

HOUSE BILL No. 6298

November 12, 1998, Introduced by Reps. DeHart, Kelly, Scott and Schermesser and referred to the Committee on Health Policy.

A bill to amend 1915 PA 31, entitled "Youth tobacco act," (MCL 722.641 to 722.645) by amending the title, as amended by 1992 PA 272, and by adding sections 1a, 3a, and 3b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2 An act to prohibit the selling, giving, or furnishing of
3 tobacco products to minors; TO PRESCRIBE THE POWERS AND DUTIES OF
4 CERTAIN LOCAL HEALTH DEPARTMENTS AND LAW ENFORCEMENT AGENCIES; TO
5 CREATE A CIVIL CAUSE OF ACTION; to prohibit the use of tobacco
6 products by minors; to prohibit the harboring of minors for the
7 purpose of indulging in the use of tobacco products; to regulate
8 the retail sale of tobacco products; to prescribe penalties; and
9 to prescribe the powers and duties of certain state agencies and
10 departments.

1 SEC. 1A. FOUR OR MORE VIOLATIONS OF SECTION 1(1) WITHIN A
2 CONSECUTIVE 24-MONTH PERIOD MAY BE TREATED AS A NUISANCE AND
3 ABATED UNDER THE PROCEDURE DESCRIBED IN CHAPTER 38 OF THE REVISED
4 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.3801 TO 600.3840.

5 SEC. 3A. (1) IN ADDITION TO ANY OTHER APPLICABLE RIGHTS OR
6 PENALTIES, THE PARENT OR LEGAL GUARDIAN OF A MINOR WHO WAS SOLD,
7 FURNISHED, OR GIVEN A CIGARETTE, CIGAR, CHEWING TOBACCO, TOBACCO
8 SNUFF, OR TOBACCO IN ANY OTHER FORM BY A RETAIL LICENSEE IN VIO-
9 LATION OF SECTION 1(1) MAY BRING A CIVIL ACTION FOR DAMAGES
10 AGAINST THAT RETAIL LICENSEE IN THE AMOUNT OF \$1,500.00 OR ACTUAL
11 DAMAGES, WHICHEVER IS MORE.

12 (2) A PARENT OR LEGAL GUARDIAN WHO BRINGS A CIVIL ACTION
13 UNDER SUBSECTION (1) OR AN ORGANIZATION ACTING ON BEHALF AND WITH
14 THE CONSENT OF THE PARENT OR LEGAL GUARDIAN SHALL REPORT THE SUS-
15 PECTED VIOLATION OF SECTION 1(1) THAT IS THE BASIS FOR THE CIVIL
16 ACTION TO THE LOCAL HEALTH DEPARTMENT WITH JURISDICTION OVER THE
17 GEOGRAPHIC LOCATION IN WHICH THE SUSPECTED VIOLATION TOOK PLACE.
18 UPON RECEIPT OF A REPORT UNDER THIS SUBSECTION, THE LOCAL HEALTH
19 DEPARTMENT SHALL PROVIDE THE MINOR INVOLVED IN THE SUSPECTED VIO-
20 LATION WITH A REFERRAL INTO A TOBACCO CESSATION PROGRAM.

21 (3) A LOCAL HEALTH DEPARTMENT THAT RECEIVES A REPORT UNDER
22 SUBSECTION (2) MAY CONDUCT PERIODIC COMPLIANCE CHECKS UPON THE
23 RETAIL LICENSEE THAT IS THE SUBJECT OF THE REPORT. THE LOCAL
24 HEALTH DEPARTMENT MAY ALSO MAKE A REFERRAL NOTIFICATION TO A
25 LOCAL LAW ENFORCEMENT AGENCY WITH JURISDICTION. THE LOCAL HEALTH
26 DEPARTMENT MAY USE ITS EMPLOYEES AND OTHER INDIVIDUALS TO CONDUCT
27 THE COMPLIANCE CHECKS. IF A COMPLIANCE CHECK TEAM WITNESSES A

1 RETAIL LICENSEE OR AN EMPLOYEE OR AGENT OF THE RETAIL LICENSEE
2 SELLING, FURNISHING, OR GIVING TOBACCO PRODUCTS TO A MINOR IN
3 VIOLATION OF SECTION 1(1), THE COMPLIANCE CHECK TEAM MAY TESTIFY
4 TO THAT FACT IN AN ACTION TO ENFORCE SECTION 1(1). A LOCAL
5 HEALTH DEPARTMENT MAY ENFORCE SECTION 1(1), PURSUANT TO THIS SUB-
6 SECTION AND SUBSECTIONS (5) TO (7).

