

HOUSE BILL NO. 4188

February 14, 2019, Introduced by Reps. Hood, Cynthia Johnson, Hope, Kuppa, Garrett, Neeley, Hammoud, Cherry, LaGrand, Wittenberg and Hoadley and referred to the Committee on Regulatory Reform.

A bill to amend 1993 PA 327, entitled
"Tobacco products tax act,"
by amending sections 2, 7, 11, and 12 (MCL 205.422, 205.427,
205.431, and 205.432), section 2 as amended by 2012 PA 188,
sections 7 and 11 as amended by 2016 PA 86, and section 12 as
amended by 2018 PA 639; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Cigarette" means a roll for smoking made wholly or in
- 3 part of tobacco, irrespective of size or shape and irrespective of

1 the tobacco being flavored, adulterated, or mixed with any other
2 ingredient, which roll has a wrapper or cover made of paper or any
3 other material. Cigarette does not include cigars.

4 (b) "Cigarette making machine" means any machine or other
5 mechanical device which meets all of the following criteria:

6 (i) Is capable of being loaded with loose tobacco, cigarette
7 tubes or cigarette papers, and any other components related to the
8 production of cigarettes, including, but not limited to, cigarette
9 filters.

10 (ii) Is designed to automatically or mechanically produce,
11 roll, fill, dispense, or otherwise generate cigarettes.

12 (iii) Is commercial-grade or otherwise designed or suitable for
13 commercial use.

14 (iv) Is designed to be powered or otherwise operated by a main
15 or primary power source other than human power.

16 (c) "Commissioner" means the state treasurer.

17 (d) "Counterfeit cigarette" means a cigarette in an individual
18 package of cigarettes or other container with a false manufacturing
19 label or a cigarette in an individual package of cigarettes or
20 other container with a counterfeit stamp.

21 (e) "Counterfeit cigarette paper" means a cigarette paper with
22 a false manufacturing label or that has not been printed,
23 manufactured, or made by authority of the trademark owner.

24 (f) "Counterfeit stamp" means any stamp, label, or print,
25 indicium, or character, that evidences, or purports to evidence,
26 the payment of any tax levied under this act and that has not been
27 printed, manufactured, or made by authority of the department as
28 provided in this act and has not been issued, sold, or circulated
29 by the department.

1 (g) "Department" means the department of treasury.

2 (h) "Electronic smoking device" means any device that can be
3 used to deliver aerosolized or vaporized nicotine to the person
4 inhaling from the device, including, but not limited to, an e-
5 cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic
6 smoking device included any component, part, or accessory of such a
7 device, whether or not sold separately, and includes any substance
8 intended to be aerosolized or vaporized during the use of the
9 device. Electronic smoking device does not include any battery or
10 battery charger when sold separately. In addition, electronic
11 smoking device does not include drugs, devices, or combination
12 products authorized for sale as tobacco cessation products by the
13 United States Food and Drug Administration, as those terms are
14 defined under subchapter V of the federal food, drug, and cosmetic
15 act, 21 USC 351 to 360fff-7.

16 (i) ~~(h)~~ "Financially sound" means a determination by the
17 department that the wholesaler or unclassified acquirer is able to
18 pay for its stamps in the ordinary course of business based on
19 criteria including, but not limited to, all of the following:

20 (i) Past filing and payment history with the department.

21 (ii) Outstanding liabilities.

22 (iii) Review of current financial statements including, but not
23 limited to, balance sheets and income statements.

24 (iv) Duration that the wholesaler or unclassified acquirer has
25 been licensed under this act.

26 (j) ~~(i)~~ "Gray market cigarette" means any cigarette the
27 package of which bears any statement, label, stamp, sticker, or
28 notice indicating that the manufacturer did not intend the
29 cigarettes to be sold, distributed, or used in the United States,

including, but not limited to, a label stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording.

(k) ~~(j)~~—"Gray market cigarette paper" means any cigarette paper the package of which bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarette papers to be sold, distributed, or used in the United States, including, but not limited to, a label stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", "For Use in _____ (another country) Only", or similar wording.

