

HOUSE BILL No. 4946

June 15, 2005, Introduced by Reps. Hune, Hansen, Gosselin, Meyer, Ward, Drolet and Garfield and referred to the Committee on Tax Policy.

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 2004 PA 164.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

5 (b) For 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

1 the tax levied in subdivisions (b) and (c), an additional 10 mills
2 per cigarette.

3 (e) Beginning July 1, 2004 **AND THROUGH JUNE 30, 2005**, for
4 cigarettes, in addition to the tax levied in subdivisions (b), (c),
5 and (d), an additional 37.5 mills per cigarette.

6 (f) Beginning ~~August 1, 2002 and through June 30, 2004~~ **JULY**
7 **1, 2005**, for cigars, noncigarette smoking tobacco, and smokeless
8 tobacco, 20% of the wholesale price.

9 (g) Beginning July 1, 2004 **AND THROUGH JUNE 30, 2005**, for
10 cigars, noncigarette smoking tobacco, and smokeless tobacco, 32% of
11 the wholesale price.

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

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

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

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

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

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

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

1 any cigars, noncigarette smoking tobacco, or smokeless tobacco upon
2 which a tax has been paid pursuant to subsection (1)(a) shall file
3 a complete inventory of those cigars, noncigarette smoking tobacco,
4 and smokeless tobacco before September 1, 2002 and shall pay to the
5 department at the time of filing this inventory a tax equal to the
6 difference between the tax imposed in subsection (1)(f) and the tax
7 that has 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 equal
13 to the difference between the tax imposed in subsection (1)(b),
14 (c), (d), and (e) and the tax that has been paid under subsection
15 (1)(b), (c), and (d). Every licensee and retailer who, on July 1,
16 2004, has on hand for sale any cigars, noncigarette smoking
17 tobacco, or smokeless tobacco upon which a tax has been paid
18 pursuant to subsection (1)(f) shall file a complete inventory of
19 those cigars, noncigarette smoking tobacco, and smokeless tobacco
20 before August 1, 2004 and shall pay to the department at the time
21 of filing this inventory a tax equal to the difference between the
22 tax imposed in subsection (1)(g) and the tax that has been paid
23 under subsection (1)(f). The proceeds derived under this subsection
24 shall be credited to the medicaid benefits trust fund created under
25 section 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

26 (6) The department may require the payment of the tax imposed
27 by this act upon the importation or acquisition of a tobacco

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

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

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

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

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

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

12 (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 be in the form and manner specified by the department.

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

1 state, country, or province reciprocating in this privilege.

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

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

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

12 (b) 6% of the proceeds shall be credited to the healthy
13 Michigan fund created under section 5953 of the public health code,
14 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
15 in this subdivision that are used for smoking prevention programs
16 shall be used by the department of community health to expand the
17 free smokers quit kit program to include the nicotine patch or
18 nicotine gum.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (7) Beginning July 1, 2004 **AND THROUGH JUNE 30, 2005**, the tax
12 imposed on cigarettes under section 7(1)(e) shall be disbursed as
13 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 medicaid benefits trust fund created under section
20 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 (8) Beginning July 1, 2004 **AND THROUGH JUNE 30, 2005**, the tax
24 imposed under section 7(1)(g) shall 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

1 fund act, 2000 PA 489, MCL 12.255.

2 (b) Beginning October 1, 2005, 75.0% of the proceeds shall be
 3 credited to the medicaid benefits trust fund created under section
 4 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

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

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