

YOUTH TOBACCO ACT (EXCERPT)
Act 31 of 1915

***** 722.641.amended THIS AMENDED SECTION IS EFFECTIVE SEPTEMBER 2, 2019 *****

722.641.amended Selling, giving, or furnishing tobacco products, vapor products, or alternative nicotine products to minor prohibited; misdemeanor; penalty; sign required; copies of sign; affirmative defense; notice; rebuttal testimony; notice of rebuttal; exception; identity and age verification requirements.

Sec. 1. (1) A person shall not sell, give, or furnish a tobacco product, vapor product, or alternative nicotine product to a minor, including, but not limited to, through a vending machine. A person who violates this subsection or subsection (8) is guilty of a misdemeanor punishable by a fine as follows:

- (a) For a first offense, not more than \$100.00.
- (b) For a second offense, not more than \$500.00.
- (c) For a third or subsequent offense, not more than \$2,500.00.

(2) A person who sells tobacco products, vapor products, or alternative nicotine products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign produced by the department of health and human services that includes the following statement:

"The purchase of a tobacco product, vapor product, or alternative nicotine product by a minor under 18 years of age and the provision of a tobacco product, vapor product, or alternative nicotine product to a minor are prohibited by law. A minor who unlawfully purchases or uses a tobacco product, vapor product, or alternative nicotine product is subject to criminal penalties."

(3) If the sign required under subsection (2) is more than 6 feet from the point of sale, it must be 5-1/2 inches by 8-1/2 inches and the statement required under subsection (2) must be printed in 36-point boldfaced type. If the sign required under subsection (2) is 6 feet or less from the point of sale, it must be 2 inches by 4 inches and the statement required under subsection (2) must be printed in 20-point boldfaced type.

(4) The department of health and human services shall produce the sign required under subsection (2) and have adequate copies of the sign ready for distribution to licensed wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products and to persons who sell vapor products or alternative nicotine products at retail free of charge. Licensed wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products shall obtain copies of the sign from the department of health and human services and distribute them free of charge, upon request, to persons who sell tobacco products and who are subject to subsection (2). The department of health and human services shall provide copies of the sign free of charge, upon request, to persons subject to subsection (2) who do not purchase their supply of tobacco products from wholesalers, secondary wholesalers, and unclassified acquirers of tobacco products licensed under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, and to persons who sell vapor products or alternative nicotine products at retail.

(5) It is an affirmative defense to a charge under subsection (1) that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of tobacco products, vapor products, or alternative nicotine products, as applicable, to persons under 18 years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file notice of the defense, in writing, with the court and serve a copy of the notice on the prosecuting attorney. The defendant shall serve the notice not less than 14 days before the date set for trial.

(6) A prosecuting attorney who proposes to offer testimony to rebut the affirmative defense described in subsection (5) shall file a notice of rebuttal, in writing, with the court and serve a copy of the notice on the defendant. The prosecuting attorney shall serve the notice not less than 7 days before the date set for trial and shall include in the notice the name and address of each rebuttal witness.

(7) Subsection (1) does not apply to the handling or transportation of a tobacco product, vapor product, or alternative nicotine product by a minor under the terms of the minor's employment.

(8) Before selling, offering for sale, giving, or furnishing a tobacco product, vapor product, or alternative nicotine product to an individual, a person shall verify that the individual is at least 18 years of age by doing 1 of the following:

(a) If the individual appears to be under 27 years of age, examining a government-issued photographic identification that establishes that the individual is at least 18 years of age.

(b) For sales made by the internet or other remote sales method, performing an age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of databases, that are regularly used by government agencies and businesses

for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is 18 years of age or older.

History: 1915, Act 31, Eff. Aug. 24, 1915;—CL 1915, 5185;—CL 1929, 12826;—CL 1948, 722.641;—Am. 1972, Act 29, Imd. Eff. Feb. 19, 1972;—Am. 1988, Act 314, Eff. Mar. 30, 1989;—Am. 2006, Act 236, Eff. Sept. 1, 2006;—Am. 2019, Act 18, Eff. Sept. 2, 2019.