7 (4) IF A LOCAL HEALTH DEPARTMENT REPRESENTATIVE, AS THE
8 RESULT OF A REPORT RECEIVED UNDER SUBSECTION (2) OR THE ACTIVITY
9 OF A COMPLIANCE CHECK TEAM UNDER SUBSECTION (3), OR FOR ANY OTHER
10 REASON, BELIEVES THAT A RETAIL LICENSEE HAS VIOLATED
11 SECTION 1(1), THE REPRESENTATIVE MAY ISSUE A CITATION AT THAT
12 TIME OR NOT LATER THAN 90 DAYS AFTER DISCOVERY OF THE ALLEGED
13 VIOLATION. THE CITATION SHALL BE IN WRITING AND SHALL STATE WITH
14 PARTICULARITY THE NATURE OF THE VIOLATION, INCLUDING REFERENCE TO
15 SECTION 1(1), THE CIVIL PENALTY ESTABLISHED FOR THE VIOLATION
16 UNDER SUBSECTION (6), AND THE RIGHT TO APPEAL THE CITATION PURSU-
17 ANT TO SUBSECTION (5). THE CITATION SHALL BE DELIVERED OR SENT
18 BY REGISTERED MAIL TO THE RETAIL LICENSEE.

19 (5) NOT LATER THAN 20 DAYS AFTER RECEIPT OF A CITATION UNDER
20 SUBSECTION (4), THE RETAIL LICENSEE MAY PETITION THE LOCAL HEALTH
21 DEPARTMENT FOR AN ADMINISTRATIVE HEARING. THE LOCAL HEALTH
22 DEPARTMENT SHALL HOLD THE HEARING, WITH THE LOCAL HEALTH OFFICER
23 ACTING AS THE PRESIDING OFFICER, WITHIN 30 DAYS AFTER THE RECEIPT
24 OF THE PETITION. AFTER THE ADMINISTRATIVE HEARING, THE LOCAL
25 HEALTH OFFICER MAY AFFIRM, DISMISS, OR MODIFY THE CITATION. THE
26 DECISION OF THE LOCAL HEALTH OFFICER IS FINAL. A RETAIL LICENSEE
27 AGGRIEVED BY A DECISION OF A LOCAL HEALTH OFFICER UNDER THIS

1 SUBSECTION MAY PETITION THE CIRCUIT COURT OF THE COUNTY IN WHICH
2 THE PRINCIPAL OFFICE OF THE LOCAL HEALTH DEPARTMENT IS LOCATED
3 FOR JUDICIAL REVIEW. THE PETITION SHALL BE FILED NOT LATER THAN
4 60 DAYS FOLLOWING RECEIPT OF THE FINAL DECISION FROM THE LOCAL
5 HEALTH OFFICER. A CIVIL PENALTY IMPOSED UNDER SUBSECTION (6)
6 BECOMES FINAL IF A PETITION FOR AN ADMINISTRATIVE HEARING OR
7 JUDICIAL REVIEW IS NOT RECEIVED WITHIN THE TIME SPECIFIED IN THIS
8 SUBSECTION. A CIVIL PENALTY IMPOSED UNDER SUBSECTION (6) IS PAY-
9 ABLE AS PROVIDED IN THAT SUBSECTION. A CIVIL PENALTY MAY BE
10 RECOVERED IN A CIVIL ACTION BROUGHT IN THE COUNTY IN WHICH THE
11 VIOLATION OCCURRED OR IN WHICH THE DEFENDANT RESIDES.

12 (6) A RETAIL LICENSEE WHO VIOLATES SECTION 1(1) AND IS
13 ISSUED A CITATION BY A LOCAL HEALTH DEPARTMENT REPRESENTATIVE
14 UNDER SUBSECTION (4) IS SUBJECT TO A CIVIL FINE OF \$700.00, PAY-
15 ABLE TO THE LOCAL HEALTH DEPARTMENT.

