or labeling, is suitable for use and
6 likely to be offered to, or purchased by, consumers as tobacco to
7 smoke in a pipe.

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

12 (v) "Remote retail sale" means a sale of a tobacco product to
13 a consumer in this state if either of the following applies:

14 (i) The consumer submits the order for the sale by means of a
15 telephone or other method of voice transmission, the mail, or the
16 internet or other online service, or the seller is otherwise not in
17 the physical presence of the purchaser when the request for
18 purchase or order is made.

19 (ii) The tobacco product is delivered to the purchaser by
20 common carrier, private delivery service, or other method of remote
21 delivery, or the seller is not in the physical presence of the
22 purchaser when the purchaser obtains possession of the tobacco
23 product.

24 (w) ~~(v)~~ "Retailer" means a person other than a transportation
25 company who operates a place of business in this state, or who
26 directs, manages, or has control over the day-to-day operations of
27 a place of business in this state, for the purpose of making, **or**
28 **who does make**, sales of a tobacco product at retail **other than a**
29 **remote retail sale**. A person described in this subdivision



1 qualifies as a retailer regardless of whether that person owns the
2 place of business.

3 **(x)** ~~(w)~~—"Roll-your-own cigarette tobacco" means any tobacco
4 which, ~~that~~, because of its appearance, type, packaging, or
5 labeling, is suitable for use and likely to be offered to, or
6 purchased by, consumers as tobacco for making cigarettes.

7 **(y)** ~~(x)~~—"Sale" means a transaction by which the ownership of
8 tangible personal property is transferred for consideration and
9 applies also to use, gifts, exchanges, barter, and theft.

10 **(z)** ~~(y)~~—"Secondary wholesaler" means ~~a either of the~~
11 **following:**

12 **(i)** **A person, other than a manufacturer or a person licensed**
13 **under this act as a vending machine operator, wholesaler, or**
14 **unclassified acquirer, who ~~sells~~ engages in the sale of a tobacco**
15 **product for resale. ~~, who purchases a tobacco product from a~~**
16 **~~wholesaler or unclassified acquirer licensed under this act, and~~**
17 **~~who maintains an established place of business in this state where~~**
18 **~~a substantial portion of the business is the sale of tobacco~~**
19 **~~products and related merchandise at wholesale, and where at all~~**
20 **~~times a substantial stock of tobacco products and related~~**
21 **~~merchandise is available to retailers for resale.~~**

22 **(ii)** **A retailer, not otherwise licensed under this act, who**
23 **transfers or exchanges a tobacco product from one place of business**
24 **of the retailer to another place of business of the retailer.**

25 **(aa)** ~~(z)~~—"Smokeless tobacco" means snuff, snus, chewing
26 tobacco, moist snuff, and any other tobacco that is intended to be
27 used or consumed, whether heated, chewed, absorbed, dissolved,
28 inhaled, snorted, sniffed, or ingested, by any means other than
29 smoking or combustion.



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

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

11 **(dd)** ~~(ee)~~-"Tobacco product" means a product containing any
 12 amount of tobacco regardless of form including, but not limited to,
 13 cigarettes, cigars, noncigarette smoking tobacco, or smokeless
 14 tobacco. A tobacco product does not include drugs, devices, or
 15 combination products authorized for sale **as tobacco cessation**
 16 **products** by the United States Food and Drug Administration, as
 17 those terms are defined in **subchapter V of** the federal food, drug,
 18 and cosmetic act, 21 USC 351 to ~~360fff-7.~~**360fff-8.**

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

23 **(ff)** ~~(ee)~~-"Transporter" means a person importing or
 24 transporting into this state, or transporting in this state, a
 25 tobacco product obtained from a source located outside this state,
 26 or from any person not duly licensed under this act. Transporter
 27 does not include an interstate commerce carrier licensed by the
 28 ~~interstate commerce commission,~~ **Interstate Commerce Commission**, or
 29 its successor federal agency, to carry commodities in interstate



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

4 **(gg)** ~~(ff)~~—"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 in this state. Unclassified
 10 acquirer also means a person who purchases or receives tobacco
 11 products directly from a manufacturer licensed under this act or
 12 from another source outside this state, which source is not
 13 licensed under this act. An unclassified acquirer also includes a
 14 person not located in this state that sells a tobacco product,
 15 through a mail order, catalog sale, telephone order, internet sale,
 16 or any other means, to a retailer or other person in this state
 17 that is not licensed under this act as a wholesaler, unclassified
 18 acquirer, ~~other than a manufacturer,~~ or secondary wholesaler.
 19 **Unclassified acquirer also includes a person located within or**
 20 **outside of this state that makes a remote retail sale of a tobacco**
 21 **product to a consumer in this state.** An unclassified acquirer does
 22 not include a wholesaler.

23 **(hh)** ~~(gg)~~—"Vending machine operator" means a person who
 24 operates 1 or more vending machines in this state for the sale of a
 25 tobacco product. ~~and who purchases a tobacco product from a~~
 26 ~~manufacturer, licensed wholesaler, or secondary wholesaler.~~

27 **(ii)** ~~(hh)~~—"Wholesale price" means the actual price paid to a
 28 seller for a tobacco product, by a wholesaler or unclassified
 29 acquirer ~~in order~~ to acquire that tobacco product from the seller.



1 The wholesale price includes any tax, fee, licensing, or other
2 charge, except as otherwise provided in this subdivision, reflected
3 on the invoice, bill of sale, purchase order, or other document
4 evidencing the sale or purchase of the tobacco product. Wholesale
5 price does not include, if separately stated on the invoice, bill
6 of sale, purchase order, or other document evidencing the sale of
7 the tobacco product, shipping or handling charges for cigarettes,
8 and reasonable shipping or handling charges for tobacco products
9 other than cigarettes such as transportation, shipping, postage,
10 handling, crating, or packing. ~~When~~**If** items or products, other
11 than tobacco products, are included in a transaction for the
12 purchase of tobacco products by a wholesaler or unclassified
13 acquirer, charges for those products or items that are not tobacco
14 products, including shipping and handling charges, may be excluded
15 from the wholesale price if separately stated on the invoice, bill
16 of sale, purchase order, or other document evidencing the sale or
17 purchase. The wholesale price shall not be reduced due to any
18 rebate, trade allowance, licensing or exclusivity agreement, volume
19 or other discount, or any other reduction given by the seller or
20 passed on to or otherwise received by the wholesaler or
21 unclassified acquirer from the seller. If the wholesaler or
22 unclassified acquirer **fails to keep or maintain the records as**
23 **required under section 6, or** has a relationship as described in
24 section 267(b) of the internal revenue code of 1986, 26 USC 267,
25 with the seller, the department may establish the wholesale price
26 for the tobacco products based on the best available information or
27 any other reasonable proxy for the wholesale price including, but
28 not limited to, the wholesale price paid by other taxpayers for
29 those tobacco products within the past 4 years. **If an unclassified**



1 acquirer makes a remote retail sale and fails to keep or maintain
 2 the records required under section 6 for the remote retail sale,
 3 the department may determine the wholesale price of the tobacco
 4 product sold to the consumer in that remote retail sale based on
 5 the average price paid, during the immediately preceding calendar
 6 year, by the unclassified acquirer to acquire or purchase the same
 7 type of tobacco product if that information is made available to
 8 the department by the unclassified acquirer.

9 (jj) ~~(ii)~~ "Wholesaler" means a person who purchases all or
 10 part of its tobacco products from a manufacturer and who sells 75%
 11 or more of those tobacco products to others for resale. Wholesaler
 12 includes a chain of stores retailing a tobacco product to the
 13 consumer if 75% of its stock of tobacco products is purchased
 14 directly from the manufacturer.

15 (kk) ~~(jj)~~ "Wrap" means an individual tobacco wrapper that is
 16 made wholly or in part from tobacco, including reconstituted
 17 tobacco, whether in the form of tobacco leaf, sheet, or tube, if
 18 the wrap is designed to be offered, or is offered, for sale to
 19 consumers to create or to use as a component part of a tobacco
 20 product.

21 Sec. 3. (1) ~~Beginning May 1, 1994, Except as otherwise~~
 22 **provided in section 3a and section 6(15)**, a person shall not
 23 purchase, possess, acquire for resale, **import**, or sell a tobacco
 24 product as a manufacturer, wholesaler, secondary wholesaler,
 25 vending machine operator, unclassified acquirer, transportation
 26 company, or transporter in **or into** this state unless licensed to do
 27 so. **A person shall not make a remote retail sale to a consumer in**
 28 **this state unless that person is licensed under this act as an**
 29 **unclassified acquirer.** A license granted under this act is not



1 assignable.

2 (2) Upon proper application and the payment of the applicable
 3 fee, and subject to subsection (6), the department shall issue a
 4 license to each manufacturer, wholesaler, secondary wholesaler,
 5 vending machine operator, unclassified acquirer, transportation
 6 company, or transporter. The application ~~shall~~**must** be on a form
 7 prescribed by the department and signed under penalty of perjury.
 8 **The application must state the applicant's regular business hours.**
 9 Except for transportation companies, each place of business ~~shall~~
 10 **must** be separately licensed. If a person acts in more than 1
 11 capacity at any 1 place of business, a license ~~shall~~**must** be
 12 procured for each capacity. Each machine for vending tobacco
 13 products ~~shall be~~**is** considered a place of retail business. Each
 14 license or a duplicate copy ~~shall~~**must** be prominently displayed on
 15 the premises covered by the license. In the case of vending
 16 machines, a disc or marker furnished by the department showing it
 17 to be licensed ~~shall~~**must** be attached to the front of the machine
 18 in a place clearly visible to the public. **For unclassified**
 19 **acquirers that do not maintain a place of business where tobacco**
 20 **products are sold, brought, or kept, the department may issue a**
 21 **license based on the physical address of the applicant's**
 22 **nonresidential building, office, or other facility where the**
 23 **records required under this act are to be kept and maintained.**

24 (3) The fees for licenses ~~shall be the following:~~**are as**
 25 **follows:**

- 26 (a) A wholesaler's license, \$100.00.
- 27 (b) A secondary wholesaler's license, \$25.00.
- 28 (c) A license for vending machine operators, \$25.00.
- 29 (d) An unclassified acquirer's license, as follows:



1 (i) State of Michigan, no fee.

2 (ii) Retail importer of tobacco products other than cigarettes,
3 \$10.00.

4 (iii) Retail importer of cigarettes, \$100.00.

5 (iv) Vending machine operator buying direct from a
6 manufacturer, \$100.00.

7 ~~(v) Manufacturer, \$100.00.~~

8 ~~(v) (vi) Any other importer, \$100.00.~~

9 (e) A transportation company's license, \$5.00.

10 (f) A transporter's license, \$50.00.

11 **(g) A manufacturer's license, \$100.00.**

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

19 (5) A person shall not possess a machine for vending tobacco
20 products for a period in excess of 72 hours, **or operate a machine**
21 **for vending tobacco products**, unless there is a disc or marker
22 attached as provided by this section. This requirement does not
23 apply to a machine not containing **or used in selling** a tobacco
24 product. If a person possesses **or operates** a vending machine
25 containing **or used in selling** a tobacco product that is not
26 properly licensed or identified as required by this section, the
27 department may seal or seize the machine, together with ~~the~~ **any**
28 tobacco products contained in the machine. The provisions of
29 section 9 govern the seizure and subsequent disposition of a



1 machine or tobacco product seized.

2 (6) Applications from persons applying for an initial license
3 under this act ~~shall~~**must** be accompanied by satisfactory proof, as
4 determined by the department, of all the following:

5 (a) The applicant's financial responsibility, including but
6 not limited to, satisfactory proof of a minimum net worth of
7 \$25,000.00.

8 (b) That the applicant owns, or has an executed lease for, a
9 secure nonresidential facility for the purpose of receiving,
10 **storing**, and distributing ~~cigarettes~~**tobacco products, if**
11 **applicable**, and conducting its business **in accordance with this act**
12 if the applicant owns or has an executed lease for such a facility.
13 If the applicant carries on another business in conjunction with
14 the secure nonresidential facility, the other business ~~shall~~**must**
15 also be identified.

16 (c) United States citizenship or eligibility to obtain
17 employment within the United States if not a citizen. If the
18 applicant is not an individual, the controlling shareholders,
19 partners, directors, and principal officers shall be United States
20 citizens or eligible to obtain employment within the United States
21 if not a citizen.

22 (7) The department may require an applicant who is purchasing
23 the business of a licensee to file a copy of the contract of sale
24 and any related documents with its application. The department may
25 require a licensee under this section to furnish a surety bond with
26 a surety company authorized to do business in this state in an
27 amount the department may fix, conditioned upon the payment of the
28 tax provided by this act. The department may also require a
29 licensee under this section to file a financial statement with the



1 department showing all assets and liabilities and any other
2 information the department may prescribe, to be filed within 30
3 days after the date requested. If there is a change of more than
4 50% of ownership or control or a change in the general partnership
5 of a licensee, the department may require that licensee to file a
6 new application for a license or an updated financial statement.

