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*Item Vetoes

Sec. 12. (10)
Entire Subsection. (Page 8)

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Kahn, Pappageorge, Proos and Jones

ENROLLED SENATE BILL No. 930

AN ACT to amend 1993 PA 327, entitled “An act to provide for a tax upon the sale and distribution of tobacco products; to regulate and license manufacturers, wholesalers, secondary wholesalers, vending machine operators, unclassified acquirers, transportation companies, transporters, and retailers of tobacco products; to prescribe the powers and duties of the revenue division and the department of treasury in regard to tobacco products; to provide for the administration, collection, and disposition of the tax; to levy an assessment; to provide for the administration, collection, defense, and disposition of the assessment; to provide for the enforcement of this act; to provide for the appointment of special investigators as peace officers for the enforcement of this act; to prescribe penalties and provide remedies for the violation of this act; and to repeal acts and parts of acts,” by amending the title and sections 2, 5a, 6a, 7, and 12 (MCL 205.422, 205.425a, 205.426a, 205.427, and 205.432), the title as amended by 2003 PA 285, section 2 as amended by 2005 PA 238, sections 5a and 6a as added by 1997 PA 187, section 7 as amended by 2008 PA 458, and section 12 as amended by 2004 PA 164.

The People of the State of Michigan enact:

TITLE

An act to provide for a tax upon the sale and distribution of tobacco products; to regulate and license manufacturers, wholesalers, secondary wholesalers, vending machine operators, unclassified acquirers, transportation companies, transporters, and retailers of tobacco products; to prescribe the powers and duties of the revenue division and the department of treasury in regard to tobacco products; to provide for the administration, collection, and disposition of the tax; to levy an assessment; to provide for the administration, collection, defense, and disposition of the assessment; to provide for the enforcement of this act; to provide for the appointment of special investigators as peace officers for the enforcement of this act; to prescribe penalties and provide remedies for the violation of this act; to make and supplement appropriations; and to repeal acts and parts of acts.

Sec. 2. As used in this act:

(a) “Cigarette” means a roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, which roll has a wrapper or cover made of paper or any other material. Cigarette does not include cigars.

(b) “Cigarette making machine” means any machine or other mechanical device which meets all of the following criteria:

(i) Is capable of being loaded with loose tobacco, cigarette tubes or cigarette papers, and any other components related to the production of cigarettes, including, but not limited to, cigarette filters.

