

Legislative Analysis



INCREASE STATE TOBACCO AGE TO MATCH FEDERAL

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House Bills 6108 and 6109 as reported from committee

Sponsor: Rep. Tommy Brann

1st Committee: Regulatory Reform

2nd Committee: Judiciary

Revised 8-19-22

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

SUMMARY:

Before December 20, 2019, the minimum age to purchase and use tobacco products, set by the federal government, was 18 years old. Since that date, the age threshold has been 21 years old. House Bills 6108 and 6109 would each amend sections of state law relating to the age threshold to purchase and use tobacco products.

Specifically, House Bill 6108 would amend the Youth Tobacco Act to update definitions and other provisions to reflect that an individual must now be at least 21 years of age to purchase tobacco products in Michigan and to update posted signage requirements relating to the age limit for retailers. House Bill 6109 would amend the Public Health Code to update the age an individual must be to enter a cigar bar or a tobacco specialty products store.

The bills are tie-barred to one another and to Senate Bills 576, 577, and 720. A bill can take effect only if each of the bills it is tie-barred to is enacted into law.

MCL 722.641 and 722.644 (HB 6108) and MCL 333.12606a (HB 6109)

BRIEF DISCUSSION:

The key disagreement regarding House Bills 6108 and 6109 relates to a bill, SB 577, that the House bills are tie-barred to. While the bills HBs 6108 and 6109 are tie-barred to all involve amending various acts that set the minimum age for tobacco product purchase in Michigan, SB 577 is itself tie-barred to Senate bills that would amend other acts and involve creating a stricter regulatory framework around the sale of tobacco products. These bills are leading to opposition from anti-smoking organizations, which are concerned that the other bills would not adequately address Michigan's violation rate for youth tobacco sales. At issue is Michigan's compliance with the Synar Amendment,¹ which affects eligibility for federal substance abuse prevention and treatment grants. If a state has a 20% or higher violation rate for retailers selling tobacco products to minors, it can lose a portion of its federal substance abuse funds. Anti-smoking organizations argue that Michigan is out of compliance with this threshold and want to see Michigan take action to reduce youth tobacco sale violations.

In Michigan, retailers are randomly selected for a compliance check visit, and the Michigan Department of Health and Human Services (DHHS) works with the state's ten prepaid

¹ <https://www.samhsa.gov/synar/about-synar>

inpatient health plans (PIHPs) to use minors (with parental permission) to attempt to purchase a tobacco product from a retailer selected for survey. If the retailer would go through with the sale, then that is counted as a violation for purposes of Synar.

Anti-smoking organizations want to see Michigan enact stricter penalties for retailers who sell to minors. As it stands, during these compliance checks, minors do not actually complete the purchase, and so no legal action is taken against a retailer who would sell the product. Other states have law enforcement agencies perform these checks and write fines to retailers, and in states where tobacco retailers must be licensed, those committing violations could lose their license.

FISCAL IMPACT:

House Bill 6108 may have modest cost implications for DHHS if any legally required signs or related training or outreach activities or materials for wholesalers or retailers must be modified. Signs and training materials are currently made available through a DHHS publications clearinghouse as downloadable pdfs.

House Bill 6109 would have no cost implications for DHHS or local health departments.

POSITIONS:

Juul indicated support for the bills. (6-14-22)

Representatives of the following organizations testified in opposition to the bills:

- Keeping MI Kids Tobacco Free (5-24-22)
- Tobacco Free Michigan (5-24-22)
- Preventing Tobacco Addiction Foundation (5-24-22)
- American Lung Association in Michigan (6-7-22)

The following entities indicated opposition to the bills:

- Michigan Council for Maternal and Child Health (6-7-22)
- Michigan Academy of Family Physicians (6-7-22)
- Michigan Chapter of the American Society of Addiction Medicine (6-14-22)
- Washtenaw County Medical Society (6-14-22)
- American College of Cardiology – Michigan Chapter (6-7-22)
- Michigan Society of Hematology and Oncology (6-7-22)
- Michigan Chapter of the American Academy of Pediatrics (6-7-22)
- American Heart Association (6-7-22)
- Trinity Health System (6-7-22)
- Campaign for Tobacco Free Kids (6-7-22)
- Michigan Association of School Nurses (5-24-22)
- Michigan Vape Shop Owners (6-14-22)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.