

# HOUSE BILL No. 5097

September 27, 1989, Introduced by Reps. Brown, DeMars, Johnson, Strand and Jaye and referred to the Committee on Public Health.

A bill to amend sections 1 and 4 of Act No. 31 of the Public Acts of 1915, entitled as amended

"Youth tobacco act,"

section 1 as amended and section 4 as added by Act No. 314 of the Public Acts of 1988, being sections 722.641 and 722.644 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 1 and 4 of Act No. 31 of the Public  
2 Acts of 1915, section 1 as amended and section 4 as added by Act  
3 No. 314 of the Public Acts of 1988, being sections 722.641 and  
4 722.644 of the Michigan Compiled Laws, are amended to read as  
5 follows:

6       Sec. 1. (1) A person shall not sell, give, or furnish any  
7 cigarette, cigar, chewing tobacco, tobacco snuff, or tobacco in  
8 any other form to a person under 18 years of age. ~~A person who~~

~~1 violates this section is guilty of a misdemeanor, punishable by a~~  
~~2 fine of not more than \$50.00 for each offense.~~

3       (2) ~~Beginning 90 days after the effective date of this~~  
4 ~~subsection~~ ON OR AFTER JUNE 28, 1989, a person who sells tobacco  
5 products at retail shall post, in a place close to the point of  
6 sale and conspicuous to both employees and customers, a sign  
7 produced by the department of public health that includes the  
8 following statement:

9       "The purchase of tobacco products by a minor under 18 years  
10 of age and the provision of tobacco products to a minor are pro-  
11 hibited by law. A minor unlawfully purchasing or using tobacco  
12 products is subject to criminal penalties."

13       (3) If the sign required under subsection (2) is more than 6  
14 feet from the point of sale, it shall be 5-1/2 inches by 8-1/2  
15 inches, and the statement required under subsection (2) shall be  
16 printed in 36-point boldface type. If the sign required under  
17 subsection (2) is 6 feet or less from the point of sale, it shall  
18 be 2 inches by 4 inches, and the statement required under subsec-  
19 tion (2) shall be printed in 20-point boldface type.

20       (4) The department of public health shall produce the sign  
21 required under subsection (2) and have adequate copies of the  
22 sign ready for distribution to licensed wholesalers, secondary  
23 wholesalers, and unclassified acquirers of cigarettes and other  
24 tobacco products described in subsection (1) free of charge  
25 ~~within 60 days after the effective date of this subsection~~ BY  
26 MAY 29, 1989. Licensed wholesalers, secondary wholesalers, and  
27 unclassified acquirers of cigarettes and other tobacco products

1 described in subsection (1) shall obtain copies of the sign from  
2 the department of public health and distribute them free of  
3 charge, upon request, to persons who are subject to  
4 subsection (2). The department of public health shall provide  
5 copies of the sign free of charge, upon request, to persons  
6 subject to subsection (2) who do not purchase their supply of  
7 cigarettes or other tobacco products described in subsection (1)  
8 from licensed wholesalers, secondary wholesalers, and unclassi-  
9 fied acquirers of cigarettes and other tobacco products described  
10 in subsection (1).

11 (5) It is an affirmative defense to a charge pursuant to  
12 subsection (1) that the defendant had in force at the time of  
13 arrest and continues to have in force a written policy to prevent  
14 the sale of cigarettes, cigars, chewing tobacco, tobacco snuff,  
15 and other tobacco products to persons under 18 years of age, and  
16 that the defendant enforced and continues to enforce the policy.  
17 A defendant who proposes to offer evidence of the affirmative  
18 defense described in this subsection shall file and serve notice  
19 of the defense, in writing, upon the court and the prosecuting  
20 attorney. The notice shall be served not less than 14 days  
21 before the date set for trial.

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

1       (7) A PLACE OF BUSINESS SHALL NOT HAVE A VENDING MACHINE  
2 WHICH DISPENSES ANY CIGARETTE, CIGAR, CHEWING TOBACCO, TOBACCO  
3 SNUFF, OR ANY OTHER FORM OF TOBACCO IF THE BUSINESS ALLOWS A  
4 PERSON UNDER 18 YEARS OF AGE UPON THE BUSINESS PREMISES.

5       (8) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDE-  
6 MEANOR, PUNISHABLE BY A FINE OF NOT MORE THAN \$50.00 FOR EACH  
7 OFFENSE.

8       Sec. 4. As used in this act:

9       (a) "Chewing tobacco" means loose tobacco or a flat, com-  
10 pressed cake of tobacco which is inserted into the mouth to be  
11 chewed or sucked.

12       (b) "Tobacco snuff" means shredded, powdered, or pulverized  
13 tobacco which may be inhaled through the nostrils, chewed, or  
14 placed against the gums.

15       (c) "VENDING MACHINE" MEANS A SELF-SERVICE DEVICE OFFERED  
16 FOR PUBLIC USE WHICH, UPON INSERTION OF A COIN OR TOKEN, OR BY  
17 OTHER SIMILAR MEANS, DISPENSES A TOBACCO PRODUCT.