

SENATE BILL NO. 648

November 09, 2023, Introduced by Senators CHANG, SHINK and CHERRY and referred to the Committee on Regulatory Affairs.

A bill to amend 1993 PA 327, entitled "Tobacco products tax act," by amending the title and sections 2, 3, 6, 7, 8, 11, and 12 (MCL 205.422, 205.423, 205.426, 205.427, 205.428, 205.431, and 205.432), the title as amended by 2012 PA 188 and sections 2, 3, 6, 7, 8, 11, and 12 as amended by 2022 PA 171.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to provide for a tax ~~upon~~**on** the sale and distribution

1 of tobacco, **other nicotine, and similar** products; to regulate and
2 license manufacturers, wholesalers, secondary wholesalers, vending
3 machine operators, unclassified acquirers, transportation
4 companies, transporters, and retailers of tobacco, **other nicotine,
5 and similar** products; to prescribe the powers and duties of the
6 ~~revenue division and the~~ department of treasury in regard to
7 tobacco, **other nicotine, and similar** products; to provide for the
8 administration, collection, and disposition of the tax; to levy an
9 assessment; to provide for the administration, collection, defense,
10 and disposition of the assessment; to provide for the enforcement
11 of this act; to provide for the appointment of special
12 investigators as peace officers for the enforcement of this act; to
13 prescribe penalties and provide remedies for the violation of this
14 act; to make and supplement appropriations; and to repeal acts and
15 parts of acts.

16 Sec. 2. As used in this act:

17 (a) "Cigar" means any roll of tobacco wrapped in leaf tobacco
18 or in any substance containing tobacco. Cigar does not include a
19 cigarette.

20 (b) "Cigarette" means a roll for smoking or heating that is
21 made wholly or in part of tobacco, irrespective of size or shape
22 and irrespective of the tobacco being flavored, adulterated, or
23 mixed with any other ingredient, which roll has a wrapper or cover
24 made of paper or any other material. Cigarette does not include
25 cigars.

26 (c) "Cigarette making machine" means any machine or other
27 mechanical device that meets all of the following criteria:

28 (i) Is capable of being loaded with loose tobacco, cigarette
29 tubes or cigarette papers, and any other components related to the

1 production of cigarettes, including, but not limited to, cigarette
2 filters.

3 (ii) Is designed to automatically or mechanically produce,
4 roll, fill, dispense, or otherwise generate cigarettes.

5 (iii) Is commercial-grade or otherwise designed or suitable for
6 commercial use.

7 (iv) Is designed to be powered or otherwise operated by a main
8 or primary power source other than human power.

9 (d) "Container" or "shipping case" means an individual
10 receptacle within which a tobacco product or group of tobacco
11 products is placed for shipment, storage, or distribution, such as
12 a box, case, or tote. A container or shipping case does not include
13 any of the following:

14 (i) An individual package of cigarettes or cigarette carton
15 containing cigarettes that are not counterfeit cigarettes.

16 (ii) Except for counterfeit cigarettes, the package or other
17 article containing the tobacco product that is sold or transferred
18 directly to the ultimate consumer.

19 (iii) A bag or similar package containing bulk or loose hookah
20 tobacco, pipe tobacco, or roll-your-own cigarette tobacco that a
21 retailer uses to fill bins, barrels, or tubs located at the
22 retailer's place of business from which either the retailer sells a
23 specified quantity of those tobacco products or a blend or mixture
24 of those tobacco products to the consumer, or the consumer removes
25 or draws a specified quantity of those tobacco products or a blend
26 or mixture of those tobacco products for purchase at retail from
27 the retailer.

28 (iv) A pallet or similar article or device ~~upon~~**on** which an
29 individual receptacle or group of receptacles, containing the

1 tobacco products, is placed for shipment, storage, or distribution.

2 (v) Property used as a protective covering for, or to keep
3 together during shipment, storage, or distribution, a receptacle or
4 group of receptacles within which the tobacco product is placed for
5 shipment, storage, or distribution including shrink wrap or other
6 wrapping materials, but excluding the protective covering that
7 forms, gives shape to, or otherwise constitutes the receptacle
8 within which the tobacco product is placed for shipment, storage,
9 or distribution.

10 (e) "Counterfeit cigarette" means a cigarette in an individual
11 package of cigarettes or other container with a false manufacturing
12 label or a cigarette in an individual package of cigarettes or
13 other container with a counterfeit stamp.

14 (f) "Counterfeit cigarette paper" means a cigarette paper with
15 a false manufacturing label or that has not been printed,
16 manufactured, or made by authority of the trademark owner.

17 (g) "Counterfeit stamp" means any stamp, label, or print,
18 indicium, or character, that evidences, or purports to evidence,
19 the payment of any tax levied under this act and that has not been
20 printed, manufactured, or made by authority of the department as
21 provided in this act and has not been issued, sold, or circulated
22 by the department.

23 (h) "Department" means the department of treasury.

24 (i) **"Electronic smoking device" means, except as otherwise**
25 **provided in subdivision (j), any device that can be used to deliver**
26 **any aerosolized or vaporized nicotine to the person inhaling from**
27 **the device, including, but not limited to, an e-cigarette, e-cigar,**
28 **e-pipe, vape pen, or e-hookah. Electronic smoking device includes**
29 **all of the following, whether or not sold separately:**

1 (i) Any substance intended to be aerosolized or vaporized
2 during the use of the device, except marihuana, whether or not the
3 substance contains nicotine derived from any source.

4 (ii) Mixing kits that contain component parts necessary to
5 produce a substance that can be aerosolized or vaporized using the
6 device.

7 (j) Electronic smoking device does not include drugs, devices,
8 or combination products authorized for sale as tobacco cessation
9 products by the United States Food and Drug Administration, as
10 those terms are defined for purposes of subchapter V of the federal
11 food, drug, and cosmetic act, 21 USC 351 to 360fff-8.

12 (k) ~~(i)~~—"Financially sound" means a determination by the
13 department that the wholesaler or unclassified acquirer is able to
14 pay the tax due on the tobacco products it sells, imports, or
15 acquires, as applicable, in the ordinary course of business based
16 on criteria including, but not limited to, all of the following:

17 (i) Past filing and payment history with the department.

18 (ii) Outstanding liabilities.

19 (iii) Review of current financial statements including, but not
20 limited to, balance sheets and income statements.

21 (iv) Duration that the wholesaler or unclassified acquirer has
22 been licensed under this act.

23 (v) Ability to pay for its stamps, if required under this act.

24 (l) ~~(j)~~—"Gray market cigarette" means any cigarette the package
25 of which bears any statement, label, stamp, sticker, or notice
26 indicating that the manufacturer did not intend the cigarettes to
27 be sold, distributed, or used in the United States, including, but
28 not limited to, a label stating "For Export Only", "U.S. Tax
29 Exempt", "For Use Outside U.S.", or similar wording.

1 **(m)** ~~(k)~~—"Gray market cigarette paper" means any cigarette
 2 paper the package of which bears any statement, label, stamp,
 3 sticker, or notice indicating that the manufacturer did not intend
 4 the cigarette papers to be sold, distributed, or used in the United
 5 States, including, but not limited to, a label stating "For Export
 6 Only", "U.S. Tax Exempt", "For Use Outside U.S.", "For Use in
 7 _____ (another country) Only", or similar wording.

8 **(n)** ~~(l)~~—"Hookah tobacco" means tobacco that is designed,
 9 manufactured, or otherwise intended for consumption by smoking in a
 10 hookah and that is flavored with honey, molasses, fruit, or other
 11 natural or artificial flavors. Hookah tobacco includes those
 12 products commonly known or referred to as narghile, argileh,
 13 shisha, hubble-bubble, molasses tobacco, waterpipe tobacco,
 14 maassel, or goza.

15 **(o)** ~~(m)~~—"Hookah" means a device, including a waterpipe, used
 16 for smoking hookah tobacco that consists of a tube connected to a
 17 chamber where the smoke is cooled passing through water.

18 **(p)** ~~(n)~~—"Individual package" means an individual packet or
 19 pack used to contain or to convey cigarettes to the consumer.
 20 Individual package does not include cartons, cases, or shipping or
 21 storage containers that contain smaller packaging units of
 22 cigarettes.

23 **(q)** ~~(o)~~—"Licensee" means a person licensed under this act.

24 **(r)** ~~(p)~~—"Manufacturer" means, except as otherwise provided in
 25 subdivision ~~(q)~~, **(s)**, any of the following:

26 (i) A person ~~who~~**that** manufactures or produces a tobacco
 27 product.

28 (ii) A person ~~who~~**that** operates or ~~who~~**that** permits any other
 29 person to operate a cigarette making machine in this state for the

1 purpose of producing, filling, rolling, dispensing, or otherwise
2 generating cigarettes. A person ~~who~~**that** is a manufacturer under
3 this subparagraph constitutes a nonparticipating manufacturer for
4 purposes of sections 6c and 6d.

