

# SENATE BILL NO. 785

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

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 42b (MCL 750.42b), as added by 1992 PA 273.

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

1       Sec. 42b. (1) Except as provided in subsection (3), a person  
2 shall not sell or distribute a tobacco product in this state  
3 through the use of the United States mail service, express mail  
4 service, parcel post service, or any common carrier service except  
5 to persons who have previously paid or agreed to pay for the  
6 products at fair market value. This subsection ~~shall~~**does** not ~~be~~

~~construed to~~ apply to any person employed by the United States  
~~postal service~~ **Postal Service** or by any common carrier while  
carrying or delivering a tobacco product mailed or shipped by  
another person.

(2) A person shall not, as part of his, her, or its business,  
either directly or through an agent, distribute tobacco products to  
persons who did not previously pay or agree to pay for the products  
unless all of the following provisions are met:

(a) The person or agent ~~distributing~~ **that distributes** the  
tobacco product distributes only tobacco products regularly sold or  
manufactured by that person or agent.

(b) The person ~~distributing~~ **that distributes** the tobacco  
product ascertains that the ~~person receiving~~ **individual who**  
**receives** the tobacco product is ~~18~~ **21** years of age or older.

(c) The ~~person receiving~~ **individual who receives** the tobacco  
product is physically present to receive the product.

(d) Distribution is not prohibited by any local ordinance.

(3) Subsection (1) does not prohibit the sale or distribution  
of a tobacco product in this state through the use of the United  
States mail service, express mail service, parcel post service, or  
any common carrier service if the sale or distribution is in  
response to a consumer complaint or is part of a direct mail  
marketing of products to specifically named individuals, and which  
response or marketing involves the prior return by the same  
specifically-named individual of an authorization card to the  
tobacco company that indicates that the individual is at least ~~18~~  
**21** years of age, is signed by the individual, and is kept on file  
by the tobacco company for at least 1 year.

(4) A person who violates subsection (1) is guilty of a

1 misdemeanor ~~punishable by imprisonment for not more than 1 year~~ ~~or by a fine of not more than \$10,000.00, or both.~~

3 (5) A person who violates subsection (2) is guilty of a  
4 misdemeanor ~~punishable by imprisonment~~ **1 or more of the**  
5 **following:**

6 (a) **Imprisonment** for not more than 90 days. ~~a~~

7 (b) **A** fine of not more than \$500.00. ~~service to the~~  
8 ~~community~~

9 (c) **Community service** for not more than 180 days. ~~or any~~  
10 ~~combination thereof.~~

11 (6) As used in this section:

12 (a) "Employed" includes engaged as an agent or independent  
13 contractor.

14 (b) "Person" means an individual, partnership, corporation,  
15 association, or other legal entity.

16 (c) "Sell or distribute" includes ~~sending to~~ **send** or ~~providing~~  
17 **to provide** free samples or any other distribution not for sale.

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

21 (a) Senate Bill No. 782.

22

23 (b) Senate Bill No. 783.

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25 (c) Senate Bill No. 784.

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