

SUBSTITUTE FOR
SENATE BILL NO. 651

A bill to amend 1915 PA 31, entitled
"Youth tobacco act,"
by amending the title and sections 1, 4, and 5 (MCL 722.641,
722.644, and 722.645), the title as amended by 2019 PA 18, sections
1 and 4 as amended by 2022 PA 167, and section 5 as added by 1988
PA 314, and by adding sections 1a, 1c, 1e, 1g, 1i, 1k, and 1o.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to prohibit the selling, giving, or furnishing of
3 **certain nicotine or** tobacco products, vapor products, ~~and or~~
4 alternative nicotine products to minors; ~~to prohibit the purchase,~~
5 ~~possession, or use of tobacco products, vapor products, and~~
6 ~~alternative nicotine products by minors; to create the nicotine and~~

1 tobacco regulation fund in the state treasury; to require the
 2 licensure and regulation of certain persons; to impose fees for
 3 licensure; to provide for the promulgation of rules; to regulate
 4 the retail sale of nicotine or tobacco products, ~~vapor products,~~
 5 ~~alternative nicotine products,~~ and liquid nicotine containers; to
 6 prescribe penalties and civil sanctions; and to prescribe the
 7 powers and duties of certain state agencies and departments. **local**
 8 **governmental officers and entities.**

9 Sec. 1. (1) A person shall not sell, give, or furnish **either**
 10 **of the following** to a ~~tobacco product, vapor product, or~~
 11 ~~alternative nicotine product to a minor, including, but not limited~~
 12 ~~to, through a vending machine: . A person who violates this~~
 13 ~~subsection or subsection (8) is guilty of a misdemeanor punishable~~
 14 ~~by a fine as follows:~~

15 ~~(a) For a first offense, not more than \$100.00.~~

16 ~~(b) For a second offense, not more than \$500.00.~~

17 ~~(c) For a third or subsequent offense, not more than~~
 18 ~~\$2,500.00.~~

19 ~~(2) A person who sells tobacco products, vapor products, or~~
 20 ~~alternative nicotine products at retail~~

21 **(a) A nicotine or tobacco product.**

22 **(b) A nicotine or tobacco accessory.**

23 **(2) A licensee or an employee of a licensee shall not sell,**
 24 **give, or furnish either of the following to an individual unless**
 25 **the licensee or employee has examined photographic identification**
 26 **of the individual:**

27 **(a) A nicotine or tobacco product.**

28 **(b) A nicotine or tobacco accessory.**

29 **(3) A licensee that violates subsection (1)(a) is subject to**

1 an administrative fine, suspension or revocation of the licensee's
2 license, or both, as follows:

3 (a) For a first violation in a period of 3 years, \$1,500.00.

4 (b) For a second violation in a period of 3 years, \$2,500.00.

5 (c) For a third violation in a period of 3 years, \$3,000.00
6 and the department shall suspend the license for 7 days.

7 (d) For a fourth violation in a period of 3 years, \$4,000.00
8 and the department shall suspend the license for 30 days.

9 (e) For a fifth violation in a period of 3 years, \$5,000.00
10 and the department shall suspend the license for 1 year.

11 (f) For a sixth violation in a period of 3 years, \$5,000.00
12 and the department shall revoke the license.

13 (4) A licensee that violates subsection 1(b) is subject to an
14 administrative fine as follows:

15 (a) For a first violation in a period of 3 years, \$100.00.

16 (b) For a second violation in a period of 3 years, \$150.00.

17 (c) For a third violation in a period of 3 years, \$200.00.

18 (d) For a fourth or subsequent violation in a period of 3
19 years, \$400.00.

20 (5) A licensee that violates subsection 2(a) is subject to an
21 administrative fine as follows:

22 (a) For a first violation in a period of 3 years, \$250.00.

23 (b) For a second violation in a period of 3 years, \$500.00.