(l) ~~(k)~~—"Individual package" means an individual packet or pack used to contain or to convey cigarettes to the consumer. Individual package does not include cartons, cases, or shipping or storage containers that contain smaller packaging units of cigarettes.

(m) ~~(l)~~—"Licensee" means a person licensed under this act.

(n) ~~(m)~~—"Manufacturer" means any of the following:

(i) A person who manufactures or produces a tobacco product.

(ii) A person who operates or who permits any other person to operate a cigarette making machine in this state for the purpose of producing, filling, rolling, dispensing, or otherwise generating cigarettes. A person who is a manufacturer under this subparagraph shall constitute a nonparticipating manufacturer for purposes of sections 6c and 6d. A person who operates or otherwise uses a machine or other mechanical device, other than a cigarette making machine, to produce, roll, fill, dispense, or otherwise generate cigarettes shall not be considered a manufacturer as long as the cigarettes are produced or otherwise generated in that person's dwelling and for that person's self-consumption. For purposes of this act, "self-consumption" means production for personal consumption or use and not for sale, resale, or any other profit-

1 making endeavor.

2 (o) ~~(n)~~—"Noncigarette smoking tobacco" means tobacco sold in
3 loose or bulk form that is intended for consumption by smoking and
4 includes **pipe tobacco and** roll-your-own cigarette tobacco.

5 (p) ~~(e)~~—"Person" means an individual, partnership, fiduciary,
6 association, limited liability company, corporation, or other legal
7 entity.

8 (q) ~~(p)~~—"Place of business" means a place where a tobacco
9 product is sold or where a tobacco product is brought or kept for
10 the purpose of sale or consumption, including a vessel, airplane,
11 train, or vending machine.

12 (r) ~~(q)~~—"Retailer" means a person other than a transportation
13 company who operates a place of business for the purpose of making
14 sales of a tobacco product at retail.

15 (s) ~~(r)~~—"Sale" means a transaction by which the ownership of
16 tangible personal property is transferred for consideration and
17 applies also to use, gifts, exchanges, barter, and theft.

18 (t) ~~(s)~~—"Secondary wholesaler" means a person who sells a
19 tobacco product for resale, who purchases a tobacco product from a
20 wholesaler or unclassified acquirer licensed under this act, and
21 who maintains an established place of business in this state where
22 a substantial portion of the business is the sale of tobacco
23 products and related merchandise at wholesale, and where at all
24 times a substantial stock of tobacco products and related
25 merchandise is available to retailers for resale.

26 (u) ~~(t)~~—"Smokeless tobacco" means snuff, **snus**, chewing
27 tobacco, and any other tobacco that is intended to be consumed,
28 **whether heated, chewed, absorbed, dissolved, inhaled, snorted,**
29 **sniffed, or ingested,** by **any** means other than smoking. **Beginning**

1 **October 1, 2019, smokeless tobacco includes electronic smoking**
2 **devices.**

3 **(v)** ~~(u)~~—"Stamp" means a distinctive character, indication, or
4 mark, as determined by the department, attached or affixed to an
5 individual package of cigarettes by mechanical device or other
6 means authorized by the department to indicate that the tax imposed
7 under this act has been paid.

8 **(w)** ~~(v)~~—"Stamping agent" means a wholesaler or unclassified
9 acquirer other than a manufacturer who is licensed and authorized
10 by the department to affix stamps to individual packages of
11 cigarettes on behalf of themselves and other wholesalers or
12 unclassified acquirers other than manufacturers.

13 **(x)** ~~(w)~~—"Tobacco product" means cigarettes, cigars,
14 nongigarette smoking tobacco, or smokeless tobacco.

15 **(y)** ~~(x)~~—"Transportation company" means a person operating, or
16 supplying to common carriers, cars, boats, or other vehicles for
17 the transportation or accommodation of passengers and engaged in
18 the sale of a tobacco product at retail.