16 (7) A LOCAL HEALTH DEPARTMENT THAT RECOVERS A CIVIL FINE
17 IMPOSED UNDER SUBSECTION (6) SHALL DISBURSE THE \$700.00 ACCORDING
18 TO THE FOLLOWING FORMULA:

19 (A) THE LOCAL HEALTH DEPARTMENT SHALL DISBURSE \$200.00 TO
20 THE PARENT OR LEGAL GUARDIAN OR ORGANIZATION ACTING ON BEHALF AND
21 WITH THE CONSENT OF THE PARENT OR LEGAL GUARDIAN, IF ANY, THAT
22 INITIALLY REPORTED THE VIOLATION TO THE LOCAL HEALTH DEPARTMENT
23 UNDER SUBSECTION (2).

24 (B) THE LOCAL HEALTH DEPARTMENT MAY RETAIN NOT MORE THAN
25 \$200.00 SOLELY FOR THE PURPOSE OF HIRING EMPLOYEES TO PUBLICIZE
26 AND IMPLEMENT THIS SECTION AND SECTION 1A.

1 (C) THE LOCAL HEALTH DEPARTMENT SHALL DISBURSE THE REMAINDER
2 OF THE FUNDS TO ALCOHOL OR TOBACCO CESSATION PROGRAMS OR TO EARLY
3 INTERVENTION PROGRAMS WITHIN THE LOCAL HEALTH DEPARTMENT'S JURIS-
4 DICTION THAT ARE DESIGNED TO STOP UNDERAGE USE OF ALCOHOL OR
5 TOBACCO, OR BOTH.

6 (8) IF A SECOND OR SUBSEQUENT VIOLATION OF SECTION 1(1) BY
7 THE SAME RETAIL LICENSEE IS REPORTED TO OR WITNESSED BY THE LOCAL
8 HEALTH DEPARTMENT UNDER SUBSECTION (2) OR (3), THE RETAIL
9 LICENSEE IS SUBJECT TO SUBSECTIONS (4) TO (7) OR TO LAW ENFORCE-
10 MENT REFERRAL. IF THE SECOND OR SUBSEQUENT VIOLATION IS REFERRED
11 TO A LOCAL LAW ENFORCEMENT AGENCY, THE RETAIL LICENSEE IS SUBJECT
12 TO THE GRADUATED AND INCREASED PENALTIES IMPOSED UNDER
13 SECTION 3B.

14 (9) AS USED IN THIS SECTION AND SECTION 3B:

15 (A) "LOCAL HEALTH DEPARTMENT" MEANS THAT TERM AS DEFINED IN
16 SECTION 1105 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
17 333.1105.

18 (B) "RETAIL LICENSEE" MEANS A PERSON WHOSE ORDINARY COURSE
19 OF BUSINESS CONSISTS, IN WHOLE OR IN PART, OF THE RETAIL SALE OF
20 TOBACCO PRODUCTS SUBJECT TO STATE SALES TAX OR THE RETAIL SALE OF
21 ALCOHOLIC LIQUOR UNDER THE REVISED LIQUOR CONTROL CODE OF 1998,
22 1998 PA 58, MCL 436.1101 TO 436.2303.

23 SEC. 3B. (1) A LAW ENFORCEMENT AGENCY WITH APPROPRIATE
24 JURISDICTION MAY INVESTIGATE A SUSPECTED VIOLATION OF
25 SECTION 1(1) WITH OR WITHOUT REFERRAL FROM THE LOCAL HEALTH
26 DEPARTMENT UNDER SECTION 3A.

1 (2) IF THE LAW ENFORCEMENT AGENCY DETERMINES THAT A
2 VIOLATION OF SECTION 1(1) HAS OCCURRED, THE LAW ENFORCEMENT
3 AGENCY SHALL ISSUE THE RETAIL LICENSEE A CITATION IN THE SAME
4 MANNER IN WHICH A CITATION FOR A MUNICIPAL CIVIL INFRACTION IS
5 ISSUED UNDER CHAPTER 87 OF THE REVISED JUDICATURE ACT OF 1961,
6 1961 PA 236, MCL 600.8701 TO 600.8735. A RETAIL LICENSEE TO WHOM
7 A CITATION IS ISSUED UNDER THIS SECTION SHALL RESPOND TO THE
8 CITATION IN THE SAME MANNER AS IF THE CITATION HAD BEEN ISSUED
9 UNDER THAT CHAPTER FOR A MUNICIPAL CIVIL INFRACTION.