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

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

- (iv) Is designed to be powered or otherwise operated by a main or primary power source other than human power.
- (c) “Commissioner” means the state treasurer.
- (d) “Counterfeit cigarette” means a cigarette in an individual package of cigarettes or other container with a false manufacturing label or a cigarette in an individual package of cigarettes or other container with a counterfeit stamp.
- (e) “Counterfeit cigarette paper” means a cigarette paper with a false manufacturing label or that has not been printed, manufactured, or made by authority of the trademark owner.
- (f) “Counterfeit stamp” means any stamp, label, or print, indicium, or character, that evidences, or purports to evidence, the payment of any tax levied under this act and that has not been printed, manufactured, or made by authority of the department as provided in this act and has not been issued, sold, or circulated by the department.
- (g) “Department” means the department of treasury.
- (h) “Financially sound” means a determination by the department that the wholesaler or unclassified acquirer is able to pay for its stamps in the ordinary course of business based on criteria including, but not limited to, all of the following:
- (i) Past filing and payment history with the department.
 - (ii) Outstanding liabilities.
 - (iii) Review of current financial statements including, but not limited to, balance sheets and income statements.
 - (iv) Duration that the wholesaler or unclassified acquirer has been licensed under this act.
- (i) “Gray market cigarette” means any cigarette the package of which bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including, but not limited to, a label stating “For Export Only”, “U.S. Tax Exempt”, “For Use Outside U.S.”, or similar wording.
- (j) “Gray market cigarette paper” means any cigarette paper the package of which bears any statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarette papers to be sold, distributed, or used in the United States, including, but not limited to, a label stating “For Export Only”, “U.S. Tax Exempt”, “For Use Outside U.S.”, “For Use in _____ (another country) Only”, or similar wording.
- (k) “Individual package” means an individual packet or pack used to contain or to convey cigarettes to the consumer. Individual package does not include cartons, cases, or shipping or storage containers that contain smaller packaging units of cigarettes.
- (l) “Licensee” means a person licensed under this act.
- (m) “Manufacturer” means any of the following:
- (i) A person who manufactures or produces a tobacco product.
 - (ii) A person who operates or who permits any other person to operate a cigarette making machine in this state for the purpose of producing, filling, rolling, dispensing, or otherwise generating cigarettes. A person who is a manufacturer under this subparagraph shall constitute a nonparticipating manufacturer for purposes of sections 6c and 6d. A person who operates or otherwise uses a machine or other mechanical device, other than a cigarette making machine, to produce, roll, fill, dispense, or otherwise generate cigarettes shall not be considered a manufacturer as long as the cigarettes are produced or otherwise generated in that person’s dwelling and for that person’s self-consumption. For purposes of this act, “self-consumption” means production for personal consumption or use and not for sale, resale, or any other profit-making endeavor.
- (n) “Nonecigarette smoking tobacco” means tobacco sold in loose or bulk form that is intended for consumption by smoking and includes roll-your-own cigarette tobacco.
- (o) “Person” means an individual, partnership, fiduciary, association, limited liability company, corporation, or other legal entity.
- (p) “Place of business” means a place where a tobacco product is sold or where a tobacco product is brought or kept for the purpose of sale or consumption, including a vessel, airplane, train, or vending machine.
- (q) “Retailer” means a person other than a transportation company who operates a place of business for the purpose of making sales of a tobacco product at retail.
- (r) “Sale” means a transaction by which the ownership of tangible personal property is transferred for consideration and applies also to use, gifts, exchanges, barter, and theft.
- (s) “Secondary wholesaler” means a person who sells a tobacco product for resale, who purchases a tobacco product from a wholesaler or unclassified acquirer licensed under this act, and who maintains an established place of business in this state where a substantial portion of the business is the sale of tobacco products and related merchandise at wholesale, and where at all times a substantial stock of tobacco products and related merchandise is available to retailers for resale.
- (t) “Smokeless tobacco” means snuff, chewing tobacco, and any other tobacco that is intended to be consumed by means other than smoking.

(u) “Stamp” means a distinctive character, indication, or mark, as determined by the department, attached or affixed to an individual package of cigarettes by mechanical device or other means authorized by the department to indicate that the tax imposed under this act has been paid.

(v) “Stamping agent” means a wholesaler or unclassified acquirer other than a manufacturer who is licensed and authorized by the department to affix stamps to individual packages of cigarettes on behalf of themselves and other wholesalers or unclassified acquirers other than manufacturers.

(w) “Tobacco product” means cigarettes, cigars, noncigarette smoking tobacco, or smokeless tobacco.

(x) “Transportation company” means a person operating, or supplying to common carriers, cars, boats, or other vehicles for the transportation or accommodation of passengers and engaged in the sale of a tobacco product at retail.

(y) “Transporter” means a person importing or transporting into this state, or transporting in this state, a tobacco product obtained from a source located outside this state, or from any person not duly licensed under this act. Transporter does not include an interstate commerce carrier licensed by the interstate commerce commission to carry commodities in interstate commerce, or a licensee maintaining a warehouse or place of business outside of this state if the warehouse or place of business is licensed under this act.

(z) “Unclassified acquirer” means a person, except a transportation company or a purchaser at retail from a retailer licensed under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, who imports or acquires a tobacco product from a source other than a wholesaler or secondary wholesaler licensed under this act for use, sale, or distribution. Unclassified acquirer also means a person who receives cigars, noncigarette smoking tobacco, or smokeless tobacco directly from a manufacturer licensed under this act or from another source outside this state, which source is not licensed under this act. An unclassified acquirer does not include a wholesaler.