19 **(z)** ~~(y)~~—"Transporter" means a person importing or transporting
20 into this state, or transporting in this state, a tobacco product
21 obtained from a source located outside this state, or from any
22 person not duly licensed under this act. Transporter does not
23 include an interstate commerce carrier licensed by the interstate
24 commerce commission to carry commodities in interstate commerce, or
25 a licensee maintaining a warehouse or place of business outside of
26 this state if the warehouse or place of business is licensed under
27 this act.

28 **(aa)** ~~(z)~~—"Unclassified acquirer" means a person, except a
29 transportation company or a purchaser at retail from a retailer

1 licensed under the general sales tax act, 1933 PA 167, MCL 205.51
2 to 205.78, who imports or acquires a tobacco product from a source
3 other than a wholesaler or secondary wholesaler licensed under this
4 act for use, sale, or distribution. Unclassified acquirer also
5 means a person who receives cigars, noncigarette smoking tobacco,
6 or smokeless tobacco directly from a manufacturer licensed under
7 this act or from another source outside this state, which source is
8 not licensed under this act. An unclassified acquirer does not
9 include a wholesaler.

10 (bb) ~~(aa)~~ "Vending machine operator" means a person who
11 operates 1 or more vending machines for the sale of a tobacco
12 product and who purchases a tobacco product from a manufacturer,
13 licensed wholesaler, or secondary wholesaler.

14 (cc) ~~(bb)~~ "Wholesale price" means the actual price paid for a
15 tobacco product, including any tax, by a wholesaler or unclassified
16 acquirer to a manufacturer, excluding any discounts or reductions.

17 (dd) ~~(cc)~~ "Wholesaler" means a person who purchases all or
18 part of his or her tobacco products from a manufacturer, who sells
19 75% or more of those tobacco products to others for resale, and who
20 maintains an established business where substantially all of the
21 business is the sale of tobacco products or cigarettes and related
22 merchandise at wholesale and where at all times a substantial stock
23 of tobacco products and related merchandise is available to
24 retailers for resale. Wholesaler includes a chain of stores
25 retailing a tobacco product to the consumer if 75% of its stock of
26 tobacco products is purchased directly from the manufacturer.

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

29 (a) Through July 31, 2002, for cigars, noncigarette smoking

1 tobacco, and smokeless tobacco, 16% of the wholesale price.

2 (b) For cigarettes, 37.5 mills per cigarette.

3 (c) Beginning August 1, 2002, for cigarettes, in addition to
4 the tax levied in subdivision (b), an additional 15 mills per
5 cigarette.

6 (d) Beginning August 1, 2002, for cigarettes, in addition to
7 the tax levied in subdivisions (b) and (c), an additional 10 mills
8 per cigarette.

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

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

15 (g) Beginning July 1, 2004 **and through September 30, 2019**, for
16 cigars, noncigarette smoking tobacco, and smokeless tobacco **other**
17 **than electronic smoking devices**, 32% of the wholesale price.
18 However, beginning November 1, 2012 and through October 31, 2021,
19 the amount of tax levied under this subdivision on cigars shall not
20 exceed 50 cents per individual cigar.

21 (h) **Beginning October 1, 2019, for cigarettes, in addition to**
22 **the tax levied in subdivisions (b), (c), (d), and (e), an**
23 **additional 75 mills per cigarette.**

24 (i) **Beginning October 1, 2019, for cigars, noncigarette**
25 **smoking tobacco, and smokeless tobacco including electronic smoking**
26 **devices, 81% of the wholesale price.**

27 (2) On or before the twentieth day of each calendar month,
28 every licensee under section 3 other than a retailer, unclassified
29 acquirer licensed as a manufacturer, or vending machine operator

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

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

28 (a) One percent of the total amount of the tax due on tobacco
29 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
28 been applied by eligible equipment to the individual packages of
29 cigarettes contained within those cigarette cartons. Compensation

1 under this subparagraph may only be claimed by a stamping agent if
2 the case packers or similar machines are in addition to, and not a
3 replacement for, 1 or more case packers or similar machines used in
4 connection with cigarette stamping machines which do not use the
5 digital stamp authorized under this act.

