

# SENATE BILL No. 393

May 28, 2013, Introduced by Senators HUNE and BRANDENBURG and referred to the Committee on Finance.

A bill to amend 1993 PA 327, entitled  
"Tobacco products tax act,"  
by amending sections 7 and 12 (MCL 205.427 and 205.432), section 7  
as amended by 2012 PA 325 and section 12 as amended by 2012 PA 188.

## 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~~ **THROUGH SEPTEMBER 30, 2013, FOR** cigarettes, 37.5 mills  
6 per cigarette. **BEGINNING OCTOBER 1, 2013, FOR CIGARETTES, 18.75**  
7 **MILLS PER CIGARETTE.**

8       (c) Beginning August 1, 2002 **AND THROUGH SEPTEMBER 30, 2013,**  
9 for cigarettes, in addition to the tax levied in subdivision (b),

1 an additional 15 mills per cigarette. **BEGINNING OCTOBER 1, 2013,**  
2 **FOR CIGARETTES, IN ADDITION TO THE TAX LEVIED IN SUBDIVISION (B),**  
3 **AN ADDITIONAL 7.5 MILLS PER CIGARETTE.**

4 (d) Beginning August 1, 2002 **AND THROUGH SEPTEMBER 30, 2013,**  
5 for cigarettes, in addition to the tax levied in subdivisions (b)  
6 and (c), an additional 10 mills per cigarette. **BEGINNING OCTOBER 1,**  
7 **2013, FOR CIGARETTES, IN ADDITION TO THE TAX LEVIED IN SUBDIVISIONS**  
8 **(B) AND (C), AN ADDITIONAL 5 MILLS PER CIGARETTE.**

9 (e) Beginning July 1, 2004 **AND THROUGH SEPTEMBER 30, 2013,** for  
10 cigarettes, in addition to the tax levied in subdivisions (b), (c),  
11 and (d), an additional 37.5 mills per cigarette. **BEGINNING OCTOBER**  
12 **1, 2013, FOR CIGARETTES, IN ADDITION TO THE TAX LEVIED IN**  
13 **SUBDIVISIONS (B), (C), AND (D), AN ADDITIONAL 18.75 MILLS PER**  
14 **CIGARETTE.**

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

18 (g) Beginning July 1, 2004, for cigars, noncigarette smoking  
19 tobacco, and smokeless tobacco, 32% of the wholesale price.  
20 However, beginning November 1, 2012 and through October 31, 2016,  
21 the amount of tax levied under this subdivision on cigars shall not  
22 exceed 50 cents per individual cigar.

23 (2) On or before the twentieth day of each calendar month,  
24 every licensee under section 3 other than a retailer, unclassified  
25 acquirer licensed as a manufacturer, or vending machine operator  
26 shall file a return with the department stating the wholesale price  
27 of each tobacco product other than cigarettes purchased, the

1 quantity of cigarettes purchased, the wholesale price charged for  
2 all tobacco products other than cigarettes sold, the number of  
3 individual packages of cigarettes and the number of cigarettes in  
4 those individual packages, and the number and denominations of  
5 stamps affixed to individual packages of cigarettes sold by the  
6 licensee for each place of business in the preceding calendar  
7 month. The return shall also include the number and denomination of  
8 unaffixed stamps in the possession of the licensee at the end of  
9 the preceding calendar month. Wholesalers shall also report  
10 accurate inventories of cigarettes, both stamped and unstamped at  
11 the end of the preceding calendar month. Wholesalers and  
12 unclassified acquirers shall also report accurate inventories of  
13 affixed and unaffixed stamps by denomination at the beginning and  
14 end of each calendar month and all stamps acquired during the  
15 preceding calendar month. The return shall be signed under penalty  
16 of perjury. The return shall be on a form prescribed by the  
17 department and shall contain or be accompanied by any further  
18 information the department requires. The department may also  
19 require licensees to report cigarette acquisition, purchase, and  
20 sales information in other formats and frequency.