(aa) “Vending machine operator” means a person who operates 1 or more vending machines for the sale of a tobacco product and who purchases a tobacco product from a manufacturer, licensed wholesaler, or secondary wholesaler.

(bb) “Wholesale price” means the actual price paid for a tobacco product, including any tax, by a wholesaler or unclassified acquirer to a manufacturer, excluding any discounts or reductions.

(cc) “Wholesaler” means a person who purchases all or part of his or her tobacco products from a manufacturer, who sells 75% or more of those tobacco products to others for resale, and who maintains an established business where substantially all of the business is the sale of tobacco products or cigarettes and related merchandise at wholesale and where at all times a substantial stock of tobacco products and related merchandise is available to retailers for resale. Wholesaler includes a chain of stores retailing a tobacco product to the consumer if 75% of its stock of tobacco products is purchased directly from the manufacturer.

Sec. 5a. (1) The department shall procure stamps as needed in the various designs, denominations, and forms necessary as determined by the department. The department shall pay for the stamps.

(2) Not later than 45 days after the effective date of the amendatory act that added this subsection, the department shall issue a request for proposal to acquire and use digital stamps that contain a unique nonrepeating code that can be read by a device that identifies the taxed product and also contain other security and enforcement features as determined by the department. The request for proposal shall include a provision that requires the successful bidder on the proposal to share digital stamp technology so that handheld devices, including, but not limited to, smartphones, can be readily utilized in furtherance of the implementation of the use of digital stamps and so that the technology and equipment used by the stamping agents to affix the stamp to the product can be supplied, as may be permitted by the department, by the successful bidder on the proposal or by any other providers. The request for proposal shall also include a provision permitting the department to manage or restrict access rights to all or part of the information contained within, or accessible from, the stamps and a provision requiring the successful bidder on the proposal to guarantee that the stamps will be designed and manufactured to ensure that stamps can be affixed to individual packages of cigarettes in accordance with the requirements under section 6a(2).

Sec. 6a. (1) A wholesaler or unclassified acquirer other than a manufacturer may apply to the department for stamps to affix as provided in this act. The department may prescribe the method of shipment of the stamps. The department shall keep a record of all stamps disbursed, name of wholesaler or unclassified acquirer, and date of disbursement. The department may release the identity of the wholesaler or unclassified acquirer to whom specific stamps were disbursed to state or local police agencies.

(2) Before delivery, sale, or transfer to any person in this state, a wholesaler or an unclassified acquirer shall place or cause to be placed on the bottom of each individual package of cigarettes to be sold within this state a stamp provided by the department. Stamps shall be firmly affixed in such a manner that the stamps cannot be removed without being mutilated or destroyed. A stamp shall be affixed to each individual package in an aggregate denomination equal to the amount of the tax upon the contents of the individual package of cigarettes. Except as otherwise provided in this subsection, a stamp is considered affixed if more than 50% of the stamp is affixed to the individual package, as determined by the department. Upon implementation of the digital stamps as provided in section 5a(2), a stamp is considered affixed if 90% or more of the stamp is affixed to the individual package.

(3) A retailer or person licensed under this act, other than a wholesaler or unclassified acquirer or a person acting as a transporter for a wholesaler or unclassified acquirer, shall not acquire for resale an individual package of cigarettes or a cigarette from an individual package unless that individual package of cigarettes has affixed to it a stamp as provided in this act.

(4) A retailer or vending machine operator shall not sell or offer for sale an individual package of cigarettes to the general public that does not have affixed the stamp required by this act. Cigarettes without stamps may not be placed or stored in a vending machine.

(5) The department or its authorized agents may inspect or conduct an inventory of a wholesaler's or unclassified acquirer's stock of cigarettes, tobacco products other than cigarettes, and stamps during regular business hours and inspect the related statements and other records required in section 6.