10 (3) IF THE RETAIL LICENSEE WISHES TO ADMIT RESPONSIBILITY
11 FOR THE VIOLATION OF SECTION 1(1), THE RETAIL LICENSEE MAY DO SO
12 BY APPEARING IN PERSON, BY REPRESENTATION, OR BY MAIL. IF
13 APPEARANCE IS MADE BY REPRESENTATION OR BY MAIL, THE DISTRICT
14 COURT MAY ACCEPT THE ADMISSION WITH THE SAME EFFECT AS THOUGH THE
15 RETAIL LICENSEE PERSONALLY APPEARED IN COURT. UPON ACCEPTANCE OF
16 THE ADMISSION, THE COURT MAY ORDER THE APPROPRIATE FINE PRE-
17 SCRIBED IN SUBSECTION ().

18 (4) IF A RETAIL LICENSEE WISHES TO DENY THE VIOLATION OF
19 SECTION 1(1), THE RETAIL LICENSEE MAY DO SO BY APPEARING FOR AN
20 INFORMAL OR FORMAL HEARING. IF THE HEARING DATE IS NOT SPECIFIED
21 ON THE CITATION ISSUED UNDER SUBSECTION (2), THE RETAIL LICENSEE
22 SHALL CONTACT THE COURT IN PERSON, BY REPRESENTATION, BY MAIL, OR
23 BY TELEPHONE, AND OBTAIN A SCHEDULED DATE AND TIME TO APPEAR FOR
24 AN INFORMAL OR FORMAL HEARING. IF THE HEARING DATE IS SPECIFIED
25 ON THE CITATION ISSUED UNDER SUBSECTION (2), THE RETAIL LICENSEE
26 SHALL APPEAR ON THAT DATE. THE HEARING SHALL BE AN INFORMAL
27 HEARING, UNLESS A FORMAL HEARING IS REQUESTED BY THE RETAIL

1 LICENSEE. IF A HEARING IS SCHEDULED BY TELEPHONE, THE COURT
2 SHALL MAIL THE RETAIL LICENSEE A CONFIRMING NOTICE OR THE HEARING
3 BY REGULAR MAIL TO THE ADDRESS APPEARING ON THE CITATION OR TO AN
4 ADDRESS THAT IS FURNISHED BY THE RETAIL LICENSEE. AN INFORMAL
5 HEARING SHALL BE CONDUCTED PURSUANT TO SUBSECTION (5), AND A
6 FORMAL HEARING SHALL BE CONDUCTED PURSUANT TO SUBSECTION (6).

7 (5) AN INFORMAL HEARING SHALL BE CONDUCTED BY A DISTRICT
8 COURT MAGISTRATE, IF AUTHORIZED BY THE JUDGE OR JUDGES OF THE
9 DISTRICT COURT DISTRICT. A DISTRICT COURT MAGISTRATE MAY ADMIN-
10 ISTER OATHS, EXAMINE WITNESSES, AND MAKE FINDINGS OF FACT AND
11 CONCLUSIONS OF LAW AT AN INFORMAL HEARING. THE JUDGE OR DISTRICT
12 COURT MAGISTRATE SHALL CONDUCT THE INFORMAL HEARING IN AN INFOR-
13 MAL MANNER SO AS TO DO SUBSTANTIAL JUSTICE ACCORDING TO THE RULES
14 OF SUBSTANTIVE LAW, BUT IS NOT BOUND BY THE STATUTORY PROVISIONS
15 OR RULES OF PRACTICE, PROCEDURE, PLEADING, OR EVIDENCE, EXCEPT
16 PROVISIONS RELATING TO PRIVILEGED COMMUNICATIONS. THERE SHALL
17 NOT BE A JURY AT AN INFORMAL HEARING. A VERBATIM RECORD OF AN
18 INFORMAL HEARING IS NOT REQUIRED. AT AN INFORMAL HEARING, THE
19 RETAIL LICENSEE SHALL NOT BE REPRESENTED BY AN ATTORNEY AND THE
20 LAW ENFORCEMENT AGENCY THAT ISSUED THE CITATION UNDER SUBSECTION
21 (2) SHALL NOT BE REPRESENTED BY THE PROSECUTING ATTORNEY. NOTICE
22 OF A SCHEDULED INFORMAL HEARING SHALL BE GIVEN TO THE LAW
23 ENFORCEMENT AGENCY THAT ISSUED THE CITATION UNDER SUBSECTION
24 (2). THE LAW ENFORCEMENT AGENCY AND THE RETAIL LICENSEE MAY SUB-
25 POENA WITNESSES. WITNESS FEES NEED NOT BE PAID IN ADVANCE TO A
26 WITNESS. WITNESS FEES FOR A WITNESS ON BEHALF OF THE LAW
27 ENFORCEMENT AGENCY ARE PAYABLE BY THE DISTRICT CONTROL UNIT OF

