

Act No. 182
Public Acts of 1999
Approved by the Governor
November 16, 1999
Filed with the Secretary of State
November 17, 1999
EFFECTIVE DATE: November 17, 1999

**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 1999**

Introduced by Senator Emmons

ENROLLED SENATE BILL No. 809

AN ACT to amend 1941 PA 122, entitled "An act to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to create the position and to define the powers and duties of the state commissioner of revenue; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; and to declare the effect of this act," by amending the title and section 14 (MCL 205.14), the title as amended and section 14 as added by 1998 PA 368.

The People of the State of Michigan enact:

TITLE

An act to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, possession, stamping, and disposition of certain tobacco products; to create the position and to define the powers and duties of the state commissioner of revenue; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act.

Sec. 14. (1) A person shall not acquire, possess, sell or distribute, or import into this state a tobacco product that violates any federal law or regulation, including, but not limited to, requirements concerning health warnings or other information on the container or individual package of tobacco products.

(2) A person shall not acquire, possess, sell or distribute, or import into this state a tobacco product or container of tobacco products if 1 or more of the following apply:

(a) The tobacco product or container of tobacco products bears any statement, label, stamp, sticker, or notice indicating that the manufacturer intended that the tobacco product be sold or distributed outside the United States, including, but not limited to, 1 or more of the following:

(i) A non-United States health warning.

(ii) Labels or markings stating "for export only", "U.S. tax exempt", "for use outside U.S.", or similar wording.

(b) The tobacco product, container of tobacco products, or any statement, label, stamp, sticker, or notice on a tobacco product or container of tobacco products has been altered from the manufacturer's original packaging to conceal the fact that the manufacturer intended that the tobacco product be sold or distributed outside the United States.

(c) The tobacco product or any statement, label, stamp, sticker, or notice on a tobacco product or container of tobacco products has been removed from the manufacturer's original packaging to conceal the fact that the manufacturer intended that the tobacco product be sold or distributed outside the United States.

(d) The person knew or should have known that the manufacturer intended the tobacco product to be sold or distributed outside the United States.

(e) The tobacco product was imported into the United States after January 1, 2000 in violation of 26 U.S.C. 5754.

(3) A person shall not place a stamp or a counterfeit stamp on a tobacco product unless that package of tobacco products complies with subsection (2) and all federal laws and regulations.

(4) A person that acquires, possesses, sells, offers for sale, imports, or distributes packages of tobacco products who knows or should know that the tobacco product is possessed, sold, offered for sale, imported, or distributed in violation of subsection (1) or (2) is subject to criminal charges as provided in section 8 of the tobacco products tax act, 1993 PA 327, MCL 205.428.

(5) A tobacco product or container of tobacco products that does not comply with subsection (1), (2), or (3) and books and records associated with those tobacco products are subject to seizure and confiscation by the department, a police officer, or designated agent under the same terms and conditions as provided in section 9 of the tobacco products tax act, 1993 PA 327, MCL 205.429. The department may revoke or suspend the license of a licensee under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, for a violation of this section.

(6) The department is authorized to obtain and exchange information with the United States customs service, any other federal law enforcement agency, or any state law enforcement agency for the purpose of enforcing this section.

(7) The department may assess tax due, penalty, and interest on tobacco products acquired, possessed, sold, or offered for sale in violation of this section.

(8) Any person who is injured by another person who violates this section may bring an action in circuit court for damages or equitable or injunctive relief including reasonable attorney fees. In awarding damages, the court may award up to 3 times the actual damages if the violation of this section is intentional. A manufacturer of tobacco products whose tobacco products are acquired, possessed, sold, distributed, or imported into this state in violation of subsection (1) or (2) is presumed to be injured under this subsection.

(9) As used in this section:

(a) "Licensee" means a person licensed under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436.

(b) "Stamp" or "counterfeit stamp" means those terms as defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422.

(c) "Tobacco product" means that term as defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Jay E. Randall

Clerk of the House of Representatives.

Approved

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Governor.