24 (c) For a third violation in a period of 3 years, \$750.00.

25 (d) For a fourth or subsequent violation in a period of 3
26 years, \$1,000.00.

27 (6) A licensee that violates subsection 2(b) is subject to an
28 administrative fine as follows:

29 (a) For a first violation in a period of 3 years, \$100.00.

1 (b) For a second violation in a period of 3 years, \$150.00.

2 (c) For a third violation in a period of 3 years, \$200.00.

3 (d) For a fourth or subsequent violation in a period of 3
4 years, \$250.00.

5 (7) An employee, other than a nonmanagerial employee, who
6 violates subsection (1) or (2) is responsible for a state civil
7 infraction and may be ordered to pay a civil fine of not more than
8 \$200.00.

9 (8) A nonmanagerial employee who violates subsection (1) or
10 (2) is responsible for a state civil infraction and may be ordered
11 to pay a civil fine of not more than \$100.00.

12 (9) A person, other than a nonmanagerial employee, licensee,
13 or employee of a licensee, that violates subsection (1)(a) is
14 responsible for a state civil infraction and may be ordered to pay
15 a civil fine of not more than the following:

16 (a) For a first violation in a period of 3 years, \$2,000.00.

17 (b) For a second violation in a period of 3 years, \$3,000.00.

18 (c) For a third violation in a period of 3 years, \$4,000.00.

19 (d) For a fourth or subsequent violation in a period of 3
20 years, \$5,000.00.

21 (10) A person, other than a nonmanagerial employee, licensee,
22 or employee of a licensee, that violates subsection (1)(b) is
23 responsible for a state civil infraction and may be ordered to pay
24 a civil fine of not more than the following:

25 (a) For a first violation in a period of 3 years, \$150.00.

26 (b) For a second violation in a period of 3 years, \$300.00.

27 (c) For a third violation in a period of 3 years, \$400.00.

28 (d) For a fourth or subsequent violation in a period of 3
29 years, \$500.00.

1 (11) The department may bring an action to collect an
2 administrative fine imposed under this section.

3 (12) Subsection (1) does not apply to a minor's handling or
4 transportation of a nicotine or tobacco product or nicotine or
5 tobacco accessory under the terms of the minor's employment.

6 (13) Subsection (1) does not apply if a licensee or an
7 employee of a licensee sells, gives, or furnishes a nicotine or
8 tobacco product or nicotine or tobacco accessory to a minor after
9 the licensee or employee makes a diligent and good-faith effort to
10 examine photographic identification that meets all of the following
11 requirements:

12 (a) Appears to be authentic and government-issued.

13 (b) Establishes the identity of the minor.

14 (c) Misrepresents that the minor is an individual 21 years of
15 age or older.

16 (14) At each of the licensee's establishments, a licensee
17 shall post ~~in a place close to the~~ that is not more than 6 feet
18 from each point of sale for a nicotine or tobacco product or
19 nicotine or tobacco accessory and conspicuous to both employees and
20 customers ~~in an unobstructed~~ sign produced by the department, ~~of~~
21 ~~health and human services in the same size and color as produced by~~
22 the department, that includes the following statement:

23 ~~"The purchase of a tobacco product, vapor product, or~~
24 ~~alternative nicotine product by a minor under 21 years of age and~~
25 ~~the provision~~ **selling, giving, or furnishing** of a nicotine or
26 tobacco product, vapor product, or alternative nicotine product to
27 ~~a minor are~~ **an individual who is less than 21 years of age is**
28 **prohibited by law."** ~~A minor who unlawfully purchases or uses a~~
29 ~~tobacco product, vapor product, or alternative nicotine product is~~

