

HOUSE BILL No. 4444

March 13, 2007, Introduced by Reps. Spade, Polidori, Meadows, Young, Dean, Gonzales and Hammon and referred to the Committee on Commerce.

A bill to amend 1915 PA 31, entitled
"Youth tobacco act,"
by amending section 1 (MCL 722.641), as amended by 2006 PA 236.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) A person shall not sell, give, or furnish a
2 tobacco product to a minor. A person who violates this subsection
3 is guilty of a misdemeanor punishable by ~~a fine of not more than~~
4 ~~\$50.00 for each violation.~~ **1 OF THE FOLLOWING FINES:**

5 **(A) IF THE VIOLATION IS NOT A VIOLATION OF SUBDIVISION (B), A**
6 **FINE OF NOT MORE THAN \$100.00 FOR A FIRST VIOLATION, \$250.00 FOR A**
7 **SECOND VIOLATION, OR \$500.00 FOR A THIRD OR SUBSEQUENT VIOLATION.**

8 **(B) IF THE VIOLATION IS AN INTERNET, MAIL ORDER, OR TELEPHONE**
9 **SALE OF A TOBACCO PRODUCT TO A PERSON UNDER 18 YEARS OF AGE, A FINE**

1 OF NOT MORE THAN \$500.00 FOR A FIRST VIOLATION, \$1,000.00 FOR A
2 SECOND VIOLATION, OR \$2,000.00 FOR A THIRD OR SUBSEQUENT VIOLATION.

3 (2) A person who sells tobacco products at retail shall post,
4 in a place close to the point of sale and conspicuous to both
5 employees and customers, a sign produced by the department of
6 community health that includes the following statement:

7 "The purchase of tobacco products by a minor under 18 years of
8 age and the provision of tobacco products to a minor are prohibited
9 by law. A minor unlawfully purchasing or using tobacco products is
10 subject to criminal penalties."

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

18 (4) The department of community health shall produce the sign
19 required under subsection (2) and have adequate copies of the sign
20 ready for distribution to licensed wholesalers, secondary
21 wholesalers, and unclassified acquirers of tobacco products free of
22 charge. Licensed wholesalers, secondary wholesalers, and
23 unclassified acquirers of tobacco products shall obtain copies of
24 the sign from the department of community health and distribute
25 them free of charge, upon request, to persons who are subject to
26 subsection (2). The department of community health shall provide
27 copies of the sign free of charge, upon request, to persons subject

1 to subsection (2) who do not purchase their supply of tobacco
2 products from wholesalers, secondary wholesalers, and unclassified
3 acquirers of tobacco products licensed under the tobacco products
4 tax act, 1993 PA 327, MCL 205.421 to 205.436.

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

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

21 (7) Subsection (1) does not apply to the handling or
22 transportation of a tobacco product by a minor under the terms of
23 that minor's employment.