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

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

24 (e) Beginning in the first calendar month following the
25 implementation of the use of digital stamps as provided in section
26 5a(2) and continuing for the immediately succeeding 17 months, for
27 licensees who are stamping agents, reimbursement of direct costs
28 actually incurred by the stamping agent, as determined by the
29 department, for the initial purchase of eligible equipment in an

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

16 (f) Beginning in the first calendar month following the
17 implementation of the use of digital stamps as provided in section
18 5a(2), for licensees who are stamping agents, reimbursement of
19 qualified equipment costs actually incurred by the stamping agent,
20 not otherwise compensated or reimbursed under subdivision (d) or
21 (e), as determined by the department. The reimbursement provided
22 under this subdivision shall not exceed \$60,000.00 for all stamping
23 agents combined.

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

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

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

(6) Every licensee and retailer who, on October 1, 2019, has

1 on hand for sale any cigarettes upon which a tax has been paid
2 pursuant to subsection (1)(b), (c), (d), and (e) shall file a
3 complete inventory of those cigarettes before November 1, 2019 and
4 shall pay to the department at the time of filing this inventory a
5 tax equal to the difference between the tax imposed in subsection
6 (1)(b), (c), (d), (e), and (h) and the tax that has been paid under
7 subsection (1)(b), (c), (d) and (e). Every licensee and retailer
8 who, on October 1, 2019, has on hand for sale any cigars,
9 noncigarette smoking tobacco, or smokeless tobacco other than
10 electronic smoking devices upon which a tax has been paid pursuant
11 to subsection (1)(g) shall file a complete inventory of those
12 cigars, noncigarette smoking tobacco, and smokeless tobacco before
13 November 1, 2019 and shall pay to the department at the time of
14 filing this inventory a tax equal to the difference between the tax
15 imposed in subsection (1)(I) and the tax that has been paid under
16 subsection (1)(g). The proceeds derived under this subsection shall
17 be credited to the healthy Michigan fund created under section 5953
18 of the public health code, 1978 PA 368, MCL 333.5953.

19 (7) ~~(6)~~—The department may require the payment of the tax
20 imposed by this act upon the importation or acquisition of a
21 tobacco product. A tobacco product for which the tax under this act
22 has once been imposed and that has not been refunded if paid is not
23 subject upon a subsequent sale to the tax imposed by this act.

24 (8) ~~(7)~~—An abatement or refund of the tax provided by this act
25 may be made by the department for causes the department considers
26 expedient. The department shall certify the amount and the state
27 treasurer shall pay that amount out of the proceeds of the tax.

28 (9) ~~(8)~~—A person liable for the tax may reimburse itself by
29 adding to the price of the tobacco products an amount equal to the

1 tax levied under this act.

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

1 manufacturer.

2 **(12)** ~~(11)~~—On or before the twentieth of each month, each
3 manufacturer shall file a report with the department listing all
4 sales of tobacco products to wholesalers and unclassified acquirers
5 during the preceding calendar month and any other information the
6 department finds necessary for the administration of this act. This
7 report shall be in the form and manner specified by the department.

8 **(13)** ~~(12)~~—Each wholesaler or unclassified acquirer shall
9 submit to the department an unstamped cigarette sales report on or
10 before the twentieth day of each month covering the sale, delivery,
11 or distribution of unstamped cigarettes during the preceding
12 calendar month to points outside of this state. A separate schedule
13 shall be filed for each state, country, or province into which
14 shipments are made. For purposes of the report described in this
15 subsection, "unstamped cigarettes" means individual packages of
16 cigarettes that do not bear a Michigan stamp. The department may
17 provide the information contained in this report to a proper
18 officer of another state, country, or province reciprocating in
19 this privilege.

20 **(14)** ~~(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).

28 (iii) Was purchased to be used for the primary purpose of
29 permitting the stamping agent to affix digital stamps to individual

1 packages of cigarettes to be sold in this state following the
2 implementation of the use of digital stamps as provided in section
3 5a(2).

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

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

8 (ii) Was a cigarette tax stamping machine used prior to January
9 1, 2012 by the stamping agent to apply stamps using stamp rolls of
10 30,000 stamps.

