

# HOUSE BILL No. 4470

March 15, 2007, Introduced by Reps. LaJoy, Hune, Palmer, David Law, Casperson, Hansen, Marleau and Nitz and referred to the Committee on Tax Policy.

A bill to amend 1993 PA 327, entitled  
"Tobacco products tax act,"  
by amending section 7 (MCL 205.427), 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  
10 the tax levied in subdivisions (b) and (c), an additional 10 mills

1 per cigarette.

2 (e) Beginning July 1, 2004 **AND THROUGH SEPTEMBER 30, 2007**, for  
3 cigarettes, in addition to the tax levied in subdivisions (b), (c),  
4 and (d), an additional 37.5 mills per cigarette. **BEGINNING OCTOBER**  
5 **1, 2007, FOR CIGARETTES, IN ADDITION TO THE TAX LEVIED IN**  
6 **SUBDIVISIONS (B), (C), AND (D), AN ADDITIONAL 12.5 MILLS PER**  
7 **CIGARETTE.**

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

11 (g) Beginning July 1, 2004 **AND THROUGH SEPTEMBER 30, 2007**, for  
12 cigars, noncigarette smoking tobacco, and smokeless tobacco, 32% of  
13 the wholesale price. **BEGINNING OCTOBER 1, 2007, FOR CIGARS,**  
14 **NONCIGARETTE SMOKING TOBACCO, AND SMOKELESS TOBACCO, 26% OF THE**  
15 **WHOLESALE PRICE.**

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

1 number and denomination of unaffixed stamps in the possession of  
2 the licensee at the end of the preceding calendar month.

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

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

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

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

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

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

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

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

1 shall be credited to the **MICHIGAN** medicaid benefits trust fund  
2 created under section 5 of the Michigan trust fund act, 2000 PA  
3 489, 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.