

# HOUSE BILL NO. 5198

October 24, 2023, Introduced by Reps. Farhat, Wilson, O'Neal, Hood, Rheingans, Dievendorf, Byrnes, Steckloff, Mentzer, Hope, Brabec, Miller, McKinney, Edwards, Churches, Morgan, Skaggs, Weiss, Tyrone Carter, Glanville, Grant, Brixie, Price, Paiz, Scott, Liberati, McFall, Coleman, Tsernoglou, Martus, Conlin, Wegela, Bierlein, Mueller, Kunse, Brenda Carter, VanderWall, Schuette, BeGole, Rogers, Andrews, Koleszar, Hoskins, Arbit, Morse, Breen, Haadsma, Whitsett and Aiyash and referred to the Committee on Regulatory Reform.

A bill to amend 1915 PA 31, entitled  
"Youth tobacco act,"  
(MCL 722.641 to 722.645) by amending the title, as amended by 2019  
PA 18, and by adding section 2e.

## 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 prohibit certain practices that relate to the**  
5 **distribution and sale of certain vapor products; to authorize the**  
6 **seizure, forfeiture, and destruction of certain vapor products; to**  
7 prescribe penalties **and civil sanctions;** and to prescribe the  
8 powers and duties of certain state **and local** agencies and  
9 departments.

10 **Sec. 2e. (1) A person shall not advertise, distribute, market,**  
11 **offer for sale, or sell a vapor product by using either of the**  
12 **following:**

13 (a) In a trademark of the product or in the product's  
14 advertising, branding, design, marketing, or packaging, the terms  
15 "cake", "candy", "cupcake", "pastry", or "pie"; a variation of 1 or  
16 more of those terms; or any other term that references a type or  
17 brand of cake, candy, cupcake, pastry, or pie, including, but not  
18 limited to, a type or brand of cake, candy, cupcake, pastry, or pie  
19 that does not include the terms "cake", "candy", "cupcake",  
20 "pastry", or "pie" in its name or any of its slogans.

21 (b) In a trademark of the product or in the product's  
22 advertising, branding, design, marketing, packaging, or trade  
23 dress, a depiction or signifier of any of the following:

24 (i) A food, or a brand of food, marketed to minors, including,  
25 but not limited to, any of the following:

26 (A) A cereal.

27 (B) A cookie, ice cream, sherbet, sorbet, or other dessert.

28 (C) A flavored beverage, juice, or other soft drink.

29 (ii) A character, personality, or symbol known to appeal to

1 minors, including, but not limited to, any of the following:

2 (A) A celebrity.

3 (B) A character in a comic book, movie, television show, or  
4 video game.

5 (C) A unicorn or any other mythical creature.

6 (iii) School supplies primarily used by minors, including, but  
7 not limited to, any of the following:

8 (A) Erasers.

9 (B) Highlighters.

10 (C) Ink pens.

11 (D) Pencils.

12 (2) A person that violates subsection (1) is guilty of a  
13 misdemeanor punishable by a fine as follows:

14 (a) For a first violation, not more than \$100.00.

15 (b) For a second violation, not more than \$500.00.

16 (c) For a third or subsequent violation, not more than  
17 \$2,500.00.

18 (3) A vapor product advertised, distributed, marketed, offered  
19 for sale, or sold in violation of subsection (1) is contraband  
20 subject to seizure, forfeiture, and destruction by an entity  
21 described in subsection (4) in a manner consistent with section 9  
22 of the tobacco products tax act, 1993 PA 327, MCL 205.429.

23 (4) One or more of the following entities may conduct a  
24 compliance check to ensure a person's compliance with this section:

25 (a) The department of attorney general.

26 (b) The department of state police.

27 (c) A law enforcement agency of a county, city, village, or  
28 township.

29 Enacting section 1. This amendatory act takes effect July 1,

1 2024.