1 ~~subject to criminal penalties."~~

2 (15) ~~(3) If the~~ **The** sign required under subsection ~~(2) is more~~
 3 ~~than 6 feet from the point of sale, it~~ **(14)** must be **not larger than**
 4 **5-1/2 inches by 8-1/2 inches**, and the statement required under
 5 subsection ~~(2)~~ **(14)** must be printed in ~~36-point~~ boldfaced,
 6 **uppercase type with high-contrast red ink**. ~~If the sign required~~
 7 ~~under subsection (2) is 6 feet or less from the point of sale, it~~
 8 ~~must be 2 inches by 4 inches and the statement required under~~
 9 ~~subsection (2) must be printed in 20-point boldfaced type.~~

10 (16) **If all of the following conditions are met, a licensee**
 11 **that violates subsection (14) is subject to an administrative fine**
 12 **of \$50.00:**

13 (a) **The department, or the department's designee, observed the**
 14 **violation.**

15 (b) **After the observation described in subdivision (a), the**
 16 **department notified the licensee, in writing, of the violation.**

17 (c) **The licensee did not correct the violation before 30 days**
 18 **after the notification described in subdivision (b).**

19 (17) ~~(4) The department of health and human services shall~~
 20 ~~produce the sign required under subsection (2)~~ **(14)** and have
 21 adequate copies of the sign ready for distribution, **free of charge**,
 22 to licensed wholesalers, secondary wholesalers, and unclassified
 23 acquirers of tobacco products and to persons who sell vapor
 24 products or alternative nicotine products at retail. ~~free of~~
 25 ~~charge.~~ Licensed wholesalers, secondary wholesalers, and
 26 unclassified acquirers of tobacco products shall obtain copies of
 27 the sign from the department ~~of health and human services~~ and
 28 distribute them, free of charge, ~~upon~~ **and on** request, to persons
 29 who sell tobacco products and ~~who~~ are subject to subsection ~~(2)~~.

1 (14). The department ~~of health and human services~~ shall provide
2 copies of the sign, free of charge ~~, upon and on~~ request, to
3 persons subject to subsection ~~(2) who~~ (14) that do not purchase
4 their supply of tobacco products from wholesalers, secondary
5 wholesalers, and unclassified acquirers of tobacco products
6 licensed under the tobacco products tax act, 1993 PA 327, MCL
7 205.421 to 205.436, and to persons who sell vapor products or
8 alternative nicotine products at retail.

9 ~~(5) It is an affirmative defense to a charge under subsection~~
10 ~~(1) that the defendant had in force at the time of arrest and~~
11 ~~continues to have in force a written policy to prevent the sale of~~
12 ~~tobacco products, vapor products, or alternative nicotine products,~~
13 ~~as applicable, to individuals less than 21 years of age and that~~
14 ~~the defendant enforced and continues to enforce the policy. A~~
15 ~~defendant who proposes to offer evidence of the affirmative defense~~
16 ~~described in this subsection shall file notice of the defense, in~~
17 ~~writing, with the court and serve a copy of the notice on the~~
18 ~~prosecuting attorney. The defendant shall serve the notice not less~~
19 ~~than 14 days before the date set for trial.~~

20 ~~(6) A prosecuting attorney who proposes to offer testimony to~~
21 ~~rebut the affirmative defense described in subsection (5) shall~~
22 ~~file a notice of rebuttal, in writing, with the court and serve a~~
23 ~~copy of the notice on the defendant. The prosecuting attorney shall~~
24 ~~serve the notice not less than 7 days before the date set for trial~~
25 ~~and shall include in the notice the name and address of each~~
26 ~~rebuttal witness.~~

27 ~~(7) Subsection (1) does not apply to the handling or~~
28 ~~transportation of a tobacco product, vapor product, or alternative~~
29 ~~nicotine product by a minor under the terms of the minor's~~

1 employment.

