

HOUSE BILL No. 4389

March 1, 2007, Introduced by Reps. Young, Hammon, Robert Jones, Lindberg, Brown, Vagnozzi, Cushingberry, Bauer, Clack, Virgil Smith, Bennett and Constan and referred to the Committee on Tax Policy.

A bill to amend 1993 PA 327, entitled
"Tobacco products tax act,"
by amending sections 7 and 12 (MCL 205.427 and 205.432), as amended
by 2004 PA 164.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

9 (d) Beginning August 1, 2002, for cigarettes, in addition to

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

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

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

9 (g) Beginning July 1, 2004 **AND THROUGH MAY 30, 2007**, for
10 cigars, noncigarette smoking tobacco, and smokeless tobacco, 32% of
11 the wholesale price.

12 **(H) BEGINNING JUNE 1, 2007, FOR CIGARETTES, IN ADDITION TO THE**
13 **TAX LEVIED IN SUBDIVISIONS (B), (C), (D), AND (E), AN ADDITIONAL**
14 **0.25 MILLS PER CIGARETTE.**

15 **(I) BEGINNING JUNE 1, 2007, FOR CIGARS, NONCIGARETTE SMOKING**
16 **TOBACCO, AND SMOKELESS TOBACCO, 64% OF THE WHOLESALE PRICE.**

17 (2) On or before the twentieth day of each calendar month,
18 every licensee under section 3 other than a retailer, secondary
19 wholesaler, unclassified acquirer licensed as a manufacturer, or
20 vending machine operator shall file a return with the department
21 stating the wholesale price of each tobacco product other than
22 cigarettes purchased, the quantity of cigarettes purchased, the
23 wholesale price charged for all tobacco products other than
24 cigarettes sold, the number of individual packages of cigarettes
25 and the number of cigarettes in those individual packages, and the
26 number and denominations of stamps affixed to individual packages
27 of cigarettes sold by the licensee for each place of business in

1 the preceding calendar month. The return shall also include the
2 number and denomination of unaffixed stamps in the possession of
3 the licensee at the end of the preceding calendar month.

4 Wholesalers shall also report accurate inventories of cigarettes,
5 both stamped and unstamped at the end of the preceding calendar
6 month. Wholesalers and unclassified acquirers shall also report
7 accurate inventories of affixed and unaffixed stamps by
8 denomination at the beginning and end of each calendar month and
9 all stamps acquired during the preceding calendar month. The return
10 shall be signed under penalty of perjury. The return shall be on a
11 form prescribed by the department and shall contain or be
12 accompanied by any further information the department requires.

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

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

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

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

25 (4) Every licensee and retailer who, on August 1, 2002, has on
26 hand for sale any cigarettes upon which a tax has been paid
27 pursuant to subsection (1)(b) shall file a complete inventory of

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

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

1 under subsection (1)(f). The proceeds derived under this subsection
2 shall be credited to the medicaid benefits trust fund created under
3 section 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

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

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

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

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

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

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

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

23 (12) Each wholesaler or unclassified acquirer shall submit to
24 the department an unstamped cigarette sales report on or before the
25 twentieth day of each month covering the sale, delivery, or
26 distribution of unstamped cigarettes during the preceding calendar
27 month to points outside of Michigan. A separate schedule shall be

1 filed for each state, country, or province into which shipments are
2 made. For purposes of the report described in this subsection,
3 "unstamped cigarettes" means individual packages of cigarettes that
4 do not bear a Michigan stamp. The department may provide the
5 information contained in this report to a proper officer of another
6 state, country, or province reciprocating in this privilege.

