

SENATE BILL No. 304

April 20, 2017, Introduced by Senator HUNE 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 2016 PA 86 and section 12 as amended by 2016 PA 309.

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, 2017, FOR** cigarettes, 37.5 mills
6 per cigarette. **BEGINNING OCTOBER 1, 2017, FOR CIGARETTES, 18.75**
7 **MILLS PER CIGARETTE.**

8 (c) Beginning August 1, 2002 **AND THROUGH SEPTEMBER 30, 2017,**
9 for cigarettes, in addition to the tax levied in subdivision (b),

1 an additional 15 mills per cigarette. **BEGINNING OCTOBER 1, 2017,**
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, 2017,**
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 **2017, 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, 2017,** 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, 2017, 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, 2021,
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 the purchase of upgrades to technology
18 and equipment, excluding the equipment reimbursed under subdivision
19 (e), that are necessary to affix the digital stamp as determined by
20 the department. Compensation under this subdivision may also be
21 claimed by a stamping agent for the direct costs actually incurred
22 by the stamping agent, as determined by the department and
23 reflected in the net purchase price, for the initial and 1-time
24 purchase of case packers or similar machines or conveyors as
25 follows:

26 (i) Case packers or similar machines to be used exclusively to
27 repack cigarette cartons into case boxes after digital stamps have

1 been applied by eligible equipment to the individual packages of
2 cigarettes contained within those cigarette cartons. Compensation
3 under this subparagraph may only be claimed by a stamping agent if
4 the case packers or similar machines are in addition to, and not a
5 replacement for, 1 or more case packers or similar machines used in
6 connection with cigarette stamping machines which do not use the
7 digital stamp authorized under this act.

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

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

26 (e) Beginning in the first calendar month following the
27 implementation of the use of digital stamps as provided in section

1 5a(2) and continuing for the immediately succeeding 17 months, for
2 licensees who are stamping agents, reimbursement of direct costs
3 actually incurred by the stamping agent, as determined by the
4 department, for the initial purchase of eligible equipment in an
5 amount equal to 5.55% of the total net purchase price of the
6 eligible equipment necessary to affix the digital stamp. The
7 reimbursement provided under this subdivision shall also include
8 reimbursement for any applicable sales or use taxes paid and
9 shipping and crating charges actually incurred by the stamping
10 agent for the initial purchase of eligible equipment, but shall
11 exclude reimbursement for any other costs incurred by the stamping
12 agent not otherwise expressly provided for in this subdivision,
13 including, but not limited to, charges for installation and ongoing
14 maintenance related to eligible equipment. A stamping agent may
15 only receive reimbursement under this subdivision to the extent
16 that the eligible equipment purchased by the stamping agent does
17 not exceed the total number of the stamping agent's existing
18 equipment as certified by the stamping agent on a form prescribed
19 by the department.

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

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

16 (5) Every licensee and retailer who, on July 1, 2004, has on
17 hand for sale any cigarettes upon which a tax has been paid
18 pursuant to subsection (1)(b), (c), and (d) shall file a complete
19 inventory of those cigarettes before August 1, 2004 and shall pay
20 to the department at the time of filing this inventory a tax equal
21 to the difference between the tax imposed in subsection (1)(b),
22 (c), (d), and (e) and the tax that has been paid under subsection
23 (1)(b), (c), and (d). Every licensee and retailer who, on July 1,
24 2004, has on hand for sale any cigars, noncigarette smoking
25 tobacco, or smokeless tobacco upon which a tax has been paid
26 pursuant to subsection (1)(f) shall file a complete inventory of
27 those cigars, noncigarette smoking tobacco, and smokeless tobacco

1 before August 1, 2004 and shall pay to the department at the time
2 of filing this inventory a tax equal to the difference between the
3 tax imposed in subsection (1)(g) and the tax that has been paid
4 under subsection (1)(f). The proceeds derived under this subsection
5 shall be credited to the Michigan Medicaid benefits trust fund
6 created under section 5 of the Michigan trust fund act, 2000 PA
7 489, MCL 12.255.

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

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

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

20 (9) A wholesaler, unclassified acquirer, or other person shall
21 not sell or transfer any unaffixed stamps acquired by the
22 wholesaler or unclassified acquirer from the department. A
23 wholesaler or unclassified acquirer who has any unaffixed stamps on
24 hand at the time its license is revoked or expires, or at the time
25 it discontinues the business of selling cigarettes, shall return
26 those stamps to the department. The department shall refund the
27 value of the stamps, less the appropriate discount paid.

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

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

27 (12) Each wholesaler or unclassified acquirer shall submit to

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

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

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

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

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

19 (iii) Was purchased to be used for the primary purpose of
20 permitting the stamping agent to affix digital stamps to individual
21 packages of cigarettes to be sold in this state following the
22 implementation of the use of digital stamps as provided in section
23 5a(2).