11 (c) "Qualified equipment" means equipment that was placed in
12 service by a stamping agent that included conveyors and additional
13 associated electrical line and compressed air line before August
14 15, 2014 in connection with the implementation of a digital
15 stamping line under a pilot program with the department as
16 determined by the department. Qualified equipment does not include
17 the cost of installation of a conveyor.

18 Sec. 11. (1) A person, either as principal or agent, shall not
19 sell or solicit a sale of a tobacco product to be shipped, mailed,
20 or otherwise sent or brought into the state, to a person not a
21 licensed manufacturer, licensed wholesaler, licensed secondary
22 wholesaler, licensed vending machine operator, licensed
23 unclassified acquirer, licensed transporter, or licensed
24 transportation company, unless the tobacco product is to be sold to
25 or through a licensed wholesaler.

26 (2) All sales conducted through the ~~Internet~~, **internet**, by
27 telephone, or in a mail-order transaction shall not be completed
28 unless, before each delivery of ~~cigarettes~~ **tobacco products** is
29 made, whether through the mail, through a transportation company,

1 or through any other delivery system, the seller has obtained from
2 the purchaser an affirmation that includes a copy of a valid
3 government-issued document that confirms the purchaser's name,
4 address, and date of birth showing that the purchaser is at least
5 the legal minimum age to purchase ~~cigarettes;~~ **tobacco products;**
6 that the ~~cigarettes~~ **tobacco products** purchased are not intended for
7 consumption by an individual who is younger than the legal minimum
8 age to purchase ~~cigarettes;~~ **tobacco products;** and a written
9 statement signed by the purchaser that affirms the purchaser's
10 address and that the purchaser is at least the minimum legal age to
11 purchase ~~cigarettes.~~ **tobacco products.** The statement shall also
12 confirm that the purchaser understands that signing another
13 person's name to the affirmation is illegal; that the sale of
14 ~~cigarettes~~ **tobacco products** to individuals under the legal minimum
15 purchase age is illegal; and that the purchase of ~~cigarettes~~
16 **tobacco products** by individuals under the legal minimum purchase
17 age is illegal under the laws of the state of Michigan. The seller
18 shall verify the information contained in the affirmation provided
19 by the purchaser against a commercially available database of
20 governmental records, or obtain a photocopy, fax copy, or other
21 image of the valid, government-issued identification stating the
22 date of birth or age of the purchaser.

23 (3) All invoices, bills of lading, sales receipts, or other
24 documents related to ~~cigarette~~ **tobacco product** sales conducted
25 through the internet, by telephone, or in a mail-order transaction
26 shall contain the current seller's valid Michigan sales tax
27 registration number, business name and address of the seller, and a
28 statement as to whether all sales taxes and taxes levied under this
29 act have been paid. All packages of ~~cigarettes~~ **tobacco products**

1 shipped from a ~~cigarette~~**tobacco product** seller to purchasers who
 2 reside in Michigan shall clearly print or stamp the package with
 3 the word "~~CIGARETTES~~"**"TOBACCO PRODUCTS"** on the outside of all
 4 sides of the package so it is clearly visible to the shipper. In
 5 addition, the package shall contain an externally visible and
 6 clearly legible notice located on the same side of the package as
 7 the address to which the package is delivered, as follows:

8 "IF THESE ~~CIGARETTES~~**TOBACCO PRODUCTS** HAVE BEEN SHIPPED TO YOU
 9 FROM A SELLER LOCATED OUTSIDE OF THE STATE IN WHICH YOU RESIDE, THE
 10 SELLER HAS REPORTED UNDER FEDERAL LAW THE SALE OF THESE ~~CIGARETTES~~
 11 **TOBACCO PRODUCTS** TO OUR STATE TAX COLLECTION AGENCY, INCLUDING YOUR
 12 NAME AND ADDRESS. YOU ARE LEGALLY RESPONSIBLE FOR ALL APPLICABLE
 13 UNPAID STATE TAXES ON THESE ~~CIGARETTES~~**."TOBACCO PRODUCTS."**

14 If an order is made as a result of advertisement over the
 15 ~~Internet~~**,internet**, the tobacco retailer shall request the
 16 electronic mail address of the purchaser and shall receive payment
 17 by credit card or check before shipping. This subsection and
 18 subsection (2) do not apply to sales by wholesalers and
 19 unclassified acquirers.