2 ~~(8) Before selling, offering for sale, giving, or furnishing a~~
3 ~~tobacco product, vapor product, or alternative nicotine product to~~
4 ~~an individual, a person shall verify that the individual is at~~
5 ~~least 21 years of age by doing 1 of the following:~~

6 ~~(a) If the individual appears to be less than 27 years of age,~~
7 ~~examining a government-issued photographic identification that~~
8 ~~establishes that the individual is at least 21 years of age.~~

9 ~~(b) For sales made by the internet or other remote sales~~
10 ~~method, performing an age verification through an independent,~~
11 ~~third-party age verification service that compares information~~
12 ~~available from a commercially available database, or aggregate of~~
13 ~~databases, that are regularly used by government agencies and~~
14 ~~businesses for the purpose of age and identity verification to the~~
15 ~~personal information entered by the individual during the ordering~~
16 ~~process that establishes that the individual is 21 years of age or~~
17 ~~older.~~

18 **Sec. 1a. (1) The nicotine and tobacco regulation fund is**
19 **created in the state treasury.**

20 **(2) The state treasurer may deposit money and other assets**
21 **from any source in the fund. The state treasurer shall direct the**
22 **investment of the fund and credit interest and earnings from the**
23 **investments to the fund. Money in the fund at the close of the**
24 **fiscal year does not lapse to the general fund.**

25 **(3) The department is the administrator of the fund for audits**
26 **of the fund.**

27 **(4) The department shall expend money from the fund on**
28 **appropriation, only for the administration and enforcement of**
29 **licensure under this act, including, but not limited to, all of the**

1 following:

2 (a) To ensure compliance with applicable law that relates to
3 the retail sale of a nicotine or tobacco product.

4 (b) The education and training of all of the following:

5 (i) Persons that sell, or intend to sell, a nicotine or tobacco
6 product at retail.

7 (ii) Department staff.

8 (iii) Any other person that is subject to or enforces the
9 applicable law.

10 (c) Application processing.

11 (d) Compliance checks.

12 (e) After all expenditures have been made under subdivisions
13 (a) to (d), the creation and operation of the program described in
14 section 1i(2).

15 (5) A fee or administrative fine collected under this act must
16 be deposited in the fund.

17 Sec. 1c. (1) Except as provided in section 1m and not earlier
18 than when the department begins accepting affidavits under section
19 1m and license applications, a person must hold a license to sell a
20 nicotine or tobacco product at retail.

21 (2) An individual shall not sell a nicotine or tobacco product
22 at retail unless the sale is on behalf of a licensee or a person
23 that is temporarily exempt from licensure under section 1m.

24 (3) Except as otherwise provided in subsection (4), a person
25 that violates subsection (1) or an individual who violates
26 subsection (2) is responsible for a state civil infraction and may
27 be ordered to pay a civil fine as follows:

28 (a) For a first violation in a period of 3 years, \$500.00.

29 (b) For a second violation in a period of 3 years, \$1,000.00.

1 (c) For a third or subsequent violation in a period of 3
2 years, \$2,000.00.

3 (4) A nonmanagerial employee is not subject to subsection (3)
4 if both of the following conditions are met:

5 (a) The nonmanagerial employee is employed by a person that is
6 in violation of this act and the person is 1 of the following:

7 (i) A licensee.

8 (ii) A person that is temporarily exempt from licensure under
9 section 1m.

10 (iii) A person that communicates or indicates, explicitly or
11 implicitly, to the nonmanagerial employee that the person is a
12 licensee or a person that is temporarily exempt from licensure
13 under section 1m.

14 (b) The nonmanagerial employee does not know, and does not
15 have reason to know, that the person described in subdivision (a)
16 is in violation of this act.

17 (5) A licensee shall publicly display at the licensee's
18 establishment the applicable certificate of licensure issued under
19 section 1e, or a copy of the certificate. A licensee that violates
20 this subsection is subject to an administrative fine of not more
21 than \$500.00.

22 (6) A licensee shall prohibit the sale, consumption, and use
23 of marihuana on the licensee's establishment. A licensee that
24 violates this subsection is subject to an administrative fine of
25 not more than \$2,500.00.