5 **(iii) Beginning October 1, 2024, mixes or blends 2 or more**
6 **different components to create a custom mix or blend of a substance**
7 **that can be aerosolized or vaporized for use in an electronic**
8 **smoking device if either of the components is not a finished**
9 **tobacco product. As used in this subparagraph, "finished tobacco**
10 **product" means a tobacco product that the person could or does**
11 **otherwise sell to consumers and on which the tax under this act has**
12 **been paid.**

13 **(s) ~~(a)~~Manufacturer does not include any of the following:**

14 **(i) A person ~~who~~**that** operates or otherwise uses a machine or**
15 **other mechanical device, other than a cigarette making machine, to**
16 **produce, roll, fill, dispense, or otherwise generate cigarettes ~~as~~**
17 **~~long as~~**if** the cigarettes are produced or otherwise generated in**
18 **that person's dwelling and for that person's self-consumption. As**
19 **used in this subparagraph and subparagraph (ii), "self-consumption"**
20 **means production for personal consumption or use and not for sale,**
21 **resale, or any other profit-making endeavor.**

22 **(ii) A person ~~who~~**that** does any of the following:**

23 **(A) Mixes or blends 2 or more different tobacco products to**
24 **create a custom mix or blend of those products if each of the**
25 **constituent tobacco products mixed or blended together is a**
26 **finished tobacco product that the person could or does otherwise**
27 **sell to consumers and ~~upon~~**on** which the tax under this act has been**
28 **paid.**

29 **(B) Creates or produces, by filling a fruit with hookah**

1 tobacco, what is commonly known as a fruit bowl or fruit head for
2 use in a hookah.

3 (C) Rolls a cigar for ~~his or her~~ **the person's** own self-
4 consumption.

5 (t) **"Marihuana" means that term as defined in section 3 of the**
6 **Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL**
7 **333.27953. For purposes of this act, "marihuana" and "marijuana"**
8 **are synonymous.**

9 (u) ~~(r)~~—"Noncigarette smoking tobacco" means tobacco sold in
10 loose or bulk form that is intended for consumption by smoking and
11 also includes roll-your-own cigarette tobacco, hookah tobacco, pipe
12 tobacco, or a wrap.

13 (v) ~~(s)~~—"Person" means an individual, partnership, fiduciary,
14 association, limited liability company, corporation, or other legal
15 entity.

16 (w) ~~(t)~~—"Pipe tobacco" means any tobacco that, because of its
17 appearance, type, packaging, or labeling, is suitable for use and
18 likely to be offered to, or purchased by, consumers as tobacco to
19 smoke in a pipe.

20 (x) ~~(u)~~—"Place of business" means a place where a tobacco
21 product is sold or where a tobacco product is brought or kept for
22 the purpose of sale or consumption, including a vessel, airplane,
23 train, or vending machine.

24 (y) ~~(v)~~—"Remote retail sale" means a sale of a tobacco product
25 to a consumer in this state if either of the following applies:

26 (i) The consumer submits the order for the sale by means of a
27 telephone or other method of voice transmission, the mail, or the
28 internet or other online service, or the seller is otherwise not in
29 the physical presence of the purchaser when the request for

1 purchase or order is made.

2 (ii) The tobacco product is delivered to the purchaser by
3 common carrier, private delivery service, or other method of remote
4 delivery, or the seller is not in the physical presence of the
5 purchaser when the purchaser obtains possession of the tobacco
6 product.

7 (z) ~~(w)~~—"Retailer" means a person other than a transportation
8 company ~~who~~**that** operates a place of business in this state, or ~~who~~
9 **that** directs, manages, or has control over the day-to-day
10 operations of a place of business in this state, for the purpose of
11 making, or ~~who~~**that** does make, sales of a tobacco product at
12 retail. ~~other than a remote retail sale.~~ A person described in this
13 subdivision qualifies as a retailer regardless of whether that
14 person owns the place of business.

15 (aa) ~~(x)~~—"Roll-your-own cigarette tobacco" means any tobacco
16 that, because of its appearance, type, packaging, or labeling, is
17 suitable for use and likely to be offered to, or purchased by,
18 consumers as tobacco for making cigarettes.

19 (bb) ~~(y)~~—"Sale" means a transaction by which the ownership of
20 tangible personal property is transferred for consideration and
21 applies also to use, gifts, exchanges, barter, and theft.

22 (cc) ~~(z)~~—"Secondary wholesaler" means either of the following:

23 (i) A person, other than a manufacturer or a person licensed
24 under this act as a vending machine operator, wholesaler, or
25 unclassified acquirer, ~~who~~**that** engages in the sale of a tobacco
26 product for resale.

27 (ii) A retailer, not otherwise licensed under this act, ~~who~~
28 **that** transfers or exchanges a tobacco product from one place of
29 business of the retailer to another place of business of the

1 retailer.

2 **(dd)** ~~(aa)~~ "Smokeless tobacco" means snuff, snus, chewing
3 tobacco, moist snuff, and any other tobacco that is intended to be
4 used or consumed, whether chewed, absorbed, dissolved, inhaled,
5 snorted, sniffed, or ingested, by any means other than smoking or
6 combustion.

7 **(ee)** ~~(bb)~~ "Stamp" means a distinctive character, indication,
8 or mark, as determined by the department, attached or affixed to an
9 individual package of cigarettes by mechanical device or other
10 means authorized by the department to indicate that the tax imposed
11 under this act has been paid.

12 **(ff)** ~~(cc)~~ "Stamping agent" means a wholesaler or unclassified
13 acquirer ~~who~~ **that** is licensed and authorized by the department to
14 affix stamps to individual packages of cigarettes on behalf of
15 themselves and other wholesalers or unclassified acquirers.

16 **(gg)** ~~(dd)~~ "Tobacco product" means, ~~a product containing any~~
17 ~~amount of tobacco regardless of form~~ **except as otherwise provided**
18 **in subdivision (hh), any of the following:**

19 **(i) Any product containing, made of, or derived from tobacco or**
20 **nicotine from any source that is intended for human consumption or**
21 **is likely to be consumed, whether inhaled, absorbed, or ingested by**
22 **any other means, including, but not limited to, cigarettes, cigars,**
23 **noncigarette smoking tobacco, or smokeless tobacco.**

24 **(ii) Beginning October 1, 2024, any electronic smoking device.**

25 **(hh)** A tobacco product does not include drugs, devices, or
26 combination products authorized for sale as tobacco cessation
27 products by the United States Food and Drug Administration, as
28 those terms are defined ~~in~~ **for purposes of** subchapter V of the
29 federal food, drug, and cosmetic act, 21 USC 351 to 360fff-8.

1 (ii) ~~(ee)~~ "Transportation company" means a person operating,
2 or supplying to common carriers, cars, boats, or other vehicles for
3 the transportation or accommodation of passengers and engaged in
4 the sale of a tobacco product at retail.

5 (jj) ~~(ff)~~ "Transporter" means a person importing or
6 transporting into this state, or transporting in this state, a
7 tobacco product obtained from a source located outside this state,
8 or from any person not duly licensed under this act. Transporter
9 does not include an interstate commerce carrier licensed by the
10 ~~Interstate Commerce Commission, or its successor federal agency,~~
11 **Federal Motor Carrier Safety Administration** to carry commodities in
12 interstate commerce, or a licensee maintaining a warehouse or place
13 of business outside of this state if the warehouse or place of
14 business is licensed under this act.

15 (kk) ~~(gg)~~ "Unclassified acquirer" means a person, except a
16 transportation company or a purchaser at retail from a retailer
17 licensed under the general sales tax act, 1933 PA 167, MCL 205.51
18 to 205.78, ~~who~~ **that** imports or acquires a tobacco product from a
19 source other than a wholesaler or secondary wholesaler licensed
20 under this act for use, sale, or distribution in this state.
21 Unclassified acquirer also means a person ~~who~~ **that** purchases or
22 receives tobacco products directly from a manufacturer licensed
23 under this act or from another source outside this state, which
24 source is not licensed under this act. An unclassified acquirer
25 also includes a person not located in this state that sells a
26 tobacco product, through a mail order, catalog sale, telephone
27 order, internet sale, or any other means, to a retailer or other
28 person in this state that is not licensed under this act as a
29 wholesaler, unclassified acquirer, or secondary wholesaler.

1 ~~Unclassified acquirer also includes a person located within or~~
 2 ~~outside of this state that makes a remote retail sale of a tobacco~~
 3 ~~product to a consumer in this state.~~ An unclassified acquirer does
 4 not include a wholesaler.

5 (ll) ~~(hh)~~ "Vending machine operator" means a person ~~who~~ **that**
 6 operates 1 or more vending machines in this state for the sale of a
 7 tobacco product.