7 **(8) Each place of business of a retailer, and any place of**
8 **business or other nonresidential building, office, or facility**
9 **licensed under this section, must display the name and address of**
10 **the retailer or licensee in a manner that is readily visible to the**
11 **general public from outside the place of business, nonresidential**
12 **building, office, or facility, as applicable.**

13 **(9) Notwithstanding anything in this act to the contrary, the**
14 **following requirements apply to a secondary wholesaler, vending**
15 **machine operator, or wholesaler, as applicable:**

16 **(a) A secondary wholesaler may purchase or acquire a tobacco**
17 **product for resale in this state only if that purchase or**
18 **acquisition is directly from a wholesaler or unclassified acquirer**
19 **that is licensed under this act and the tax imposed under this act**
20 **has been paid on that tobacco product.**

21 **(b) Except for a secondary wholesaler described in section**
22 **2 (z) (ii) , a secondary wholesaler shall maintain an established place**
23 **of business in this state where a substantial portion of the**
24 **business is the sale of tobacco products and related merchandise at**
25 **wholesale and where, at all times, a substantial stock of tobacco**
26 **products and related merchandise is available for sale to retailers**
27 **for resale.**

28 **(c) A wholesaler shall maintain an established place of**
29 **business in this state where substantially all of the business is**



1 the sale of tobacco products and related merchandise at wholesale
 2 and where, at all times, a substantial stock of tobacco products
 3 and related merchandise is available for sale to retailers for
 4 resale.

5 (d) A vending machine operator may purchase a tobacco product
 6 only from a secondary wholesaler, a wholesaler, or an unclassified
 7 acquirer that is licensed under this act.

8 Sec. 3a. (1) A creditor that acquires a tobacco product in
 9 this state as a result of exercising a security interest may sell
 10 that tobacco product without being licensed under this act if both
 11 of the following requirements are met:

12 (a) The creditor receives written approval from the
 13 department.

14 (b) The creditor sells or transfers the tobacco product to a
 15 person in this state licensed under this act as either a wholesaler
 16 or unclassified acquirer.

17 (2) A creditor shall apply for approval under this section on
 18 a form and in a manner prescribed by the department.

19 (3) As used in this section, "creditor" and "security
 20 interest" mean those terms as defined in section 1201 of the
 21 uniform commercial code, 1962 PA 174, MCL 440.1201.

22 Sec. 4. ~~(1) Except as provided in subsection (2), each~~ **Each**
 23 license issued under section 3 ~~shall expire~~ **expires** on the June 30
 24 next succeeding the date of issuance unless revoked by the
 25 department, unless the business for which the license was issued
 26 changes ownership, or unless the holder of the license removes the
 27 business from the location covered by the license. Upon expiration
 28 of the license, revocation of the license, change of ownership of
 29 the business, or removal of the business from the location covered



1 by the license, the holder of the license immediately shall return
 2 the license to the department. If a business moves to another
 3 location, ~~in the state,~~ the license may be reissued for the new
 4 location for the balance of the unexpired term without payment of
 5 an additional fee. The holder of each license may renew that
 6 license for another 1-year period by filing an application
 7 accompanied by the applicable fee with the department before the
 8 expiration date of that license.

9 ~~(2) For licenses issued in 1994, the department may issue~~
 10 ~~those licenses with an expiration date of June 30, 1995.~~

11 Sec. 5. (1) The department may suspend, revoke, or refuse to
 12 issue or renew a license issued under this act for failure to
 13 comply with this act or for any other good cause. A person whose
 14 license is suspended, revoked, or not renewed shall not act as a
 15 stamping agent or acquire a stamp from the department or any other
 16 person, or sell a tobacco product during the period of suspension
 17 or revocation, or until the license is renewed.

18 (2) If a person who is a manufacturer, wholesaler, or
 19 unclassified acquirer licensed under this act is convicted of a
 20 felony under any provision of this act, the department shall revoke
 21 any license issued under this act to that person.

22 (3) Before the department suspends, revokes, or refuses to
 23 renew a license under this act, the department shall notify the
 24 person of its intent to hold a hearing before a representative of
 25 the ~~commissioner~~ **state treasurer** for purposes of determining
 26 whether to suspend, revoke, or refuse to renew a license ~~at least~~
 27 **not less than** 14 days before the scheduled hearing date.

28 (4) A person aggrieved by the suspension, revocation, or
 29 refusal to issue or renew a license may apply to the ~~revenue~~



1 ~~division of the~~ department for a hearing within 20 days after
2 notice of the suspension, revocation, or refusal to issue or renew
3 the license. A hearing ~~shall be had~~ **must be held** in the same manner
4 provided in section 21 of 1941 PA 122, MCL 205.21. The decision in
5 case of suspension, revocation, or refusal to renew ~~shall~~ **must** be
6 issued within 45 days of receipt of the request for hearing.

7 Sec. 5a. (1) The department shall procure stamps as needed in
8 the various designs, denominations, and forms necessary as
9 determined by the department. The department shall pay for the
10 stamps.

11 (2) Not later than ~~45 days after the effective date of the~~
12 ~~amendatory act that added this subsection,~~ **June 20, 2012**, the
13 department shall issue a request for proposal to acquire and use
14 digital stamps that contain a unique nonrepeating code that can be
15 read by a device that identifies the taxed product and also contain
16 other security and enforcement features as determined by the
17 department. The request for proposal ~~shall~~ **must** include a provision
18 that requires the successful bidder on the proposal to share
19 digital stamp technology so that handheld devices, including, but
20 not limited to, smartphones, can be readily utilized in furtherance
21 of the implementation of the use of digital stamps and so that the
22 technology and equipment used by the stamping agents to affix the
23 stamp to the product can be supplied, as may be permitted by the
24 department, by the successful bidder on the proposal or by any
25 other providers. The request for proposal ~~shall~~ **must** also include a
26 provision permitting the department to manage or restrict access
27 rights to all or part of the information contained within, or
28 accessible from, the stamps and a provision requiring the
29 successful bidder on the proposal to guarantee that the stamps will



1 be designed and manufactured to ensure that stamps can be affixed
 2 to individual packages of cigarettes in accordance with the
 3 requirements under section 6a(2) **and (3)**.

4 Sec. 6. (1) A manufacturer, wholesaler, secondary wholesaler,
 5 vending machine operator, transportation company, unclassified
 6 acquirer, or retailer shall keep a complete and accurate record of
 7 each tobacco product manufactured, purchased, or otherwise
 8 acquired. Except for a manufacturer, the records ~~shall~~**must** include
 9 a written statement containing the name and address of both the
 10 seller and the purchaser, the date of delivery, the quantity, the
 11 trade name or brand, and the price paid for each tobacco product
 12 purchased **or otherwise acquired. A-Except as otherwise provided in**
 13 **this section, a** licensee shall keep as part of the records a true
 14 copy of all purchase orders, invoices, bills of lading, and other
 15 written matter substantiating the purchase or acquisition of each
 16 tobacco product at the location where the tobacco product is stored
 17 or offered for sale. **For an unclassified acquirer that does not**
 18 **maintain a place of business where tobacco products are sold,**
 19 **brought, or kept, the records required by this section must be kept**
 20 **at the physical address licensed under section 3.** A retailer shall
 21 keep as part of the records a true copy of all purchase orders,
 22 invoices, bills of lading, and other written matter substantiating
 23 the purchase or acquisition of each tobacco product **and related to**
 24 **any tobacco products subject to subsection (15), if applicable,** at
 25 the location where the tobacco product is offered for sale for a
 26 period of 4 months from the date of purchase or acquisition. The
 27 department may, by giving prior written approval, authorize a
 28 person licensed under this act or a retailer to maintain records in
 29 a manner other than that required by this subsection. Other records



1 shall be kept by these persons as the department reasonably
2 prescribes.

3 (2) A manufacturer, wholesaler, unclassified acquirer, and
4 secondary wholesaler shall deliver with each sale or consignment of
5 a tobacco product a written statement containing the name or trade
6 name and address of both the seller and the purchaser, the date of
7 delivery, the quantity, and the trade name or brand of the tobacco
8 product, correctly itemizing the prices paid for each brand
9 purchased, and shall retain a duplicate of each statement.

10 (3) A vending machine operator shall keep a detailed record of
11 each vending machine owned for the sale of tobacco products showing
12 the location of the machine, the date of placing the machine on the
13 location, the quantity of each tobacco product placed in the
14 machine, the date when placed there, and the amount of the
15 commission paid or earned on sales through the vending machine.
16 When filling or refilling the vending machine, the operator shall
17 deliver to the owner or tenant occupying the premises where the
18 machine is located a written statement containing ~~his or her~~ **the**
19 **operator's** own name and address, the name and address of the owner
20 or the tenant, the date when the machine was filled, and the
21 quantity of each brand of tobacco product sold from the machine
22 since the date when tobacco products were last placed in the
23 machine. A person in possession of premises where a vending machine
24 is located shall keep a record of each tobacco product sold through
25 the vending machine located on the premises and the amount of
26 commission paid by the person operating the vending machine. The
27 records ~~shall~~ **must** consist of written statements required to be
28 given by each person operating a vending machine for the sale of
29 tobacco products as provided in this section.



1 (4) A licensee under this act shall not issue or accept a
 2 written statement or invoice that is known to the licensee to
 3 contain a statement or omission that falsely indicates the name of
 4 the customer, the type, trade name, or brand of merchandise, the
 5 quantity of each type, trade name, or brand of merchandise, the
 6 prices, the discounts, the date of the transaction, or the terms of
 7 sale. A person shall not use a device or game of chance to aid,
 8 promote, or induce sales or purchases of a tobacco product, or give
 9 a tobacco product in connection with a device or game of chance.

10 (5) ~~All~~ **Except as otherwise provided in subsection (6), all**
 11 statements and other records required by this section ~~shall~~ **must** be
 12 in a form prescribed by the department and ~~shall~~ **must** be preserved
 13 for a period of 4 years **from the date of purchase or acquisition of**
 14 **the tobacco product** and offered for inspection at any time upon
 15 oral or written demand by the department or its authorized agent by
 16 every wholesaler, secondary wholesaler, vending machine operator,
 17 unclassified acquirer, and retailer.

18 (6) **A licensee or retailer in possession or control of a**
 19 **tobacco product that has not preserved the statements and records**
 20 **required by this section because the licensee or retailer claims**
 21 **the tobacco product was purchased or acquired more than 4 years ago**
 22 **has the burden of proving that the tobacco product was purchased or**
 23 **acquired more than 4 years ago. A licensee or retailer that fails**
 24 **to preserve documentation sufficient to meet this burden of proof**
 25 **is in violation of the record-keeping requirements under this**
 26 **section for that tobacco product.**

27 (7) ~~(6) If~~ **A shipping case or container of** a tobacco product
 28 other than cigarettes ~~is~~ received or acquired within this state by
 29 a wholesaler ~~, secondary wholesaler, vending machine operator, or~~



1 unclassified acquirer ~~, or retailer, each original manufacturer's~~
 2 ~~shipping case shall from a manufacturer or any person located~~
 3 **outside this state must bear either** the name and address of the
 4 ~~person making~~ **wholesaler or unclassified acquirer that made** the
 5 first purchase **of that shipping case or container** or any other
 6 markings the department prescribes. **The point at which a shipping**
 7 **case or container is considered to be received or acquired in this**
 8 **state is to be determined based on the facts and circumstances**
 9 **including, but not limited to, all of the following:**

10 (a) Ownership of the shipping case or container when it enters
 11 this state's borders or when it is delivered to the wholesaler or
 12 unclassified acquirer.

13 (b) The risk of loss.

14 (c) The use of a common carrier or a vehicle owned or leased
 15 by the wholesaler or unclassified acquirer to import or transport
 16 the shipping case or container into this state or deliver the
 17 shipping case or container to the wholesaler or unclassified
 18 acquirer.

19 (8) A wholesaler or unclassified acquirer, licensed under this
 20 act, shall place or otherwise affix the markings prescribed by the
 21 department on every shipping case or container of a tobacco product
 22 other than cigarettes that is sold, transferred, shipped, or
 23 delivered by the wholesaler or unclassified acquirer to a retailer
 24 or another licensee, in this state.

25 (9) If a marking prescribed by the department is to be affixed
 26 to a shipping case or container of tobacco products other than
 27 cigarettes by means of a mechanical or other device that applies
 28 the marking, the wholesaler or unclassified acquirer must obtain
 29 prior approval from the department to purchase, possess, or



1 otherwise be permitted to use such a device. A wholesaler or
2 unclassified acquirer whose license is revoked, is terminated, or
3 has expired shall return all such devices in its possession to the
4 department within 60 days of the revocation, termination, or
5 expiration of its license. In addition to any other fine or any
6 civil or criminal penalty or charge allowed by law, a wholesaler or
7 unclassified acquirer that fails to return each device in its
8 possession as required by this subsection is liable for a fine of
9 \$500.00 for each device not timely returned.

