

SENATE BILL No. 148

February 18, 2015, 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 2014 PA 298 and section 12 as amended by 2014 PA 272.

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, 2015, FOR** cigarettes, 37.5 mills
 6 per cigarette. **BEGINNING OCTOBER 1, 2015, FOR CIGARETTES, 18.75**
 7 **MILLS PER CIGARETTE.**

8 (c) Beginning August 1, 2002 **AND THROUGH SEPTEMBER 30, 2015,**
 9 for cigarettes, in addition to the tax levied in subdivision (b),
 10 an additional 15 mills per cigarette. **BEGINNING OCTOBER 1, 2015,**

1 FOR CIGARETTES, IN ADDITION TO THE TAX LEVIED IN SUBDIVISION (B),
2 AN ADDITIONAL 7.5 MILLS PER CIGARETTE.

3 (d) Beginning August 1, 2002 AND THROUGH SEPTEMBER 30, 2015,
4 for cigarettes, in addition to the tax levied in subdivisions (b)
5 and (c), an additional 10 mills per cigarette. BEGINNING OCTOBER 1,
6 2015, FOR CIGARETTES, IN ADDITION TO THE TAX LEVIED IN SUBDIVISIONS
7 (B) AND (C), AN ADDITIONAL 5 MILLS PER CIGARETTE.

8 (e) Beginning July 1, 2004 AND THROUGH SEPTEMBER 30, 2015, for
9 cigarettes, in addition to the tax levied in subdivisions (b), (c),
10 and (d), an additional 37.5 mills per cigarette. BEGINNING OCTOBER
11 1, 2015, FOR CIGARETTES, IN ADDITION TO THE TAX LEVIED IN
12 SUBDIVISIONS (B), (C), AND (D), AN ADDITIONAL 18.75 MILLS PER
13 CIGARETTE.

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

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

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

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

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

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

27 (b) Through July 31, 2002, 1.25% of the total amount of the

1 tax due on cigarettes sold.

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

8 (d) Beginning on the first calendar month following the
9 implementation of the use of digital stamps as provided in section
10 5a(2), for licensees who are stamping agents, 0.5% of the total
11 amount of the tax due on cigarettes sold and, for sales of untaxed
12 cigarettes to Indian tribes in this state, 0.5% of the total amount
13 of the tax due on those cigarettes sold as if those cigarette sales
14 were taxable sales under this act, until the stamping agent is
15 compensated in an amount equal to the direct cost actually incurred
16 by the stamping agent for the purchase of upgrades to technology
17 and equipment, excluding the equipment reimbursed under subdivision
18 (e), that are necessary to affix the digital stamp as determined by
19 the department. Compensation under this subdivision may also be
20 claimed by a stamping agent for the direct costs actually incurred
21 by the stamping agent, as determined by the department and
22 reflected in the net purchase price, for the initial and 1-time
23 purchase of case packers or similar machines or conveyors as
24 follows:

25 (i) Case packers or similar machines to be used exclusively to
26 repack cigarette cartons into case boxes after digital stamps have
27 been applied by eligible equipment to the individual packages of

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

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

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

25 (e) Beginning in the first calendar month following the
26 implementation of the use of digital stamps as provided in section
27 5a(2) and continuing for the immediately succeeding 17 months, for

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

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

27 (4) Every licensee and retailer who, on August 1, 2002, has on

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

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

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

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

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

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

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

27 (10) If the wholesaler or unclassified acquirer has unsalable

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

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

26 (12) Each wholesaler or unclassified acquirer shall submit to
27 the department an unstamped cigarette sales report on or before the

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

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

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

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

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

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

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

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

27 (ii) Was a cigarette tax stamping machine used prior to January

1 1, 2012 by the stamping agent to apply stamps using stamp rolls of
2 30,000 stamps.

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

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

1 shall be used by the department of community health to expand the
2 free smokers quit kit program to include the nicotine patch or
3 nicotine gum.

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

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

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

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

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

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

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

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

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

22 (A) The proposed maintenance plan for the Michigan state
23 capitol historic site for the immediately following fiscal year.

24 (B) The projected 5-year maintenance plan for the Michigan
25 state capitol historic site for the immediately following 5 fiscal
26 years.

27 (C) Projected large-scale projects for the Michigan state

1 capitol historic site that exceed \$1,000,000.00.

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

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

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

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

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

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

24 (e) Through June 30, 2004, 12.2%, and beginning July 1, 2004,
25 25.0% of the proceeds shall be credited to the **MICHIGAN** medicaid
26 benefits trust fund created under section 5 of the Michigan trust
27 fund act, 2000 PA 489, MCL 12.255.

1 (5) Beginning August 1, 2002, the tax imposed under section
2 7(1)(f) shall be disbursed as follows:

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

6 (b) 6.0% of the proceeds shall be credited to the healthy
7 Michigan fund created under section 5953 of the public health code,
8 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
9 in this subdivision that are used for smoking prevention programs
10 shall be used by the department of community health to expand the
11 free smokers quit kit program to include the nicotine patch or
12 nicotine gum.

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

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

17 (a) 94.0% 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 code,
22 1978 PA 368, MCL 333.5953. Fifty percent of the proceeds described
23 in this subdivision that are used for smoking prevention programs
24 shall be used by the department of community health to expand the
25 free smokers quit kit program to include the nicotine patch or
26 nicotine gum.

27 (7) Beginning July 1, 2004, the tax imposed on cigarettes

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

2 (a) Beginning July 1, 2004 and through September 30, 2005,
3 100% 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 (b) Beginning October 1, 2005, 75.0% of the proceeds shall be
7 credited to the **MICHIGAN** medicaid benefits trust fund created under
8 section 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

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

11 (8) Beginning July 1, 2004, the tax imposed under section
12 7(1)(g) shall be disbursed as follows:

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

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

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

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