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

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

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

4 (c) "Qualified equipment" means equipment that was placed in
5 service by a stamping agent that included conveyors and additional
6 associated electrical line and compressed air line before August
7 15, 2014 in connection with the implementation of a digital
8 stamping line under a pilot program with the department as
9 determined by the department. Qualified equipment does not include
10 the cost of installation of a conveyor.

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

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

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

25 (b) 6% of the proceeds shall be credited to the Healthy
26 Michigan fund created under section 5953 of the public health code,
27 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described

1 in this subdivision that are used for smoking prevention programs
2 shall be used by the department of health and human services to
3 expand the free smokers quit kit program to include the nicotine
4 patch or nicotine gum.

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

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

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

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

16 (d) Beginning July 1, 2004 and through September 30, 2014,
17 24.1% of the proceeds shall be credited to the general fund of this
18 state.

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

22 (f) 6% of the proceeds shall be credited to the Healthy
23 Michigan fund created under section 5953 of the public health code,
24 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
25 in this subdivision that are used for smoking prevention programs
26 shall be used by the department of health and human services to
27 expand the free smokers quit kit program to include the nicotine

1 patch or nicotine gum.

2 (g) Beginning October 1, 2014, 24.1% of the proceeds shall be
3 disbursed as follows:

4 (i) For the 2014-2015 fiscal year and each subsequent fiscal
5 year, \$3,000,000.00 to the Michigan ~~state capitol historic site~~
6 **STATE CAPITOL HISTORIC SITE** fund created in section 7 of the
7 Michigan state capitol historic site act, 2013 PA 240, MCL 4.1947.
8 For the 2015-2016 fiscal year and each subsequent fiscal year, the
9 state treasurer shall adjust the figure described in this
10 subparagraph by an amount determined by the state treasurer at the
11 end of each calendar year to reflect the cumulative annual
12 percentage change in the consumer price index. Beginning for the
13 2015-2016 fiscal year and each subsequent fiscal year, if the
14 cumulative annual percentage change in the consumer price index is
15 negative, then the adjustment for that fiscal year is zero. As used
16 in this subsection, "consumer price index" means the most
17 comprehensive index of consumer prices available for this state
18 from the Bureau of Labor Statistics of the United States Department
19 of Labor. From the funds described in this subparagraph, not later
20 than February 1 of each year, the Michigan state capitol commission
21 created in section 5 of the Michigan state capitol historic site
22 act, 2013 PA 240, MCL 4.1945, shall report to the Michigan capitol
23 committee created in section ~~701-1701~~ of the legislative council
24 act, 1986 PA 268, MCL 4.1701, and to the chairpersons of the house
25 and senate appropriations committees. The report shall contain all
26 of the following:

27 (A) The proposed maintenance plan for the Michigan State

1 Capitol Historical Site for the immediately following fiscal year.

2 (B) The projected 5-year maintenance plan for the Michigan
3 State Capitol Historical Site for the immediately following 5
4 fiscal years.

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

7 (ii) The remaining proceeds shall be credited to the general
8 fund of this state.

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

11 (a) Through June 30, 2004, 74.2%, and beginning July 1, 2004,
12 9.0% of the proceeds shall be credited to the general fund of this
13 state.

14 (b) Through June 30, 2004, 4.6%, and beginning July 1, 2004,
15 56.3% of the proceeds shall be credited to the state school aid
16 fund established by section 11 of article IX of the state
17 constitution of 1963.

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

25 (d) Through June 30, 2004, 3.0%, and beginning July 1, 2004,
26 3.7% of the proceeds shall be paid to counties with a 2000
27 population of more than 2,000,000, to be used only for indigent

1 health care.

2 (e) Through June 30, 2004, 12.2%, and beginning July 1, 2004,
3 25.0% of the proceeds shall be credited to the **MICHIGAN** Medicaid
4 benefits trust fund created under section 5 of the Michigan trust
5 fund act, 2000 PA 489, MCL 12.255.

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

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

11 (b) 6.0% of the proceeds shall be credited to the Healthy
12 Michigan fund created under section 5953 of the public health code,
13 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
14 in this subdivision that are used for smoking prevention programs
15 shall be used by the department of health and human services to
16 expand the free smokers quit kit program to include the nicotine
17 patch or nicotine gum.

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

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

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

25 (b) 6.0% of the proceeds shall be credited to the Healthy
26 Michigan fund created under section 5953 of the public health code,
27 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described

1 in this subdivision that are used for smoking prevention programs
2 shall be used by the department of health and human services to
3 expand the free smokers quit kit program to include the nicotine
4 patch or nicotine gum.

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

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

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

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

16 (8) Beginning July 1, 2004, the tax imposed under section
17 7(1)(g) shall be disbursed as follows:

18 (a) Beginning July 1, 2004 and through September 30, 2005,
19 100% of the proceeds shall be credited to the Michigan Medicaid
20 benefits trust fund created under section 5 of the Michigan trust
21 fund act, 2000 PA 489, MCL 12.255.

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

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

27 (9) The proceeds of the fees and penalties ~~provided for~~

1 **DESCRIBED** in this act shall be used for the administration of this
2 act.