1 THE DISTRICT COURT FOR THE PLACE WHERE THE HEARING OCCURS. IF
2 THE JUDGE OR DISTRICT COURT MAGISTRATE DETERMINES BY A PREPONDER-
3 ANCE OF THE EVIDENCE THAT THE RETAIL LICENSEE IS RESPONSIBLE FOR
4 A VIOLATION OF SECTION 1(1), THE JUDGE OR MAGISTRATE SHALL ENTER
5 AN ORDER TO PAY THE APPLICABLE FINE PRESCRIBED BY SUBSECTION
6 (8). OTHERWISE, A JUDGMENT SHALL BE ENTERED FOR THE RETAIL
7 LICENSEE, BUT THE RETAIL LICENSEE IS NOT ENTITLED TO COSTS OF THE
8 ACTION. THE LAW ENFORCEMENT AGENCY THAT ISSUED THE CITATION
9 UNDER SUBSECTION (4) AND THE RETAIL LICENSEE ARE ENTITLED TO
10 APPEAL AN ADVERSE JUDGMENT ENTERED AT AN INFORMAL HEARING. AN
11 APPEAL SHALL BE DE NOVO IN THE FORM OF A SCHEDULED FORMAL HEARING
12 AS FOLLOWS:

13 (A) THE APPEAL FROM A JUDGE OF THE DISTRICT COURT SHALL BE
14 HEARD BY A DIFFERENT JUDGE OF THE DISTRICT.

15 (B) THE APPEAL FROM A DISTRICT COURT MAGISTRATE SHALL BE
16 HEARD BY A JUDGE OF THE DISTRICT.

17 (6) A FORMAL HEARING SHALL BE CONDUCTED ONLY BY A JUDGE OF
18 THE DISTRICT COURT. THERE SHALL NOT BE A JURY TRIAL IN A FORMAL
19 HEARING. IN A FORMAL HEARING, THE RETAIL LICENSEE MAY BE REPRE-
20 SENTED BY AN ATTORNEY, BUT IS NOT ENTITLED TO COUNSEL APPOINTED
21 AT PUBLIC EXPENSE. NOTICE OF A FORMAL HEARING SHALL BE GIVEN TO
22 THE PROSECUTING ATTORNEY FOR THE COUNTY IN WHICH THE CITATION WAS
23 ISSUED. THAT ATTORNEY SHALL APPEAR IN COURT FOR A FORMAL HEARING
24 AND IS RESPONSIBLE FOR THE ISSUANCE OF A SUBPOENA TO EACH WITNESS
25 FOR THE LAW ENFORCEMENT AGENCY THAT ISSUED THE CITATION. THE
26 RETAIL LICENSEE MAY ALSO SUBPOENA WITNESSES. WITNESS FEES NEED
27 NOT BE PAID IN ADVANCE TO A WITNESS. WITNESS FEES FOR A WITNESS

1 ON BEHALF OF THE LAW ENFORCEMENT AGENCY THAT ISSUED THE CITATION
2 ARE PAYABLE BY THE DISTRICT CONTROL UNIT OF THE DISTRICT COURT
3 FOR THE PLACE WHERE THE HEARING OCCURS. IF THE JUDGE DETERMINES
4 BY A PREPONDERANCE OF THE EVIDENCE THAT THE RETAIL LICENSEE HAS
5 VIOLATED SECTION 1(1), THE JUDGE SHALL ENTER AN ORDER REQUIRING
6 THE RETAIL LICENSEE TO PAY THE APPROPRIATE FINE PRESCRIBED BY
7 SUBSECTION (8). OTHERWISE, A JUDGMENT SHALL BE ENTERED FOR THE
8 RETAIL LICENSEE, BUT THE RETAIL LICENSEE IS NOT ENTITLED TO COSTS
9 OF THE ACTION.

