

Legislative Analysis



YOUTH TOBACCO ACT: DEFINE “MINOR” AS UNDER 21 AND INCLUDE SYNTHETIC NICOTINE PRODUCTS

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<http://www.house.mi.gov/hfa>

House Bill 4878 as introduced
Sponsor: Rep. Jim Lilly
Committee: Rules and Competitiveness
Complete to 5-20-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4878 would amend the Youth Tobacco Act to change the definition of “minor” for purposes of its provisions to mean an individual under the age of 21. The act currently defines “minor” as an individual under 18. In the most general terms, the Youth Tobacco Act prohibits selling or providing tobacco products, vapor products, or alternative nicotine products to minors and also prohibits minors from purchasing, possessing, or using those products. The bill would also add synthetic nicotine products to the products addressed by the act.

The act now prohibits a person from selling, giving, or furnishing a tobacco product, vapor product, or alternative nicotine product to a *minor*, including through a vending machine, and requires a person to verify the age of anyone who looks younger than 27 or who is buying the product remotely before conducting such a transaction. A violation is a misdemeanor punishable by a fine of \$100 for a first offense, \$500 for a second offense, or \$2,500 for a third or subsequent offense. A person who sells these products at retail must post a sign advising that their sale to minors is prohibited under the law.

The bill would amend the above provisions to define *minor* as an individual under 21 years of age (instead of an individual under 18 years of age, as currently). The bill would also add *synthetic nicotine products* to the list of products prohibited or regulated as described above, except that the bill as introduced does not require age verification for synthetic nicotine products. [In addition, there is an exception allowing a minor to handle the prohibited products in the course of his or her job. Synthetic nicotine products are not added to this exception in the bill as introduced.]

Synthetic nicotine product would mean a product intended for human consumption that contains nicotine that has been synthetically produced by the chemical conversion of one or more reagent compounds that are not nicotine. It would not include a vapor product (as defined in the act) or a product regulated as a drug or device by the federal Food and Drug Administration.

The act also prohibits a *minor* from purchasing, possessing, or using a vapor product or alternative nicotine product, attempting to do so, or providing a false proof of age in an attempt to do so. A minor violating these prohibitions is responsible for a civil infraction and must pay a civil fine of up to \$50. The minor may also be subject to a health promotion and risk reduction assessment program or ordered to perform community service. The amount of community service that can be ordered increases with the number of violations. There are exceptions for minors handling these products in the course of their employment or otherwise violating these prohibitions in conjunction with the police as part of an undercover enforcement action.

The bill would also amend these provisions to define *minor* as an individual under 21 years of age (instead of an individual under 18 years of age, as currently) and to add synthetic nicotine products to the list of products prohibited or regulated as described above.

Finally, the bill would prohibit a person who sells vapor products, alternative nicotine products, or synthetic products at retail from displaying for sale or selling a synthetic nicotine product or a vapor product containing synthetic nicotine unless the packaging of the product contains the following notice:

WARNING: Use of this product may be hazardous to your health. This product contains synthetic nicotine. Nicotine is an addictive chemical. This product has not been regulated or approved by the FDA.

The bill would take effect 90 days after its enactment.

The bill is tie-barred to House Bill 4251, which means that it could not take effect unless HB 4251 were also enacted. That bill would prohibit the sale of vapor products containing vitamin E acetate or certain other prohibited ingredients.

MCL 722.641 et seq.

FISCAL IMPACT:

A fiscal impact is in progress.

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