8 (mm) ~~(ii)~~ "Wholesale price" means the actual price paid to a
 9 seller for a tobacco product, by a wholesaler or unclassified
 10 acquirer to acquire that tobacco product from the seller. The
 11 wholesale price includes any tax, fee, licensing, or other charge,
 12 except as otherwise provided in this subdivision, reflected on the
 13 invoice, bill of sale, purchase order, or other document evidencing
 14 the sale or purchase of the tobacco product. Wholesale price does
 15 not include, if separately stated on the invoice, bill of sale,
 16 purchase order, or other document evidencing the sale of the
 17 tobacco product, shipping or handling charges for cigarettes, and
 18 reasonable shipping or handling charges for tobacco products other
 19 than cigarettes such as transportation, shipping, postage,
 20 handling, crating, or packing. ~~If~~ **Except as otherwise provided in**
 21 **this subdivision, if** items or products, other than tobacco
 22 products, are included in a transaction for the purchase of tobacco
 23 products by a wholesaler or unclassified acquirer, charges for
 24 those products or items that are not tobacco products, including
 25 shipping and handling charges, may be excluded from the wholesale
 26 price if separately stated on the invoice, bill of sale, purchase
 27 order, or other document evidencing the sale or purchase. **If a**
 28 **component, part, or accessory is included in the same package as an**
 29 **electronic smoking device or is intended to be sold at retail with**

1 **an electronic smoking device as a single unit, the charge for the**
2 **component, part, or accessory may not be excluded from the**
3 **wholesale price.** The wholesale price ~~shall is~~ not be reduced due to
4 any rebate, trade allowance, licensing or exclusivity agreement,
5 volume or other discount, or any other reduction given by the
6 seller or passed on to or otherwise received by the wholesaler or
7 unclassified acquirer from the seller. If the wholesaler or
8 unclassified acquirer fails to keep or maintain the records as
9 required under section 6, or has a relationship as described in
10 section 267(b) of the internal revenue code of 1986, 26 USC 267,
11 with the seller, the department may establish the wholesale price
12 for the tobacco products based on the best available information or
13 any other reasonable proxy for the wholesale price including, but
14 not limited to, the wholesale price paid by other taxpayers for
15 those tobacco products within the past 4 years. ~~If an unclassified~~
16 ~~acquirer makes a remote retail sale and fails to keep or maintain~~
17 ~~the records required under section 6 for the remote retail sale,~~
18 ~~the department may determine the wholesale price of the tobacco~~
19 ~~product sold to the consumer in that remote retail sale based on~~
20 ~~the average price paid, during the immediately preceding calendar~~
21 ~~year, by the unclassified acquirer to acquire or purchase the same~~
22 ~~type of tobacco product if that information is made available to~~
23 ~~the department by the unclassified acquirer.~~

24 **(nn) (jjj)** "Wholesaler" means a person ~~who~~ **that** purchases all
25 or part of its tobacco products from a manufacturer and ~~who~~ **that**
26 sells 75% or more of those tobacco products to others for resale.
27 Wholesaler includes a chain of stores retailing a tobacco product
28 to the consumer if 75% of its stock of tobacco products is
29 purchased directly from the manufacturer.

1 (oo) ~~(kk)~~ "Wrap" means an individual tobacco wrapper that is
2 made wholly or in part from tobacco, including reconstituted
3 tobacco, whether in the form of tobacco leaf, sheet, or tube, if
4 the wrap is designed to be offered, or is offered, for sale to
5 consumers to create or to use as a component part of a tobacco
6 product.

7 Sec. 3. (1) Except as otherwise provided in section 3a, ~~and~~
8 ~~section 6(15)~~, a person shall not purchase, possess, acquire for
9 resale, import, or sell a tobacco product as a manufacturer,
10 wholesaler, secondary wholesaler, vending machine operator,
11 unclassified acquirer, transportation company, or transporter in or
12 into this state unless licensed to do so. ~~A person shall not make a~~
13 ~~remote retail sale to a consumer in this state unless that person~~
14 ~~is licensed under this act as an unclassified acquirer.~~ A license
15 granted under this act is not assignable.

16 (2) ~~Upon~~ **On** proper application and the payment of the
17 applicable fee, and subject to subsection (6), the department shall
18 issue a license to each manufacturer, wholesaler, secondary
19 wholesaler, vending machine operator, unclassified acquirer,
20 transportation company, or transporter. The application must be on
21 a form prescribed by the department and signed under penalty of
22 perjury. The application must state the applicant's regular
23 business hours. Except for transportation companies, each place of
24 business must be separately licensed. If a person acts in more than
25 1 capacity at any 1 place of business, a license must be procured
26 for each capacity. Each machine for vending tobacco products is
27 considered a place of retail business. Each license or a duplicate
28 copy must be prominently displayed on the premises covered by the
29 license. In the case of vending machines, a disc or marker

1 furnished by the department showing it to be licensed must be
2 attached to the front of the machine in a place clearly visible to
3 the public. For unclassified acquirers that do not maintain a place
4 of business where tobacco products are sold, brought, or kept, the
5 department may issue a license based on the physical address of the
6 applicant's nonresidential building, office, or other facility
7 where the records required under this act are to be kept and
8 maintained.

9 (3) The fees for licenses are as follows:

10 (a) A wholesaler's license, \$100.00.

11 (b) A secondary wholesaler's license, \$25.00.

12 (c) A license for vending machine operators, \$25.00.

13 (d) An unclassified acquirer's license, as follows:

14 (i) State of Michigan, no fee.

15 (ii) Retail importer of tobacco products other than cigarettes,
16 \$10.00.

17 (iii) Retail importer of cigarettes, \$100.00.

18 (iv) Vending machine operator buying direct from a
19 manufacturer, \$100.00.

20 (v) Any other importer, \$100.00.

21 (e) A transportation company's license, \$5.00.

22 (f) A transporter's license, \$50.00.

23 (g) A manufacturer's license, \$100.00.

24 (4) If a manufacturer, wholesaler, secondary wholesaler, or
25 vending machine operator maintains more than 1 place of business,
26 the fee for each additional place of business is 1/4 of the fee
27 otherwise prescribed in subsection (3). A fee, or a part of a fee,
28 shall not be refunded by reason of relinquishment, suspension, or
29 revocation of the license, or, except under order of a court of

1 competent jurisdiction, for any other reason or cause.

2 (5) A person shall not possess a machine for vending tobacco
3 products for a period in excess of 72 hours, or operate a machine
4 for vending tobacco products, unless there is a disc or marker
5 attached as provided by this section. This requirement does not
6 apply to a machine not containing or used in selling a tobacco
7 product. If a person possesses or operates a vending machine
8 containing or used in selling a tobacco product that is not
9 properly licensed or identified as required by this section, the
10 department may seal or seize the machine, together with any tobacco
11 products contained in the machine. ~~The provisions of section 9~~
12 ~~govern~~ **Section 9 governs** the seizure and subsequent disposition of
13 a machine or tobacco product seized.

14 (6) Applications from persons applying for an initial license
15 under this act must be accompanied by satisfactory proof, as
16 determined by the department, of all **of** the following:

17 (a) The applicant's financial responsibility, including but
18 not limited to, satisfactory proof of a minimum net worth of
19 \$25,000.00.

20 (b) That the applicant owns, or has an executed lease for, a
21 secure nonresidential facility for the purpose of receiving,
22 storing, and distributing tobacco products, if applicable, and
23 conducting its business in accordance with this act if the
24 applicant owns or has an executed lease for such a facility. If the
25 applicant carries on another business in conjunction with the
26 secure nonresidential facility, the other business must also be
27 identified.

28 (c) United States citizenship or eligibility to obtain
29 employment within the United States if not a citizen. If the

1 applicant is not an individual, the controlling shareholders,
2 partners, directors, and principal officers ~~shall~~**must** be United
3 States citizens or eligible to obtain employment within the United
4 States if not a citizen.

5 (7) The department may require an applicant ~~who~~**that** is
6 purchasing the business of a licensee to file a copy of the
7 contract of sale and any related documents with its application.
8 The department may require a licensee under this section to furnish
9 a surety bond with a surety company authorized to do business in
10 this state in an amount the department may fix, conditioned upon
11 the payment of the tax provided by this act. The department may
12 also require a licensee under this section to file a financial
13 statement with the department showing all assets and liabilities
14 and any other information the department may prescribe, to be filed
15 within 30 days after the date requested. If there is a change of
16 more than 50% of ownership or control or a change in the general
17 partnership of a licensee, the department may require that licensee
18 to file a new application for a license or an updated financial
19 statement.

20 (8) Each place of business of a retailer, and any place of
21 business or other nonresidential building, office, or facility
22 licensed under this section, must display the name and address of
23 the retailer or licensee in a manner that is readily visible to the
24 general public from outside the place of business, nonresidential
25 building, office, or facility, as applicable.

26 (9) Notwithstanding anything in this act to the contrary, the
27 following requirements apply to a secondary wholesaler, vending
28 machine operator, or wholesaler, as applicable:

29 (a) A secondary wholesaler may purchase or acquire a tobacco

1 product for resale in this state only if that purchase or
2 acquisition is directly from a wholesaler or unclassified acquirer
3 that is licensed under this act and the tax imposed under this act
4 has been paid on that tobacco product.

5 (b) Except for a secondary wholesaler described in section
6 ~~2(z)(ii)~~, **2(cc)(ii)**, a secondary wholesaler shall maintain an
7 established place of business in this state where a substantial
8 portion of the business is the sale of tobacco products and related
9 merchandise at wholesale and where, at all times, a substantial
10 stock of tobacco products and related merchandise is available for
11 sale to retailers for resale.

12 (c) A wholesaler shall maintain an established place of
13 business in this state where substantially all of the business is
14 the sale of tobacco products and related merchandise at wholesale
15 and where, at all times, a substantial stock of tobacco products
16 and related merchandise is available for sale to retailers for
17 resale.

18 (d) A vending machine operator may purchase a tobacco product
19 only from a secondary wholesaler, a wholesaler, or an unclassified
20 acquirer that is licensed under this act.