26 (7) Except as otherwise provided in section 1p, a licensee
27 shall not sell a nicotine or tobacco product itinerantly by flash
28 retail. A licensee that violates this subsection is subject to an
29 administrative fine of not less than \$250.00 but not more than

1 \$2,000.00.

2 Sec. 1e. (1) The department shall begin accepting affidavits
3 under section 1m and license applications not later than 15 months
4 after the effective date of the amendatory act that added this
5 section.

6 (2) The fee to submit an application for a new license is
7 \$500.00.

8 (3) An application for a new license must be in a form
9 prescribed by the department. An applicant must submit a separate
10 application for each of the applicant's establishments. In an
11 applicant's application, the applicant shall include all of the
12 following:

13 (a) The name, address, and telephone number of the applicant
14 and the address of the establishment.

15 (b) The organizational documents of the applicant.

16 (c) If the applicant is required to be licensed under the
17 tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436,
18 proof that the applicant is licensed under that act.

19 (d) An affidavit that affirms both of the following:

20 (i) Except as provided in section 1m, the applicant has not
21 sold and will not sell a nicotine or tobacco product at retail
22 without holding a license.

23 (ii) Each operator of the applicant has read this act and the
24 applicant has provided training to each of the applicant's
25 employees, if any. The training described in this subparagraph must
26 include the following information:

27 (A) The sale of a nicotine or tobacco product to a minor is
28 prohibited by law.

29 (B) The consequences of selling a nicotine or tobacco product

1 to a minor.

2 (C) The types of identification that are permissible under
3 this act for proof of an individual's age.

4 (e) Any other information that the department finds necessary
5 for the administration or enforcement of this act.

6 (f) Payment for the new license fee described in subsection
7 (2).

8 (4) An applicant that has an application pending department
9 approval under this act shall inform the department of a change in
10 the information submitted with the application not later than 10
11 business days after the change occurs.

12 (5) The department shall grant a license for each
13 establishment for which the applicant requested a license unless
14 the department determines that the applicant or establishment does
15 not qualify for licensure.

16 (6) For each license granted under subsection (5) and each
17 license renewal granted under section 1g, the department shall
18 issue a certificate of licensure to the licensee.

19 (7) Except as provided in section 91 of the administrative
20 procedures act of 1969, 1969 PA 306, MCL 24.291, and subject to a
21 license suspension, revocation, or proration, a license granted
22 under subsection (5) or section 1g and a certificate of licensure
23 issued under subsection (6) are valid for 1 year.

24 Sec. 1g. (1) To renew a license, a licensee must, not earlier
25 than 90 days before the license expires but not later than 60 days
26 after the license expires, submit both of the following to the
27 department:

28 (a) An application for a renewed license in a form and manner
29 as prescribed by the department.

1 (b) The application renewal fee described in subsection (3).

2 (2) If a licensee fails to submit a license renewal
3 application under subsection (1), the licensee may submit an
4 application under section 1e only.

5 (3) The fee to submit an application for a renewed license is
6 \$500.00.

7 (4) If the department receives a complete application for a
8 renewed license under subsection (1), the department shall grant
9 the license unless the department determines that the applicant or
10 establishment does not qualify for licensure.

11 Sec. 1i. (1) The department shall do both of the following:

12 (a) Regularly inspect establishments to ensure compliance with
13 this act.

14 (b) Every year, or more frequently, publish the results of
15 each compliance check that was conducted during the applicable time
16 period.

17 (2) The department may create and operate an education and
18 training program for individuals involved in the inspections
19 conducted under subsection (1).

20 Sec. 1k. (1) A license is not transferable. If a licensee
21 transfers ownership of the licensee's establishment, the license
22 for that establishment is void.