20 (4) The deliverer of the ~~cigarettes~~**tobacco products** is
 21 required to obtain proof from a valid government-issued document
 22 that the person signing for the ~~cigarettes~~**tobacco products** is the
 23 purchaser.

24 (5) Beginning November 1, 2012, a retailer that is not
 25 licensed as an unclassified acquirer, retail importer of tobacco
 26 products other than cigarettes, shall post a sign, visible to the
 27 public inside the retail establishment that informs purchasers of
 28 cigars through catalog sales or ~~Internet~~**internet** sales of their
 29 responsibility to pay all applicable unpaid state taxes on those

1 cigars.

2 (6) As used in this section:

3 (a) "Computer" means any connected, directly interoperable or
4 interactive device, equipment, or facility that uses a computer
5 program or other instructions to perform specific operations,
6 including logical, arithmetic, or memory functions with or on
7 computer data or a computer program, and that can store, retrieve,
8 alter, or communicate the results of the operations to a person,
9 computer program, computer, computer system, or computer network.

10 (b) "Computer network" means the interconnection of hardware
11 or wireless communication lines with a computer through remote
12 terminals or a complex consisting of 2 or more interconnected
13 computers.

14 (c) "Computer program" means a series of internal or external
15 instructions communicated in a form acceptable to a computer that
16 directs the functioning of a computer, computer system, or computer
17 network in a manner designed to provide or produce products or
18 results from the computer, computer system, or computer network.

19 (d) "Computer system" means related, connected or unconnected,
20 computer equipment, devices, software, or hardware.

21 (e) "Credit card" means a card or device issued by a person
22 licensed under 1984 PA 379, MCL 493.101 to 493.114, or under the
23 consumer financial services act, 1988 PA 161, MCL 487.2051 to
24 487.2072, or issued by a depository financial institution as
25 defined in section 1a of the mortgage brokers, lenders, and
26 services licensing act, 1987 PA 173, MCL 445.1651a, under a credit
27 card arrangement.

28 (f) "Device" includes, but is not limited to, an electronic,
29 magnetic, electrochemical, biochemical, hydraulic, optical, or

1 organic object that performs input, output, or storage functions by
2 the manipulation of electronic, magnetic, or other impulses.

3 (g) "Internet" means the connection to the World Wide Web
4 through the use of a computer, a computer network, or a computer
5 system.

6 (h) "Sale conducted through the ~~Internet~~**-internet**" means a
7 sale of, a solicitation to sell, a purchase of, or an offer to
8 purchase ~~cigarettes~~**tobacco products** conducted all or in part by
9 accessing an ~~Internet~~**-internet** website.

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

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

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

24 (b) 6% 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
28 shall be used by the department of health and human services to
29 expand the free smokers quit kit program to include the nicotine

1 patch or nicotine gum.

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

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

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

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

13 (d) Beginning July 1, 2004 and through September 30, 2014,
14 24.1% of the proceeds shall be credited to the general fund of this
15 state.

16 (e) 63.4% 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 (f) 6% 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 health and human services to
24 expand the free smokers quit kit program to include the nicotine
25 patch or nicotine gum.

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

28 (i) For the 2014-2015 fiscal year and each subsequent fiscal
29 year, \$3,000,000.00 to the Michigan state capitol historic site