10 (7) IF A RETAIL LICENSEE FAILS TO APPEAR AS DIRECTED BY A
11 CITATION ISSUED UNDER SUBSECTION (2) OR AT A SCHEDULED INFORMAL
12 HEARING, OR AT A SCHEDULED FORMAL HEARING, THE COURT SHALL ENTER
13 A DEFAULT JUDGMENT AGAINST THE RETAIL LICENSEE.

14 (8) IN ADDITION TO THE CRIMINAL PENALTY PRESCRIBED BY SEC-
15 TION 1(1), IF IT IS DETERMINED THAT A RETAIL LICENSEE HAS VIO-
16 LATED SECTION 1(1), THE RETAIL LICENSEE IS SUBJECT TO THE
17 FOLLOWING:

18 (A) FOR THE FIRST VIOLATION, A \$700.00 ADMINISTRATIVE FINE
19 TO BE PAID TO THE LAW ENFORCEMENT AGENCY. IF THE COURT FINDS A
20 VIOLATION OF SECTION 1(1), THE COURT SHALL ORDER THE RETAIL
21 LICENSEE TO PAY A CIVIL FINE OF \$700.00 PLUS COSTS TO THE LAW
22 ENFORCEMENT AGENCY. THE LAW ENFORCEMENT AGENCY SHALL DISBURSE
23 THE \$700.00 ACCORDING TO THE FOLLOWING FORMULA:

24 (i) THE LAW ENFORCEMENT AGENCY SHALL DISBURSE \$200.00 TO THE
25 PROSECUTING ATTORNEY FOR THE COUNTY IN WHICH THE VIOLATION
26 OCCURRED. THE COUNTY PROSECUTING ATTORNEY SHALL USE THE MONEY

1 EXCLUSIVELY TO HIRE STAFF AND ACQUIRE RESOURCES TO IMPLEMENT AND
2 PUBLICIZE THIS SECTION AND SECTION 1A.

3 (ii) THE LAW ENFORCEMENT AGENCY SHALL DISBURSE \$500.00 TO
4 THE BUDGET OF THE SQUAD WITHIN THE LAW ENFORCEMENT AGENCY THAT IS
5 RESPONSIBLE FOR THE ENFORCEMENT OF SECTION 1(1) AND SECTION 1A.
6 THE SQUAD SHALL USE THE MONEY EXCLUSIVELY TO HIRE STAFF AND
7 ACQUIRE RESOURCES TO IMPLEMENT AND PUBLICIZE THIS SECTION AND
8 SECTION 1A.

9 (B) IF A LOCAL HEALTH DEPARTMENT HAS SUCCESSFULLY PROSECUTED
10 1 OR MORE VIOLATIONS OF SECTION 1(1) AGAINST A RETAIL LICENSEE
11 WITHIN A CONSECUTIVE 24-MONTH PERIOD UNDER SECTION 3A, THEN THE
12 FIRST TIME A LAW ENFORCEMENT AGENCY ISSUES A CITATION FOR A VIO-
13 LATION OF SECTION 1(1) WITHIN THAT SAME TIME PERIOD, IT SHALL BE
14 TREATED AS A SECOND OR SUBSEQUENT OFFENSE, IF THE LAW ENFORCEMENT
15 AGENCY IS ACTING UPON THE REFERRAL OF THE LOCAL HEALTH
16 DEPARTMENT. IF THE COURT FINDS A RETAIL LICENSEE IN VIOLATION OF
17 SECTION 1(1) FOR A SECOND OR SUBSEQUENT TIME, THE COURT SHALL
18 ORDER THE RETAIL LICENSEE TO PAY A CIVIL FINE OF \$1,000.00 PLUS
19 COSTS TO THE LAW ENFORCEMENT AGENCY THAT ISSUED THE CITATION.
20 THE LAW ENFORCEMENT AGENCY SHALL DISBURSE THE \$1,000.00 ACCORDING
21 TO THE FOLLOWING FORMULA:

22 (i) THE LAW ENFORCEMENT AGENCY SHALL DISBURSE \$250.00 TO THE
23 COUNTY PROSECUTING ATTORNEY FOR THE COUNTY IN WHICH THE VIOLATION
24 OCCURRED. THE COUNTY PROSECUTING ATTORNEY SHALL USE THE MONEY
25 EXCLUSIVELY TO HIRE STAFF AND ACQUIRE RESOURCES TO IMPLEMENT AND
26 PUBLICIZE THIS SECTION AND SECTION 1A.