23 (2) If a licensee elects to no longer sell or offer for sale
24 nicotine or tobacco products at an establishment, the licensee
25 shall, not later than 30 days after the licensee stops selling
26 nicotine or tobacco products at the establishment, notify the
27 department. The licensee's license for the establishment becomes
28 void when the department receives the licensee's notification.

29 Sec. 1o. (1) The department may promulgate rules to implement

1 the licensure provisions of this act under the administrative
2 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

3 (2) If requested by the department of health and human
4 services, the department shall provide publicly available
5 information about a licensee to the department of health and human
6 services.

7 (3) The department may deny, suspend, revoke, or refuse to
8 grant a license for any of the following reasons:

9 (a) The applicant or licensee submitted inaccurate or false
10 information to the department.

11 (b) The applicant or licensee violated this act.

12 (c) The applicant or licensee failed to pay a fine assessed
13 under this act.

14 (4) If a licensee has an unresolved disciplinary action under
15 this act, the department shall not grant or renew a license if the
16 license is for the same establishment that is associated with the
17 unresolved disciplinary action.

18 (5) If an applicant for a new license is a licensee, the
19 department shall prorate the fee for and duration of the new
20 license so that the new license expires on the same date that every
21 other license of the licensee expires.

22 (6) The department shall not deny, suspend, revoke, or refuse
23 to renew a license or impose an administrative fine or license
24 ineligibility period under this act unless the person that is
25 subject to the department's action is provided notice and an
26 opportunity for a hearing under the administrative procedures act
27 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

28 (7) Not later than October 1 of each year, beginning in 2027,
29 the department shall create a report and make the report available

1 to the public at no cost on the department's website. The report
 2 must include all of the following information for the 1-year period
 3 immediately preceding the date the report is created:

4 (a) The number of licensees.

5 (b) The number of inspections conducted under section 1i.

6 (c) The number of inspections conducted under section 1i that
 7 licensees failed.

8 (d) The number of inspections conducted under section 1i in
 9 which a licensee failed the immediately preceding inspection.

10 (e) A detailed statement of whether the fees for licensure are
 11 sufficient for the department to administer this act.

12 Sec. 4. As used in this act:

13 (a) "Alternative nicotine product" means a noncombustible
 14 product ~~containing that contains~~ nicotine ~~that and~~ is intended for
 15 human consumption, whether chewed, absorbed, dissolved, or ingested
 16 by any other means. Alternative nicotine product does not include a
 17 **marihuana product**, a tobacco product, a vapor product, food, or a
 18 product regulated as a drug or device by the United States Food and
 19 Drug Administration under 21 USC 351 to ~~360fff-7~~.**360fff-8**.

20 (b) "Applicant" means either of the following, as applicable:

21 (i) A person that submits an application for a new license
 22 under section 1c.

23 (ii) A person that submits an application to renew a license
 24 under section 1g.

25 (c) "At retail" or "retail" does not include the sale of a
 26 tobacco product by the department of treasury under section 9 of
 27 the tobacco products tax act, 1993 PA 327, MCL 205.429.

28 (d) "Department" means the department of licensing and
 29 regulatory affairs.

1 (e) "Establishment" means a place of business, or area within
2 a place of business, located in this state where a licensee has
3 been authorized by the department to sell or offer for sale a
4 nicotine or tobacco product at retail. Establishment does not
5 include flash retail or itinerant retail.

6 (f) "Fair" means that term as defined in section 1107 of the
7 food law, 2000 PA 92, MCL 289.1107.

8 (g) "Farmers' market" means that term as defined in section
9 1107 of the food law, 2000 PA 92, MCL 289.1107.

10 (h) "Festival" means that term as defined in section 1107 of
11 the food law, 2000 PA 92, MCL 289.1107.

12 (i) "Flash retail" means the use of a mobile, pop-up, or
13 temporary structure for retail.

14 (j) "Fund" means the nicotine and tobacco regulation fund
15 created in section 1a.

16 (k) "License" means the license described in section 1c.

