

Legislative Analysis



USE OF A TOBACCO OR VAPOR PRODUCT BY A MINOR

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4427 (proposed substitute H-3)

Sponsor: Rep. Ryan Berman

Committee: Regulatory Reform

Complete to 5-24-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4427 would amend the Youth Tobacco Act to revise the penalties relating to use of a tobacco product, vapor product, or alternative nicotine product by a minor to eliminate criminal penalties for a violation for use of a tobacco product and instead make a violation a civil infraction with a civil fine. The bill would also revise the civil fine for a third or subsequent violation of use of a vapor product or alternative nicotine product.

Tobacco products

Currently, it is a criminal offense for a minor (under 18 years of age) to purchase, possess, or attempt to purchase or possess a tobacco product; use a tobacco product in a public place; or present or offer a fake ID for the purpose of purchasing, possessing, or attempting to purchase or possess a tobacco product. A violation is a misdemeanor punishable by a fine of \$50 for each violation. In addition, a court could impose community service (the maximum number of hours range from 16 for a first violation to 48 hours for a third or subsequent violation) and participation in a health promotion and risk reduction assessment program.

The bill would eliminate the \$50 criminal penalty for a violation involving tobacco and instead make a violation a state civil infraction with the following sanctions:

| | |
|--------------------------------|------------------------------|
| First violation: | A civil fine of up to \$50. |
| Second violation: | A civil fine of up to \$100. |
| Third or subsequent violation: | A civil fine of up to \$150. |

The bill would retain the court's ability to impose community service and to require participation in a health promotion and risk reduction assessment program.

Vapor products and alternative nicotine products

Similarly, a minor is prohibited from purchasing, possessing, or attempting to purchase or possess a vapor product or alternative nicotine product; using either product in a public place; or presenting or offering a fake ID for the purpose of purchasing, possessing, or attempting to purchase or possess either product. A court may impose community service (with the same maximum hours per number of prior offenses) or participation in a health promotion and risk reduction assessment program, or both, as for a violation involving tobacco products. However, a violation is currently a state civil infraction. The maximum civil fine that could be imposed for a violation under the bill is as follows:

| | |
|--------------------------------|--|
| First violation: | Maximum fine of \$50 (current fine). |
| Second violation: | Maximum fine of \$50 (current fine). |
| Third or subsequent violation: | Maximum fine of \$100 (increased from \$50). |

The bill would take effect 90 days after its enactment.

MCL 722.642

FISCAL IMPACT:

House Bill 4427 would have an indeterminate fiscal impact on the state and on local units of government. In revising penalties related to youth and the use of tobacco products from misdemeanors to civil infractions, the bill would impact revenue going to public and county law libraries and revenue deposited into the state's Justice System Fund. Any decrease in fine revenue under misdemeanor convictions and increase in fine revenue from payment of civil infraction penalties would impact revenue going to public and county law libraries. A small portion of revenue from payment of civil infraction penalties would be deposited into the state Justice System Fund, which supports various justice-related endeavors in the judicial and legislative branches of government and the Departments of State Police, Corrections, Health and Human Services, and Treasury. There is not a practical way to estimate the current number of misdemeanor convictions or revenue from fines, compared to future civil infraction revenue.

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