

SENATE BILL No. 1360

May 23, 2002, Introduced by Senator GOUGEON 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), as
amended by 1997 PA 187.

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) For cigars, noncigarette smoking tobacco, and smokeless
4 tobacco, 16% of the wholesale price.

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

6 (c) BEGINNING JULY 1, 2002, FOR CIGARETTES, AN ADDITIONAL
7 12.5 MILLS PER CIGARETTE.

8 (2) On or before the twentieth day of each calendar month,
9 every licensee under section 3 other than a retailer, secondary
10 wholesaler, unclassified acquirer licensed as a manufacturer, or

1 vending machine operator shall file a return with the department
2 stating the wholesale price of each tobacco product other than
3 cigarettes purchased, the quantity of cigarettes purchased, the
4 wholesale price charged for all tobacco products other than ciga-
5 rettes sold, the number of individual packages of cigarettes and
6 the number of cigarettes in those individual packages, and the
7 number and denominations of stamps affixed to individual packages
8 of cigarettes sold by the licensee for each place of business in
9 the preceding calendar month. The return shall also include the
10 number and denomination of unaffixed stamps in the possession of
11 the licensee at the end of the preceding calendar month.

12 Wholesalers shall also report accurate inventories of cigarettes,
13 both stamped and unstamped at the end of the preceding calendar
14 month. Wholesalers and unclassified acquirers shall also report
15 accurate inventories of affixed and unaffixed stamps by denomina-
16 tion at the beginning and end of each calendar month and all
17 stamps acquired during the preceding calendar month. The return
18 shall be signed under penalty of perjury. The return shall be on
19 a form prescribed by the department and shall contain or be
20 accompanied by any further information the department requires.

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

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

1 (b) One and one-fourth percent of the total amount of the
2 tax due on cigarettes sold.

3 (4) Every licensee and retailer who, on May 1, 1994, has on
4 hand for sale any cigarettes acquired after February 1, 1994 upon
5 which a tax has been paid pursuant to former 1947 PA 265 shall
6 file a complete inventory of those cigarettes before June 1, 1994
7 and shall pay to the department at the time of filing this inven-
8 tory a tax equal to the difference between the tax imposed in
9 subsection (1) and the tax that has been paid pursuant to former
10 1947 PA 265.

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

17 (6) An abatement or refund of the tax provided by this act
18 may be made by the department for causes the department considers
19 expedient. The department shall certify the amount and the state
20 treasurer shall pay that amount out of the proceeds of the tax.

21 (7) A person liable for the tax may reimburse itself by
22 adding to the price of the tobacco products an amount equal to
23 the tax levied under this act.

24 (8) A wholesaler, unclassified acquirer, or other person
25 shall not sell or transfer any unaffixed stamps acquired by the
26 wholesaler or unclassified acquirer from the department. A
27 wholesaler or unclassified acquirer who has any unaffixed stamps

1 on hand at the time its license is revoked or expires, or at the
2 time it discontinues the business of selling cigarettes, shall
3 return those stamps to the department. The department shall
4 refund the value of the stamps, less the appropriate discount
5 paid.

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

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

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

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

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

1 (a) 94% 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% 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 (3) The tax imposed on cigarettes ~~pursuant to~~ UNDER sec-
8 tion 7(1)(b) shall be disbursed as follows:

9 (a) Beginning May 1, 1994, 5.3% of the proceeds shall be
10 credited to the health and safety fund created in the health and
11 safety fund act, 1987 PA 264, MCL 141.471 to 141.479.

12 (b) 25.3% of the proceeds shall be credited to the general
13 fund of this state.

14 (c) 63.4% 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 (d) 6% 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 (4) THE TAX IMPOSED ON CIGARETTES UNDER SECTION 7(1)(C)
21 SHALL BE DISBURSED AS FOLLOWS:

22 (A) FOR THE FISCAL YEARS ENDING SEPTEMBER 30, 2002, 2003,
23 AND 2004, TO THE HEALTHY MICHIGAN FUND CREATED UNDER SECTION 5953
24 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.5953.

25 (B) FOR THE FISCAL YEARS ENDING SEPTEMBER 30, 2005 AND 2006,
26 AS FOLLOWS:

1 (i) 94% TO THE COUNTERCYCLICAL BUDGET AND ECONOMIC
2 STABILIZATION FUND DESCRIBED IN SECTION 351 OF THE MANAGEMENT AND
3 BUDGET ACT, 1984 PA 431, MCL 18.1351.

4 (ii) 6% TO THE HEALTHY MICHIGAN FUND CREATED UNDER SECTION
5 5953 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.5953.

6 (C) FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2007 AND EACH
7 FISCAL YEAR AFTER 2007, TO THE HEALTHY MICHIGAN FUND CREATED
8 UNDER SECTION 5953 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
9 333.5953.

10 (5) ~~-(4)-~~ The proceeds of the fees and penalties provided
11 for in this act shall be used for the administration of this
12 act.