

Legislative Analysis



REMOVE PENALTIES FOR PURCHASE, POSSESSION, OR USE OF TOBACCO OR NICOTINE PRODUCTS BY MINORS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 6004 and 6005 as introduced
Sponsor: Rep. Stephanie A. Young
Committee: Families, Children and Seniors
Revised 12-9-24

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

SUMMARY:

House Bill 6004 would amend the Youth Tobacco Act to do all of the following:

- Eliminate penalties and sanctions that now apply to people under 21 who buy or possess a tobacco product, vapor product, or alternative nicotine product; who use a fake ID to do so or attempt to do so; who use such a product in public; or who attempt to do any of those things.
- Revise signage requirements for tobacco retailers.
- Change the name of the act to the Nicotine and Tobacco Act.

Penalties and sanctions

The act currently prohibit minors (individuals under 21) from doing any of the following with regard to a tobacco product, vapor product, or alternative nicotine product:

- Purchasing or attempting to purchase it.
- Possessing or attempting to possess it.
- Using a false ID to do either of the above.
- Using it in a public space.

For tobacco products, a violation is a misdemeanor punishable by a fine of up to \$50 for each violation. For vapor or alternative nicotine products, a violation is a state civil infraction for a first or second offense, subject to a fine of up to \$50, and a misdemeanor punishable by a fine of up to \$50 for a third or subsequent offense. In addition, for all products, the court can order a number of hours of community service based on the number of offenses (up to 16 hours for a first offense, up to 32 hours for a second offense, and up to 48 hours for a third or subsequent offense). The court can also require the individual to participate in a health promotion and risk assessment program, if such a program is available, under a probation order. In such a case, the individual is responsible for paying the costs of participating in the program.

The bill would eliminate all the prohibitions, penalties, and related provisions described above.

Signage under current law

Currently, a person who sells tobacco products, vapor products, or alternative nicotine products at retail must 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 (DHHS) that includes the following statement:

The purchase of a tobacco product, vapor product, or alternative nicotine product by a minor under 21 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.

If the sign is within six feet from the point of sale, it must be exactly two inches by four inches, with the required statement printed in 20-point boldfaced type. If it is more than six feet away, it must be exactly five and a half by eight and a half inches, with 36-point boldfaced type.

Signage under the bill

The bill would require the sign to be posted six feet or less away from each tobacco product, vapor product, or alternative nicotine product point of sale and be unobstructed. The sign would have to be exactly 14 inches by 11 inches, with the required statement printed in high-contrast red ink in 36-point type that is boldfaced and upper case (i.e., all capital letters).

The bill would revise the required statement to read as follows:

The selling, giving, or furnishing of a tobacco product, vapor product, or alternative nicotine product to an individual who is less than 21 years of age is prohibited by law.

Under both current law and the bill, DHHS must provide these signs to retailers free of charge.¹

MCL 722.641, 722.642, and 722.645

House Bill 6005 would amend the Age of Majority Act of 1971 to change a reference to the Youth Tobacco Act to instead refer to the Nicotine and Tobacco Act, the title proposed by House Bill 6004. The bill cannot take effect unless House Bill 6004 is also enacted.

MCL 722.52 and 722.53

FISCAL IMPACT:

House Bill 6004 would have an indeterminate fiscal impact on the state and on local units of government. Under the bill, penalties and sanctions that now apply to people under the age of 21 would be eliminated, so misdemeanor fine revenue and civil infraction revenue would no longer be ordered or collected. Revenue for public and county law libraries might be reduced along with revenue from civil fines that is required to be deposited into the state's Justice System Fund. Under section 8827(4) of the Revised Judicature Act, \$10 of civil fines ordered is required to be deposited into the state's Justice System Fund, which supports various justice-related endeavors in the judicial branch and legislative branches of government and the Departments of State Police, Corrections, Health and Human Services, and Treasury. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs.

House Bill 6005 would have no fiscal impact on the state or on local units of government.

Legislative Analyst: Rick Yuille
Fiscal Analyst: Robin Risko

■ 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.

¹ <https://www.healthymichigan.com/default.aspx?p=viewcat&showpage=17>