

HOUSE BILL No. 4934

June 17, 1997, Introduced by Reps. Goschka, Kukuk, McBryde, Green, Voorhees, Gernaat and Cropsey and referred to the Committee on Health Policy.

A bill to amend 1915 PA 31, entitled
"Youth tobacco act,"
by amending sections 1 and 2 (MCL 722.641 and 722.642), as
amended by 1988 PA 314.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) A person shall not sell, give, or furnish any
2 cigarette, cigar, chewing tobacco, tobacco snuff, or tobacco in
3 any other form OR CIGARETTE PAPER OR PAPER MANUFACTURED TO ROLL A
4 CIGARETTE to a person under 18 years of age. A person who vio-
5 lates this section is guilty of a misdemeanor, punishable by a
6 fine of not more than \$50.00 for each offense.

7 (2) Beginning ~~90 days after the effective date of this~~
8 ~~subsection~~ JUNE 30, 1989, a person who sells tobacco products at
9 retail shall post, in a place close to the point of sale and
10 conspicuous to both employees and customers, a sign produced by

1 the department of ~~public~~ COMMUNITY health that includes the
2 following statement:

3 "The purchase of tobacco products by a minor under 18 years
4 of age and the provision of tobacco products to a minor are pro-
5 hibited by law. A minor unlawfully purchasing or using tobacco
6 products is subject to criminal penalties."

7 (3) If the sign required under subsection (2) is more than 6
8 feet from the point of sale, it shall be 5-1/2 inches by 8-1/2
9 inches, and the statement required under subsection (2) shall be
10 printed in 36-point ~~boldface~~ BOLDFACED type. If the sign
11 required under subsection (2) is 6 feet or less from the point of
12 sale, it shall be 2 inches by 4 inches, and the statement
13 required under subsection (2) shall be printed in 20-point
14 ~~boldface~~ BOLDFACED type.

15 (4) The department of public health shall produce the sign
16 required under subsection (2) and have adequate copies of the
17 sign ready for distribution to licensed wholesalers, secondary
18 wholesalers, and unclassified acquirers of cigarettes and other
19 tobacco products described in subsection (1) free of charge
20 ~~within 60 days after the effective date of this subsection~~ MAY
21 30, 1989. Licensed wholesalers, secondary wholesalers, and
22 unclassified acquirers of cigarettes and other tobacco products
23 described in subsection (1) shall obtain copies of the sign from
24 the department of ~~public~~ COMMUNITY health and distribute them
25 free of charge, upon request, to persons who are subject to
26 subsection (2). The department of ~~public~~ COMMUNITY health
27 shall provide copies of the sign free of charge, upon request, to

1 persons subject to subsection (2) who do not purchase their
2 supply of cigarettes or other tobacco products described in
3 subsection (1) from licensed wholesalers, secondary wholesalers,
4 and unclassified acquirers of cigarettes and other tobacco pro-
5 ducts described in subsection (1).

6 (5) It is an affirmative defense to a charge pursuant to
7 subsection (1) that the defendant had in force at the time of
8 arrest and continues to have in force a written policy to prevent
9 the sale of cigarettes, cigars, chewing tobacco, tobacco snuff,
10 and other tobacco products AND OF CIGARETTE PAPERS OR PAPER MANU-
11 FACTURED TO ROLL A CIGARETTE to persons under 18 years of age,
12 and that the defendant enforced and continues to enforce the
13 policy. A defendant who proposes to offer evidence of the affir-
14 mative defense described in this subsection shall file and serve
15 notice of the defense, in writing, upon the court and the prose-
16 cuting attorney. The notice shall be served not less than 14
17 days before the date set for trial.

18 (6) A prosecuting attorney who proposes to offer testimony
19 to rebut the affirmative defense described in subsection (5)
20 shall file and serve a notice of rebuttal, in writing, upon the
21 court and the defendant. The notice shall be served not less
22 than 7 days before the date set for trial, and shall contain the
23 name and address of each rebuttal witness.

24 Sec. 2. A person under 18 years of age shall not possess or
25 smoke cigarettes or cigars; ~~or~~ possess or chew, suck, or inhale
26 chewing tobacco or tobacco snuff; ~~or~~ possess or use tobacco in
27 any other form; OR POSSESS CIGARETTE PAPER OR PAPER MANUFACTURED

1 TO ROLL A CIGARETTE, on a public highway, street, alley, park, or
2 other lands used for public purposes, or in a public place of
3 business or amusement. A person who violates this section is
4 guilty of a misdemeanor, punishable by a fine of not more than
5 \$50.00 for each offense. Pursuant to a probation order, the
6 court may require a person who violates this section to partici-
7 pate in a health promotion and risk reduction assessment program,
8 if available. A probationer who is ordered to participate in a
9 health promotion and risk reduction assessment program under this
10 section is responsible for the costs of participating in the
11 program. In addition, a person who violates this section is
12 subject to the following:

13 (a) For the first violation, the court may order the person
14 to do 1 of the following:

15 (i) Perform not more than 16 hours of community service in a
16 hospice, nursing home, or long-term care facility.

17 (ii) Participate in a health promotion and risk reduction
18 program, as described in this subsection.

19 (b) For a second violation, in addition to participation in
20 a health promotion and risk reduction program, the court may
21 order the person to perform not more than 32 hours of community
22 service in a hospice, nursing home, or long-term care facility.

23 (c) For a third or subsequent violation, in addition to par-
24 ticipation in a health promotion and risk reduction program, the
25 court may order the person to perform not more than 48 hours of
26 community service in a hospice, nursing home, or long-term care
27 facility.