10 (10) The markings required by this section on shipping cases
11 and containers of tobacco products other than cigarettes must not
12 be affixed in a manner that makes the markings illegible or that
13 covers up, in whole or in part, or that otherwise obstructs or
14 makes illegible the information or markings described in subsection
15 (7).

16 (11) If a tobacco product other than cigarettes is found in a
17 place of business or otherwise in the possession of a wholesaler,
18 secondary wholesaler, vending machine operator, unclassified
19 acquirer, transporter, or retailer without ~~proper~~**the** markings
20 **prescribed by the department or the information required by this**
21 **section** on the shipping case ~~, box,~~ or container of the tobacco
22 product, **if required by this section**, or if an individual package
23 of cigarettes is found without a stamp affixed as provided under
24 this act or if a tobacco product is found, **or was acquired,**
25 **imported, transferred, or sold**, without proper substantiation by
26 invoices or other records as required by this section, the
27 presumption shall be that the tobacco product is kept in violation
28 of this act **and constitutes contraband subject to seizure and**
29 **forfeiture under section 9. Notwithstanding anything in this act to**



1 the contrary, if any tobacco product is adjudicated by a court of
 2 competent jurisdiction to have been lawfully seized under this act,
 3 and if the adjudication of lawful seizure survives the exhaustion
 4 or lapse of any appeal rights, the tobacco product shall be
 5 automatically forfeited to this state and the person from whom that
 6 tobacco product was seized shall be liable for the tax imposed
 7 under this act on that tobacco product.

8 (12) If a tobacco product is ~~shipped outside the state, to be~~
 9 or is being transported on a public highway, road, or street in
 10 this state for shipment outside this state, as indicated by the
 11 bills of lading, invoices, packing slips, or other documentation
 12 related to that shipment, the licensee shipping the tobacco product
 13 shall cause to be placed on every shipping case or ~~other~~ container
 14 in which the tobacco product is shipped the name and address of the
 15 consignee or purchaser to whom the shipment is made outside of the
 16 state and, for tobacco products other than cigarettes, the marking
 17 prescribed by the department unless the shipping case or other
 18 container already bears that marking from the licensee. A tobacco
 19 product that was located in this state is considered to have been
 20 shipped outside this state for purposes of this subsection if the
 21 tobacco product crosses the border of this state regardless of
 22 whether the tobacco product is delivered to or accepted by the
 23 consignee or purchaser to whom the shipment is made outside this
 24 state.

25 (13) The department may require reports from a common carrier
 26 who transports a tobacco product to a point within this state from
 27 another person who, under contract, transports a tobacco product,
 28 or from a bonded warehouseperson or bailee who has in his or her
 29 possession a tobacco product. A carrier, bailee, warehouseperson,



1 or other person shall permit the inspection of the tobacco products
 2 and examination by the department or its duly authorized agent of
 3 any records relating to the shipment of a tobacco product into,
 4 from, or within ~~the~~ **this** state.

5 **(14)** ~~(7) A transporter or other licensee~~ **Except as otherwise**
 6 **provided in subsection (15), any person** transporting, possessing,
 7 or acquiring for the purpose of transporting a tobacco product upon
 8 a public highway, road, or street of this state shall **be licensed**
 9 **under this act as a transporter, unless that person is licensed**
 10 **under this act as an unclassified acquirer, wholesaler,**
 11 **transportation company, vending machine operator, or secondary**
 12 **wholesaler, and shall** have in ~~his or her~~ **the person's** actual
 13 possession invoices or bills of lading containing the name and
 14 address of both the seller and the purchaser, the **actual or**
 15 **estimated** date of delivery, the **person's** name and address, ~~of the~~
 16 ~~transporter,~~ the quantity and trade name or brand of each tobacco
 17 product, the price paid for each trade name or brand in the
 18 ~~transporter's~~ **person's** possession or custody, and **a copy of** the
 19 license as prescribed under this act.

20 ~~(8) A transporter desiring to possess or acquire for~~
 21 ~~transportation or transport a tobacco product upon a highway, road,~~
 22 ~~or street of this state shall obtain a permit from the department~~
 23 ~~authorizing the transporter to possess or acquire for~~
 24 ~~transportation or transport tobacco products and shall have the~~
 25 ~~permit in his or her possession while the tobacco product is in his~~
 26 ~~or her possession. This permit shall be obtained for each load~~
 27 ~~being transported and shall contain a statement setting forth the~~
 28 ~~name and address of the purchaser, seller, and transporter, the~~
 29 ~~license number of the purchaser, the date of the delivery of the~~



1 ~~tobacco product or date of importation into this state, the route~~
2 ~~to be followed if a tobacco product is being transported from an~~
3 ~~out-of-state source, and any other information the department~~
4 ~~requires. The department shall provide a permit on a form~~
5 ~~prescribed by it upon the application of a transporter with the~~
6 ~~remittance of a fee of \$1.00. If a transporter transports a tobacco~~
7 ~~product into this state, the transporter shall stop at the nearest~~
8 ~~state police post within this state on the route authorized by the~~
9 ~~permit and disclose the tobacco products in his or her possession~~
10 ~~and the papers required by this section to be in his or her~~
11 ~~possession.~~

12 (15) Notwithstanding anything in this act to the contrary, a
13 retailer in this state, or other person acting on behalf of a
14 retailer in this state, is not required to be licensed under this
15 act to transport a tobacco product upon a public highway, road, or
16 street of this state for the purpose of delivering a tobacco
17 product to a consumer in this state if all of the following
18 conditions are met:

19 (a) The tobacco product was purchased by the consumer from the
20 retailer at retail.

21 (b) The consumer has paid for the tobacco product in full
22 before the shipment and delivery of the tobacco product to the
23 consumer.

24 (c) The retailer or other person making the delivery has in
25 its possession, at all times during which the tobacco product is
26 being transported on a public highway, road, or street of this
27 state, an invoice, receipt, or other documentation substantiating
28 the sale to the consumer that states the name and address of the
29 retailer, the name and address of the consumer, the delivery date,



1 the trade name or brand of the tobacco product, the quantity, and
2 the price paid for the tobacco product.

3 Sec. 6a. (1) A wholesaler or unclassified acquirer ~~other than~~
4 ~~a manufacturer~~ may apply to the department for stamps to affix as
5 provided in this act. The department may prescribe the method of
6 shipment of the stamps. The department shall keep a record of all
7 stamps disbursed, name of wholesaler or unclassified acquirer, and
8 date of disbursement. The department may release the identity of
9 the wholesaler or unclassified acquirer to whom specific stamps
10 were disbursed to state or local police agencies.

11 (2) ~~Before~~ **Except as otherwise provided in this subsection,**
12 **before** delivery, sale, or transfer to any person in this state, a
13 wholesaler or an unclassified acquirer shall place or cause to be
14 placed on the bottom of each individual package of cigarettes to be
15 sold within this state a stamp provided by the department. **If**
16 **approved by the department, a stamp may be placed in a location**
17 **other than the bottom of each individual package of cigarettes.**

18 (3) Stamps ~~shall~~ **must** be firmly affixed in such a manner that
19 the stamps cannot be removed without being mutilated or destroyed.
20 A stamp ~~shall~~ **must** be affixed to each individual package in an
21 aggregate denomination equal to the amount of the tax upon the
22 contents of the individual package of cigarettes. ~~Except as~~
23 ~~otherwise provided in this subsection, a stamp is considered~~
24 ~~affixed if more than 50% of the stamp is affixed to the individual~~
25 ~~package, as determined by the department. Upon implementation of~~
26 ~~the digital stamps as provided in section 5a(2), a~~ **A** stamp is
27 considered affixed if 90% or more of the stamp is affixed to the
28 individual package.

29 (4) ~~(3)~~ A retailer or person licensed under this act, other



1 than a wholesaler or unclassified acquirer or a person acting as a
 2 transporter for a wholesaler or unclassified acquirer, shall not
 3 acquire for resale an individual package of cigarettes or a
 4 cigarette from an individual package unless that individual package
 5 of cigarettes has affixed to it a stamp as provided in this act.

6 (5) ~~(4)~~—A retailer or vending machine operator shall not sell
 7 or offer for sale an individual package of cigarettes to the
 8 general public that does not have affixed the stamp required by
 9 this act. ~~Cigarettes without stamps~~ **An individual package of**
 10 **cigarettes without a stamp** may not be sold from, or placed or
 11 stored in, a vending machine. **Except as otherwise provided by law,**
 12 **a person shall not sell a cigarette separately from its individual**
 13 **package.**

14 (6) ~~(5)~~—The department or its authorized agents may inspect ~~or~~
 15 **the operations of a wholesaler and an unclassified acquirer for**
 16 **purposes of ensuring compliance with this act and to** conduct an
 17 inventory of a wholesaler's or unclassified acquirer's stock of
 18 cigarettes, tobacco products other than cigarettes, and stamps
 19 during regular business hours and inspect the related statements
 20 and other records required in section 6. **This inspection shall also**
 21 **verify that shipping cases and containers of tobacco products other**
 22 **than cigarettes bear any markings required by this act. An**
 23 **inspection under this section must be conducted during the regular**
 24 **business hours of the wholesaler or unclassified acquirer. Unless**
 25 **otherwise approved by the department, the regular business hours of**
 26 **a wholesaler or unclassified acquirer are those hours disclosed on**
 27 **that wholesaler's or unclassified acquirer's license application as**
 28 **required under section 3.**

29 (7) ~~(6)~~—The department or its authorized agents may inspect



1 the operations of a secondary wholesaler, vending machine operator,
 2 or retailer, or the contents of a specific vending machine, during
 3 regular business hours. This inspection shall include inspection of
 4 all statements and other records required by section 6, ~~of this~~
 5 ~~act,~~ of packages of cigarettes and tobacco products other than
 6 cigarettes, and of the contents of cartons and shipping or storage
 7 containers to ascertain that all individual packages of cigarettes
 8 have an affixed stamp of proper denomination as required by this
 9 act. This inspection may also verify that all the stamps were
 10 produced under the authority of the department **and that shipping**
 11 **cases and containers of tobacco products other than cigarettes bear**
 12 **any markings required by this act. Unless otherwise approved by the**
 13 **department, the regular business hours of a secondary wholesaler or**
 14 **vending machine operator are those hours disclosed on that**
 15 **secondary wholesaler's or vending machine operator's license**
 16 **application as required under section 3. The regular business hours**
 17 **of a retailer are those hours that the retailer is open for**
 18 **business as evidenced by the retailer's commercial activity and**
 19 **signage, advertisements, or other information communicated to the**
 20 **general public.**

21 (8) ~~(7)~~ A person shall not prevent or hinder the department or
 22 its authorized agents from ~~making a full inspection of any place or~~
 23 ~~vending machine where cigarettes or tobacco products other than~~
 24 ~~cigarettes subject to the tax under this act are sold or stored, or~~
 25 ~~prevent or hinder the full inspection of invoices, books, records,~~
 26 ~~or other papers required to be kept~~ **conducting an inspection**
 27 **authorized** by this act.

28 (9) ~~(8)~~ The department may require wholesalers and
 29 unclassified acquirers to exchange unaffixed stamps with the



1 department as the department considers necessary. The department
 2 may require wholesalers, unclassified acquirers, secondary
 3 wholesalers, vending machine operators and retailers to discontinue
 4 offering for sale any unsold individual packages of cigarettes
 5 bearing a prior version of the stamp that the department has
 6 withdrawn from circulation. The department may set a reasonable
 7 timeline after which the prior version of the stamp may no longer
 8 be offered for sale and the new version of the stamp is required. A
 9 secondary wholesaler, retailer, or vending machine operator may
 10 return cigarette packages bearing discontinued stamps to a
 11 wholesaler for credit. A wholesaler or unclassified acquirer may
 12 take credit on its tax returns for individual packages of
 13 cigarettes bearing discontinued stamps that are returned to the
 14 manufacturer for credit less the appropriate discount paid.

15 (10) ~~(9)~~—Except as provided in subsection ~~(10)~~, ~~(11)~~, a
 16 wholesaler or unclassified acquirer shall not give, sell, or lend
 17 any unaffixed stamps to another person and except as otherwise
 18 provided in this act, a person shall not accept, purchase, or
 19 borrow any unaffixed stamps from another person.

20 (11) ~~(10)~~—Upon written authorization of the department, a
 21 wholesaler or unclassified acquirer licensed under this act may
 22 appoint a stamping agent to affix stamps to individual packages of
 23 cigarettes.