1 fund created in section 7 of the Michigan state capitol historic
 2 site act, 2013 PA 240, MCL 4.1947. For the 2015-2016 fiscal year
 3 and each subsequent fiscal year, the state treasurer shall adjust
 4 the figure described in this subparagraph by an amount determined
 5 by the state treasurer at the end of each calendar year to reflect
 6 the cumulative annual percentage change in the ~~consumer price~~
 7 ~~index.~~ **Consumer Price Index.** Beginning for the 2015-2016 fiscal
 8 year and each subsequent fiscal year, if the cumulative annual
 9 percentage change in the ~~consumer price index~~ **Consumer Price Index**
 10 is negative, then the adjustment for that fiscal year is zero. As
 11 used in this subsection, "~~consumer price index~~" **"Consumer Price**
 12 **Index"** means the most comprehensive index of consumer prices
 13 available for this state from the Bureau of Labor Statistics of the
 14 United States Department of Labor. From the funds described in this
 15 subparagraph, not later than February 1 of each year, the Michigan
 16 state capitol commission created in section 5 of the Michigan state
 17 capitol historic site act, 2013 PA 240, MCL 4.1945, shall report to
 18 the chairpersons of the house and senate appropriations committees.
 19 The report shall contain all of the following:

20 (A) The proposed maintenance plan for the Michigan State
 21 Capitol Historical Site for the immediately following fiscal year.

22 (B) The projected 5-year maintenance plan for the Michigan
 23 State Capitol Historical Site for the immediately following 5
 24 fiscal years.

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

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

29 (4) Beginning August 1, 2002, the tax imposed on cigarettes

1 under section 7(1)(c) shall be disbursed as follows:

2 (a) Through June 30, 2004, 74.2%, and beginning July 1, 2004,
3 9.0% of the proceeds shall be credited to the general fund of this
4 state.

5 (b) Through June 30, 2004, 4.6%, and beginning July 1, 2004,
6 56.3% of the proceeds shall be credited to the state school aid
7 fund established by section 11 of article IX of the state
8 constitution of 1963.

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

16 (d) Through June 30, 2004, 3.0%, and beginning July 1, 2004,
17 3.7% of the proceeds shall be paid to counties with a 2000
18 population of more than 2,000,000, to be used only for indigent
19 health care.

20 (e) Through June 30, 2004, 12.2%, and beginning July 1, 2004,
21 25.0% of the proceeds shall be credited to the Medicaid benefits
22 trust fund created under section 5 of the Michigan trust fund act,
23 2000 PA 489, MCL 12.255.

24 (5) Beginning August 1, 2002, the tax imposed under section
25 7(1)(f) shall be disbursed as follows:

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

29 (b) 6.0% 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 health and human services to
5 expand the free smokers quit kit program to include the nicotine
6 patch or nicotine gum.

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

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

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

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

21 (7) Beginning July 1, 2004, the tax imposed on cigarettes
22 under section 7(1)(e) 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
28 credited to the Michigan Medicaid benefits trust fund created under
29 section 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

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

3 (8) Beginning July 1, 2004, the tax imposed under section
4 7(1)(g) shall be disbursed as follows:

5 (a) Beginning July 1, 2004 and through September 30, 2005,
6 100% of the proceeds shall be credited to the Michigan Medicaid
7 benefits trust fund created under section 5 of the Michigan trust
8 fund act, 2000 PA 489, MCL 12.255.

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

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

14 (9) Beginning October 1, 2019, the tax imposed under section
15 7(1)(h) shall be disbursed as follows:

16 (a) Beginning October 1, 2019, 10% of the proceeds shall be
17 credited to the healthy Michigan fund created under section 5953 of
18 the public health code, 1978 PA 368, MCL 333.5953. The funds
19 described under this subdivision shall be used by the department of
20 health and human services for cancer prevention, tobacco
21 prevention, and cardiovascular health.

22 (b) Beginning October 1, 2019, 90% of the proceeds shall be
23 credited to the general fund of the state.

24 (10) Beginning October 1, 2019, the tax imposed under section
25 7(1)(i) shall be disbursed as follows:

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

29 (b) 6.0% 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. The funds described under this
3 subdivision shall be used by the department of health and human
4 services for cancer prevention, tobacco prevention, and
5 cardiovascular health.

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

8 (11) ~~(9)~~—The proceeds of the fees and penalties provided for
9 in this act shall be used for the administration of this act.

10 Enacting section 1. Section 14 of the tobacco products tax
11 act, 1993 PA 327, MCL 205.434, is repealed effective October 1,
12 2019.