



Senate Fiscal Agency
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Senate Bill 311 (as reported by the Committee of the Whole)
Sponsor: Senator Steven Bieda
Committee: Judiciary

(as passed by the Senate)

Date Completed: 9-24-13

RATIONALE

According to a U.S. Surgeon General report, after several years of reduced use of tobacco by youths and young adults, the decline in rates has slowed for cigarette smoking and stalled for smokeless tobacco use ("Preventing Tobacco Use Among Youth and Young Adults", 2012). The report characterizes tobacco use as a "pediatric epidemic". Almost all tobacco use begins in childhood and adolescence, according to the report, and about 80% of youth smokers will smoke into adulthood. Some people believe that one way to contribute to efforts to reduce youth tobacco use would be to increase the fines for furnishing tobacco to a minor and for a minor's purchase, possession, or use of tobacco.

CONTENT

The bill would amend the Youth Tobacco Act to increase the penalties for selling, giving, or furnishing a tobacco product to a minor and for a minor's purchase, possession, or use of a tobacco product.

The Act prohibits a person from selling, giving, or furnishing a tobacco product to a minor (a person under 18 years of age). The Act also prohibits a minor from doing any of the following:

- Purchasing or attempting to purchase a tobacco product.
- Possessing or attempting to possess a tobacco product.
- Using a tobacco product in a public place.
- Presenting or offering to a person a purported proof of age that is false, fraudulent, or not actually his or her own proof of age, for the purpose of buying, possessing, or attempting to buy or possess a tobacco product.

The violations described above are misdemeanors punishable by a fine of not more than \$50 for each violation. Under the bill, the misdemeanors would be punishable by a maximum fine of \$100 for a first violation and up to \$500 for a second or subsequent violation.

(The Act defines "tobacco product" as a product that contains tobacco and is intended for human consumption, including cigarettes, noncigarette smoking tobacco, smokeless tobacco, and cigars.)

The bill would take effect 90 days after it was enacted.

MCL 722.641 & 722.642

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to the 2012 U.S. Surgeon General's report, "Cigarette smoking by youth and young adults has immediate adverse health consequences, including addiction, and accelerates the development of chronic diseases across the full life course." The report states that 88% of adults who smoke daily began smoking by the age of 18, and that among youths who persist in smoking, half will die about 13 years earlier than their nonsmoking peers. According to the Department of Community Health, in a 2011 survey on youth risk behavior, almost 60,000 Michigan high school students said they had smoked in the past month, while almost 16,000 smoked daily, despite the fact that Michigan law prohibits tobacco possession and use by minors and also proscribes providing tobacco products to minors.

The Surgeon General's report states, "Coordinated, multicomponent interventions...are effective in reducing the initiation, prevalence, and intensity of smoking among youth and young adults." Part of such a coordinated effort could include stronger, and more appropriate, penalties for providing tobacco to minors and for minors who use tobacco products. The current maximum fine of \$50 has not been changed since at least 1988 and evidently is inadequate to deter youth smoking and to keep tobacco out of children's hands. Raising the fine for a first violation by roughly the rate of inflation over the last 25 years, to \$100, and instituting a higher fine of \$500 for each subsequent violation, would punish offenders more appropriately and could discourage retailers and others from furnishing tobacco to minors.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate, likely minor and positive, fiscal impact on State and local government. The fine increase from \$50 to \$100, and the creation of a subsequent offense fine of \$500, would likely increase fine revenue. This increased fine revenue could be partially offset by behavior deterrence due to the increased penalties. Any additional fine revenue would benefit public libraries, the constitutionally designated beneficiaries of penal fine revenue.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.