21 Sec. 6. (1) A manufacturer, wholesaler, secondary wholesaler,
22 vending machine operator, transportation company, unclassified
23 acquirer, or retailer shall keep a complete and accurate record of
24 each tobacco product manufactured, purchased, or otherwise
25 acquired. Except for a manufacturer, the records must include a
26 written statement containing the name and address of both the
27 seller and the purchaser, the date of delivery, the quantity, the
28 trade name or brand, and the price paid for each tobacco product
29 purchased or otherwise acquired. Except as otherwise provided in

1 this section, a licensee shall keep as part of the records a true
2 copy of all purchase orders, invoices, bills of lading, and other
3 written matter substantiating the purchase or acquisition of each
4 tobacco product at the location where the tobacco product is stored
5 or offered for sale. For an unclassified acquirer that does not
6 maintain a place of business where tobacco products are sold,
7 brought, or kept, the records required by this section must be kept
8 at the physical address licensed under section 3. A retailer shall
9 keep as part of the records a true copy of all purchase orders,
10 invoices, bills of lading, and other written matter substantiating
11 the purchase or acquisition of each tobacco product ~~and related to~~
12 ~~any tobacco products subject to subsection (15), if applicable,~~ at
13 the location where the tobacco product is offered for sale for a
14 period of 4 months from the date of purchase or acquisition. The
15 department may, by giving prior written approval, authorize a
16 person licensed under this act or a retailer to maintain records in
17 a manner other than that required by this subsection. Other records
18 shall be kept by these persons as the department reasonably
19 prescribes.

20 (2) A manufacturer, wholesaler, unclassified acquirer, and
21 secondary wholesaler shall deliver with each sale or consignment of
22 a tobacco product a written statement containing the name or trade
23 name and address of both the seller and the purchaser, the date of
24 delivery, the quantity, and the trade name or brand of the tobacco
25 product, correctly itemizing the prices paid for each brand
26 purchased, and shall retain a duplicate of each statement.

27 (3) A vending machine operator shall keep a detailed record of
28 each vending machine owned for the sale of tobacco products showing
29 the location of the machine, the date of placing the machine on the

1 location, the quantity of each tobacco product placed in the
2 machine, the date when placed there, and the amount of the
3 commission paid or earned on sales through the vending machine.
4 When filling or refilling the vending machine, the operator shall
5 deliver to the owner or tenant occupying the premises where the
6 machine is located a written statement containing the operator's
7 own name and address, the name and address of the owner or the
8 tenant, the date when the machine was filled, and the quantity of
9 each brand of tobacco product sold from the machine since the date
10 when tobacco products were last placed in the machine. A person in
11 possession of premises where a vending machine is located shall
12 keep a record of each tobacco product sold through the vending
13 machine located on the premises and the amount of commission paid
14 by the person operating the vending machine. The records must
15 consist of written statements required to be given by each person
16 operating a vending machine for the sale of tobacco products as
17 provided in this section.

18 (4) A licensee under this act shall not issue or accept a
19 written statement or invoice that is known to the licensee to
20 contain a statement or omission that falsely indicates the name of
21 the customer, the type, trade name, or brand of merchandise, the
22 quantity of each type, trade name, or brand of merchandise, the
23 prices, the discounts, the date of the transaction, or the terms of
24 sale. A person shall not use a device or game of chance to aid,
25 promote, or induce sales or purchases of a tobacco product, or give
26 a tobacco product in connection with a device or game of chance.

27 (5) Except as otherwise provided in subsection (6), all
28 statements and other records required by this section must be in a
29 form prescribed by the department and must be preserved for a

1 period of 4 years from the date of purchase or acquisition of the
2 tobacco product and offered for inspection at any time upon oral or
3 written demand by the department or its authorized agent by every
4 wholesaler, secondary wholesaler, vending machine operator,
5 unclassified acquirer, and retailer.

6 (6) A licensee or retailer in possession or control of a
7 tobacco product that has not preserved the statements and records
8 required by this section because the licensee or retailer claims
9 the tobacco product was purchased or acquired more than 4 years ago
10 has the burden of proving that the tobacco product was purchased or
11 acquired more than 4 years ago. A licensee or retailer that fails
12 to preserve documentation sufficient to meet this burden of proof
13 is in violation of the record-keeping requirements under this
14 section for that tobacco product.

15 (7) A shipping case or container of a tobacco product other
16 than cigarettes received or acquired within this state by a
17 wholesaler or unclassified acquirer from a manufacturer or any
18 person located outside this state must bear either the name and
19 address of the wholesaler or unclassified acquirer that made the
20 first purchase of that shipping case or container or any other
21 markings the department prescribes. The point at which a shipping
22 case or container is considered to be received or acquired in this
23 state is to be determined based on the facts and circumstances
24 including, but not limited to, all of the following:

25 (a) Ownership of the shipping case or container when it enters
26 this state's borders or when it is delivered to the wholesaler or
27 unclassified acquirer.

28 (b) The risk of loss.

29 (c) The use of a common carrier or a vehicle owned or leased

1 by the wholesaler or unclassified acquirer to import or transport
2 the shipping case or container into this state or deliver the
3 shipping case or container to the wholesaler or unclassified
4 acquirer.

5 (8) A wholesaler or unclassified acquirer, licensed under this
6 act, shall place or otherwise affix the markings prescribed by the
7 department on every shipping case or container of a tobacco product
8 other than cigarettes that is sold, transferred, shipped, or
9 delivered by the wholesaler or unclassified acquirer to a retailer
10 or another licensee, in this state.

11 (9) If a marking prescribed by the department is to be affixed
12 to a shipping case or container of tobacco products other than
13 cigarettes by means of a mechanical or other device that applies
14 the marking, the wholesaler or unclassified acquirer must obtain
15 prior approval from the department to purchase, possess, or
16 otherwise be permitted to use such a device. A wholesaler or
17 unclassified acquirer whose license is revoked, is terminated, or
18 has expired shall return all such devices in its possession to the
19 department within 60 days of the revocation, termination, or
20 expiration of its license. In addition to any other fine or any
21 civil or criminal penalty or charge allowed by law, a wholesaler or
22 unclassified acquirer that fails to return each device in its
23 possession as required by this subsection is liable for a fine of
24 \$500.00 for each device not timely returned.

25 (10) The markings required by this section on shipping cases
26 and containers of tobacco products other than cigarettes must not
27 be affixed in a manner that makes the markings illegible or that
28 covers up, in whole or in part, or that otherwise obstructs or
29 makes illegible the information or markings described in subsection

1 (7).

2 (11) If a tobacco product other than cigarettes is found in a
3 place of business or otherwise in the possession of a wholesaler,
4 secondary wholesaler, vending machine operator, unclassified
5 acquirer, transporter, or retailer without the markings prescribed
6 by the department or the information required by this section on
7 the shipping case or container of the tobacco product, if required
8 by this section, or if an individual package of cigarettes is found
9 without a stamp affixed as provided under this act or if a tobacco
10 product is found, or was acquired, imported, transferred, or sold,
11 without proper substantiation by invoices or other records as
12 required by this section, the presumption shall be that the tobacco
13 product is kept in violation of this act and constitutes contraband
14 subject to seizure and forfeiture under section 9. Notwithstanding
15 anything in this act to the contrary, if any tobacco product is
16 adjudicated by a court of competent jurisdiction to have been
17 lawfully seized under this act, and if the adjudication of lawful
18 seizure survives the exhaustion or lapse of any appeal rights, the
19 tobacco product shall be automatically forfeited to this state and
20 the person from whom that tobacco product was seized shall be
21 liable for the tax imposed under this act on that tobacco product.

22 (12) If a tobacco product is to be or is being transported on
23 a public highway, road, or street in this state for shipment
24 outside this state, as indicated by the bills of lading, invoices,
25 packing slips, or other documentation related to that shipment, the
26 licensee shipping the tobacco product shall cause to be placed on
27 every shipping case or container in which the tobacco product is
28 shipped the name and address of the consignee or purchaser to whom
29 the shipment is made outside of the state and, for tobacco products

1 other than cigarettes, the marking prescribed by the department
 2 unless the shipping case or other container already bears that
 3 marking from the licensee. A tobacco product that was located in
 4 this state is considered to have been shipped outside this state
 5 for purposes of this subsection if the tobacco product crosses the
 6 border of this state regardless of whether the tobacco product is
 7 delivered to or accepted by the consignee or purchaser to whom the
 8 shipment is made outside this state.

9 (13) The department may require reports from a common carrier
 10 who transports a tobacco product to a point within this state from
 11 another person who, under contract, transports a tobacco product,
 12 or from a bonded warehouseperson or bailee who has in ~~his or her~~
 13 **that person's** possession a tobacco product. A carrier, bailee,
 14 warehouseperson, or other person shall permit the inspection of the
 15 tobacco products and examination by the department or its duly
 16 authorized agent of any records relating to the shipment of a
 17 tobacco product into, from, or within this state.

18 (14) ~~Except as otherwise provided in subsection (15), any~~ **Any**
 19 person transporting, possessing, or acquiring for the purpose of
 20 transporting a tobacco product upon a public highway, road, or
 21 street of this state shall be licensed under this act as a
 22 transporter, unless that person is licensed under this act as an
 23 unclassified acquirer, wholesaler, transportation company, vending
 24 machine operator, or secondary wholesaler, and shall have in the
 25 person's actual possession invoices or bills of lading containing
 26 the name and address of both the seller and the purchaser, the
 27 actual or estimated date of delivery, the person's name and
 28 address, the quantity and trade name or brand of each tobacco
 29 product, the price paid for each trade name or brand in the

1 person's possession or custody, and a copy of the license as
2 prescribed under this act.

