

HOUSE BILL NO. 4427

March 03, 2021, Introduced by Reps. Berman, Roth and Jones and referred to the Committee on Regulatory Reform.

A bill to amend 1915 PA 31, entitled
"Youth tobacco act,"
by amending the title and section 2 (MCL 722.642), as amended by
2019 PA 18.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1	TITLE
2	An act to prohibit the selling, giving, or furnishing of
3	tobacco products, vapor products, and alternative nicotine products
4	to minors; to prohibit the purchase, possession, or use of tobacco

1 products, vapor products, and alternative nicotine products by
2 minors; to regulate the retail sale of tobacco products, vapor
3 products, alternative nicotine products, and liquid nicotine
4 containers; to prescribe penalties **and civil sanctions**; and to
5 prescribe the powers and duties of certain state agencies and
6 departments.

7 Sec. 2. (1) Subject to subsection (6), a minor shall not do
8 any of the following:

9 (a) Purchase or attempt to purchase a tobacco product.

10 (b) Possess or attempt to possess a tobacco product.

11 (c) Use a tobacco product in a public place.

12 (d) Present or offer to an individual a purported proof of age
13 that is false, fraudulent, or not actually his or her own proof of
14 age for the purpose of purchasing, attempting to purchase,
15 possessing, or attempting to possess a tobacco product.

16 (2) An individual who violates subsection (1) is ~~guilty of a~~
17 ~~misdemeanor punishable by a fine of not more than \$50.00 for each~~
18 ~~violation.~~ **responsible for a state civil infraction or guilty of a**
19 **misdemeanor as follows:**

20 (a) **For the first violation, the individual is responsible for**
21 **a state civil infraction and shall be fined not more than \$100.00.**
22 **The court may order an individual to participate in a health**
23 **promotion and risk reduction assessment program, if available. In**
24 **addition, the court may order the individual to perform not more**
25 **than 16 hours of community service in a hospice, nursing home, or**
26 **long-term care facility. An individual may be found responsible or**
27 **admit responsibility only once under this subdivision.**

28 (b) **If a violation of subsection (1) occurs after 1 prior**
29 **judgment, the minor is guilty of a misdemeanor punishable by**

1 **imprisonment for not more than 30 days or by a fine of not more**
2 **than \$200.00, or both.** Pursuant to a probation order, the court may
3 also require ~~an~~**the** individual ~~who violates subsection (1) to~~
4 participate in a health promotion and risk reduction assessment
5 program, if available. In addition, ~~an individual who violates~~
6 ~~subsection (1) is subject to the following:~~

7 ~~(a) For the first violation, the court may order the~~
8 ~~individual to do 1 of the following:~~

9 ~~(i) Perform not more than 16 hours of community service.~~

10 ~~(ii) Participate in a health promotion and risk reduction~~
11 ~~assessment program.~~

12 ~~(b) For a second violation, in addition to participation in a~~
13 ~~health promotion and risk reduction assessment program, the court~~
14 may order the individual to perform not more than 32 hours of
15 community service **in a hospice, nursing home, or long-term care**
16 **facility.**

17 ~~(c) For a third or subsequent violation, in~~ **If a violation of**
18 **subsection (1) occurs after 2 or more prior judgments, the**
19 **individual is guilty of a misdemeanor punishable by imprisonment**
20 **for not more than 60 days or a fine of not more than \$500.00, or**
21 **both. Pursuant to a probation order, the court may also require the**
22 **individual to participate in a health promotion and risk reduction**
23 **assessment program, if available. In** addition to participation in a
24 health promotion and risk reduction assessment program, the court
25 may order the individual to perform not more than 48 hours of
26 community service **in a hospice, nursing home, or long-term care**
27 **facility.**

28 (3) Subject to subsection (6), a minor shall not do any of the
29 following:

1 (a) Purchase or attempt to purchase a vapor product or
2 alternative nicotine product.

3 (b) Possess or attempt to possess a vapor product or
4 alternative nicotine product.

5 (c) Use a vapor product or alternative nicotine product in a
6 public place.

7 (d) Present or offer to an individual a purported proof of age
8 that is false, fraudulent, or not actually his or her own proof of
9 age for the purpose of purchasing, attempting to purchase,
10 possessing, or attempting to possess a vapor product or alternative
11 nicotine product.

12 (4) An individual who violates subsection (3) is responsible
13 for a state civil infraction or guilty of a misdemeanor as follows:

14 (a) For the first violation, the individual is responsible for
15 a state civil infraction and shall be fined not more than \$50.00.
16 The court may order the individual to participate in a health
17 promotion and risk reduction assessment program, if available. In
18 addition, the court may order the individual to perform not more
19 than 16 hours of community service.

20 (b) For the second violation, the individual is responsible
21 for a state civil infraction and shall be fined not more than
22 \$50.00. The court may order the individual to participate in a
23 health promotion and risk reduction assessment program, if
24 available. In addition, the court may order the individual to
25 perform not more than 32 hours of community service.

26 (c) If a violation of subsection (3) occurs after 2 or more
27 prior judgments, the individual is guilty of a misdemeanor
28 punishable by a fine of not more than \$50.00 for each violation.
29 Pursuant to a probation order, the court may also require the

1 individual to participate in a health promotion and risk reduction
2 assessment program, if available. In addition, the court may order
3 the individual to perform not more than 48 hours of community
4 service.

5 (5) An individual who is ordered to participate in a health
6 promotion and risk reduction assessment program under subsection
7 (2) or (4) is responsible for the costs of participating in the
8 program.

9 (6) Subsections (1) and (3) do not apply to a minor **who is**
10 participating in any of the following:

11 (a) An undercover operation in which the minor purchases or
12 receives a tobacco product, vapor product, or alternative nicotine
13 product under the direction of the minor's employer and with the
14 prior approval of the local prosecutor's office as part of an
15 employer-sponsored internal enforcement action.

16 (b) An undercover operation in which the minor purchases or
17 receives a tobacco product, vapor product, or alternative nicotine
18 product under the direction of the state police or a local police
19 agency as part of an enforcement action, unless the initial or
20 contemporaneous purchase or receipt of the tobacco product, vapor
21 product, or alternative nicotine product by the minor was not under
22 the direction of the state police or the local police agency and
23 was not part of the undercover operation.

24 (c) Compliance checks in which the minor attempts to purchase
25 tobacco products for the purpose of satisfying federal substance
26 abuse block grant youth tobacco access requirements, if the
27 compliance checks are conducted under the direction of a substance
28 use disorder coordinating agency and with the prior approval of the
29 state police or a local police agency.

1 (7) Subsections (1) and (3) do not apply to the handling or
2 transportation of a tobacco product, vapor product, or alternative
3 nicotine product by a minor under the terms of the minor's
4 employment.

5 (8) This section does not prohibit an individual from being
6 charged with, convicted of, or sentenced for any other violation of
7 law that arises out of the violation of subsection (1) or (3).

8 Enacting section 1. This amendatory act takes effect 90 days
9 after the date it is enacted into law.