17 (l) "Licensee" means a person that has been granted and holds a
18 license under section 1c.

19 (m) "Marihuana" means that term as defined in section 3 of the
20 Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL
21 333.27953.

22 (n) ~~(b)~~—"Minor" means an individual who is less than 21 years
23 of age.

24 (o) "Nicotine or tobacco accessory" means a component, part,
25 or accessory of a nicotine or tobacco product, including, but not
26 limited to, filters, rolling papers, blunt or hemp wraps, flavor
27 enhancers, or pipes, if the component, part, or accessory is not a
28 product regulated as a drug or device by the United States Food and
29 Drug Administration under 21 USC 351 to 360fff-8.

1 (p) "Nicotine or tobacco product" means any of the following:

2 (i) A product that meets all of the following conditions:

3 (A) Contains, is made of, or is derived from nicotine or
4 tobacco, from any source.

5 (B) Is intended for human consumption or is likely to be
6 consumed by humans, by any means, including, but not limited to,
7 inhaling, absorbing, or ingesting.

8 (C) Is not regulated as a drug or device by the United States
9 Food and Drug Administration under 21 USC 351 to 360fff-8.

10 (D) Is not a marihuana product.

11 (ii) An alternative nicotine product.

12 (iii) A tobacco product.

13 (iv) A vapor product.

14 (q) "Nonmanagerial employee" means a cashier or clerk who does
15 not have managerial control at the cashier's or clerk's employer
16 under the terms of the cashier's or clerk's employment.

17 (r) "Operator" means a person that holds an ownership interest
18 of not less than 10% in another person.

19 (s) "Person" means an individual or a partnership,
20 corporation, limited liability company, association, governmental
21 entity, or other legal entity.

22 (t) "Person who sells tobacco products at retail" means a
23 person whose ordinary course of business consists, in whole or in
24 part, of the retail sale of tobacco products subject to state sales
25 tax.

26 (u) ~~(e)~~—"Person who sells vapor products or alternative
27 nicotine products at retail" means a person whose ordinary course
28 of business consists, in whole or in part, of the retail sale of
29 vapor products or alternative nicotine products.

~~(d) "Person who sells tobacco products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to state sales tax.~~

(v) ~~(e)~~ "Public place" means a public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or public place of business.

(w) ~~(f)~~ "Tobacco product" means a product that contains tobacco and is intended for human consumption, including, but not limited to, a **cigar, a** cigarette, noncigarette smoking tobacco, or smokeless tobacco ~~, as those terms are defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422. , and a~~

~~cigar.~~ **Tobacco product does not include either of the following:**

(i) **A product regulated as a drug or device by the United States Food and Drug Administration under 21 USC 351 to 360fff-8.**

(ii) **A product that contains marihuana.**

(x) ~~(g)~~ "Use a tobacco product, vapor product, or alternative nicotine product" means to smoke, chew, suck, inhale, or otherwise consume a tobacco product, vapor product, or alternative nicotine product.

(y) ~~(h)~~ "Vapor product" means a noncombustible product 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 or any other substance, **not including marihuana**, and the use or inhalation of which simulates smoking. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine or other substance, **not including**

1 **marihuana**, in a solution or other form that is intended to be used
2 with or in an electronic cigarette, electronic cigar, electronic
3 cigarillo, electronic pipe, or similar product or device. Vapor
4 product does not include a product regulated as a drug or device by
5 the United States Food and Drug Administration under 21 USC 351 to
6 ~~360fff-7.~~**360fff-8.**

7 Sec. 5. This act ~~shall be known and~~ may be cited as the "~~youth~~
8 **"nicotine and** tobacco act".

9 Enacting section 1. This amendatory act does not take effect
10 unless all of the following bills of the 102nd Legislature are
11 enacted into law:

12 (a) Senate Bill No. 654.

13 (b) House Bill No. 6002.

14 (c) House Bill No. 6004.