

SENATE BILL No. 1268

May 27, 2004, Introduced by Senator EMERSON and referred to the Committee on Government Operations.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

9 (d) Beginning August 1, 2002, for cigarettes, in addition to
10 the tax levied in subdivisions (b) and (c), an additional 10

1 mills per cigarette.

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

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

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

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

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

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

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

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

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

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

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

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

1 (6) ~~—(5)—~~ The department may require the payment of the tax
2 imposed by this act upon the importation or acquisition of a
3 tobacco product. A tobacco product for which the tax under this
4 act has once been imposed and that has not been refunded if paid
5 is not subject upon a subsequent sale to the tax imposed by this
6 act.

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

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

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

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

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

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

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

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

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

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

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

20 (b) 6% of the proceeds shall be credited to the healthy
21 Michigan fund created under section 5953 of the public health
22 code, 1978 PA 368, MCL 333.5953.

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

25 (a) Beginning May 1, 1994 **and through September 30, 2004**,
26 5.3% of the proceeds shall be credited to the health and safety
27 fund created in the health and safety fund act, 1987 PA 264,

1 MCL 141.471 to 141.479.

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

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

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

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

12 **(f) ~~(d)~~ 6% of the proceeds shall be credited to the healthy**
13 **Michigan fund created under section 5953 of the public health**
14 **code, 1978 PA 368, MCL 333.5953.**

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

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

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

1 (c) 6.0% of the proceeds shall be credited to the healthy
2 Michigan fund created under section 5953 of the public health
3 code, 1978 PA 368, MCL 333.5953.

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

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

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

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

17 (b) 6.0% of the proceeds shall be credited to the healthy
18 Michigan fund created under section 5953 of the public health
19 code, 1978 PA 368, MCL 333.5953.

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

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

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

4 (b) 6.0% of the proceeds shall be credited to the healthy
5 Michigan fund created under section 5953 of the public health
6 code, 1978 PA 368, MCL 333.5953.

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

9 (a) 9.4% of the proceeds shall be credited to the healthy
10 Michigan fund created under section 5953 of the public health
11 code, 1978 PA 368, MCL 333.5953.

12 (b) 90.6% shall be credited to the medicaid benefits trust
13 fund created under section 5 of the Michigan trust fund act, 2000
14 PA 489, MCL 12.255.

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

17 (a) 50.0% of the proceeds shall be credited to the state
18 school aid fund established by section 11 of article IX of the
19 state constitution of 1963.

20 (b) 6.0% of the proceeds shall be credited to the healthy
21 Michigan fund created under section 5953 of the public health
22 code, 1978 PA 368, MCL 333.5953.

23 (c) 44.0% of the proceeds shall be credited to the general
24 fund of this state.

25 (9) ~~(7)~~ The proceeds of the fees and penalties provided for
26 in this act shall be used for the administration of this act.