

SENATE BILL No. 1396

(As amended by the Senate, September 24, 2002)

August 13, 2002, Introduced by Senators EMMONS and BULLARD and referred to the Committee on Finance.

A bill to amend 1993 PA 327, entitled
"Tobacco products tax act,"
(MCL 205.421 to 205.436) by adding section 7b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 7B. (1) BEGINNING JANUARY 1, 2003, A LICENSEE MAY
2 DEDUCT THE AMOUNT OF BAD DEBTS FROM THE TAX LEVIED UNDER
3 SECTION 7. THE AMOUNT DEDUCTED MUST BE CHARGED OFF AS UNCOLLECT-
4 IBLE ON THE BOOKS OF THE LICENSEE. IF A PERSON PAYS ALL OR PART
5 OF A BAD DEBT WITH RESPECT TO WHICH A LICENSEE CLAIMED A DEDUC-
6 TION UNDER THIS SECTION, THE LICENSEE SHALL BE LIABLE FOR THE
7 AMOUNT OF TAXES DEDUCTED IN CONNECTION WITH THAT PORTION OF THE
8 DEBT FOR WHICH PAYMENT IS RECEIVED AND SHALL REMIT THESE TAXES IN
9 HIS OR HER NEXT PAYMENT TO THE DEPARTMENT UNDER SECTION 7.
10 (2) ANY CLAIM FOR A BAD DEBT DEDUCTION UNDER THIS SECTION
11 SHALL BE SUPPORTED BY ALL OF THE FOLLOWING:

SB 1396, As Passed Senate, September 25, 2002

Senate Bill No. 1396 as amended September 24, 2002

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1 (A) A COPY OF THE ORIGINAL INVOICE.

2 (B) EVIDENCE THAT THE TOBACCO PRODUCTS DESCRIBED IN THE
3 INVOICE WERE DELIVERED TO THE PERSON WHO ORDERED THEM.

4 (C) EVIDENCE THAT THE PERSON WHO ORDERED AND RECEIVED THE
5 TOBACCO PRODUCTS DID NOT PAY THE LICENSEE FOR THE TOBACCO PRO-
6 DUCTS AND THAT THE LICENSEE USED REASONABLE COLLECTION PRACTICES
7 IN ATTEMPTING TO COLLECT THE DEBT.

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 (3) AS USED IN THIS SECTION, "BAD DEBT" MEANS THE TAXES
12 ATTRIBUTABLE TO ANY PORTION OF A DEBT THAT IS RELATED TO A SALE
13 OF TOBACCO PRODUCTS SUBJECT TO TAX UNDER SECTION 7 THAT IS NOT
14 OTHERWISE DEDUCTIBLE OR EXCLUDABLE, THAT HAS BECOME WORTHLESS OR
15 UNCOLLECTIBLE IN THE TIME PERIOD BETWEEN THE DATE WHEN TAXES
16 ACCRUE TO THE STATE FOR THE LICENSEE'S PRECEDING TAX RETURN AND
17 THE DATE WHEN TAXES ACCRUE TO THE STATE FOR THE PRESENT RETURN,
18 AND THAT IS ELIGIBLE TO BE CLAIMED, OR COULD BE ELIGIBLE TO BE
19 CLAIMED IF THE LICENSEE KEPT ACCOUNTS ON AN ACCRUAL BASIS, AS A
20 DEDUCTION PURSUANT TO SECTION 166 OF THE INTERNAL REVENUE CODE.
21 A BAD DEBT SHALL NOT INCLUDE ANY INTEREST ON THE WHOLESALE PRICE
22 OF A TOBACCO PRODUCT, UNCOLLECTIBLE AMOUNTS ON PROPERTY THAT
23 REMAINS IN THE POSSESSION OF THE LICENSEE UNTIL THE FULL PURCHASE
24 PRICE IS PAID, EXPENSES INCURRED IN ATTEMPTING TO COLLECT ANY
25 ACCOUNT RECEIVABLE OR ANY PORTION OF THE DEBT RECOVERED, ANY
26 ACCOUNTS RECEIVABLE THAT HAVE BEEN SOLD TO A THIRD PARTY FOR
27 COLLECTION, AND REPOSSESSED PROPERTY.