24 (12) ~~(11)~~—Stamps may only be affixed to an individual package
 25 of cigarettes if the manufacturer of the cigarettes is identified
 26 on the lists of participating manufacturers or nonparticipating
 27 manufacturers maintained by the department pursuant to ~~section~~
 28 ~~6c(8)~~. **sections 6c and 6d.**

29 (13) ~~(12)~~—The department of state police shall initiate



1 inquiries to or otherwise access data from the department to
 2 support or in furtherance of its enforcement activities under this
 3 act.

4 Sec. 6b. (1) ~~Beginning April 15, 1998, Upon proper request in~~
 5 **the form and manner prescribed by the department,** a wholesaler or
 6 unclassified acquirer may obtain stamps from the department. ~~and~~
 7 ~~shall remit the unpaid balance of the tax at the time of filing the~~
 8 ~~return provided in section 7 at a discount from the face amount of~~
 9 ~~the stamps as provided in section 7(3). If the department~~
 10 ~~determines that a wholesaler or unclassified acquirer is not~~
 11 ~~financially sound, the department shall issue stamps only if 1 of~~
 12 ~~the following is met:~~

13 ~~(a) On the filing with the department of a bond or other~~
 14 ~~security as determined by the department in an amount to be~~
 15 ~~determined by the department.~~

16 ~~(b) The department requires returns and payments to be made~~
 17 ~~more frequently than provided in section 7.~~

18 ~~(c) The department requires the wholesaler or unclassified~~
 19 ~~acquirer to pay for the stamps at the time of obtaining them, less~~
 20 ~~a discount from the face amount of the stamps equal to the discount~~
 21 ~~provided in section 7(3).~~

22 (2) The department shall not issue any stamps to a wholesaler
 23 or unclassified acquirer ~~who~~**that** is delinquent in paying the tax
 24 under this act.

25 Sec. 6c. (1) ~~A~~**Every** nonparticipating manufacturer **whose**
 26 **cigarettes are sold in this state, whether directly or through a**
 27 **licensee or other distributor, retailer, or similar intermediary,**
 28 shall by April 30 of each year certify to the department that it is
 29 not a participant in the master settlement agreement and that it



1 has performed its obligation to establish a qualified escrow
2 account and deposited funds into that account under 1999 PA 244,
3 MCL 445.2051 to 445.2052.

4 (2) The certification of compliance ~~shall~~**must** be on a form
5 prescribed by the department, ~~shall~~**must** contain all of the
6 information requested on the form, and ~~shall~~**must** include a list of
7 all brand names of cigarettes sold by the nonparticipating
8 manufacturer, **whether directly or through a licensee or other**
9 **distributor, retailer, or similar intermediary**, for consumption in
10 this state during the calendar year immediately preceding the
11 certification date.

12 (3) A nonparticipating manufacturer shall provide a copy of
13 the certification of compliance to the attorney general and any
14 wholesaler, unclassified acquirer, or other person to whom the
15 nonparticipating manufacturer makes a sale of its cigarettes for
16 subsequent sale **or consumption** in this state.

17 (4) A wholesaler, unclassified acquirer, or other person who
18 is provided with a certification of compliance under this section
19 shall retain the certification of compliance for not less than 4
20 years from the date the certification of compliance was received.

21 (5) A wholesaler or unclassified acquirer shall report to the
22 department all cigarettes that it acquires that were manufactured
23 by a nonparticipating manufacturer. ~~A wholesaler or unclassified~~
24 ~~acquirer that has not voluntarily submitted annual reports~~
25 ~~described in this subsection for periods beginning December 28,~~
26 ~~1999 shall file those reports with the department within 60 days of~~
27 ~~the effective date of the amendatory act that added this section.~~
28 The report ~~shall~~**must** be on a form prescribed by the department and
29 attached to the return required under section 7. A wholesaler or



1 unclassified acquirer that has not acquired any cigarettes from a
2 nonparticipating manufacturer shall file the report with the return
3 required under section 7 stating that it has not purchased,
4 acquired, exported, or returned cigarettes related to a
5 nonparticipating manufacturer. The information contained in this
6 report is for the purposes of enforcing 1999 PA 244, MCL 445.2051
7 to 445.2052, and does not constitute information obtained in
8 connection with the administration of a tax under section 28(1)(f)
9 of 1941 PA 122, MCL 205.28. A wholesaler or unclassified acquirer
10 shall retain a copy of the report for not less than 4 years from
11 the date the report was filed with the department. If a wholesaler
12 or unclassified acquirer does not file a report or knowingly files
13 an incomplete or inaccurate report under this subsection, the
14 department may do 1 or more of the following:

15 (a) Assess a penalty under this section.

16 (b) Prohibit the wholesaler or unclassified acquirer from
17 obtaining cigarette stamps from the department until a complete and
18 accurate report is filed.

19 (c) Revoke the wholesaler's or unclassified acquirer's license
20 under section 5, only after conducting a hearing.

21 (6) A nonparticipating manufacturer that has not provided the
22 certification of compliance required by this section shall not make
23 a sale of cigarettes in this state or a sale within or outside this
24 state to any person for sale, distribution, or consumption in this
25 state.

26 (7) A person shall not purchase, acquire, possess, or sell
27 cigarettes acquired from or manufactured by a nonparticipating
28 manufacturer that has not provided the certification of compliance
29 to the department as required under this section and that has not



1 provided the person with a copy of the certification of compliance
2 if required to do so under subsection (3).

3 (8) The department shall maintain and regularly update a list
4 of participating manufacturers and nonparticipating manufacturers
5 that have provided the certification of compliance required under
6 this section. The department shall publish the list on its website
7 and provide a copy of the list to a person upon request. **Subject to**
8 **section 6f, the department may delist a manufacturer that no longer**
9 **complies with this section.**

10 (9) If a wholesaler or unclassified acquirer receives a
11 certification of compliance from a nonparticipating manufacturer
12 that is not included in the list maintained by the department, the
13 wholesaler or unclassified acquirer shall within 10 business days
14 after receiving the certification of compliance provide a copy of
15 the certification of compliance and the name and address of the
16 nonparticipating manufacturer to the department.

17 (10) Thirty days after the department posts on its website and
18 provides wholesalers and unclassified acquirers a notice of a
19 second or subsequent knowing violation of a provision of 1999 PA
20 244, MCL 445.2051 to 445.2052, or a notice of a judgment the
21 department has against a nonparticipating manufacturer, the
22 department may seize or confiscate from any person any cigarettes
23 in that person's possession that were acquired from or manufactured
24 by that nonparticipating manufacturer. ~~Beginning May 1, 2003, the~~
25 **The** department may seize or confiscate from any person any
26 cigarettes in that person's possession that were acquired from or
27 manufactured by a nonparticipating manufacturer if that
28 nonparticipating manufacturer has not provided the certification
29 required by this section. Seizure, confiscation, forfeiture, and



1 sale of cigarettes under this section shall be accomplished under
2 section 9.

3 (11) The department may impose on any person a civil fine not
4 to exceed \$1,000.00 for each violation of this section. The civil
5 fine is in addition to all other fines or penalties imposed by this
6 act or 1941 PA 122, MCL 205.1 to 205.31.

7 (12) As used in this section:

8 (a) "Cigarette" means that term as defined in 1999 PA 244, MCL
9 445.2051 to 445.2052.

10 (b) "Nonparticipating manufacturer" means a manufacturer of
11 cigarettes that is not a participating manufacturer as that term is
12 defined in 1999 PA 244, MCL 445.2051 to 445.2052. Nonparticipating
13 manufacturer also includes the first purchaser **anywhere for resale**
14 **in the United States** of cigarettes manufactured ~~outside the United~~
15 ~~States for resale~~ **anywhere that the manufacturer does not intend to**
16 **be sold** in the United States.

17 Sec. 6d. (1) Before commencing sales of cigarettes in this
18 state, **whether directly or through a licensee or other distributor,**
19 **retailer, or similar intermediary,** a nonparticipating manufacturer
20 shall provide to the department the information described in
21 subsection (3) and shall pay the equity assessment as provided in
22 subsections (4) and (5).

23 (2) A nonparticipating manufacturer selling cigarettes in this
24 state on ~~the effective date of the amendatory act that added this~~
25 ~~subsection~~ **January 8, 2004,** shall provide to the department the
26 information described in subsection (3) and pay the equity
27 assessment as provided in subsections (4) and (5) ~~within 30 days~~
28 ~~after the effective date of the amendatory act that added this~~
29 ~~subsection.~~ **before February 8, 2004.** If a nonparticipating



1 manufacturer is not selling cigarettes in this state on ~~the~~
2 ~~effective date of the amendatory act that added this subsection,~~
3 **January 8, 2004**, before selling cigarettes in this state, the
4 nonparticipating manufacturer shall pay the equity assessment
5 imposed under subsections (4) and (5) for all cigarettes that are
6 anticipated to be sold in the current calendar year as described in
7 subsection (5).

8 (3) A nonparticipating manufacturer shall provide to the
9 department on a form prescribed by the department the following
10 information:

11 (a) The complete name, address, and telephone number of the
12 nonparticipating manufacturer.

13 (b) The date that the nonparticipating manufacturer intends to
14 begin or began selling cigarettes in this state.

15 (c) The brand names of the cigarettes the nonparticipating
16 manufacturer will sell or is selling in this state.

17 (d) A statement of the nonparticipating manufacturer's
18 intention to comply with its escrow obligation under 1999 PA 244,
19 MCL 445.2051 to 445.2052, obligations under section 6c, and the
20 obligations in this section.

21 (e) The name, address, and telephone number of the resident
22 agent of the nonparticipating manufacturer.

23 (f) The name, address, telephone number, and signature of an
24 officer of the nonparticipating manufacturer attesting to all of
25 the information described in this subsection.

26 (4) An equity assessment in the amount of 17.5 mills per
27 cigarette is imposed upon all cigarettes sold by a nonparticipating
28 manufacturer, **whether directly or through a licensee or other**
29 **distributor, retailer, or similar intermediary**, in this state. The



1 purpose of the equity assessment is to fund enforcement and
2 administration of 1999 PA 244, MCL 445.2051 to 445.2052, and this
3 act. The equity assessment is in addition to all other fees,
4 assessments, and taxes levied by law. The equity assessment shall
5 be collected by the department from each nonparticipating
6 manufacturer selling cigarettes in this state. The equity
7 assessment shall be collected and reconciled by April 15 of each
8 year for cigarettes sold in the previous calendar year. The
9 department shall credit a nonparticipating manufacturer with any
10 prepayment made by the nonparticipating manufacturer pursuant to
11 subsection (5) for that calendar year.

12 (5) Except as provided in subsection (2), a nonparticipating
13 manufacturer selling cigarettes in this state, **whether directly or**
14 **through a licensee or other distributor, retailer, or similar**
15 **intermediary**, shall prepay the equity assessment imposed in
16 subsection (4) not later than March 1 for all cigarettes that are
17 anticipated to be sold in the current calendar year. The prepayment
18 amount shall be determined by multiplying 17.5 mills times the
19 number of cigarettes that the department reasonably determines that
20 the nonparticipating manufacturer will sell in this state in the
21 current calendar year or \$10,000.00, whichever is more. The
22 department may require a nonparticipating manufacturer to provide
23 any information reasonably necessary to determine the equity
24 assessment prepayment amount. Not later than February 15 of each
25 year, the department shall notify the nonparticipating manufacturer
26 of the amount of the prepayment due for the current year. The
27 department shall increase the equity assessment prepayment amount
28 during the year if the increase is justified by the
29 nonparticipating manufacturer's actual sales of cigarettes.



1 (6) A stamping agent shall not affix to any package of
2 cigarettes or shipping container of roll-your-own tobacco of a
3 nonparticipating manufacturer the stamp required under this act
4 unless the nonparticipating manufacturer is listed on the
5 department website as provided in subsection (9) or after receiving
6 notice that the nonparticipating manufacturer has not prepaid or
7 paid in full the equity assessment imposed under this section. A
8 stamping agent that violates this subsection is subject to the
9 penalties described in section 5. If a stamping agent intentionally
10 and knowingly violates this subsection, the department may seize or
11 confiscate any cigarettes in the stamping agent's possession that
12 were stamped in violation of this subsection. Seizure,
13 confiscation, forfeiture, and sale of cigarettes shall be
14 accomplished under section 9.

15 (7) A nonparticipating manufacturer that does not provide the
16 information required under subsection (3) or pay the equity
17 assessment required by this section shall not make a sale of
18 cigarettes in this state to any person for sale, distribution, or
19 consumption in this state.

20 (8) A person shall not purchase, acquire, possess, or sell
21 cigarettes acquired from or manufactured by a nonparticipating
22 manufacturer that has not provided the information required under
23 subsection (3) or made the payment of the equity assessment
24 required by this section.