1 (ii) THE LAW ENFORCEMENT AGENCY SHALL DISBURSE \$550.00 TO
2 THE BUDGET OF THE SQUAD WITHIN THE LAW ENFORCEMENT AGENCY THAT IS
3 RESPONSIBLE FOR THE ENFORCEMENT OF THIS SECTION AND SECTION
4 1(1). THE SQUAD SHALL USE THE MONEY EXCLUSIVELY TO HIRE STAFF
5 AND ACQUIRE RESOURCES TO IMPLEMENT AND PUBLICIZE THIS SECTION AND
6 SECTION 1A.

7 (iii) THE LAW ENFORCEMENT AGENCY SHALL DISBURSE \$200.00 TO
8 THE LOCAL HEALTH DEPARTMENT THAT REFERRED THE ALLEGED VIOLATION
9 OF SECTION 1(1). THE LOCAL HEALTH DEPARTMENT SHALL USE THE MONEY
10 EXCLUSIVELY TO HIRE EMPLOYEES TO PUBLICIZE AND IMPLEMENT SECTIONS
11 1A AND 3A.

12 (C) FOR A THIRD VIOLATION OF SECTION 1(1) WITHIN A CONSECU-
13 TIVE 24-MONTH PERIOD, THE COURT SHALL ORDER A RETAIL LICENSEE TO
14 PAY A CIVIL FINE OF \$1,400.00 TO THE LOCAL LAW ENFORCEMENT AGENCY
15 THAT ISSUED THE CITATION. THE LAW ENFORCEMENT AGENCY SHALL DIS-
16 BURSE THE \$1,400.00 ACCORDING TO THE FOLLOWING FORMULA:

17 (i) THE LAW ENFORCEMENT AGENCY SHALL DISBURSE \$400.00 TO THE
18 COUNTY PROSECUTING ATTORNEY FOR THE COUNTY IN WHICH THE VIOLATION
19 OCCURRED. THE COUNTY PROSECUTING ATTORNEY SHALL USE THE MONEY
20 EXCLUSIVELY TO HIRE STAFF AND ACQUIRE RESOURCES TO IMPLEMENT AND
21 PUBLICIZE THIS SECTION AND SECTION 1A.

22 (ii) THE LAW ENFORCEMENT AGENCY SHALL DISBURSE \$700.00 TO
23 THE BUDGET OF THE SQUAD WITHIN THE LAW ENFORCEMENT AGENCY THAT IS
24 RESPONSIBLE FOR THE ENFORCEMENT OF THIS SECTION AND SECTION 1A.
25 THE SQUAD SHALL USE THE MONEY EXCLUSIVELY TO HIRE STAFF AND
26 ACQUIRE RESOURCES TO IMPLEMENT AND PUBLICIZE THIS SECTION AND
27 SECTION 1A.

1 (iii) THE LAW ENFORCEMENT AGENCY SHALL DISBURSE \$300.00 TO
2 THE LOCAL HEALTH DEPARTMENT WITH JURISDICTION FOR THE LOCAL GOV-
3 ERNMENTAL UNIT IN WHICH THE VIOLATION OCCURRED. THE LOCAL HEALTH
4 DEPARTMENT SHALL USE THE MONEY EXCLUSIVELY TO HIRE EMPLOYEES TO
5 PUBLICIZE AND IMPLEMENT SECTIONS 1A AND 3A.

6 (9) IN ADDITION TO THE CIVIL FINES IMPOSED UNDER SUBSECTION
7 (8), THE COURT SHALL ORDER A RETAIL LICENSEE TO PREPARE FOR THE
8 COURT A DETAILED ABATEMENT PLAN. THE RETAIL LICENSEE SHALL PRO-
9 VIDE IN THE ABATEMENT PLAN FOR 3 OR MORE OF THE FOLLOWING:

10 (A) THE HIRING OF AN ON-SITE MONITOR TO PREVENT THE RECUR-
11 RENCE OF VIOLATIONS OF SECTION 1(1).