(6) The department or its authorized agents may inspect the operations of a secondary wholesaler, vending machine operator, or retailer, or the contents of a specific vending machine, during regular business hours. This inspection shall include inspection of all statements and other records required by section 6 of this act, of packages of cigarettes and tobacco products other than cigarettes, and of the contents of cartons and shipping or storage containers to ascertain that all individual packages of cigarettes have an affixed stamp of proper denomination as required by this act. This inspection may also verify that all the stamps were produced under the authority of the department.

(7) A person shall not prevent or hinder the department or its authorized agents from making a full inspection of any place or vending machine where cigarettes or tobacco products other than cigarettes subject to the tax under this act are sold or stored, or prevent or hinder the full inspection of invoices, books, records, or other papers required to be kept by this act.

(8) The department may require wholesalers and unclassified acquirers to exchange unaffixed stamps with the department as the department considers necessary. The department may require wholesalers, unclassified acquirers, secondary wholesalers, vending machine operators and retailers to discontinue offering for sale any unsold individual packages of cigarettes bearing a prior version of the stamp that the department has withdrawn from circulation. The department may set a reasonable timeline after which the prior version of the stamp may no longer be offered for sale and the new version of the stamp is required. A secondary wholesaler, retailer, or vending machine operator may return cigarette packages bearing discontinued stamps to a wholesaler for credit. A wholesaler or unclassified acquirer may take credit on its tax returns for individual packages of cigarettes bearing discontinued stamps that are returned to the manufacturer for credit less the appropriate discount paid.

(9) Except as provided in subsection (10), a wholesaler or unclassified acquirer shall not give, sell, or lend any unaffixed stamps to another person and except as otherwise provided in this act, a person shall not accept, purchase, or borrow any unaffixed stamps from another person.

(10) Upon written authorization of the department, a wholesaler or unclassified acquirer licensed under this act may appoint a stamping agent to affix stamps to individual packages of cigarettes.

(11) Stamps may only be affixed to an individual package of cigarettes if the manufacturer of the cigarettes is identified on the lists of participating manufacturers or nonparticipating manufacturers maintained by the department pursuant to section 6c(8).

(12) The department of state police shall initiate inquiries to or otherwise access data from the department to support or in furtherance of its enforcement activities under this act.

Sec. 7. (1) Beginning May 1, 1994, a tax is levied on the sale of tobacco products sold in this state as follows:

(a) Through July 31, 2002, for cigars, noncigarette smoking tobacco, and smokeless tobacco, 16% of the wholesale price.

(b) For cigarettes, 37.5 mills per cigarette.

(c) Beginning August 1, 2002, for cigarettes, in addition to the tax levied in subdivision (b), an additional 15 mills per cigarette.

(d) Beginning August 1, 2002, for cigarettes, in addition to the tax levied in subdivisions (b) and (c), an additional 10 mills per cigarette.

(e) Beginning July 1, 2004, for cigarettes, in addition to the tax levied in subdivisions (b), (c), and (d), an additional 37.5 mills per cigarette.

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

(g) Beginning July 1, 2004, for cigars, noncigarette smoking tobacco, and smokeless tobacco, 32% of the wholesale price.

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

the wholesale price charged for all tobacco products other than cigarettes sold, the number of individual packages of cigarettes and the number of cigarettes in those individual packages, and the number and denominations of stamps affixed to individual packages of cigarettes sold by the licensee for each place of business in the preceding calendar month. The return shall also include the number and denomination of unaffixed stamps in the possession of the licensee at the end of the preceding calendar month. Wholesalers shall also report accurate inventories of cigarettes, both stamped and unstamped at the end of the preceding calendar month. Wholesalers and unclassified acquirers shall also report accurate inventories of affixed and unaffixed stamps by denomination at the beginning and end of each calendar month and all stamps acquired during the preceding calendar month. The return shall be signed under penalty of perjury. The return shall be on a form prescribed by the department and shall contain or be accompanied by any further information the department requires. The department may also require licensees to report cigarette acquisition, purchase, and sales information in other formats and frequency.

