

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

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Senate Bill 1059

Sponsor: Senator Jack Faxon

Committee: Health Policy

Date Completed: 11-9-90

SUMMARY OF SENATE BILL 1059 as introduced 9-11-90:

The bill would amend the Youth Tobacco Act to:

- Regulate the placement of cigarette vending machines in businesses, including those in which liquor could be sold for consumption on or off the premises.
- Require that at least one employee, in a business in which liquor could be sold, be designated to observe cigarette purchases made at vending machines.
- Require that in a business, other than one in which liquor could be sold or one not open to the public or persons under 18, a cigarette vending machine be modified so it could be operated only by an electronic switch or the use of tokens.
- Establish penalties for violating the bill.
- Specify that the bill would preempt a local law regulating cigarette vending machine placement unless the local law were more restrictive.

Vending Machine Location

An owner or operator of a business in which a cigarette vending machine was located would be required to locate the vending machine only as prescribed in the bill.

If a business were not open to the public or if persons under 18 years of age generally were not permitted access to the business, the owner or operator could locate the cigarette vending machine anywhere in the business.

If a business were located in a building, structure, room, or enclosure in which liquor could be sold for consumption on or off the premises pursuant to a license issued by the Michigan Liquor Control Commission, the owner or operator would be required to comply with both of the following:

- The cigarette vending machine would have to be placed within the immediate vicinity, plain view, and control of one or more employees designated by the person so that all purchases of cigarettes from the vending machine would be readily observable by a designated employee.
- The cigarette vending machine would have to be located so that it was inaccessible to the public when the business was closed.

In any other type of business, the owner or operator would have to do both of the following:

S.B. 1059 (11-9-90)

- Comply with the requirements that the vending machine be located in the immediate vicinity, view, and control of designated employees and that the machine be inaccessible to the public when the business was closed.
- Modify the vending machine so that it operated only by the activation of an electronic switch that was operated by an authorized employee before each sale or only by the insertion of tokens provided by an authorized employee before each sale.

#### Violations

A person, including an employee designated to observe purchases from a vending machine or an employee authorized to operate electronically a vending machine, would be subject to a fine of up to \$100 for violating the bill.

If a violation of the bill resulted in a violation of the Act's prohibition against selling tobacco products to a minor (MCL 722.641), the court imposing the fine would have to order the business' owner or operator to refrain for at least one year from locating a cigarette vending machine in the business.

The bill specifies that it would preempt a law, regulation, ordinance, or other provision that regulated the placement of a cigarette vending machine enacted by a local government, unless the law, regulation, ordinance, or other provision clearly were more restrictive than the bill.

Proposed MCL 722.642a

Legislative Analyst: L. Arasim

#### FISCAL IMPACT

The bill would have an indeterminate impact on local fine revenues. The amount of fines collected would depend on the number of violations and the degree of enforcement.

Fiscal Analyst: P. Graham

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.