

SUBSTITUTE FOR
HOUSE BILL NO. 4427

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
5 products, vapor products, and alternative nicotine products by
6 minors; to regulate the retail sale of tobacco products, vapor
7 products, alternative nicotine products, and liquid nicotine
8 containers; to prescribe penalties **and civil sanctions**; and to

1 prescribe the powers and duties of certain state agencies and
2 departments.

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

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

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

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

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

12 (2) An individual who violates subsection (1) is ~~guilty of a~~
13 ~~misdemeanor punishable by a fine of not more than \$50.00 for each~~
14 ~~violation. Pursuant to a probation order, the~~ **responsible for a**
15 **state civil infraction as follows:**

16 (a) **For the first violation, the individual shall be fined not**
17 **more than \$50.00. The court may require the individual to**
18 **participate in a health promotion and risk reduction assessment**
19 **program, if available. In addition to participation in a health**
20 **promotion and risk reduction assessment program, the court may**
21 **order the individual to perform not more than 16 hours of community**
22 **service.**

23 (b) **If a violation of subsection (1) occurs after 1 prior**
24 **judgment, the individual shall be fined not more than \$100.00. The**
25 **court may also require an** ~~the individual who violates subsection~~
26 ~~(1) to participate in a health promotion and risk reduction~~
27 ~~assessment program, if available. In addition, an individual who~~
28 ~~violates subsection (1) is subject to the following:~~

29 ~~(a) For the first violation, the court may order the~~

1 ~~individual to do 1 of the following:~~

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

3 ~~(ii) Participate in a health promotion and risk reduction~~
4 ~~assessment program.~~

5 ~~(b) For a second violation, in addition to participation in a~~
6 ~~health promotion and risk reduction assessment program, to~~
7 **participation in a health promotion and risk reduction assessment**
8 **program**, the court may order the individual to perform not more
9 than 32 hours of community service.

10 ~~(c) For a third or subsequent violation, in~~ **If a violation of**
11 **subsection (1) occurs after 2 or more prior judgments, the**
12 **individual shall be fined not more than \$150.00. The court may also**
13 **require the individual to participate in a health promotion and**
14 **risk reduction assessment program, if available. In** addition to
15 participation in a health promotion and risk reduction assessment
16 program, the court may order the individual to perform not more
17 than 48 hours of community service.

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

20 (a) Purchase or attempt to purchase a vapor product or
21 alternative nicotine product.

22 (b) Possess or attempt to possess a vapor product or
23 alternative nicotine product.

24 (c) Use a vapor product or alternative nicotine product in a
25 public place.

26 (d) Present or offer to an individual a purported proof of age
27 that is false, fraudulent, or not actually his or her own proof of
28 age for the purpose of purchasing, attempting to purchase,
29 possessing, or attempting to possess a vapor product or alternative

1 nicotine product.

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

4 (a) For the first violation, the individual ~~is responsible for~~
5 ~~a state civil infraction and~~ shall be fined not more than \$50.00.
6 The court may order the individual to participate in a health
7 promotion and risk reduction assessment program, if available. In
8 addition **to participation in a health promotion and risk reduction**
9 **assessment program**, the court may order the individual to perform
10 not more than 16 hours of community service.

11 (b) For the second violation, the individual is responsible
12 for a state civil infraction and shall be fined not more than
13 \$50.00. The court may order the individual to participate in a
14 health promotion and risk reduction assessment program, if
15 available. In addition **to participation in a health promotion and**
16 **risk reduction assessment program**, the court may order the
17 individual to perform not more than 32 hours of community service.

18 (c) If a violation of subsection (3) occurs after 2 or more
19 prior judgments, the individual ~~is guilty of a misdemeanor~~
20 ~~punishable by a fine of~~ **shall be fined** not more than ~~\$50.00~~ **\$100.00**
21 for each violation. ~~Pursuant to a probation order, the~~ **The** court
22 may also require the individual to participate in a health
23 promotion and risk reduction assessment program, if available. In
24 addition **to participation in a health promotion and risk reduction**
25 **assessment program**, the court may order the individual to perform
26 not more than 48 hours of community service.

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

1 program.

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

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

9 (b) An undercover operation in which the minor purchases or
10 receives a tobacco product, vapor product, or alternative nicotine
11 product under the direction of the state police or a local police
12 agency as part of an enforcement action, unless the initial or
13 contemporaneous purchase or receipt of the tobacco product, vapor
14 product, or alternative nicotine product by the minor was not under
15 the direction of the state police or the local police agency and
16 was not part of the undercover operation.

17 (c) Compliance checks in which the minor attempts to purchase
18 tobacco products for the purpose of satisfying federal substance
19 abuse block grant youth tobacco access requirements, if the
20 compliance checks are conducted under the direction of a substance
21 use disorder coordinating agency and with the prior approval of the
22 state police or a local police agency.

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

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

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