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Senate Bill 667 (Substitute S-2 as reported)
Senate Bill 668 (Substitute S-4 as reported)
Sponsor: Senator Glenn S. Anderson (S.B. 667)
Senator Rick Jones (S.B. 668)
Committee: Regulatory Reform

CONTENT

Senate Bill 667 (S-2) would amend the Youth Tobacco Act to prohibit a minor from purchasing, possessing, using, or attempting to purchase or possess a vapor product or alternative nicotine product. It also would prohibit a minor from presenting or offering to an individual a proof of age that was false, fraudulent, or not actually his or her own proof of age, for the purpose of purchasing, possessing, or attempting to purchase or possess a vapor product or nicotine product.

The Act makes it a misdemeanor, punishable by a maximum fine of \$50 for each violation, for a minor to purchase or possess a tobacco product, or attempt to do so. The court also may require a violator to participate in a health promotion and risk reduction assessment program, and perform community service in a hospice, nursing home, or long-term care facility. The same penalty would apply to the proposed prohibitions.

Senate Bill 668 (S-4) would amend the Act to prohibit a person from selling, giving, or furnishing a vapor product or alternative nicotine product to a minor, including through a vending machine or other means.

Currently, it is a misdemeanor to sell, give, or furnish a tobacco product to a minor, and a violator is subject to a maximum \$50 fine for each violation. The bill would extend this penalty to the proposed prohibition.

The bill would define "alternative nicotine product" as "a noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means". The term would not include a tobacco product, a vapor product, or a product regulated as a drug or device by the U.S. Food and Drug Administration (FDA). The bill would define "vapor product" as "a noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form". The term would include an electronic cigarette, electronic cigar, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with such a product or device. It would not include a product regulated as a drug or device by the FDA.

The Act requires a person who sells tobacco products at retail to post a conspicuous sign in a place close to the point of sale. The sign must include a specific statement about the illegality of the purchase of tobacco by a minor. The Department of Community Health (DCH) must produce the signs, and distribute them free of charge to persons who sell

tobacco at retail. The bill would extend these requirements to a person who sells vapor products or alternative nicotine products at retail.

In addition, the bill would require that a person verify that an individual was at least 18 before selling, offering to sell, giving, or furnishing a vapor or alternative nicotine product to an individual, and would prescribe the methods for verifying the age for in-person and remote sales.

The bills are tie-barred and would take effect 60 days after enactment.

MCL 722.642 (S.B. 667)
722.641 & 722.644 (S.B. 668)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bills would expand the Youth Tobacco Act to apply it to vapor products and alternative nicotine products. This would result in a marginal increase in misdemeanor penalties associated with violations of the Act; these misdemeanors are punishable by a fine of up to \$50, the revenue from which benefits public libraries. For youths violating the Act, additional punishments may include community service and participation in health risk reduction programming. The bills would not have a significant impact on State and local criminal justice costs of incarceration or probation.

Date Completed: 2-14-14

Fiscal Analyst: John Maxwell

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.