3 ~~(15) Notwithstanding anything in this act to the contrary, a~~
4 ~~retailer in this state, or other person acting on behalf of a~~
5 ~~retailer in this state, is not required to be licensed under this~~
6 ~~act to transport a tobacco product upon a public highway, road, or~~
7 ~~street of this state for the purpose of delivering a tobacco~~
8 ~~product to a consumer in this state if all of the following~~
9 ~~conditions are met:~~

10 ~~(a) The tobacco product was purchased by the consumer from the~~
11 ~~retailer at retail.~~

12 ~~(b) The consumer has paid for the tobacco product in full~~
13 ~~before the shipment and delivery of the tobacco product to the~~
14 ~~consumer.~~

15 ~~(c) The retailer or other person making the delivery has in~~
16 ~~its possession, at all times during which the tobacco product is~~
17 ~~being transported on a public highway, road, or street of this~~
18 ~~state, an invoice, receipt, or other documentation substantiating~~
19 ~~the sale to the consumer that states the name and address of the~~
20 ~~retailer, the name and address of the consumer, the delivery date,~~
21 ~~the trade name or brand of the tobacco product, the quantity, and~~
22 ~~the price paid for the tobacco product.~~

23 Sec. 7. (1) Subject to subsection (2), a tax is levied on the
24 sale of tobacco products sold in this state or sold for consumption
25 in this state, which consumption is presumed ~~when~~**if** sold to a
26 retailer or consumer in this state, as follows:

27 (a) For cigarettes, **as follows:**

28 (i) 100 mills per cigarette.

29 (ii) **Beginning October 1, 2024, in addition to the tax levied**

1 under subparagraph (i), an additional 75 mills per cigarette.

2 (b) For cigars, noncigarette smoking tobacco, smokeless
3 tobacco, and any tobacco product other than cigarettes or
4 electronic smoking devices, as follows:

5 (i) Through September 30, 2024, except as otherwise provided in
6 subparagraph (iii), 32% of the wholesale price. ~~However, beginning~~

7 (ii) Beginning October 1, 2024, except as otherwise provided in
8 subparagraph (iii), 57% of the wholesale price.

9 (iii) Beginning November 1, 2012, the amount of tax levied under
10 this subdivision on cigars shall not exceed 50 cents per individual
11 cigar.

12 (c) Beginning October 1, 2024, for electronic smoking devices,
13 57% of the wholesale price.

14 (2) Notwithstanding any other provision of law and beginning
15 ~~180 days after the effective date of the amendatory act that added~~
16 ~~this subsection, January 17, 2023,~~ if the Secretary of the United
17 States Department of Health and Human Services has issued an order
18 for a product under 21 USC 387k(g) and the manufacturer has
19 notified the department of that order on a form and in a manner
20 prescribed by the department, subject to subsections (3), (4), and
21 (5), the tax imposed on the sale of that product under this section
22 is as follows:

23 (a) If the order is a modified risk tobacco product order
24 issued under 21 USC 387k(g) (1), reduced by 50% of the otherwise
25 applicable rate under subsection (1).

26 (b) If the order is issued under 21 USC 387k(g) (2), reduced by
27 25% of the otherwise applicable rate under subsection (1).

28 (3) A rate under subsection (2) ~~shall~~**does** not take effect
29 unless the department has received notice of the modified risk

1 tobacco order by the manufacturer of the tobacco product, in the
2 form and manner prescribed by the department, and the department
3 has published notice of the rate for the tobacco product. The
4 department shall publish notice of the rate not later than 10 days
5 after receipt of the notice from the manufacturer. The effective
6 date of a rate under subsection (2) for a tobacco product ~~shall be~~
7 **is** the first day of the month following the month in which the
8 department publishes notice of the rate as provided in this
9 subsection.

10 (4) If a modified risk tobacco product order described in
11 subsection (2) is renewed by the United States Food and Drug
12 Administration, the manufacturer of the tobacco product subject to
13 that order must provide notice of the renewal to the department not
14 later than 10 days after issuance of the order or determination of
15 renewal by the United States Food and Drug Administration, for the
16 rate provided under subsection (2) to remain in effect for that
17 tobacco product. If a modified risk tobacco product order described
18 in subsection (2) is rescinded or withdrawn by the United States
19 Food and Drug Administration or otherwise expires, the manufacturer
20 of the tobacco product subject to that order shall notify the
21 department of the rescission, withdrawal, or expiration of the
22 order not later than 10 days after the issuance of the rescission
23 or withdrawal order or determination by the United States Food and
24 Drug Administration or the date of expiration, as applicable. The
25 department shall publish notice of the rescission, withdrawal, or
26 expiration of the modified risk tobacco product order not later
27 than 10 days after receipt of the notice from the manufacturer or,
28 if the manufacturer fails to provide the notice as required under
29 this subsection, 10 days after the department becomes aware of the

1 rescission, withdrawal, or expiration of the order. Except as
 2 otherwise provided in subsection (5), beginning on the first day of
 3 the month following the month in which the department publishes a
 4 notice of rescission, withdrawal, or expiration of a modified risk
 5 tobacco product order for a tobacco product, the rate under
 6 subsection (2) ~~shall~~ no longer ~~apply~~ **applies** to that tobacco
 7 product. Notices required to be made by a manufacturer to the
 8 department under this subsection ~~shall~~ **must** be made in the form and
 9 manner prescribed by the department.

10 (5) Except as otherwise provided in this subsection, a tobacco
 11 product subject to the rate provided under subsection (2) that was
 12 purchased or otherwise acquired before the date a rescission,
 13 withdrawal, or expiration of a modified risk tobacco product order
 14 for that tobacco product becomes effective remains eligible for the
 15 rate provided under subsection (2). The tax rate provided in
 16 subsection (2) does not apply, and the otherwise applicable tax
 17 rate applies, to any of the following:

18 (a) A tobacco product purchased or otherwise acquired before
 19 the effective date of the rate provided under subsection (2) for
 20 that tobacco product.

21 (b) A tobacco product that is seized and forfeited as
 22 contraband as provided under this act.

23 (c) A person described in section 8(1) for purposes of
 24 determining the amount of tax and penalty under section 8(1).

25 (6) On or before the twentieth day of each calendar month,
 26 every licensee under section 3 other than a manufacturer or vending
 27 machine operator shall file a return with the department stating
 28 the wholesale price of each tobacco product other than cigarettes
 29 purchased, the quantity of cigarettes purchased, the wholesale

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

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

27 (a) 1% of the total amount of the tax due on tobacco products
28 sold other than cigarettes.

29 (b) 1.5% of the total amount of the tax due on cigarettes sold

1 and, for sales of untaxed cigarettes to Indian tribes in this
2 state, an amount equal to 1.5% of the total amount of the tax due
3 on those cigarettes sold as if those cigarette sales were taxable
4 sales under this act.

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

20 (i) Case packers or similar machines to be used exclusively to
21 repack cigarette cartons into case boxes after digital stamps have
22 been applied by eligible equipment to the individual packages of
23 cigarettes contained within those cigarette cartons. Compensation
24 under this subparagraph may only be claimed by a stamping agent if
25 the case packers or similar machines are in addition to, and not a
26 replacement for, 1 or more case packers or similar machines used in
27 connection with cigarette stamping machines that do not use the
28 digital stamp authorized under this act.

29 (ii) Conveyors to be used exclusively for that portion of a

1 cigarette stamping line that is necessary for and dedicated to
2 cigarette stamping operations using eligible equipment to affix
3 digital stamps to individual packages of cigarettes to be sold in
4 this state. Compensation under this subparagraph may only be
5 claimed by a stamping agent if the cigarette stamping line served
6 by the conveyors is in addition to 1 or more distinct and existing
7 cigarette stamping lines using stamping machines that do not use
8 the digital stamp authorized under this act and that compensation
9 shall not exceed a total of 50% of the amount reimbursed under
10 subdivision (d) for any particular stamping agent.

11 (iii) Compensation under subparagraphs (i) and (ii) shall also
12 include any applicable sales or use taxes paid, and shipping and
13 crating charges actually incurred, by the stamping agent in
14 connection with the purchase, but shall exclude any other costs
15 incurred by the stamping agent not otherwise expressly provided for
16 in this subdivision, including, but not limited to, charges for
17 installation and ongoing maintenance.

18 (d) Beginning in the first calendar month following the
19 implementation of the use of digital stamps as provided in section
20 5a(2) and continuing for the immediately succeeding 17 months, for
21 licensees ~~who~~**that** are stamping agents, reimbursement of direct
22 costs actually incurred by the stamping agent, as determined by the
23 department, for the initial purchase of eligible equipment in an
24 amount equal to 5.55% of the total net purchase price of the
25 eligible equipment necessary to affix the digital stamp. The
26 reimbursement provided under this subdivision shall also include
27 reimbursement for any applicable sales or use taxes paid and
28 shipping and crating charges actually incurred by the stamping
29 agent for the initial purchase of eligible equipment, but shall

1 exclude reimbursement for any other costs incurred by the stamping
 2 agent not otherwise expressly provided for in this subdivision,
 3 including, but not limited to, charges for installation and ongoing
 4 maintenance related to eligible equipment. A stamping agent may
 5 only receive reimbursement under this subdivision to the extent
 6 that the eligible equipment purchased by the stamping agent does
 7 not exceed the total number of the stamping agent's existing
 8 equipment as certified by the stamping agent on a form prescribed
 9 by the department.