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

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

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

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

9 (d) Beginning on the first calendar month following the  
10 implementation of the use of digital stamps as provided in section  
11 5a(2), for licensees who are stamping agents, 0.5% of the total  
12 amount of the tax due on cigarettes sold and, for sales of untaxed  
13 cigarettes to Indian tribes in this state, 0.5% of the total amount  
14 of the tax due on those cigarettes sold as if those cigarette sales  
15 were taxable sales under this act, until the stamping agent is  
16 compensated in an amount equal to the direct cost actually incurred  
17 by the stamping agent for upgrades to technology and equipment,  
18 excluding the equipment reimbursed under subdivision (e), that are  
19 necessary to affix the digital stamp as determined by the  
20 department.

21 (e) Beginning in the first calendar month following the  
22 implementation of the use of digital stamps as provided in section  
23 5a(2) and continuing for the immediately succeeding 17 months, for  
24 licensees who are stamping agents, reimbursement of direct costs  
25 actually incurred by the stamping agent, as determined by the  
26 department, for the initial purchase of eligible equipment in an  
27 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 exclude  
3 reimbursement for any costs for installation or for ongoing  
4 maintenance related to eligible equipment. A stamping agent may  
5 only receive reimbursement under this subdivision to the extent  
6 that the eligible equipment purchased by the stamping agent does  
7 not exceed the total number of the stamping agent's existing  
8 equipment as certified by the stamping agent on a form prescribed  
9 by the department.

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

25 (5) Every licensee and retailer who, on July 1, 2004, has on  
26 hand for sale any cigarettes upon which a tax has been paid  
27 pursuant to subsection (1)(b), (c), and (d) shall file a complete

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

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

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

26 (8) A person liable for the tax may reimburse itself by adding  
27 to the price of the tobacco products an amount equal to the tax

1 levied under this act.

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

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

1 from the manufacturer for any unsalable individual packages of  
2 cigarettes that are returned to the manufacturer.

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

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

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

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

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

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

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

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

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

10          (ii) Was a cigarette tax stamping machine used prior to January  
11     1, 2012 by the stamping agent to apply stamps using stamp rolls of  
12     30,000 stamps.

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

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

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

27           (b) 6% 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 community health to expand the  
5 free smokers quit kit program to include the nicotine patch or  
6 nicotine gum.

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

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

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

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

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

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

23 (f) 6% of the proceeds shall be credited to the healthy  
24 Michigan fund created under section 5953 of the public health code,  
25 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described  
26 in this subdivision that are used for smoking prevention programs  
27 shall be used by the department of community health to expand the

1 free smokers quit kit program to include the nicotine patch or  
2 nicotine gum.

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

5 (a) Through June 30, 2004, 74.2%, and beginning July 1, 2004,  
6 9.0% of the proceeds shall be credited to the general fund of this  
7 state.

8 (b) Through June 30, 2004, 4.6%, and beginning July 1, 2004,  
9 56.3% of the proceeds shall be credited to the state school aid  
10 fund established by section 11 of article IX of the state  
11 constitution of 1963.

12 (c) 6.0% 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 (d) Through June 30, 2004, 3.0%, and beginning July 1, 2004,  
20 3.7% of the proceeds shall be paid to counties with a 2000  
21 population of more than 2,000,000, to be used only for indigent  
22 health care.

23 (e) Through June 30, 2004, 12.2%, and beginning July 1, 2004,  
24 25.0% 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 (5) Beginning August 1, 2002, the tax imposed under section

1 7(1)(f) shall be disbursed as follows:

2 (a) 75.6% 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 community health to expand the  
10 free smokers quit kit program to include the nicotine patch or  
11 nicotine gum.

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

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

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

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

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

1 (a) Beginning July 1, 2004 and through September 30, 2005,  
2 100% of the proceeds shall be credited to the Michigan medicaid  
3 benefits trust fund created under section 5 of the Michigan trust  
4 fund act, 2000 PA 489, MCL 12.255.

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

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

10 (8) Beginning July 1, 2004, the tax imposed under section  
11 7(1)(g) shall be disbursed as follows:

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

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

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

21 (9) The proceeds of the fees and penalties ~~provided for~~  
22 **DESCRIBED** in this act shall be used for the administration of this  
23 act.