7 (13) EVERY LICENSEE AND RETAILER WHO, ON JUNE 1, 2007, HAS ON
8 HAND FOR SALE ANY CIGARETTES UPON WHICH A TAX HAS BEEN PAID
9 PURSUANT TO SUBSECTION (1) (B), (C), (D), AND (E) SHALL FILE A
10 COMPLETE INVENTORY OF THOSE CIGARETTES BEFORE JULY 1, 2007 AND
11 SHALL PAY TO THE DEPARTMENT AT THE TIME OF FILING THIS INVENTORY A
12 TAX EQUAL TO THE DIFFERENCE BETWEEN THE TAX IMPOSED IN SUBSECTION
13 (1) (B), (C), (D), (E), AND (H) AND THE TAX THAT HAS BEEN PAID UNDER
14 SUBSECTION (1) (B), (C), (D), AND (E). EVERY LICENSEE AND RETAILER
15 WHO, ON JUNE 1, 2007, HAS ON HAND FOR SALE ANY CIGARS, NONCIGARETTE
16 SMOKING TOBACCO, OR SMOKELESS TOBACCO UPON WHICH A TAX HAS BEEN
17 PAID PURSUANT TO SUBSECTION (1) (G) SHALL FILE A COMPLETE INVENTORY
18 OF THOSE CIGARS, NONCIGARETTE SMOKING TOBACCO, AND SMOKELESS
19 TOBACCO BEFORE JULY 1, 2007 AND SHALL PAY TO THE DEPARTMENT AT THE
20 TIME OF FILING THIS INVENTORY A TAX EQUAL TO THE DIFFERENCE BETWEEN
21 THE TAX IMPOSED IN SUBSECTION (1) (I) AND THE TAX THAT HAS BEEN PAID
22 UNDER SUBSECTION (1) (G). THE PROCEEDS DERIVED UNDER THIS SUBSECTION
23 SHALL BE CREDITED TO THE GENERAL FUND OF THIS STATE.

24 Sec. 12. (1) The proceeds derived from the payment of taxes,
25 fees, and penalties provided for under this act and the license
26 fees received by the department shall be deposited with the state
27 treasurer and disbursed only as provided in this section and

1 section 7(5).

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

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

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

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

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

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

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

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

27 (e) 63.4% of the proceeds shall be credited to the state

1 school aid fund established by section 11 of article IX of the
2 state constitution of 1963.

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

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

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

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

19 (c) 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 (d) Through June 30, 2004, 3.0%, and beginning July 1, 2004,
27 3.7% of the proceeds shall be paid to counties with a 2000

1 population of more than 2,000,000, to be used only for indigent
2 health care.

3 (e) Through June 30, 2004, 12.2%, and beginning July 1, 2004,
4 25.0% of the proceeds shall be credited to the medicaid benefits
5 trust fund created under section 5 of the Michigan trust fund act,
6 2000 PA 489, MCL 12.255.

7 (5) Beginning August 1, 2002, the tax imposed under section
8 7(1)(f) shall be disbursed as follows:

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

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

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

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

26 (b) 6.0% of the proceeds shall be credited to the healthy
27 Michigan fund created under section 5953 of the public health code,

1 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
2 in this subdivision that are used for smoking prevention programs
3 shall be used by the department of community health to expand the
4 free smokers quit kit program to include the nicotine patch or
5 nicotine gum.

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

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

12 (b) Beginning October 1, 2005, 75.0% of the proceeds shall be
13 credited to the medicaid benefits trust fund created under section
14 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

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

17 (8) Beginning July 1, 2004, the tax imposed under section
18 7(1)(g) shall be disbursed as follows:

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

23 (b) Beginning October 1, 2005, 75.0% of the proceeds shall be
24 credited to the medicaid benefits trust fund created under section
25 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

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

1 (9) BEGINNING JUNE 1, 2007, THE TAX IMPOSED ON CIGARETTES
2 UNDER SECTION 7(1)(H) SHALL BE CREDITED TO THE GENERAL FUND OF THIS
3 STATE.

4 (10) BEGINNING JUNE 1, 2007, THE TAX IMPOSED UNDER SECTION
5 7(1)(I) SHALL BE CREDITED TO THE GENERAL FUND OF THIS STATE.

6 (11) ~~(9)~~—The proceeds of the fees and penalties provided for
7 in this act shall be used for the administration of this act.