10 (e) For licensees ~~who~~**that** are stamping agents, reimbursement
 11 of qualified equipment costs actually incurred by the stamping
 12 agent, not otherwise compensated or reimbursed under subdivision
 13 (c) or (d), as determined by the department. The reimbursement
 14 provided under this subdivision shall not exceed \$60,000.00 for all
 15 stamping agents combined.

16 **(8) Every licensee and retailer that, on October 1, 2024, has**
 17 **on hand for sale any electronic smoking devices shall report to the**
 18 **department in the form and manner prescribed by the department all**
 19 **electronic smoking devices in the inventory of the licensee or**
 20 **retailer. A tax is levied on all electronic smoking devices**
 21 **required to be reported to the department under this section equal**
 22 **to 57% of the wholesale price of the electronic smoking devices.**
 23 **The report and tax described in this subsection are due by November**
 24 **1, 2024. An electronic smoking device for which the tax under this**
 25 **act has once been imposed and has not been refunded if paid is not**
 26 **subject on a subsequent sale to the tax imposed by this act.**

27 **(9) ~~(8)~~—**The department may require the payment of the tax
 28 imposed by this act upon the importation or acquisition of a
 29 tobacco product in or into this state. A tobacco product for which

1 the tax under this act has once been imposed and ~~that~~ has not been
2 refunded if paid is not subject ~~upon~~ **on** a subsequent sale to the
3 tax imposed by this act.

4 **(10)** ~~(9)~~—An abatement or refund of the tax provided by this
5 act may be made by the department for causes the department
6 considers expedient. The department shall certify the amount and
7 the state treasurer shall pay that amount out of the proceeds of
8 the tax.

9 **(11)** ~~(10)~~—A person liable for the tax may reimburse itself by
10 adding to the price of the tobacco products an amount equal to the
11 tax levied under this act.

12 **(12)** ~~(11)~~—A wholesaler, unclassified acquirer, or other person
13 shall not sell or transfer any unaffixed stamps acquired by the
14 wholesaler or unclassified acquirer from the department. A
15 wholesaler or unclassified acquirer ~~who~~ **that** has any unaffixed
16 stamps on hand when its license is revoked or expires, or when it
17 discontinues the business of selling cigarettes, shall return those
18 stamps to the department. The department shall refund the value of
19 the stamps, less the appropriate discount paid.

20 **(13)** ~~(12)~~—If the wholesaler or unclassified acquirer has
21 unsalable packs returned from a retailer, secondary wholesaler,
22 vending machine operator, wholesaler, or unclassified acquirer with
23 stamps affixed, the department shall refund the amount of the tax
24 less the appropriate discount paid. If the wholesaler or
25 unclassified acquirer has unaffixed unsalable stamps, the
26 department shall exchange with the wholesaler or unclassified
27 acquirer new stamps in the same quantity as the unaffixed unsalable
28 stamps. An application for refund of the tax must be filed on a
29 form and in the manner prescribed by the department for that

1 purpose, within 4 years from the date the stamps were originally
2 acquired from the department. A wholesaler or unclassified acquirer
3 shall make available for inspection by the department the unused or
4 spoiled stamps and the stamps affixed to unsalable individual
5 packages of cigarettes. The department may, at its own discretion,
6 witness and certify the destruction of the unused or spoiled stamps
7 and unsalable individual packages of cigarettes that are not
8 returnable to the manufacturer. The wholesaler or unclassified
9 acquirer shall provide certification from the manufacturer for any
10 unsalable individual packages of cigarettes that are returned to
11 the manufacturer.

12 (14) ~~(13)~~—On or before the twentieth of each month, each
13 manufacturer shall file a report with the department listing all
14 sales of tobacco products to wholesalers and unclassified acquirers
15 during the preceding calendar month and any other information the
16 department finds necessary for the administration of this act. This
17 report must be in the form and manner specified by the department.

18 (15) ~~(14)~~—Each wholesaler or unclassified acquirer shall
19 submit to the department an unstamped cigarette sales report on or
20 before the twentieth day of each month covering the sale, delivery,
21 or distribution of unstamped cigarettes during the preceding
22 calendar month to points outside of this state. A separate schedule
23 must be filed for each state, country, or province into which
24 shipments are made. For purposes of the report described in this
25 subsection, "unstamped cigarettes" means individual packages of
26 cigarettes that do not bear a Michigan stamp. The department may
27 provide the information contained in this report to a proper
28 officer of another state, country, or province reciprocating in
29 this privilege.

1 **(16)** ~~(15)~~—As used in subsection (7):

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

4 (i) Was purchased by a stamping agent ~~who~~**that** was licensed as
5 a stamping agent as of December 31, 2011.

6 (ii) Enables the stamping agent to affix digital stamps to
7 individual packages of cigarettes in accordance with the
8 requirements under section 6a(2) and (3).

9 (iii) Was purchased to be used for the primary purpose of
10 permitting the stamping agent to affix digital stamps to individual
11 packages of cigarettes to be sold in this state following the
12 implementation of the use of digital stamps as provided in section
13 5a(2).

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

16 (i) Was owned by a person ~~who~~**that** was licensed as a stamping
17 agent as of December 31, 2011.

18 (ii) Was a cigarette tax stamping machine used ~~prior to~~**before**
19 January 1, 2012 by the stamping agent to apply stamps using stamp
20 rolls of 30,000 stamps.

21 (c) "Qualified equipment" means equipment that was placed in
22 service by a stamping agent that included conveyors and additional
23 associated electrical line and compressed air line before August
24 15, 2014 in connection with the implementation of a digital
25 stamping line under a pilot program with the department as
26 determined by the department. Qualified equipment does not include
27 the cost of installation of a conveyor.

28 Sec. 8. (1) A person, other than a licensee, is personally
29 liable for the tax imposed by this act, plus a penalty of 500% of

1 the amount of that tax, under any of the following circumstances:

2 (a) The person is in control or in possession of a tobacco
3 product contrary to this act or is in control or in possession of
4 an individual package of cigarettes without a stamp in violation of
5 this act.

6 (b) The person offers to sell or does sell a tobacco product
7 to another for purposes of resale without being licensed to do so
8 under this act.

9 (c) The person offers to sell at retail, or does sell at
10 retail, an individual package of cigarettes without a stamp or any
11 tobacco product purchased or acquired from a person that was not
12 licensed under this act as secondary wholesaler, wholesaler, or
13 unclassified acquirer, at the time of purchase or acquisition.

14 (d) **Beginning October 1, 2024, the person offers to sell at**
15 **retail, or does sell at retail, an electronic smoking device**
16 **purchased or acquired from a person that was not licensed under**
17 **this act as a secondary wholesaler, wholesaler, or unclassified**
18 **acquirer, at the time of purchase or acquisition. This subdivision**
19 **does not apply to an electronic smoking device the person purchased**
20 **or acquired before October 1, 2024 if the person discloses the**
21 **electronic smoking device in the inventory reported under section**
22 **7(8) and pays the tax due on the electronic smoking device under**
23 **section 7(8).**

24 (e) **Beginning October 1, 2024, the person mixes or blends 2 or**
25 **more different components to manufacture a substance that can be**
26 **aerosolized or vaporized for use in an electronic smoking device if**
27 **the tax under this act has not been paid on 1 or more of the**
28 **components and the person offers to sell at retail, or does sell at**
29 **retail, the finished substance.**

1 (2) The department may permit a representative of a licensed
2 manufacturer of tobacco products whose duties require travel in
3 this state to transport up to 138,000 cigarettes, of which not more
4 than 36,000 cigarettes may bear no tax indicia or the tax indicia
5 of another state. All 138,000 cigarettes must bear the stamp
6 approved by the department or the tax indicia of another state, if
7 any. The total value of tobacco products, excluding cigarettes,
8 carried by a representative shall not exceed a wholesale value of
9 \$5,000.00. A manufacturer shall notify the department of the
10 manufacturer's representatives that it currently employs who carry
11 cigarettes or tobacco products other than cigarettes in performing
12 work duties in this state. The manufacturer shall maintain a record
13 of each transaction by the manufacturer's representative for a
14 period of 4 years immediately following the transaction and shall
15 produce the records upon request of the state treasurer or the
16 state treasurer's authorized agent. Each record must identify the
17 quantity and identity of the tobacco products, detail whether
18 exchanged, received, removed, or otherwise disposed of, and
19 identify the retailer, wholesaler, secondary wholesaler, vending
20 machine operator, or unclassified acquirer involved. The
21 representative of the manufacturer shall provide a copy of the
22 record to the retailer, wholesaler, secondary wholesaler, vending
23 machine operator, or unclassified acquirer at the time of the
24 exchange or disposal. The retailer, wholesaler, secondary
25 wholesaler, vending machine operator, or unclassified acquirer
26 shall retain the copy of the record in the same place and for the
27 same time period as other records required by this section. A
28 representative shall not exchange, or otherwise dispose of, within
29 this state tobacco products bearing the tax indicia of another

1 state or receive tobacco products bearing the tax indicia of
2 another state from retailers located within this state. A
3 representative who sells, exchanges, or otherwise disposes of
4 cigarettes or tobacco products other than cigarettes that do not
5 bear the stamp or other marking required by the department or
6 sells, exchanges, or otherwise disposes of cigarettes or tobacco
7 products other than cigarettes bearing the tax indicia of another
8 state is guilty of a felony, punishable by a fine of not more than
9 \$5,000.00 or imprisonment for not more than 5 years, or both.