25 (9) The department shall maintain and regularly update a list
26 of nonparticipating manufacturers that have complied with the
27 requirements of this section. The department shall publish the list
28 on its website and provide a copy of the list to a person upon
29 request. **Subject to section 6f, the department may delist a**



1 **manufacturer that no longer complies with this section.**

2 (10) Ninety days after the department posts on its website and
3 provides wholesalers and unclassified acquirers notice that a
4 nonparticipating manufacturer is in violation of subsection (1) or
5 (2), the department may seize or confiscate from any person any
6 cigarettes in that person's possession that were acquired from or
7 manufactured by that nonparticipating manufacturer. Seizure,
8 confiscation, forfeiture, and sale of cigarettes under this section
9 shall be accomplished under section 9.

10 (11) The department may impose on any person a civil fine not
11 to exceed \$1,000.00 for each violation of this section. The civil
12 fine is in addition to all other fines or penalties imposed by this
13 act or 1941 PA 122, MCL 205.1 to 205.31.

14 (12) A nonparticipating manufacturer shall appoint and
15 continually engage a resident agent for service of process. That
16 service ~~shall constitute~~ **constitutes** legal and valid service of
17 process on the nonparticipating manufacturer.

18 (13) For purposes of this section, a nonparticipating
19 manufacturer that intends to sell or is selling a brand of
20 cigarettes in or into this state is presumed to be the same
21 manufacturer that previously sold that same brand in or into the
22 state, unless the nonparticipating manufacturer can prove that the
23 2 manufacturers are not affiliated. A nonparticipating manufacturer
24 shall not ~~be authorized to sell~~ in or into this state a cigarette
25 brand that was previously sold in or into this state by another
26 nonparticipating manufacturer if that other nonparticipating
27 manufacturer did not escrow the entire amount due under 1999 PA
28 244, MCL 445.2051 to 445.2052, or pay the equity assessment due
29 under this section.



1 (14) The department shall conduct an audit or review of
 2 nonparticipating manufacturers to ensure compliance with this
 3 section.

4 (15) As used in this section:

5 (a) "Cigarette" means that term as defined in 1999 PA 244, MCL
 6 445.2051 to 445.2052.

7 (b) "Nonparticipating manufacturer" means a manufacturer of
 8 cigarettes that is not a participating manufacturer as that term is
 9 defined in 1999 PA 244, MCL 445.2051 to 445.2052. Nonparticipating
 10 manufacturer also includes the first purchaser **anywhere for resale**
 11 **in the United States** of cigarettes manufactured ~~outside the United~~
 12 ~~States for resale anywhere that the manufacturer does not intend to~~
 13 **be sold** in the United States.

14 **Sec. 6f. (1) This section establishes and sets forth the**
 15 **process by which the department may remove a tobacco product**
 16 **manufacturer or any associated or affiliated brand families of a**
 17 **tobacco product manufacturer from the directory, or refuse to list**
 18 **a tobacco product manufacturer or any associated or affiliated**
 19 **brand families of a tobacco product manufacturer on the directory.**
 20 **This section does not apply to any tobacco product manufacturer**
 21 **that voluntarily requests removal from, or rescinds a request to**
 22 **become listed on, the directory for either itself or an associated**
 23 **or an affiliated brand family of the tobacco product manufacturer.**

24 (2) Except as otherwise provided in this section, the
 25 department shall not include in the directory or retain a tobacco
 26 product manufacturer or any brand family of a tobacco product
 27 manufacturer in the directory, if any of the following apply:

28 (a) The tobacco product manufacturer has not performed any of
 29 its obligations under this act, including those obligations set



1 forth in sections 6c and 6d, or 1999 PA 244, MCL 445.2051 to
2 445.2052.

3 (b) The tobacco product manufacturer or any of the tobacco
4 product manufacturer's brand families have been removed from a list
5 maintained by another state that is equivalent to, or otherwise
6 serves the same purposes as, the directory, based on acts or
7 omissions that would, if the acts or omissions occurred in this
8 state, serve as a basis for removal from the directory.

9 (c) The tobacco product manufacturer, or any of its officers
10 or directors, have, in any jurisdiction, pleaded guilty or nolo
11 contendere to, or been found guilty of, a felony relating to the
12 sale, distribution, or taxation of a tobacco product.

13 (d) The tobacco product manufacturer sold, transferred, or
14 distributed a tobacco product to a wholesaler or unclassified
15 acquirer that it knew or had reason to know was not licensed under
16 this act or whose license was suspended or revoked under this act.

17 (3) If the department intends to remove from the directory, or
18 not include on the directory, a tobacco product manufacturer or an
19 associated or affiliated brand family of a tobacco product
20 manufacturer, the department shall send a notice to the tobacco
21 product manufacturer or, if applicable, its agent for service of
22 process. The notice must include all of the following:

23 (a) The factual and legal deficiencies upon which the
24 department's intended action rests.

25 (b) The action that the tobacco product manufacturer must take
26 to cure those deficiencies.

27 (c) A statement that the tobacco product manufacturer has 15
28 calendar days, from the date of the notice, to cure those
29 deficiencies and submit documentation of its attempt to cure.



1 (4) For good cause shown, as determined by the department in
2 its discretion, the department may extend the 15 calendar day
3 period under subsection (3) for a tobacco product manufacturer to
4 cure its deficiencies up to an additional 15 calendar days.

5 (5) If the tobacco product manufacturer does not cure the
6 deficiencies to the satisfaction of the department within the
7 applicable period under subsections (3) and (4), the department
8 shall issue a notice to the tobacco product manufacturer that,
9 unless a demand for a hearing is made as provided in subsection
10 (6), the department intends remove the tobacco product manufacturer
11 or any of its brand families from, or not include the tobacco
12 product manufacturer or any of its brand families on, the
13 directory.

14 (6) Within 10 business days after the date of service of the
15 notice issued under subsection (5), the tobacco product
16 manufacturer may, by registered mail or personal service, file with
17 the state treasurer a demand for a hearing before a representative
18 of the department to determine whether the department's intention
19 to remove from, or not include on, the directory the tobacco
20 product manufacturer or any of its brand families is justified. If,
21 within 10 business days after the date of service of the notice
22 issued under subsection (5), the tobacco product manufacturer does
23 not file with the state treasurer a demand for a hearing before the
24 department as provided in this subsection, the department shall
25 immediately remove from the directory, or refuse to include on the
26 directory, the tobacco product manufacturer or any of its brand
27 families at issue.

28 (7) Upon receipt of a demand for a hearing under subsection
29 (6), the department shall hold the hearing within 15 business days.



1 At the hearing, the tobacco product manufacturer is entitled to
2 appear before the department, to be represented by counsel, and to
3 present testimony and argument. The hearing is not a contested case
4 proceeding and is not subject to the administrative procedures act
5 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

6 (8) After the hearing under subsection (7), the department
7 shall render its decision in writing within 10 business days of the
8 hearing and, by order, shall declare 1 of the following:

9 (a) That the tobacco product manufacturer or any of the
10 associated or affiliated brand families at issue be removed from,
11 or not included on, the directory.

12 (b) That the tobacco product manufacturer or any of the
13 associated or affiliated brand families at issue be retained or
14 included on the directory.

15 (9) If the department orders under subsection (8)(a) that the
16 tobacco product manufacturer or its associated or affiliated brand
17 families at issue should be removed from, or not included on, the
18 directory and the tobacco product manufacturer does not appeal that
19 order under subsection (10), the department shall immediately
20 remove from the directory, or refuse to include on the directory,
21 the tobacco product manufacturer or any of its brand families at
22 issue.

23 (10) A tobacco product manufacturer aggrieved by the decision
24 of the department under subsection (8) may appeal the department's
25 order by filing an appeal to the Ingham County circuit court,
26 designated as Michigan's master settlement court, within 30 days of
27 the date the department mails the order to the aggrieved tobacco
28 product manufacturer. If a proper appeal is taken in accordance
29 with this section and applicable law, the department shall not



1 remove a tobacco product manufacturer or any of its associated
 2 brand families from the directory until all appeal rights have been
 3 exhausted.

4 (11) As used in this section:

5 (a) "Cigarette" means that term as defined in 1999 PA 244, MCL
 6 445.2051 to 445.2052.

7 (b) "Directory" means the lists established and described
 8 under sections 6c and 6d, separately or collectively, as applicable
 9 to the tobacco product manufacturer.

10 (c) "Master settlement agreement" means the settlement
 11 agreement (and related documents) entered into on November 23,
 12 1998, and incorporated into a consent decree and final judgment
 13 entered into on December 7, 1998, in *Kelley Ex Rel. Michigan v*
 14 *Philip Morris Incorporated, et al.*, Ingham County circuit court,
 15 docket no. 96-84281CZ.

16 (d) "Nonparticipating manufacturer" means a manufacturer of
 17 cigarettes that is not a participating manufacturer.
 18 Nonparticipating manufacturer also includes the first purchaser
 19 anywhere for resale in the United States of cigarettes manufactured
 20 anywhere that the manufacturer does not intend to be sold in the
 21 United States.

22 (e) "Participating manufacturer" means that term as defined in
 23 the master settlement agreement.

24 (f) "Tobacco product manufacturer" means a participating
 25 manufacturer or a nonparticipating manufacturer, as applicable.

26 Sec. 7. (1) ~~Beginning May 1, 1994, a~~ **A** tax is levied on the
 27 sale of tobacco products sold in this state **or sold for consumption**
 28 **in this state, which consumption is presumed when sold to a**
 29 **retailer or consumer in this state, as follows:**



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

3 ~~(a) (b) For cigarettes, 37.5-100 mills per cigarette.~~

4 ~~(c) Beginning August 1, 2002, for cigarettes, in addition to~~
 5 ~~the tax levied in subdivision (b), an additional 15 mills per~~
 6 ~~cigarette.~~

7 ~~(d) Beginning August 1, 2002, for cigarettes, in addition to~~
 8 ~~the tax levied in subdivisions (b) and (c), an additional 10 mills~~
 9 ~~per cigarette.~~

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

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

16 ~~(b) (g) Beginning July 1, 2004, for~~ **For** cigars, noncigarette
 17 smoking tobacco, ~~and~~ smokeless tobacco, **and any tobacco product**
 18 **other than cigarettes**, 32% of the wholesale price. However,
 19 beginning November 1, 2012, the amount of tax levied under this
 20 subdivision on cigars shall not exceed 50 cents per individual
 21 cigar.

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

20 (3) To cover the cost of expenses incurred in the
 21 administration of this act, at the time of the filing of the
 22 return, the licensee shall pay to the department the tax levied in
 23 ~~subsection (1)~~**this section** for tobacco products sold during the
 24 calendar month covered by the return, less compensation equal to
 25 the following:

26 (a) ~~One percent~~**1%** of the total amount of the tax due on
 27 tobacco products sold other than cigarettes.

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



1 **(b)** ~~(c) Beginning August 1, 2002,~~ 1.5% of the total amount of
 2 the tax due on cigarettes sold and, ~~beginning on June 20, 2012,~~ for
 3 sales of untaxed cigarettes to Indian tribes in this state, an
 4 amount equal to 1.5% of the total amount of the tax due on those
 5 cigarettes sold as if those cigarette sales were taxable sales
 6 under this act.

7 **(c)** ~~(d) Beginning on the first calendar month following the~~
 8 ~~implementation of the use of digital stamps as provided in section~~
 9 ~~5a(2), for~~ **For** licensees who are stamping agents, 0.5% of the total
 10 amount of the tax due on cigarettes sold and, for sales of untaxed
 11 cigarettes to Indian tribes in this state, 0.5% of the total amount
 12 of the tax due on those cigarettes sold as if those cigarette sales
 13 were taxable sales under this act, until the stamping agent is
 14 compensated in an amount equal to the direct cost actually incurred
 15 by the stamping agent for the purchase of upgrades to technology
 16 and equipment, excluding the equipment reimbursed under subdivision
 17 ~~(e), (d)~~, that are necessary to affix the digital stamp as
 18 determined by the department. Compensation under this subdivision
 19 may also be claimed by a stamping agent for the direct costs
 20 actually incurred by the stamping agent, as determined by the
 21 department and reflected in the net purchase price, for the initial
 22 and 1-time purchase of case packers or similar machines or
 23 conveyors as follows:

24 **(i)** Case packers or similar machines to be used exclusively to
 25 repack cigarette cartons into case boxes after digital stamps have
 26 been applied by eligible equipment to the individual packages of
 27 cigarettes contained within those cigarette cartons. Compensation
 28 under this subparagraph may only be claimed by a stamping agent if
 29 the case packers or similar machines are in addition to, and not a



1 replacement for, 1 or more case packers or similar machines used in
2 connection with cigarette stamping machines ~~which~~**that** do not use
3 the digital stamp authorized under this act.

