

**SUBSTITUTE FOR
SENATE BILL NO. 782**

A bill to amend 1915 PA 31, entitled
"Youth tobacco act,"
by amending the title and section 4 (MCL 722.644), as amended by
2019 PA 18, and by adding section 2d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to prohibit the selling, giving, or furnishing of
3 tobacco products, vapor products, and alternative nicotine products
4 to minors; to prohibit the purchase, possession, or use of tobacco
5 products, vapor products, and alternative nicotine products by
6 minors; to regulate the retail sale of tobacco products, vapor
7 products, alternative nicotine products, and liquid nicotine
8 containers; **to license persons that sell tobacco products, vapor**



1 products, or alternative nicotine products; to prescribe penalties
2 and provide sanctions; to promulgate rules; and to prescribe the
3 powers and duties of certain state agencies and departments.

4 Sec. 2d. (1) Beginning October 1, 2020, a person shall not
5 sell a tobacco product, vapor product, or alternative nicotine
6 product at retail unless that person is licensed under this
7 section.

8 (2) An application for a license must be in a form prescribed
9 by the department and signed under penalty of perjury. A person
10 shall obtain a separate license for each location where a tobacco
11 product, vapor product, or alternative nicotine product is sold. A
12 person who sells a tobacco product, vapor product, or alternative
13 nicotine product at more than 1 location may submit a single
14 application to the department that lists each location where a
15 vapor product is sold.

16 (3) The department shall grant a license to a person who
17 submits a completed application and pays a licensing fee of not
18 more than \$100.00 per location to the department.

19 (4) The department shall issue a certificate of licensure to a
20 person who is granted a license under this act.

21 (5) A person shall display the certificate of licensure, or a
22 duplicate copy of the certificate of licensure, prominently and
23 where visible to the public in the person's place of business where
24 a tobacco product, vapor product, or alternative nicotine product
25 is sold.

26 (6) Each license is valid for 1 year and must be renewed
27 annually before December 31 of the year that the license expires.
28 The cost of renewing the license must not exceed \$75.00.

29 (7) The department may deny, suspend, revoke, or refuse to



1 renew a license for good cause. For purposes of this subsection,
2 "good cause" consists of instances in which the department
3 determines that a person has done any of the following:

4 (a) Submitted a false or fraudulent application for a license.

5 (b) Provided a false statement in the application for a
6 license.

7 (c) Possessed a false or fraudulent certificate of licensure.

8 (d) Displayed a false or fraudulent certificate of licensure
9 in a place of business where a tobacco product, vapor product, or
10 alternative nicotine product is sold.

11 (8) The department shall not deny, suspend, revoke, or refuse
12 to renew a person's license under this section unless the person is
13 given an opportunity for a hearing. A hearing and an appeal must be
14 conducted under the administrative procedures act of 1969, 1969 PA
15 306, MCL 24.201 to 24.328.

16 (9) The department may promulgate rules under the
17 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
18 24.328, to implement this section.

19 (10) In addition to any other remedies provided by law, if the
20 department determines that a person violated this section, the
21 department may assess an administrative fine of not more than
22 \$500.00.

23 (11) The department shall use the fees and fines collected
24 under this section for the administration and enforcement of this
25 act.

26 (12) As used in this section:

27 (a) "Certificate of licensure" means a document issued by the
28 department as evidence of authorization to sell a tobacco product,
29 vapor product, or alternative nicotine product.



1 (b) "Department" means the department of treasury.

2 (c) "License" means an authorization issued by the department
3 under this section to sell a vapor product.

4 Sec. 4. As used in this act:

5 (a) "Alternative nicotine product" means a noncombustible
6 product containing nicotine that is intended for human consumption,
7 whether chewed, absorbed, dissolved, or ingested by any other
8 means. Alternative nicotine product does not include a tobacco
9 product, a vapor product, food, or a product regulated as a drug or
10 device by the United States Food and Drug Administration under 21
11 USC 351 to 360fff-7.

12 (b) "Minor" means an individual who is less than ~~18~~21 years
13 of age.

14 ~~(c) "Person who sells vapor products or alternative nicotine
15 products at retail" means a person whose ordinary course of
16 business consists, in whole or in part, of the retail sale of vapor
17 products or alternative nicotine products.~~

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

22 (c) "Person who sells tobacco products, vapor products, or
23 alternative nicotine products at retail" means:

24 (i) Until September 30, 2020, a person whose ordinary course of
25 business consists, in whole or in part, of the retail sale of a
26 tobacco product subject to state sales tax under the general sales
27 tax act, 1933 PA 167, MCL 205.51 to 205.78, a vapor product, or an
28 alternative nicotine product.

29 (ii) Beginning October 1, 2020, a person whose ordinary course



1 of business consists, in whole or in part, of the retail sale of a
2 tobacco product subject to state sales tax under the general sales
3 tax act, 1933 PA 167, MCL 205.51 to 205.78, a vapor product, or an
4 alternative nicotine product, and who is licensed under section 2d.

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

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

13 (f) ~~(g)~~—"Use a tobacco product, vapor product, or alternative
14 nicotine product" means to smoke, chew, suck, inhale, or otherwise
15 consume a tobacco product, vapor product, or alternative nicotine
16 product.

17 (g) ~~(h)~~—"Vapor product" means a noncombustible product that
18 employs a heating element, power source, electronic circuit, or
19 other electronic, chemical, or mechanical means, regardless of
20 shape or size, that can be used to produce vapor from nicotine or
21 any other substance, **other than marihuana**, and the use or
22 inhalation of which simulates smoking. Vapor product includes an
23 electronic cigarette, electronic cigar, electronic cigarillo,
24 electronic pipe, or similar product or device and a vapor cartridge
25 or other container of nicotine or other substance, **other than**
26 **marihuana**, in a solution or other form that is intended to be used
27 with or in an electronic cigarette, electronic cigar, electronic
28 cigarillo, electronic pipe, or similar product or device. Vapor
29 product does not include a product regulated as a drug or device by



1 the United States Food and Drug Administration under 21 USC 351 to
2 360fff-7. **As used in this subdivision, "marihuana" means that term**
3 **as defined in section 7106 of the public health code, 1978 PA 368,**
4 **MCL 333.7106. For purposes of this definition, "marihuana" and**
5 **"marijuana" are synonymous.**

6 Enacting section 1. This amendatory act does not take effect
7 unless all of the following bills of the 100th Legislature are
8 enacted into law:

- 9 (a) Senate Bill No. 781.
10 (b) Senate Bill No. 783.
11 (c) Senate Bill No. 784.