10 (3) A person who possesses, acquires, transports, or offers
11 for sale contrary to this act 3,000 or more cigarettes, tobacco
12 products other than cigarettes with an aggregate wholesale price of
13 \$250.00 or more, 3,000 or more counterfeit cigarettes, 3,000 or
14 more counterfeit cigarette papers, 3,000 or more gray market
15 cigarettes, or 3,000 or more gray market cigarette papers is guilty
16 of a felony, punishable by a fine of not more than \$50,000.00 or
17 imprisonment for not more than 5 years, or both.

18 (4) A person who possesses, acquires, transports, or offers
19 for sale contrary to this act 1,200 or more, but not more than
20 2,999, cigarettes, tobacco products other than cigarettes with an
21 aggregate wholesale value of \$100.00 or more but less than \$250.00,
22 or 1,200 or more, but not more than 2,999, counterfeit cigarettes,
23 counterfeit cigarette papers, gray market cigarettes, or gray
24 market cigarette papers is guilty of a misdemeanor punishable by a
25 fine of not more than \$5,000.00 or imprisonment of not more than 1
26 year, or both.

27 (5) A person who violates a provision of this act for which a
28 criminal punishment is not otherwise provided is guilty of a
29 misdemeanor, punishable by a fine of not more than \$1,000.00 or 5

1 times the retail value of the tobacco products involved, whichever
2 is greater, or imprisonment for not more than 1 year, or both. This
3 subsection does not apply to conduct described in subsection (12).

4 (6) A person who manufactures, possesses, or uses a stamp or
5 manufactures, possesses, or uses a counterfeit stamp or writing or
6 device intended to replicate a stamp without authorization of the
7 department, a licensee who purchases or obtains a stamp from any
8 person other than the department, or who falsifies a manufacturer's
9 label on cigarettes, counterfeit cigarettes, gray market cigarette
10 papers, or counterfeit cigarette papers is guilty of a felony and
11 shall be punished by imprisonment for not less than 1 year or more
12 than 10 years and may be punished by a fine of not more than
13 \$50,000.00.

14 (7) A person who falsely makes, counterfeits, or alters a
15 license, vending machine disc, or marker, or who purchases or
16 receives a false or altered license, vending machine disc, or
17 marker, or who assists in or causes to be made a false or altered
18 license, vending machine disc, or marker, or who possesses a device
19 used to forge, alter, or counterfeit a license, vending machine
20 disc, or marker is guilty of a felony punishable by a fine of not
21 more than \$5,000.00 or imprisonment for not more than 5 years, or
22 both. A person who alters or falsifies records or markings required
23 under this act is guilty of a felony punishable by a fine of not
24 more than \$5,000.00 or imprisonment for not more than 5 years, or
25 both.

26 (8) The attorney general has concurrent power with the
27 prosecuting attorneys of this state to enforce this act.

28 (9) At the request of the department or its duly authorized
29 agent, the state police and all local police authorities shall

1 enforce the provisions of this act.

2 (10) The department does not have the authority to enforce the
3 provisions of this section regarding gray market cigarette papers
4 or counterfeit cigarette papers.

5 (11) A person who knowingly possesses, acquires, transports,
6 or offers for sale contrary to this act 600 or more, but not more
7 than 1,199, cigarettes, tobacco products other than cigarettes with
8 an aggregate wholesale value of \$50.00 or more but less than
9 \$100.00, or 600 or more, but not more than 1,199, counterfeit
10 cigarettes, counterfeit cigarette papers, gray market cigarettes,
11 or gray market cigarette papers is guilty of a misdemeanor
12 punishable by a fine of not more than \$1,000.00 or imprisonment of
13 not more than 90 days, or both.

14 (12) A person shall not possess, acquire, transport, or offer
15 for sale contrary to this act less than 600 cigarettes, tobacco
16 products other than cigarettes with an aggregate wholesale value of
17 less than \$50.00, or less than 600 counterfeit cigarettes,
18 counterfeit cigarette papers, gray market cigarettes, or gray
19 market cigarette papers. A person who possesses, acquires,
20 transports, or offers for sale contrary to this act 180 or more,
21 but not more than 599, cigarettes, tobacco products other than
22 cigarettes with an aggregate wholesale value of \$25.00 or more but
23 less than \$50.00, or 180 or more, but not more than 599,
24 counterfeit cigarettes, counterfeit cigarette papers, gray market
25 cigarettes, or gray market cigarette papers is responsible for a
26 state civil infraction and may be ordered to pay a civil fine of
27 not more than \$100.00.

28 Sec. 11. (1) A person, not licensed under this act as either a
29 wholesaler or unclassified acquirer, shall not sell or solicit a

1 sale of a tobacco product to be shipped, mailed, or otherwise
2 imported, sent or brought into this state, to a person in this
3 state that is not licensed under this act, unless the tobacco
4 product is to be sold through a wholesaler or unclassified
5 acquirer, licensed under this act.

6 (2) A person, in this state, that is not licensed under this
7 act, shall not order, purchase, or otherwise engage in a
8 transaction to acquire a tobacco product that is to be shipped,
9 mailed, imported, sent, or brought into this state unless that
10 tobacco product is to be sold through a wholesaler or unclassified
11 acquirer, licensed under this act. ~~A consumer in this state shall
12 not purchase or otherwise acquire a tobacco product through a
13 remote retail sale unless the seller is licensed under this act as
14 an unclassified acquirer.~~ A tobacco product ordered, purchased, or
15 acquired by a person in violation of this subsection is contraband
16 subject to seizure and forfeiture under section 9. A person who
17 violates this subsection is considered to be in control or
18 possession of a tobacco product in violation of this act for
19 purposes of section 8(1), regardless of whether that tobacco
20 product has been sold, consumed, or otherwise disposed of. Any
21 limitation on the tax applicable to cigars under section 7(1)(b)
22 shall not apply, or otherwise be taken into account, for purposes
23 of determining the liability for taxes and penalties under section
24 8(1) arising from a violation of this subsection.

25 (3) Except as provided in section 8(2) regarding
26 representatives of a licensed manufacturer, a retailer in this
27 state shall not purchase, possess, acquire for resale at retail, or
28 sell a tobacco product in this state unless that tobacco product
29 was purchased or otherwise acquired directly from a wholesaler,

1 unclassified acquirer, or secondary wholesaler, licensed under this
2 act. A retailer who violates this subsection is considered to be in
3 control or possession of a tobacco product in violation of this act
4 for purposes of section 8(1), regardless of whether that tobacco
5 product has been sold, consumed, or otherwise disposed of. Any
6 limitation on the tax applicable to cigars under section 7(1) (b)
7 shall not apply, or otherwise be taken into account, for purposes
8 of determining the liability for taxes and penalties under section
9 8(1) arising from a violation of this subsection.

10 (4) A retailer is considered to have purchased or otherwise
11 acquired a tobacco product in compliance with subsection (3) if all
12 of the following conditions are met:

13 (a) The retailer obtains a copy of the license of the
14 wholesaler, secondary wholesaler, or unclassified acquirer at the
15 time of purchase or acquisition.

16 (b) The license described in subdivision (a) was not expired
17 when the tobacco product was purchased or otherwise acquired by the
18 retailer.

19 (c) The copy of the license is preserved by the retailer in
20 the same manner, for the same period of time, and offered for
21 inspection as required of other statements and records under
22 section 6.

23 (5) Notwithstanding anything in this act to the contrary, a
24 licensee may provide a copy of its license to a retailer for
25 purposes of this section. A retailer that obtains a copy of the
26 license for a particular licensee under this section is not
27 required to obtain another copy of the license for subsequent
28 purchases or acquisitions of tobacco products from that licensee
29 that are made during the active license year and before the

1 expiration of that license.

2 ~~(6) Subject to subsection (1), all sales conducted through the~~
3 ~~internet, by telephone, or in a mail-order transaction must not be~~
4 ~~completed unless, before each delivery of tobacco products is made,~~
5 ~~whether through the mail, through a transportation company, or~~
6 ~~through any other delivery system, the seller has obtained from the~~
7 ~~purchaser an affirmation that includes a copy of a valid~~
8 ~~government-issued document that confirms the purchaser's name,~~
9 ~~address, and date of birth showing that the purchaser is at least~~
10 ~~the legal minimum age to purchase tobacco products; that the~~
11 ~~tobacco products purchased are not intended for consumption by an~~
12 ~~individual who is younger than the legal minimum age to purchase~~
13 ~~tobacco products; and a written statement signed by the purchaser~~
14 ~~that affirms the purchaser's address and that the purchaser is at~~
15 ~~least the minimum legal age to purchase tobacco products. The~~
16 ~~statement must also confirm that the purchaser understands that~~
17 ~~signing another person's name to the affirmation is illegal; that~~
18 ~~the sale of tobacco products to individuals under the legal minimum~~
19 ~~purchase age is illegal; and that the purchase of tobacco products~~
20 ~~by individuals under the legal minimum purchase age is illegal~~
21 ~~under the laws of the state of Michigan. The seller shall verify~~
22 ~~the information contained in the affirmation provided by the~~
23 ~~purchaser against a commercially available database of governmental~~
24 ~~records, or obtain a photocopy, fax copy, or other image of the~~
25 ~~valid, government-issued identification stating the date of birth~~
26 ~~or age of the purchaser.~~

27 ~~(7) Subject to subsection (1), all invoices, bills of lading,~~
28 ~~sales receipts, or other documents related to tobacco product sales~~
29 ~~conducted through the internet, by telephone, or in a mail order~~