4 (ii) Conveyors to be used exclusively for that portion of a
5 cigarette stamping line that is necessary for and dedicated to
6 cigarette stamping operations using eligible equipment to affix
7 digital stamps to individual packages of cigarettes to be sold in
8 this state. Compensation under this subparagraph may only be
9 claimed by a stamping agent if the cigarette stamping line served
10 by the conveyors is in addition to 1 or more distinct and existing
11 cigarette stamping lines using stamping machines ~~which~~**that** do not
12 use the digital stamp authorized under this act and that
13 compensation shall not exceed a total of 50% of the amount
14 reimbursed under subdivision ~~(e)~~**(d)** for any particular stamping
15 agent.

16 (iii) Compensation under subparagraphs (i) and (ii) shall also
17 include any applicable sales or use taxes paid, and shipping and
18 crating charges actually incurred, by the stamping agent in
19 connection with the purchase, but shall exclude any other costs
20 incurred by the stamping agent not otherwise expressly provided for
21 in this subdivision, including, but not limited to, charges for
22 installation and ongoing maintenance.

23 **(d)** ~~(e)~~ Beginning in the first calendar month following the
24 implementation of the use of digital stamps as provided in section
25 5a(2) and continuing for the immediately succeeding 17 months, for
26 licensees who are stamping agents, reimbursement of direct costs
27 actually incurred by the stamping agent, as determined by the
28 department, for the initial purchase of eligible equipment in an
29 amount equal to 5.55% of the total net purchase price of the



1 eligible equipment necessary to affix the digital stamp. The
 2 reimbursement provided under this subdivision shall also include
 3 reimbursement for any applicable sales or use taxes paid and
 4 shipping and crating charges actually incurred by the stamping
 5 agent for the initial purchase of eligible equipment, but shall
 6 exclude reimbursement for any other costs incurred by the stamping
 7 agent not otherwise expressly provided for in this subdivision,
 8 including, but not limited to, charges for installation and ongoing
 9 maintenance related to eligible equipment. A stamping agent may
 10 only receive reimbursement under this subdivision to the extent
 11 that the eligible equipment purchased by the stamping agent does
 12 not exceed the total number of the stamping agent's existing
 13 equipment as certified by the stamping agent on a form prescribed
 14 by the department.

15 ~~(e) (f) Beginning in the first calendar month following the~~
 16 ~~implementation of the use of digital stamps as provided in section~~
 17 ~~5a(2), for~~ **For** licensees who are stamping agents, reimbursement of
 18 qualified equipment costs actually incurred by the stamping agent,
 19 not otherwise compensated or reimbursed under subdivision **(c) or**
 20 ~~(d), or (e),~~ as determined by the department. The reimbursement
 21 provided under this subdivision shall not exceed \$60,000.00 for all
 22 stamping agents combined.

23 ~~(4) Every licensee and retailer who, on August 1, 2002, has on~~
 24 ~~hand for sale any cigarettes upon which a tax has been paid~~
 25 ~~pursuant to subsection (1) (b) shall file a complete inventory of~~
 26 ~~those cigarettes before September 1, 2002 and shall pay to the~~
 27 ~~department at the time of filing this inventory a tax equal to the~~
 28 ~~difference between the tax imposed in subsection (1) (b), (c), and~~
 29 ~~(d) and the tax that has been paid under subsection (1) (b). Every~~



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

9 ~~(5) Every licensee and retailer who, on July 1, 2004, has on~~
 10 ~~hand for sale any cigarettes upon which a tax has been paid~~
 11 ~~pursuant to subsection (1)(b), (c), and (d) shall file a complete~~
 12 ~~inventory of those cigarettes before August 1, 2004 and shall pay~~
 13 ~~to the department at the time of filing this inventory a tax equal~~
 14 ~~to the difference between the tax imposed in subsection (1)(b),~~
 15 ~~(c), (d), and (e) and the tax that has been paid under subsection~~
 16 ~~(1)(b), (c), and (d). Every licensee and retailer who, on July 1,~~
 17 ~~2004, has on hand for sale any cigars, noncigarette smoking~~
 18 ~~tobacco, or smokeless tobacco upon which a tax has been paid~~
 19 ~~pursuant to subsection (1)(f) shall file a complete inventory of~~
 20 ~~those cigars, noncigarette smoking tobacco, and smokeless tobacco~~
 21 ~~before August 1, 2004 and shall pay to the department at the time~~
 22 ~~of filing this inventory a tax equal to the difference between the~~
 23 ~~tax imposed in subsection (1)(g) and the tax that has been paid~~
 24 ~~under subsection (1)(f). The proceeds derived under this subsection~~
 25 ~~shall be credited to the Michigan Medicaid benefits trust fund~~
 26 ~~created under section 5 of the Michigan trust fund act, 2000 PA~~
 27 ~~489, MCL 12.255.~~

28 ~~(4) (6)~~—The department may require the payment of the tax
 29 imposed by this act upon the importation or acquisition of a



1 tobacco product **in or into this state**. A tobacco product for which
 2 the tax under this act has once been imposed and that has not been
 3 refunded if paid is not subject upon a subsequent sale to the tax
 4 imposed by this act.

5 (5) ~~(7)~~—An abatement or refund of the tax provided by this act
 6 may be made by the department for causes the department considers
 7 expedient. The department shall certify the amount and the state
 8 treasurer shall pay that amount out of the proceeds of the tax.

9 (6) ~~(8)~~—A person liable for the tax may reimburse itself by
 10 adding to the price of the tobacco products an amount equal to the
 11 tax levied under this act.

12 (7) ~~(9)~~—A wholesaler, unclassified acquirer, or other person
 13 shall not sell or transfer any unaffixed stamps acquired by the
 14 wholesaler or unclassified acquirer from the department. A
 15 wholesaler or unclassified acquirer who has any unaffixed stamps on
 16 hand ~~at the time when~~ its license is revoked or expires, or ~~at the~~
 17 ~~time when~~ it discontinues the business of selling cigarettes, shall
 18 return those stamps to the department. The department shall refund
 19 the value of the stamps, less the appropriate discount paid.

20 (8) ~~(10)~~—If the wholesaler or unclassified acquirer has
 21 unsalable packs returned from a retailer, secondary wholesaler,
 22 vending machine operator, wholesaler, or unclassified acquirer with
 23 stamps affixed, the department shall refund the amount of the tax
 24 less the appropriate discount paid. If the wholesaler or
 25 unclassified acquirer has unaffixed unsalable stamps, the
 26 department shall exchange with the wholesaler or unclassified
 27 acquirer new stamps in the same quantity as the unaffixed unsalable
 28 stamps. An application for refund of the tax ~~shall~~**must** be filed on
 29 a form **and in the manner** prescribed by the department for that



1 purpose, within 4 years from the date the stamps were originally
 2 acquired from the department. A wholesaler or unclassified acquirer
 3 shall make available for inspection by the department the unused or
 4 spoiled stamps and the stamps affixed to unsalable individual
 5 packages of cigarettes. The department may, at its own discretion,
 6 witness and certify the destruction of the unused or spoiled stamps
 7 and unsalable individual packages of cigarettes that are not
 8 returnable to the manufacturer. The wholesaler or unclassified
 9 acquirer shall provide certification from the manufacturer for any
 10 unsalable individual packages of cigarettes that are returned to
 11 the manufacturer.

12 (9) ~~(11)~~—On or before the twentieth of each month, each
 13 manufacturer shall file a report with the department listing all
 14 sales of tobacco products to wholesalers and unclassified acquirers
 15 during the preceding calendar month and any other information the
 16 department finds necessary for the administration of this act. This
 17 report ~~shall~~**must** be in the form and manner specified by the
 18 department.

19 (10) ~~(12)~~—Each wholesaler or unclassified acquirer shall
 20 submit to the department an unstamped cigarette sales report on or
 21 before the twentieth day of each month covering the sale, delivery,
 22 or distribution of unstamped cigarettes during the preceding
 23 calendar month to points outside of this state. A separate schedule
 24 ~~shall~~**must** be filed for each state, country, or province into which
 25 shipments are made. For purposes of the report described in this
 26 subsection, "unstamped cigarettes" means individual packages of
 27 cigarettes that do not bear a Michigan stamp. The department may
 28 provide the information contained in this report to a proper
 29 officer of another state, country, or province reciprocating in



1 this privilege.

2 (11) ~~(13)~~—As used in subsection (3):

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

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

7 (ii) Enables the stamping agent to affix digital stamps to
8 individual packages of cigarettes in accordance with the
9 requirements under section 6a(2) **and (3)**.

10 (iii) Was purchased to be used for the primary purpose of
11 permitting the stamping agent to affix digital stamps to individual
12 packages of cigarettes to be sold in this state following the
13 implementation of the use of digital stamps as provided in section
14 5a(2).

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

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

19 (ii) Was a cigarette tax stamping machine used prior to January
20 1, 2012 by the stamping agent to apply stamps using stamp rolls of
21 30,000 stamps.

22 (c) "Qualified equipment" means equipment that was placed in
23 service by a stamping agent that included conveyors and additional
24 associated electrical line and compressed air line before August
25 15, 2014 in connection with the implementation of a digital
26 stamping line under a pilot program with the department as
27 determined by the department. Qualified equipment does not include
28 the cost of installation of a conveyor.

29 Sec. 7b. (1) ~~Beginning January 1, 2003, a~~ **A** licensee may



1 deduct the amount of bad debts from the tax levied under section 7.
2 The amount deducted must be charged off as uncollectible on the
3 books of the licensee. If a person pays all or part of a bad debt
4 with respect to which a licensee claimed a deduction under this
5 section, the licensee ~~shall be~~**is** liable for the amount of taxes
6 deducted in connection with that portion of the debt for which
7 payment is received and shall remit these taxes in his or her next
8 payment to the department under section 7.

9 (2) Any claim for a bad debt deduction under this section
10 ~~shall~~**must** be supported by all of the following:

11 (a) A copy of the original invoice.

12 (b) Evidence that the tobacco products described in the
13 invoice were delivered to the person who ordered them.

14 (c) Evidence that the person who ordered and received the
15 tobacco products did not pay the licensee for the tobacco products
16 and that the licensee used reasonable collection practices in
17 attempting to collect the debt.

18 (3) As used in this section, "bad debt" means the taxes
19 attributable to any portion of a debt that is related to a sale of
20 tobacco products subject to tax under section 7 that is not
21 otherwise deductible or excludable, that has become worthless or
22 uncollectible in the time period between the date when taxes accrue
23 to the state for the licensee's preceding tax return and the date
24 when taxes accrue to the state for the present return, and that is
25 eligible to be claimed, or could be eligible to be claimed if the
26 licensee kept accounts on an accrual basis, as a deduction pursuant
27 to section 166 of the internal revenue code **of 1986, 26 USC 166**. A
28 bad debt ~~shall~~**does** not include any interest on the wholesale price
29 of a tobacco product, uncollectible amounts on property that



1 remains in the possession of the licensee until the full purchase
 2 price is paid, expenses incurred in attempting to collect any
 3 account receivable or any portion of the debt recovered, any
 4 accounts receivable that have been sold to a third party for
 5 collection, and repossessed property.

6 Sec. 8. (1) A person, other than a licensee, ~~who is personally~~
 7 **liable for the tax imposed by this act, plus a penalty of 500% of**
 8 **the amount of that tax, under any of the following circumstances:**

9 **(a) The person** is in control or in possession of a tobacco
 10 product contrary to this act, ~~who after August 31, 1998 or~~ is in
 11 control or in possession of an individual package of cigarettes
 12 without a stamp in violation of this act. ~~or who~~

13 **(b) The person** offers to sell or does sell a tobacco product
 14 to another for purposes of resale without being licensed to do so
 15 under this act. ~~, shall be personally liable for the tax imposed by~~
 16 ~~this act, plus a penalty of 500% of the amount of tax due under~~
 17 ~~this act.~~

18 **(c) The person** offers to sell at retail, or does sell at
 19 retail, an individual package of cigarettes without a stamp or any
 20 tobacco product purchased or acquired from a person that was not
 21 licensed under this act as secondary wholesaler, wholesaler, or
 22 unclassified acquirer, at the time of purchase or acquisition.