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

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

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

(c) Beginning August 1, 2002, 1.5% of the total amount of the tax due on cigarettes sold and, beginning on the effective date of the amendatory act that added subdivision (e), for sales of untaxed cigarettes to Indian tribes in this state, an amount equal to 1.5% of the total amount of the tax due on those cigarettes sold as if those cigarette sales were taxable sales under this act.

(d) Beginning on the first calendar month following the implementation of the use of digital stamps as provided in section 5a(2), for licensees who are stamping agents, 0.5% of the total amount of the tax due on cigarettes sold and, for sales of untaxed cigarettes to Indian tribes in this state, 0.5% of the total amount of the tax due on those cigarettes sold as if those cigarette sales were taxable sales under this act, until the stamping agent is compensated in an amount equal to the direct cost actually incurred by the stamping agent for upgrades to technology and equipment, excluding the equipment reimbursed under subdivision (e), that are necessary to affix the digital stamp as determined by the department.

(e) Beginning in the first calendar month following the implementation of the use of digital stamps as provided in section 5a(2) and continuing for the immediately succeeding 17 months, for licensees who are stamping agents, reimbursement of direct costs actually incurred by the stamping agent, as determined by the department, for the initial purchase of eligible equipment in an amount equal to 5.55% of the total net purchase price of the eligible equipment necessary to affix the digital stamp. The reimbursement provided under this subdivision shall exclude reimbursement for any costs for installation or for ongoing maintenance related to eligible equipment. A stamping agent may only receive reimbursement under this subdivision to the extent that the eligible equipment purchased by the stamping agent does not exceed the total number of the stamping agent's existing equipment as certified by the stamping agent on a form prescribed by the department.

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

(5) Every licensee and retailer who, on July 1, 2004, has on hand for sale any cigarettes upon which a tax has been paid pursuant to subsection (1)(b), (c), and (d) shall file a complete inventory of those cigarettes before August 1, 2004 and shall pay to the department at the time of filing this inventory a tax equal to the difference between the tax imposed in subsection (1)(b), (c), (d), and (e) and the tax that has been paid under subsection (1)(b), (c), and (d). Every licensee and retailer who, on July 1, 2004, has on hand for sale any cigars, noncigarette smoking tobacco, or smokeless tobacco upon which a tax has been paid pursuant to subsection (1)(f) shall file a complete inventory of those cigars, noncigarette smoking tobacco, and smokeless tobacco before August 1, 2004 and shall pay to the department at the time of filing this inventory a tax equal to the difference between the tax imposed in subsection (1)(g) and the tax that has been paid under subsection (1)(f). The proceeds derived under this subsection shall be credited to the medicaid benefits trust fund created under section 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

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

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

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

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

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

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

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

(13) As used in subsection (3):

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

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

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

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

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

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

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

Sec. 12. (1) The proceeds derived from the payment of taxes, fees, and penalties provided for under this act and the license fees received by the department shall be deposited with the state treasurer and disbursed only as provided in this section and section 7(5). However, before a distribution of funds is made under this section, subject to appropriation, the funds described in this section may be used by the department, the attorney general, and the department of state police for enforcement and administration of this act.

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

(a) 94% of the proceeds shall be credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

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

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

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

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

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

(d) Beginning July 1, 2004, 24.1% of the proceeds shall be credited to the general fund of this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) 94.0% of the proceeds shall be credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

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

(7) Beginning July 1, 2004, the tax imposed on cigarettes under section 7(1)(e) shall be disbursed as follows:

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

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

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

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

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

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

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

(9) The proceeds of the fees and penalties provided for in this act shall be used for the administration of this act.

(10) For fiscal year 2011-2012 only, from the funds described in subsections (3)(d), (4)(a), (7)(c), and (8)(c), \$6,000,000.00 is appropriated to the following departments in the following amounts for enforcement and administration of this act:

- (a) Department of treasury, \$1,500,000.00.
- (b) Department of attorney general, \$500,000.00.
- (c) Department of state police, \$4,000,000.00.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gay E. Randall

Clerk of the House of Representatives

Approved

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Governor