12 (B) MAKING CAPITAL IMPROVEMENTS TO THE PROPERTY WHERE THE
13 VIOLATIONS OCCURRED TO PREVENT FURTHER VIOLATIONS OF SECTION
14 1(1), INCLUDING, BUT NOT LIMITED TO, THE INSTALLATION OF ELEC-
15 TRONIC SECURITY OR VISUAL MONITORING SYSTEMS, OR BOTH.

16 (C) DEVELOPING AND IMPLEMENTING A WRITTEN STORE POLICY TO
17 PREVENT FURTHER VIOLATIONS OF SECTION 1(1) AND EMPLOYING COVERT
18 TEST SHOPPERS TO DETERMINE IF ITS EMPLOYEES ARE ILLEGALLY SELLING
19 ALCOHOL OR TOBACCO TO MINORS IN VIOLATION OF THE STORE POLICY.

20 (D) DEVELOPING AND IMPLEMENTING IN-STORE TRAINING PROGRAMS
21 FOR EMPLOYEES TO PREVENT FURTHER VIOLATIONS OF SECTION 1(1) AND
22 THE UNLAWFUL SALE OF ALCOHOLIC LIQUOR.

23 (E) REQUIRING ALL EMPLOYEES TO ATTEND OFF-SITE TRAINING PRO-
24 GRAMS DEVELOPED OR APPROVED BY THE LOCAL HEALTH DEPARTMENT AND
25 DESIGNED TO PREVENT VIOLATIONS OF SECTION 1(1) AND THE UNLAWFUL
26 SALE OF ALCOHOLIC LIQUOR.

1 (10) FOR A FOURTH OR SUBSEQUENT VIOLATION OF SECTION 1(1)
2 WITHIN A CONSECUTIVE 24-MONTH PERIOD, THE COURT SHALL ORDER A
3 RETAIL LICENSEE TO PAY A CIVIL FINE OF \$1,400.00 TO THE LAW
4 ENFORCEMENT AGENCY THAT ISSUED THE CITATION. IN ADDITION, THE
5 COURT MAY ABATE THE NUISANCE AS DESCRIBED IN SECTION 1A. ANY
6 FUNDS REMAINING AFTER THE NUISANCE IS ABATED AS DESCRIBED IN SEC-
7 TION 1A SHALL BE DISBURSED IN THE SAME MANNER AS CIVIL FINES ARE
8 DISBURSED UNDER SUBSECTION (8)(C). THE LAW ENFORCEMENT AGENCY
9 SHALL DISBURSE THE CIVIL FINE COLLECTED UNDER THIS SUBSECTION IN
10 THE SAME MANNER AS FUNDS ARE DISBURSED UNDER SUBSECTION (8)(C).
11 IN ADDITION TO OR INSTEAD OF ABATING THE NUISANCE AS DESCRIBED IN
12 SECTION 1A, THE COURT MAY ABATE THE NUISANCE BY ORDERING THE
13 RETAIL LICENSEE TO COMPLY WITH ALL OR PART OF THE ABATEMENT PLAN
14 ORDERED UNDER SUBSECTION (9).

15 (11) AS USED IN THIS SECTION, "RETAIL LICENSEE" MEANS A
16 PERSON WHOSE ORDINARY COURSE OF BUSINESS CONSISTS, IN WHOLE OR IN
17 PART, OF THE RETAIL SALE OF TOBACCO PRODUCTS SUBJECT TO STATE
18 SALES TAX OR LIQUOR UNDER THE MICHIGAN LIQUOR CONTROL CODE OF
19 1998, 1998 PA 58, MCL 436.1101 TO 436.2303.

20 Enacting section 1. This amendatory act does not take
21 effect unless all of the following bills of the 89th Legislature
22 are enacted into law:

23 (a) Senate Bill No. ____ or House Bill No. ____ (request
24 no. 06245'98).

25 (b) Senate Bill No. ____ or House Bill No. ____ (request
26 no. 06400'98).

1 (c) Senate Bill No. ____ or House Bill No. ____ (request
2 no. 06401'98).