23 (2) The department may permit a representative of a licensed
 24 manufacturer of tobacco products whose duties require travel in
 25 this state to transport up to 138,000 cigarettes, of which not more
 26 than 36,000 cigarettes may bear no tax indicia or the tax indicia
 27 of another state. All 138,000 cigarettes must bear the stamp
 28 approved by the department or the tax indicia of another state, if
 29 any. The total value of tobacco products, excluding cigarettes,



1 carried by a representative shall not exceed a wholesale value of
 2 \$5,000.00. A manufacturer shall notify the department of the
 3 manufacturer's representatives that it currently employs who carry
 4 cigarettes or tobacco products other than cigarettes in performing
 5 work duties in this state. The manufacturer shall maintain a record
 6 of each transaction by the manufacturer's representative for a
 7 period of 4 years immediately following the transaction and shall
 8 produce the records upon request of the state treasurer or the
 9 state treasurer's authorized agent. Each record ~~shall~~**must** identify
 10 the quantity and identity of the tobacco products, detail whether
 11 exchanged, received, removed, or otherwise disposed of, and ~~the~~
 12 ~~identity of~~**identify** the retailer, wholesaler, secondary
 13 wholesaler, vending machine operator, or unclassified acquirer
 14 involved. The representative of the manufacturer shall provide a
 15 copy of the record to the retailer, wholesaler, secondary
 16 wholesaler, vending machine operator, or unclassified acquirer at
 17 the time of the exchange or disposal. The retailer, wholesaler,
 18 secondary wholesaler, vending machine operator, or unclassified
 19 acquirer shall retain the copy of the record in the same place and
 20 for the same time period as other records required by this section.
 21 A representative shall not exchange, or otherwise dispose of,
 22 within this state tobacco products bearing the tax indicia of
 23 another state or receive tobacco products bearing the tax indicia
 24 of another state from retailers located within this state. A
 25 representative who sells, exchanges, or otherwise disposes of
 26 cigarettes or tobacco products other than cigarettes that do not
 27 bear the stamp or other marking required by the department or
 28 sells, exchanges, or otherwise disposes of cigarettes or tobacco
 29 products other than cigarettes bearing the tax indicia of another



1 state is guilty of a felony, punishable by a fine of not more than
2 \$5,000.00 or imprisonment for not more than 5 years, or both.

3 (3) A person who possesses, acquires, transports, or offers
4 for sale contrary to this act 3,000 or more cigarettes, tobacco
5 products other than cigarettes with an aggregate wholesale price of
6 \$250.00 or more, 3,000 or more counterfeit cigarettes, 3,000 or
7 more counterfeit cigarette papers, 3,000 or more gray market
8 cigarettes, or 3,000 or more gray market cigarette papers is guilty
9 of a felony, punishable by a fine of not more than \$50,000.00 or
10 imprisonment for not more than 5 years, or both.

11 (4) A person who possesses, acquires, transports, or offers
12 for sale contrary to this act 1,200 or more, but not more than
13 2,999, cigarettes, tobacco products other than cigarettes with an
14 aggregate wholesale value of \$100.00 or more but less than \$250.00,
15 or 1,200 or more, but not more than 2,999, counterfeit cigarettes,
16 counterfeit cigarette papers, gray market cigarettes, or gray
17 market cigarette papers is guilty of a misdemeanor punishable by a
18 fine of not more than \$5,000.00 or imprisonment of not more than 1
19 year, or both.

20 (5) A person who violates a provision of this act for which a
21 criminal punishment is not otherwise provided is guilty of a
22 misdemeanor, punishable by a fine of not more than \$1,000.00 or 5
23 times the retail value of the tobacco products involved, whichever
24 is greater, or imprisonment for not more than 1 year, or both. This
25 subsection does not apply to conduct described in subsection (12).

26 (6) A person who manufactures, possesses, or uses a stamp or
27 manufactures, possesses, or uses a counterfeit stamp or writing or
28 device intended to replicate a stamp without authorization of the
29 department, a licensee who purchases or obtains a stamp from any



1 person other than the department, or who falsifies a manufacturer's
2 label on cigarettes, counterfeit cigarettes, gray market cigarette
3 papers, or counterfeit cigarette papers is guilty of a felony and
4 shall be punished by imprisonment for not less than 1 year or more
5 than 10 years and may be punished by a fine of not more than
6 \$50,000.00.

7 (7) A person who falsely makes, counterfeits, or alters a
8 license, vending machine disc, or marker, or who purchases or
9 receives a false or altered license, vending machine disc, or
10 marker, or who assists in or causes to be made a false or altered
11 license, vending machine disc, or marker, or who possesses a device
12 used to forge, alter, or counterfeit a license, vending machine
13 disc, or marker is guilty of a felony punishable by a fine of not
14 more than \$5,000.00 or imprisonment for not more than 5 years, or
15 both. A person who alters or falsifies records or markings required
16 under this act is guilty of a felony punishable by a fine of not
17 more than \$5,000.00 or imprisonment for not more than 5 years, or
18 both.

19 (8) The attorney general has concurrent power with the
20 prosecuting attorneys of ~~the~~**this** state to enforce this act.

21 (9) At the request of the department or its duly authorized
22 agent, the state police and all local police authorities shall
23 enforce the provisions of this act.

24 (10) The department does not have the authority to enforce the
25 provisions of this section regarding gray market cigarette papers
26 or counterfeit cigarette papers.

27 (11) A person who knowingly possesses, acquires, transports,
28 or offers for sale contrary to this act 600 or more, but not more
29 than 1,199, cigarettes, tobacco products other than cigarettes with



1 an aggregate wholesale value of \$50.00 or more but less than
 2 \$100.00, or 600 or more, but not more than 1,199, counterfeit
 3 cigarettes, counterfeit cigarette papers, gray market cigarettes,
 4 or gray market cigarette papers is guilty of a misdemeanor
 5 punishable by a fine of not more than \$1,000.00 or imprisonment of
 6 not more than 90 days, or both.

7 (12) A person shall not possess, acquire, transport, or offer
 8 for sale contrary to this act less than 600 cigarettes, tobacco
 9 products other than cigarettes with an aggregate wholesale value of
 10 less than \$50.00, or less than 600 counterfeit cigarettes,
 11 counterfeit cigarette papers, gray market cigarettes, or gray
 12 market cigarette papers. A person who possesses, acquires,
 13 transports, or offers for sale contrary to this act 180 or more,
 14 but not more than 599, cigarettes, tobacco products other than
 15 cigarettes with an aggregate wholesale value of \$25.00 or more but
 16 less than \$50.00, or 180 or more, but not more than 599,
 17 counterfeit cigarettes, counterfeit cigarette papers, gray market
 18 cigarettes, or gray market cigarette papers is responsible for a
 19 state civil infraction and may be ordered to pay a civil fine of
 20 not more than \$100.00.

21 Sec. 9. (1) A tobacco product held, owned, possessed,
 22 transported, or in control of a person in violation of this act,
 23 and a vending machine, vehicle, and other tangible personal
 24 property containing a tobacco product in violation of this act and
 25 any related books and records are contraband and may be seized and
 26 confiscated by the department as provided in this section.

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



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 is
 5 found in a vehicle searched under this subsection or in a place of
 6 business inspected under this act, the tobacco product, vending
 7 machine, vehicle, other than a vehicle owned or operated by a
 8 transportation company otherwise transporting tobacco products in
 9 compliance with this act, or other tangible personal property
 10 containing those tobacco products and any books and records in
 11 possession of the person in control or possession of the tobacco
 12 product may be seized by the inspector or police officer and are
 13 subject to forfeiture as contraband as provided in this section.

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



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



1 seizure and forfeiture and the person from whom the property was
 2 seized or any persons claiming an interest in the property do not
 3 take an appeal to the circuit court of the county in which the
 4 seizure was made within the time prescribed in this section, the
 5 property seized shall be considered forfeited to the state by
 6 operation of law and may be disposed of by the department as
 7 provided in this section.

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

23 (5) The department shall destroy all cigarettes forfeited to
 24 this state. The department may sell all tobacco products, except
 25 cigarettes, and other property forfeited pursuant to this section
 26 at public sale. Public notice of the sale ~~shall~~**must** be given at
 27 least 5 days before the day of sale. The department may pay an
 28 amount not to exceed 25% of the proceeds of the sale to the local
 29 governmental unit whose law enforcement agency performed the



1 seizure. The balance of the proceeds derived from the sale by the
2 department ~~shall~~**must** be credited to the general fund of the state.

3 (6) The seizure and destruction or sale of a tobacco product
4 or other property under this section does not relieve a person from
5 a fine, imprisonment, or other penalty for violation of this act.

6 (7) A person who is not an employee or officer of this state
7 or a political subdivision of this state who furnishes to the
8 department or to any law enforcement agency original information
9 concerning a violation of this act, which information results in
10 the collection and recovery of any tax or penalty or leads to the
11 forfeiture of any cigarettes, or other property, may be awarded and
12 paid by the state treasurer, compensation of not more than 10% of
13 the net amount received from the sale of any forfeited cigarettes
14 or other property, but not to exceed \$5,000.00 which ~~shall~~**must** be
15 paid out of the receipts from the sale of the property. If any
16 amount is issued to the local governmental unit under subsection
17 (5), the amount awarded under this subsection to a person who
18 provides original information that results in a seizure of
19 cigarettes or other property by a local law enforcement agency
20 ~~shall~~**must** be paid from that amount issued under subsection (5). If
21 in the opinion of the attorney general and the director of the
22 department of state police it is ~~deemed~~**considered** necessary to
23 preserve the identity of the person furnishing the information, the
24 attorney general and the director of the department of state police
25 shall file with the state treasurer an affidavit setting forth that
26 necessity and a warrant may be issued jointly to the attorney
27 general and the director of the department of state police. Upon
28 payment to the person furnishing that information, the attorney
29 general and the director of the department of state police shall



1 file with the state treasurer an affidavit that the money has been
 2 by them paid to the person entitled to the money under this
 3 section.

4 (8) ~~Beginning September 1, 1998, if~~ **If** a retailer possesses or
 5 sells cigarettes on which the tax imposed under this act has not
 6 been paid or accrued to a wholesaler, secondary wholesaler, or
 7 unclassified acquirer licensed under this act, the retailer shall
 8 be prohibited from purchasing, possessing, or selling any
 9 cigarettes or other tobacco products as follows:

10 (a) For a first violation, for a period of not more than 6
 11 months.

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

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

16 (9) The prohibition described in subsection (8) ~~shall be~~ **is**
 17 effective upon service by certified mail or personal service on the
 18 retailer of notice issued by the department ordering the retailer
 19 to cease all sales and purchases of cigarettes and other tobacco
 20 products. Upon receipt of this notice, the retailer may return any
 21 tobacco products in the possession of the retailer upon which the
 22 tax imposed by this act has been paid or accrued to a wholesaler,
 23 secondary wholesaler, or unclassified acquirer licensed under this
 24 act. The department shall notify all licensed wholesalers,
 25 manufacturers, secondary wholesalers, vending machine operators,
 26 and unclassified acquirers of any retailer who has been prohibited
 27 from purchasing cigarettes or other tobacco products and the
 28 duration of the prohibition. A wholesaler, secondary wholesaler, or
 29 unclassified acquirer shall not sell cigarettes or other tobacco



1 products to a retailer after receipt of notice from the department
 2 that the retailer is prohibited from purchasing tobacco products.
 3 Any cigarettes or other tobacco products found on the premises of
 4 the retailer during the period of prohibition ~~shall be~~ **are**
 5 considered contraband and subject to seizure under this section,
 6 and ~~shall~~ constitute an additional improper possession under this
 7 subsection. The retailer may contest the order prohibiting
 8 purchase, possession, or sale of tobacco products in accordance
 9 with the appeal procedures and time limits provided in subsection
 10 (3) of this section. After completion of the appeals provided or
 11 upon expiration of the period to request such appeal, the
 12 department shall issue a final order and make service upon the
 13 retailer of an order to cease all purchases, possession, and sale
 14 of all cigarettes and other tobacco products for a specified period
 15 as appropriate. This order does not relieve the retailer from
 16 seizure and sale of a tobacco product or other property under this
 17 section, or relieve the retailer from a fine, imprisonment, or
 18 other penalty for violation of this act.

19 Sec. 11. (1) A person, not licensed under this act as either a
 20 wholesaler or unclassified acquirer, ~~that is not a manufacturer,~~
 21 shall not sell or solicit a sale of a tobacco product to be
 22 shipped, mailed, or otherwise imported, sent or brought into ~~the~~
 23 **this** state, to a person **in this state that is** not licensed under
 24 this act, unless the tobacco product is to be sold through a
 25 wholesaler or unclassified acquirer, ~~other than a manufacturer,~~
 26 licensed under this act.

27 (2) A person, in this state, that is not licensed under this
 28 act, shall not order, purchase, or otherwise engage in a
 29 transaction to acquire a tobacco product that is to be shipped,



1 mailed, imported, sent, or brought into this state unless that
2 tobacco product is to be sold through a wholesaler or unclassified
3 acquirer, ~~other than a manufacturer,~~ licensed under this act. **A**
4 **consumer in this state shall not purchase or otherwise acquire a**
5 **tobacco product through a remote retail sale unless the seller is**
6 **licensed under this act as an unclassified acquirer.** A tobacco
7 product ordered, purchased, or acquired by a person in violation of
8 this subsection is contraband subject to seizure and forfeiture
9 under section 9. A person who violates this subsection ~~shall be~~ **is**
10 considered to be in control or possession of a tobacco product in
11 violation of this act for purposes of section 8(1), regardless of
12 whether that tobacco product has been sold, consumed, or otherwise
13 disposed of. Any limitation on the tax applicable to cigars under
14 section ~~7(1)(g)~~ **7(1)(b)** shall not apply, or otherwise be taken into
15 account, for purposes of determining the liability for taxes and
16 penalties under section 8(1) arising from a violation of this
17 subsection.