1 ~~transaction must contain the current seller's valid Michigan sales~~
2 ~~tax license number or use tax registration number, business name~~
3 ~~and address of the seller, and a statement as to whether all sales~~
4 ~~taxes or use taxes, as applicable, and taxes levied under this act~~
5 ~~have been paid. All packages of tobacco products shipped from a~~
6 ~~tobacco product seller to purchasers who reside in Michigan,~~
7 ~~including consumers in a remote retail sale, must be clearly~~
8 ~~printed or stamped with the word "TOBACCO PRODUCTS" on the outside~~
9 ~~of all sides of the package so it is clearly visible to the~~
10 ~~shipper. If an order is made as a result of advertisement over the~~
11 ~~internet, the tobacco retailer, and an unclassified acquirer making~~
12 ~~a remote retail sale, shall request the email address of the~~
13 ~~purchaser and shall receive payment by credit card or check before~~
14 ~~completing the sale. This subsection does not apply to sales by~~
15 ~~wholesalers and unclassified acquirers licensed under this act~~
16 ~~other than remote retail sales.~~

17 ~~(8) The deliverer of the tobacco products shall obtain proof~~
18 ~~from a valid government-issued document that the person signing for~~
19 ~~the tobacco products is the purchaser.~~

20 ~~(9) A retailer not otherwise licensed or required to be~~
21 ~~licensed under this act shall post a sign, visible to the public~~
22 ~~inside the retail establishment that informs purchasers of cigars~~
23 ~~through catalog sales, telephone or mail orders, or internet sales~~
24 ~~of their liability for any applicable unpaid state taxes on those~~
25 ~~cigars and that cigars purchased in violation of this act are~~
26 ~~contraband.~~

27 ~~(10) As used in this section:~~

28 ~~(a) "Computer" means any connected, directly interoperable or~~
29 ~~interactive device, equipment, or facility that uses a computer~~

1 ~~program or other instructions to perform specific operations,~~
2 ~~including logical, arithmetic, or memory functions with or on~~
3 ~~computer data or a computer program, and that can store, retrieve,~~
4 ~~alter, or communicate the results of the operations to a person,~~
5 ~~computer program, computer, computer system, or computer network.~~

6 ~~(b) "Computer network" means the interconnection of hardware~~
7 ~~or wireless communication lines with a computer through remote~~
8 ~~terminals or a complex consisting of 2 or more interconnected~~
9 ~~computers.~~

10 ~~(c) "Computer program" means a series of internal or external~~
11 ~~instructions communicated in a form acceptable to a computer that~~
12 ~~directs the functioning of a computer, computer system, or computer~~
13 ~~network in a manner designed to provide or produce products or~~
14 ~~results from the computer, computer system, or computer network.~~

15 ~~(d) "Computer system" means related, connected or unconnected,~~
16 ~~computer equipment, devices, software, or hardware.~~

17 ~~(e) "Credit card" means a card or device issued by a person~~
18 ~~licensed under 1984 PA 379, MCL 493.101 to 493.114, or under the~~
19 ~~consumer financial services act, 1988 PA 161, MCL 487.2051 to~~
20 ~~487.2072, or issued by a depository financial institution as~~
21 ~~defined in section 1a of the mortgage brokers, lenders, and~~
22 ~~servicers licensing act, 1987 PA 173, MCL 445.1651a, under a credit~~
23 ~~card arrangement.~~

24 ~~(f) "Device" includes, but is not limited to, an electronic,~~
25 ~~magnetic, electrochemical, biochemical, hydraulic, optical, or~~
26 ~~organic object that performs input, output, or storage functions by~~
27 ~~the manipulation of electronic, magnetic, or other impulses.~~

28 ~~(g) "Internet" means the connection to the World Wide Web~~
29 ~~through the use of a computer, a computer network, or a computer~~

1 ~~system.~~

2 ~~(h) "Sale conducted through the internet" means a sale of, a~~
 3 ~~solicitation to sell, a purchase of, or an offer to purchase~~
 4 ~~tobacco products conducted all or in part by accessing an internet~~
 5 ~~website and includes a remote retail sale.~~

6 **(6) Notwithstanding anything in this act to the contrary, this**
 7 **act does not allow remote retail sales in violation of the nicotine**
 8 **and tobacco act, 1915 PA 31, MCL 722.641 to 722.645.**

9 Sec. 12. (1) The proceeds derived from the payment of taxes,
 10 fees, and penalties provided for under this act and the license
 11 fees received by the department shall be deposited with the state
 12 treasurer and disbursed only as provided in this section. However,
 13 before a distribution of funds is made under this section, subject
 14 to appropriation, the funds described in this section may be used
 15 by the department, the attorney general, and the department of
 16 state police for enforcement and administration of this act.

17 (2) The tax imposed on cigarettes under section ~~7(1)(a)~~
 18 **7(1)(a)(i)** must be disbursed as follows:

19 (a) 2.4375% of the proceeds must be credited to the health and
 20 safety fund created in the health and safety fund act, 1987 PA 264,
 21 MCL 141.471 to 141.479.

22 (b) 41.6200% of the proceeds must be credited to the state
 23 school aid fund established by section 11 of article IX of the
 24 state constitution of 1963.

25 (c) 3.7500% of the proceeds ~~shall~~**must** be credited to the
 26 healthy Michigan fund created under section 5953 of the public
 27 health code, 1978 PA 368, MCL 333.5953. Fifty percent of the
 28 proceeds described in this subdivision that are used for smoking
 29 prevention programs ~~shall~~**must** be used by the department of health

1 and human services to expand the free smokers quit kit program to
2 include the nicotine patch or nicotine gum.

3 (d) 19.7625% of the proceeds must be disbursed as follows:

4 (i) For each fiscal year, \$3,000,000.00 to the Michigan state
5 capitol historic site fund created in section 7 of the Michigan
6 state capitol historic site act, 2013 PA 240, MCL 4.1947. For each
7 fiscal year, the state treasurer shall adjust the figure described
8 in this subparagraph by an amount determined by the state treasurer
9 at the end of each calendar year to reflect the cumulative annual
10 percentage change in the Consumer Price Index. For each fiscal
11 year, if the cumulative annual percentage change in the Consumer
12 Price Index is negative, then the adjustment for that fiscal year
13 is zero. As used in this subsection, "Consumer Price Index" means
14 the most comprehensive index of consumer prices available for this
15 state from the Bureau of Labor Statistics of the United States
16 Department of Labor. From the funds described in this subparagraph,
17 not later than February 1 of each year, the Michigan state capitol
18 commission created in section 5 of the Michigan state capitol
19 historic site act, 2013 PA 240, MCL 4.1945, shall report to the
20 chairpersons of the house and senate appropriations committees. The
21 report must contain all of the following:

22 (A) The proposed maintenance plan for the Michigan State
23 Capitol Historical Site for the immediately following fiscal year.

24 (B) The projected 5-year maintenance plan for the Michigan
25 State Capitol Historical Site for the immediately following 5
26 fiscal years.

27 (C) Projected large-scale projects for the Michigan State
28 Capitol Historical Site that exceed \$1,000,000.00.

29 (ii) The remaining proceeds must be credited to the general

1 fund of this state.

2 (e) 0.5550% of the proceeds must be paid to counties with a
3 2000 population of more than 2,000,000, to be used only for
4 indigent health care.

5 (f) 31.8750% of the proceeds must be credited to the Michigan
6 Medicaid benefits trust fund created under section 5 of the
7 Michigan trust fund act, 2000 PA 489, MCL 12.255.

8 **(3) Beginning October 1, 2024, the tax imposed on cigarettes**
9 **under section 7(1) (a) (ii) must be allocated to the department of**
10 **health and human services for tobacco prevention and cessation**
11 **programs, including, but not limited to, distributions to local**
12 **health departments and community-based organizations for tobacco**
13 **prevention and cessation services.**

14 **(4) ~~(3)~~**—The tax imposed under section 7(1) (b) must be
15 disbursed as follows:

16 (a) 75.0% of the proceeds must be credited to the Michigan
17 Medicaid benefits trust fund created under section 5 of the
18 Michigan trust fund act, 2000 PA 489, MCL 12.255.

19 (b) 25.0% of the proceeds must be credited to the general fund
20 of this state.

21 **(5) Beginning October 1, 2024, the tax imposed under section**
22 **7(1) (c) must be disbursed as follows:**

23 (a) 59% must be allocated to the department of health and
24 human services for tobacco prevention and cessation programs,
25 including, but not limited to, distributions to local health
26 departments and community-based organizations for tobacco
27 prevention and cessation services.

28 (b) 1% must be allocated to the department for enforcement of
29 this act.

1 (c) 40% must be allocated to the department of health and
2 human services for enforcement of part 126 and section 12905 of the
3 public health code, 1978 PA 368, MCL 333.12601 to 333.12616 and
4 333.12905.

5 (6) ~~(4)~~—The proceeds of the fees and penalties provided for in
6 this act ~~shall~~**must** be used for the administration of this act.

7 (7) As used in this section:

8 (a) "Community-based organization" means a public or private
9 organization that provides health or human services to meet the
10 needs of a community, including, but not limited to, a nonprofit
11 organization, a social service provider, or an organization
12 providing tobacco prevention and cessation services.

13 (b) "Local health department" means that term as defined in
14 section 1105 of the public health code, 1978 PA 368, MCL 333.1105.