

# SENATE BILL NO. 784

February 05, 2020, Introduced by Senator THEIS and referred to the Committee on Regulatory Reform.

A bill to amend 1915 PA 31, entitled  
"Youth tobacco act,"  
by amending section 1 (MCL 722.641), as amended by 2019 PA 18.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. (1) A person shall not sell, give, or furnish a  
2 tobacco product, vapor product, or alternative nicotine product to  
3 a minor, including, but not limited to, through a vending machine.  
4 A person who violates this subsection or subsection (8) **or (9)** is  
5 guilty of a misdemeanor punishable by a fine as follows:  
6       (a) For a first offense, not more than ~~\$100.00.~~ **\$500.00.**

(b) For a second offense, not more than ~~\$500.00.~~ **\$1,000.00.**

(c) For a third or subsequent offense, not more than \$2,500.00.

(2) A person who sells tobacco products, vapor products, or alternative nicotine products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign produced by the department of health and human services that includes the following statement:

"The purchase of a tobacco product, vapor product, or alternative nicotine product by a minor under ~~18~~**21** years of age and the provision of a tobacco product, vapor product, or alternative nicotine product to a minor are prohibited by law. A minor who unlawfully purchases or uses a tobacco product, vapor product, or alternative nicotine product is subject to criminal penalties."

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

(4) The department of health and human services shall produce the sign required under subsection (2) and have adequate copies of the sign ready for distribution to licensed wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products and to persons who sell vapor products or alternative nicotine products at retail free of charge. Licensed wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products shall obtain copies

1 of the sign from the department of health and human services and  
2 distribute them free of charge, ~~upon-on~~ request, to persons who  
3 sell tobacco products and who are subject to subsection (2). The  
4 department of health and human services shall provide copies of the  
5 sign free of charge, ~~upon-on~~ request, to persons subject to  
6 subsection (2) who do not purchase their supply of tobacco products  
7 from wholesalers, secondary wholesalers, and unclassified acquirers  
8 of tobacco products licensed under the tobacco products tax act,  
9 1993 PA 327, MCL 205.421 to 205.436, and to persons who sell vapor  
10 products or alternative nicotine products at retail.

11 (5) It is an affirmative defense to a charge under subsection  
12 (1) that the defendant had in force at the time of arrest and  
13 continues to have in force a written policy to prevent the sale of  
14 tobacco products, vapor products, or alternative nicotine products,  
15 as applicable, to persons under ~~18~~**21** years of age and that the  
16 defendant enforced and continues to enforce the policy. A defendant  
17 who proposes to offer evidence of the affirmative defense described  
18 in this subsection shall file notice of the defense, in writing,  
19 with the court and serve a copy of the notice on the prosecuting  
20 attorney. The defendant shall serve the notice not less than 14  
21 days before the date set for trial.

22 (6) A prosecuting attorney who proposes to offer testimony to  
23 rebut the affirmative defense described in subsection (5) shall  
24 file a notice of rebuttal, in writing, with the court and serve a  
25 copy of the notice on the defendant. The prosecuting attorney shall  
26 serve the notice not less than 7 days before the date set for trial  
27 and shall include in the notice the name and address of each  
28 rebuttal witness.

29 (7) Subsection (1) does not apply to the handling or

1 transportation of a tobacco product, vapor product, or alternative  
2 nicotine product by a minor under the terms of the minor's  
3 employment.

4 (8) Before selling, offering for sale, giving, or furnishing a  
5 tobacco product, ~~vapor product, or an~~ alternative nicotine product,  
6 **or, until May 31, 2020, a vapor product** to an individual, a person  
7 shall verify that the individual is at least ~~18~~**21** years of age by  
8 doing 1 of the following:

9 (a) If the individual appears to be under 27 years of age,  
10 examining a government-issued photographic identification that  
11 establishes that the individual is at least ~~18~~**21** years of age.

12 (b) For sales made by the internet or other remote sales  
13 method, performing an age verification through an independent,  
14 third-party age verification service that compares information  
15 available from a commercially available database, or aggregate of  
16 databases, that are regularly used by government agencies and  
17 businesses for the purpose of age and identity verification to the  
18 personal information entered by the individual during the ordering  
19 process that establishes that the individual is ~~18~~**21** years of age  
20 or older.

21 (9) **Beginning June 1, 2020, before selling, offering for sale,**  
22 **giving, or furnishing a vapor product to an individual, a person**  
23 **shall verify that the individual is at least 21 years of age by**  
24 **doing 1 of the following:**

25 (a) **Scanning a government-issued photographic identification**  
26 **to verify that the purchaser is at least 21 years of age and that**  
27 **the photographic identification has not expired.**

28 (b) **For sales made by the internet or other remote sales**  
29 **method, performing an age verification through an independent,**

1 third-party age verification service that compares information  
2 available from a commercially available database, or aggregate of  
3 databases, that are regularly used by government agencies and  
4 businesses for the purpose of age and identity verification to the  
5 personal information entered by the individual during the ordering  
6 process that establishes that the individual is 21 years of age or  
7 older.

8 Enacting section 1. This amendatory act does not take effect  
9 unless all of the following bills of the 100th Legislature are  
10 enacted into law:

11 (a) Senate Bill No. 781.

12  
13 (b) Senate Bill No. 782.

14  
15 (c) Senate Bill No. 783.