



HOUSE BILL No. 5200

October 5, 1995, Introduced by Rep. Nye and referred to the Committee on Health Policy.

A bill to amend sections 1 and 4 of Act No. 31 of the Public Acts of 1915, entitled as amended
"Youth tobacco act,"

section 1 as amended by Act No. 314 of the Public Acts of 1988
and section 4 as amended by Act No. 272 of the Public Acts of
1992, being sections 722.641 and 722.644 of the Michigan Compiled
Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1 and 4 of Act No. 31 of the Public
2 Acts of 1915, section 1 as amended by Act No. 314 of the Public
3 Acts of 1988 and section 4 as amended by Act No. 272 of the
4 Public Acts of 1992, being sections 722.641 and 722.644 of the
5 Michigan Compiled Laws, are amended to read as follows:

6 Sec. 1. (1) A person shall not sell, give, or furnish ~~any~~
7 ~~cigarette, cigar, chewing tobacco, tobacco snuff, or tobacco in~~

1 ~~any other form~~ A TOBACCO PRODUCT to a person under 18 years of
2 age. A person who violates this section is guilty of a misde-
3 meanor, punishable ~~by a fine of not more than \$50.00 for each~~
4 ~~offense.~~ AS FOLLOWS:

5 (A) FOR THE FIRST VIOLATION, THE COURT MAY ORDER THE PERSON
6 TO PAY A FINE OF NOT MORE THAN \$500.00 OR PERFORM NOT MORE THAN
7 45 DAYS' COMMUNITY SERVICE, OR BOTH. IN ADDITION, THE COURT
8 SHALL ORDER THE PERSON TO REMOVE ALL TOBACCO PRODUCTS FROM THE
9 RETAIL AREA OF THE STORE AT THE LOCATION WHERE THE VIOLATION
10 OCCURRED AND TO REFRAIN FROM SELLING A TOBACCO PRODUCT FOR 30
11 DAYS AT THAT LOCATION.

12 (B) FOR A SECOND OR SUBSEQUENT VIOLATION, THE COURT MAY
13 ORDER THE PERSON TO PAY A FINE OF NOT MORE THAN \$1,000.00 OR PER-
14 FORM NOT MORE THAN 60 DAYS' COMMUNITY SERVICE, OR BOTH. IN ADDI-
15 TION, THE COURT SHALL ORDER THE PERSON TO REMOVE ALL TOBACCO
16 PRODUCTS FROM THE RETAIL AREA OF THE STORE AT THE LOCATION WHERE
17 THE SECOND OR SUBSEQUENT VIOLATION OCCURRED AND TO REFRAIN FROM
18 SELLING A TOBACCO PRODUCT FOR 6 MONTHS AT THAT LOCATION.

19 (2) Beginning ~~90 days after the effective date of this~~
20 ~~subsection,~~ JUNE 27, 1989, a person who sells tobacco products
21 at retail shall post, in a place close to the point of sale and
22 conspicuous to both employees and customers, a sign produced by
23 the department ~~of public health~~ that includes the following
24 statement:

25 "The purchase of tobacco products by a minor under 18 years
26 of age and the provision of tobacco products to a minor are

1 prohibited by law. A minor unlawfully purchasing or using
2 tobacco products is subject to criminal penalties."

3 (3) If the sign required under subsection (2) is more than 6
4 feet from the point of sale, it shall be 5-1/2 inches by 8-1/2
5 inches, and the statement required under subsection (2) shall be
6 printed in 36-point boldface type. If the sign required under
7 subsection (2) is 6 feet or less from the point of sale, it shall
8 be 2 inches by 4 inches, and the statement required under subsec-
9 tion (2) shall be printed in 20-point boldface type.

10 (4) The department ~~of public health~~ shall produce the sign
11 required under subsection (2) and have adequate copies of the
12 sign ready for distribution to licensed wholesalers, secondary
13 wholesalers, and unclassified acquirers of ~~cigarettes and other~~
14 tobacco products described in subsection (1) free of charge
15 ~~within 60 days after the effective date of this subsection~~ BY
16 MAY 29, 1989. Licensed wholesalers, secondary wholesalers, and
17 unclassified acquirers of ~~cigarettes and other~~ tobacco products
18 ~~described in subsection (1)~~ shall obtain copies of the sign
19 from the department ~~of public health~~ and distribute them free
20 of charge, upon request, to persons who are subject to
21 subsection (2). The department ~~of public health~~ shall provide
22 copies of the sign free of charge, upon request, to persons
23 subject to subsection (2) who do not purchase their supply of
24 ~~cigarettes or other~~ tobacco products ~~described in~~
25 ~~subsection (1)~~ from licensed wholesalers, secondary wholesalers,
26 and unclassified acquirers of ~~cigarettes and other~~ tobacco
27 products. ~~described in subsection (1).~~

1 (5) It is an affirmative defense to a charge ~~pursuant to~~
2 UNDER subsection (1) that the defendant had in force at the time
3 of arrest and continues to have in force a written policy to pre-
4 vent the sale of ~~cigarettes, cigars, chewing tobacco, tobacco~~
5 ~~snuff, and other~~ tobacco products to persons under 18 years of
6 age, and that the defendant enforced and continues to enforce the
7 policy. A defendant who proposes to offer evidence of the affir-
8 mative defense described in this subsection shall file and serve
9 notice of the defense, in writing, upon the court and the prose-
10 cuting attorney. The notice shall be served not less than 14
11 days before the date set for trial.

12 (6) A prosecuting attorney who proposes to offer testimony
13 to rebut the affirmative defense described in subsection (5)
14 shall file and serve a notice of rebuttal, in writing, upon the
15 court and the defendant. The notice shall be served not less
16 than 7 days before the date set for trial, and shall contain the
17 name and address of each rebuttal witness.

18 Sec. 4. As used in this act:

19 (a) "Chewing tobacco" means loose tobacco or a flat, com-
20 pressed cake of tobacco that is inserted into the mouth to be
21 chewed or sucked.

22 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH.

23 (c) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP,
24 OR OTHER BUSINESS ENTITY.

25 (d) ~~(b)~~ "Person who sells tobacco products at retail"
26 means a person whose ordinary course of business consists, in

1 whole or in part, of the retail sale of tobacco products subject
2 to state sales tax.

3 (E) "TOBACCO PRODUCT" MEANS A PRODUCT THAT CONTAINS TOBACCO
4 AND IS INTENDED FOR HUMAN CONSUMPTION, INCLUDING BUT NOT LIMITED
5 TO CIGARETTES, NONCIGARETTE SMOKING TOBACCO, OR SMOKELESS TOBACCO
6 AS THOSE TERMS ARE DEFINED IN SECTION 2 OF THE TOBACCO PRODUCTS
7 TAX ACT, ACT NO. 327 OF THE PUBLIC ACTS OF 1993, BEING SECTION
8 205.422 OF THE MICHIGAN COMPILED LAWS, AND CIGARS.

9 (F) ~~(e)~~ "Tobacco snuff" means shredded, powdered, or pul-
10 verized tobacco that may be inhaled through the nostrils, chewed,
11 or placed against the gums.