

SENATE BILL No. 461

April 23, 2009, Introduced by Senators BASHAM, JACOBS and CHERRY and referred to the Committee on Judiciary.

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~~ **\$100.00** for each ~~A~~ **FIRST** violation **COMMITTED IN A CALENDAR**
 5 **YEAR, NOT MORE THAN \$250.00 FOR A SECOND VIOLATION COMMITTED IN A**
 6 **CALENDAR YEAR, OR NOT MORE THAN \$500.00 FOR A THIRD OR SUBSEQUENT**
 7 **VIOLATION COMMITTED IN A CALENDAR YEAR.**

8 (2) A person who sells tobacco products at retail shall post,
 9 in a place close to the point of sale and conspicuous to both
 10 employees and customers, a sign produced by the department of

1 community health that includes the following statement:

2 "The purchase of tobacco products by a minor under 18 years of
3 age and the provision of tobacco products to a minor are prohibited
4 by law. A minor unlawfully purchasing or using tobacco products is
5 subject to criminal penalties."

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

13 (4) The department of community health shall produce the sign
14 required under subsection (2) and have adequate copies of the sign
15 ready for distribution to licensed wholesalers, secondary
16 wholesalers, and unclassified acquirers of tobacco products free of
17 charge. Licensed wholesalers, secondary wholesalers, and
18 unclassified acquirers of tobacco products shall obtain copies of
19 the sign from the department of community health and distribute
20 them free of charge, upon request, to persons who are subject to
21 subsection (2). The department of community health shall provide
22 copies of the sign free of charge, upon request, to persons subject
23 to subsection (2) who do not purchase their supply of tobacco
24 products from wholesalers, secondary wholesalers, and unclassified
25 acquirers of tobacco products licensed under the tobacco products
26 tax act, 1993 PA 327, MCL 205.421 to 205.436.

27 (5) It is an affirmative defense to a charge under subsection

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

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

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