18 (3) Except as provided in section 8(2) regarding
19 representatives of a licensed manufacturer, a retailer in this
20 state shall not purchase, possess, acquire for resale at retail, or
21 sell a tobacco product in this state unless that tobacco product
22 was purchased or otherwise acquired directly from a wholesaler,
23 unclassified acquirer, ~~other than a manufacturer,~~ or secondary
24 wholesaler, licensed under this act. A retailer who violates this
25 subsection ~~shall be~~ **is** considered to be in control or possession of
26 a tobacco product in violation of this act for purposes of section
27 8(1), regardless of whether that tobacco product has been sold,
28 consumed, or otherwise disposed of. Any limitation on the tax
29 applicable to cigars under section ~~7(1)(g)~~ **7(1)(b)** shall not apply,



1 or otherwise be taken into account, for purposes of determining the
2 liability for taxes and penalties under section 8(1) arising from a
3 violation of this subsection.

4 (4) A retailer ~~shall be~~**is** considered to have purchased or
5 otherwise acquired a tobacco product in compliance with subsection
6 (3) if all of the following conditions are met:

7 (a) The retailer obtains a copy of the license of the
8 wholesaler, secondary wholesaler, or unclassified acquirer ~~other~~
9 ~~than a manufacturer~~ at the time of purchase or acquisition.

10 (b) The license described in subdivision (a) was not expired
11 ~~at the time~~**when** the tobacco product was purchased or otherwise
12 acquired by the retailer.

13 (c) The copy of the license is preserved by the retailer in
14 the same manner, for the same period of time, and offered for
15 inspection as required of other statements and records under
16 section 6.

17 (5) Notwithstanding anything in this act to the contrary, a
18 licensee may provide a copy of its license to a retailer for
19 purposes of this section. A retailer that obtains a copy of the
20 license for a particular licensee under this section is not
21 required to obtain another copy of the license for subsequent
22 purchases or acquisitions of tobacco products from that licensee
23 ~~which~~**that** are made during the active license year and ~~prior to~~
24 **before** the expiration of that license.

25 (6) Subject to subsection (1), all sales conducted through the
26 internet, by telephone, or in a mail-order transaction ~~shall~~**must**
27 not be completed unless, before each delivery of tobacco products
28 is made, whether through the mail, through a transportation
29 company, or through any other delivery system, the seller has



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

21 (7) Subject to subsection (1), all invoices, bills of lading,
22 sales receipts, or other documents related to tobacco product sales
23 conducted through the internet, by telephone, or in a mail-order
24 transaction ~~shall~~**must** contain the current seller's valid Michigan
25 sales tax license number or use tax registration number, business
26 name and address of the seller, and a statement as to whether all
27 sales taxes or use taxes, as applicable, and taxes levied under
28 this act have been paid. All packages of tobacco products shipped
29 from a tobacco product seller to purchasers who reside in Michigan,



1 ~~shall including consumers in a remote retail sale, must be~~ clearly
 2 ~~print or stamp the package~~ **printed or stamped** with the word
 3 "TOBACCO PRODUCTS" on the outside of all sides of the package so it
 4 is clearly visible to the shipper. If an order is made as a result
 5 of advertisement over the internet, the tobacco retailer, **and an**
 6 **unclassified acquirer making a remote retail sale**, shall request
 7 the ~~electronic mail~~ **email** address of the purchaser and shall
 8 receive payment by credit card or check before completing the sale.
 9 This subsection does not apply to sales by wholesalers and
 10 unclassified acquirers licensed under this act **other than remote**
 11 **retail sales.**

12 (8) The deliverer of the tobacco products ~~is required to~~ **shall**
 13 obtain proof from a valid government-issued document that the
 14 person signing for the tobacco products is the purchaser.

15 (9) ~~Beginning November 1, 2012, a~~ **A** retailer not otherwise
 16 licensed or required to be licensed under this act shall post a
 17 sign, visible to the public inside the retail establishment that
 18 informs purchasers of cigars through catalog sales, telephone or
 19 mail orders, or internet sales of their liability for any
 20 applicable unpaid state taxes on those cigars and that cigars
 21 purchased in violation of this act are contraband.

22 (10) As used in this section:

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



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

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

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

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

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

23 (g) "Internet" means the connection to the World Wide Web
24 through the use of a computer, a computer network, or a computer
25 system.

26 (h) "Sale conducted through the internet" means a sale of, a
27 solicitation to sell, a purchase of, or an offer to purchase
28 tobacco products conducted all or in part by accessing an internet
29 website **and includes a remote retail sale.**



1 Sec. 12. (1) The proceeds derived from the payment of taxes,
 2 fees, and penalties provided for under this act and the license
 3 fees received by the department shall be deposited with the state
 4 treasurer and disbursed only as provided in this section. ~~and~~
 5 ~~section 7(5).~~ However, before a distribution of funds is made under
 6 this section, subject to appropriation, the funds described in this
 7 section may be used by the department, the attorney general, and
 8 the department of state police for enforcement and administration
 9 of this act.

10 ~~(2) The tax imposed under section 7(1)(a) shall be disbursed~~
 11 ~~as follows:~~

12 ~~(a) 94% of the proceeds shall be credited to the state school~~
 13 ~~aid fund established by section 11 of article IX of the state~~
 14 ~~constitution of 1963.~~

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

22 ~~(2) (3) The tax imposed on cigarettes under section 7(1)(b)~~
 23 ~~shall **7(1)(a) must** be disbursed as follows:~~

24 ~~(a) Beginning May 1, 1994 and through June 30, 2004, 5.3% of~~
 25 ~~the proceeds shall be credited to the health and safety fund~~
 26 ~~created in the health and safety fund act, 1987 PA 264, MCL 141.471~~
 27 ~~to 141.479.~~

28 ~~(a) (b) Beginning July 1, 2004, 6.5% **2.4375%** of the proceeds~~
 29 ~~shall **must** be credited to the health and safety fund created in the~~



1 health and safety fund act, 1987 PA 264, MCL 141.471 to 141.479.

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

4 ~~(d) Beginning July 1, 2004 and through September 30, 2014,~~
 5 ~~24.1% of the proceeds shall be credited to the general fund of this~~
 6 ~~state.~~

7 **(b)** ~~(e) 63.4%~~ **41.6200%** of the proceeds shall ~~shall~~ **must** be credited
 8 to the state school aid fund established by section 11 of article
 9 IX of the state constitution of 1963.

10 **(c)** ~~(f) 6%~~ **3.7500%** of the proceeds shall be credited to the
 11 ~~Healthy~~ **healthy** Michigan fund created under section 5953 of the
 12 public health code, 1978 PA 368, MCL 333.5953. Fifty percent of the
 13 proceeds described in this subdivision that are used for smoking
 14 prevention programs shall be used by the department of health and
 15 human services to expand the free smokers quit kit program to
 16 include the nicotine patch or nicotine gum.

17 **(d)** ~~(g) Beginning October 1, 2014, 24.1%~~ **19.7625%** of the
 18 proceeds shall ~~shall~~ **must** be disbursed as follows:

19 **(i)** For ~~the 2014-2015 fiscal year and each subsequent fiscal~~
 20 ~~year,~~ \$3,000,000.00 to the Michigan state capitol historic site
 21 fund created in section 7 of the Michigan state capitol historic
 22 site act, 2013 PA 240, MCL 4.1947. For ~~the 2015-2016 fiscal year~~
 23 ~~and each subsequent fiscal year,~~ the state treasurer shall adjust
 24 the figure described in this subparagraph by an amount determined
 25 by the state treasurer at the end of each calendar year to reflect
 26 the cumulative annual percentage change in the ~~consumer price~~
 27 ~~index.~~ Beginning for the 2015-2016 fiscal year and **Consumer Price**
 28 **Index.** For each ~~subsequent~~ fiscal year, if the cumulative annual
 29 percentage change in the ~~consumer price index~~ **Consumer Price Index**



1 is negative, then the adjustment for that fiscal year is zero. As
 2 used in this subsection, "~~consumer price index~~" "**Consumer Price**
 3 **Index**" means the most comprehensive index of consumer prices
 4 available for this state from the Bureau of Labor Statistics of the
 5 United States Department of Labor. From the funds described in this
 6 subparagraph, not later than February 1 of each year, the Michigan
 7 state capitol commission created in section 5 of the Michigan state
 8 capitol historic site act, 2013 PA 240, MCL 4.1945, shall report to
 9 the chairpersons of the house and senate appropriations committees.
 10 The report ~~shall~~**must** contain all of the following:

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

13 (B) The projected 5-year maintenance plan for the Michigan
 14 State Capitol Historical Site for the immediately following 5
 15 fiscal years.

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

18 (ii) The remaining proceeds ~~shall~~**must** be credited to the
 19 general fund of this state.

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

22 ~~(a) Through June 30, 2004, 74.2%, and beginning July 1, 2004,~~
 23 ~~9.0% of the proceeds shall be credited to the general fund of this~~
 24 ~~state.~~

25 ~~(b) Through June 30, 2004, 4.6%, and beginning July 1, 2004,~~
 26 ~~56.3% of the proceeds shall be credited to the state school aid~~
 27 ~~fund established by section 11 of article IX of the state~~
 28 ~~constitution of 1963.~~

29 ~~(c) 6.0% of the proceeds shall be credited to the Healthy~~



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

7 ~~(e) (d) Through June 30, 2004, 3.0%, and beginning July 1,~~
 8 ~~2004, 3.7% **0.5550%** of the proceeds shall **must** be paid to counties~~
 9 ~~with a 2000 population of more than 2,000,000, to be used only for~~
 10 ~~indigent health care.~~

11 ~~(f) (e) Through June 30, 2004, 12.2%, and beginning July 1,~~
 12 ~~2004, 25.0% **31.8750%** of the proceeds shall **must** be credited to the~~
 13 ~~**Michigan** Medicaid benefits trust fund created under section 5 of~~
 14 ~~the Michigan trust fund act, 2000 PA 489, MCL 12.255.~~

15 ~~(5) Beginning August 1, 2002, the tax imposed under section~~
 16 ~~7(1)(f) shall be disbursed as follows:~~

17 ~~(a) 75.6% of the proceeds shall be credited to the state~~
 18 ~~school aid fund established by section 11 of article IX of the~~
 19 ~~state constitution of 1963.~~

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

27 ~~(c) 18.4% of the proceeds shall be credited to the general~~
 28 ~~fund of this state.~~

29 ~~(6) Beginning August 1, 2002, the tax imposed on cigarettes~~



1 ~~under section 7(1)(d) shall be disbursed as follows:~~

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

5 ~~(b) 6.0% 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 ~~(7) Beginning July 1, 2004, the tax imposed on cigarettes~~
 13 ~~under section 7(1)(c) shall be disbursed as follows:~~

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

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

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

23 ~~(3) (8) Beginning July 1, 2004, the **The** tax imposed under~~
 24 ~~section 7(1)(g) shall **7(1)(b) must** be disbursed as follows:~~

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

29 ~~(a) (b) Beginning October 1, 2005, 75.0% of the proceeds shall~~



1 **must** be credited to the Michigan Medicaid benefits trust fund
 2 created under section 5 of the Michigan trust fund act, 2000 PA
 3 489, MCL 12.255.

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

6 ~~(4) (9)~~ The proceeds of the fees and penalties provided for in
 7 this act shall be used for the administration of this act.

8 Sec. 13. (1) The tax imposed by this act shall be administered
 9 by the ~~revenue commissioner~~ **department** pursuant to ~~Act No. 122 of~~
 10 ~~the Public Acts of 1941, being sections 205.1 to 205.31 of the~~
 11 ~~Michigan Compiled Laws, 1941 PA 122, MCL 205.1 to 205.31,~~ and this
 12 act. In case of conflict between ~~Act No. 122 of the Public Acts of~~
 13 ~~1941~~ **1941 PA 122, MCL 205.1 to 205.31,** and this act, the provisions
 14 of this act control.

15 (2) The ~~revenue commissioner~~ **department** may promulgate rules
 16 to implement this act pursuant to the administrative procedures act
 17 of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
 18 ~~24.201 to 24.328 of the Michigan Compiled Laws.~~ **1969 PA 306, MCL**
 19 **24.201 to 24.328.**

20 (3) The department shall prescribe forms for use by taxpayers
 21 **and the manner in which the forms must be filed.**

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

24 (5) The ~~commissioner~~ **state treasurer** may appoint any ~~revenue~~
 25 ~~division~~ **department** employee as a special investigator, who shall
 26 ~~be vested with~~ **have** the power to arrest a person violating this
 27 act.

