

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5632**

A bill to amend 1993 PA 327, entitled  
"Tobacco products tax act,"  
by amending sections 7 and 12 (MCL 205.427 and 205.432), as  
amended by 2002 PA 503.

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

- 1       Sec. 7. (1) Beginning May 1, 1994, a tax is levied on the  
2 sale of tobacco products sold in this state as follows:
- 3       (a) Through July 31, 2002, for cigars, noncigarette smoking  
4 tobacco, and smokeless tobacco, 16% of the wholesale price.
- 5       (b) For cigarettes, 37.5 mills per cigarette.
- 6       (c) Beginning August 1, 2002, for cigarettes, in addition to  
7 the tax levied in subdivision (b), an additional 15 mills per  
8 cigarette.
- 9       (d) Beginning August 1, 2002, for cigarettes, in addition to  
10 the tax levied in subdivisions (b) and (c), an additional 10

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1 mills per cigarette.

2 (e) Beginning July 1, 2004, for cigarettes, in addition to  
3 the tax levied in subdivisions (b), (c), and (d), an additional  
4 37.5 mills per cigarette.

5 (f) ~~(e)~~ Beginning August 1, 2002 and through <<June>> 30,  
6 2004, for cigars, noncigarette smoking tobacco, and smokeless  
7 tobacco, 20% of the wholesale price.

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

10 (2) On or before the twentieth day of each calendar month,  
11 every licensee under section 3 other than a retailer, secondary  
12 wholesaler, unclassified acquirer licensed as a manufacturer, or  
13 vending machine operator shall file a return with the department  
14 stating the wholesale price of each tobacco product other than  
15 cigarettes purchased, the quantity of cigarettes purchased, the  
16 wholesale price charged for all tobacco products other than  
17 cigarettes sold, the number of individual packages of cigarettes  
18 and the number of cigarettes in those individual packages, and  
19 the number and denominations of stamps affixed to individual  
20 packages of cigarettes sold by the licensee for each place of  
21 business in the preceding calendar month. The return shall also  
22 include the number and denomination of unaffixed stamps in the  
23 possession of the licensee at the end of the preceding calendar  
24 month. Wholesalers shall also report accurate inventories of  
25 cigarettes, both stamped and unstamped at the end of the  
26 preceding calendar month. Wholesalers and unclassified acquirers  
27 shall also report accurate inventories of affixed and unaffixed

1 stamps by denomination at the beginning and end of each calendar  
2 month and all stamps acquired during the preceding calendar  
3 month. The return shall be signed under penalty of perjury. The  
4 return shall be on a form prescribed by the department and shall  
5 contain or be accompanied by any further information the  
6 department requires.

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

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

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

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

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

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

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

27 (6) ~~(5)~~ The department may require the payment of the tax

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

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

11       (8) ~~—(7)—~~ A person liable for the tax may reimburse itself by  
12 adding to the price of the tobacco products an amount equal to  
13 the tax levied under this act.

14       (9) ~~—(8)—~~ A wholesaler, unclassified acquirer, or other  
15 person shall not sell or transfer any unaffixed stamps acquired  
16 by the wholesaler or unclassified acquirer from the department.  
17 A wholesaler or unclassified acquirer who has any unaffixed  
18 stamps on hand at the time its license is revoked or expires, or  
19 at the time it discontinues the business of selling cigarettes,  
20 shall return those stamps to the department. The department  
21 shall refund the value of the stamps, less the appropriate  
22 discount paid.

23       (10) ~~—(9)—~~ If the wholesaler or unclassified acquirer has  
24 unsalable packs returned from a retailer, secondary wholesaler,  
25 vending machine operator, wholesaler, or unclassified acquirer  
26 with stamps affixed, the department shall refund the amount of  
27 the tax less the appropriate discount paid. If the wholesaler or

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

17       (11) ~~—(10)—~~ On or before the twentieth of each month, each  
18 manufacturer shall file a report with the department listing all  
19 sales of tobacco products to wholesalers and unclassified  
20 acquirers during the preceding calendar month and any other  
21 information the department finds necessary for the administration  
22 of this act. This report shall be in the form and manner  
23 specified by the department.

24       (12) ~~—(11)—~~ Each wholesaler or unclassified acquirer shall  
25 submit to the department an unstamped cigarette sales report on  
26 or before the twentieth day of each month covering the sale,  
27 delivery, or distribution of unstamped cigarettes during the

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

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

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

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

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

22       (3) The tax imposed on cigarettes under section 7(1)(b) shall  
23 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,  
27 MCL 141.471 to 141.479.

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

4           **(c) ~~—(b)—~~ Through June 30, 2004, 25.3% of the proceeds shall**  
 5 **be credited to the general fund of this state.**

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

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

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

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

16           **(a) Through June 30, 2004, 74.2%, and beginning July 1, 2004,**  
 17 **9.0% of the proceeds shall be credited to the general fund of**  
 18 **this state. ~~—However, beginning October 1, 2004 and through~~  
 19 ~~September 30, 2007, the proceeds described in this subdivision~~  
 20 ~~shall be credited to the countercyclical budget and economic~~  
 21 ~~stabilization fund created under section 351 of the management~~  
 22 ~~and budget act, 1984 PA 431, MCL 18.1351.~~**

23           **(b) Through June 30, 2004, 4.6%, and beginning July 1, 2004,**  
 24 **56.3% of the proceeds shall be credited to the state school aid**  
 25 **fund established by section 11 of article IX of the state**  
 26 **constitution of 1963.**

27           **(c) 6.0% of the proceeds shall be credited to the healthy**

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

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

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

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

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

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

19 (c) 18.4% of the proceeds shall be credited to the general  
 20 fund of this state. ~~However, beginning October 1, 2004 and  
 21 through September 30, 2007, the proceeds described in this  
 22 subdivision shall be credited to the countercyclical budget and  
 23 economic stabilization fund created under section 351 of the  
 24 management and budget act, 1984 PA 431, MCL 18.1351.~~

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

27 (a) 94.0% of the proceeds shall be credited to the state

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1 school aid fund established by section 11 of article IX of the  
2 state constitution of 1963.

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

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

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

12 (b) Beginning October 1, <<2005>>, 75.0% of the proceeds shall be  
13 credited to the medicaid benefits trust fund created under  
14 section 5 of the Michigan trust fund act, 2000 PA 489, MCL  
15 12.255.

16 (c) Beginning October 1, <<2005>>, 25.0% of the proceeds shall be  
17 credited <<to the general fund of this state.

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

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

27 (b) Beginning October 1, <<2005>>, 75.0% of the proceeds shall be

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

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

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