

**SUBSTITUTE FOR
SENATE BILL NO. 462**

A bill to amend 1915 PA 31, entitled
"Youth tobacco act,"
by amending the title and sections 1, 4, and 5 (MCL 722.641,
722.644, and 722.645), the title as amended by 2019 PA 18, sections
1 and 4 as amended by 2022 PA 167, and section 5 as added by 1988
PA 314, and by adding sections 1a, 1b, 1c, 1d, 1e, 1f, 1g, and 1h.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to prohibit the selling, giving, or furnishing of
certain nicotine or tobacco products, vapor products, ~~and or~~
alternative nicotine products to minors; ~~to prohibit the purchase,~~
~~possession, or use of tobacco products, vapor products, and~~
~~alternative nicotine products by minors; to create the nicotine and~~



1 tobacco regulation fund in the state treasury; to require the
 2 licensing of certain persons; to impose fees for licensure; to
 3 provide for the promulgation of rules; to regulate the retail sale
 4 of nicotine or tobacco products, ~~vapor products, alternative~~
 5 ~~nicotine products,~~ and liquid nicotine containers; to prescribe
 6 penalties and civil sanctions; and to prescribe the powers and
 7 duties of certain state agencies and departments. **local governmental**
 8 **officers and entities.**

9 Sec. 1. (1) A person shall not sell, give, or furnish **either**
 10 **of the following** to a ~~tobacco product, vapor product, or~~
 11 ~~alternative nicotine product to a minor, including, but not limited~~
 12 ~~to, through a vending machine: . A person who violates this~~
 13 ~~subsection or subsection (8) is guilty of a misdemeanor punishable~~
 14 ~~by a fine as follows:~~

15 ~~(a) For a first offense, not more than \$100.00.~~

16 ~~(b) For a second offense, not more than \$500.00.~~

17 ~~(c) For a third or subsequent offense, not more than~~
 18 ~~\$2,500.00.~~

19 ~~(2) A person who sells tobacco products, vapor products, or~~
 20 ~~alternative nicotine products at retail~~

21 **(a) A nicotine or tobacco product.**

22 **(b) A nicotine or tobacco accessory.**

23 **(2) A licensee, third-party facilitator service, or an**
 24 **employee of a licensee or third-party facilitator service shall not**
 25 **sell, give, or furnish either of the following to an individual**
 26 **unless the licensee, third-party facilitator service, or employee**
 27 **has examined photographic identification of the individual:**

28 **(a) A nicotine or tobacco product.**

29 **(b) A nicotine or tobacco accessory.**



(3) A licensee or third-party facilitator service that violates subsection (1)(a) is subject to an administrative fine, suspension or revocation of the licensee's license or of the third-party facilitator service's third-party facilitator license, or both, as follows:

(a) For a first violation in a period of 3 years, \$250.00.

(b) For a second violation in a period of 3 years, \$500.00.

(c) For a third violation in a period of 3 years, \$2,500.00 and the department shall suspend the license or third-party facilitator service license for 7 days.

(d) For a fourth violation in a period of 3 years, \$10,000.00 and the department shall revoke the license or third-party facilitator service license.

(4) A licensee or third-party facilitator service that violates subsection 1(b) is subject to an administrative fine as follows:

(a) For a first violation in a period of 3 years, \$100.00.

(b) For a second violation in a period of 3 years, \$150.00.

(c) For a third violation in a period of 3 years, \$200.00.

(d) For a fourth or subsequent violation in a period of 3 years, \$400.00.

(5) A licensee or third-party facilitator service that violates subsection 2(a) is subject to an administrative fine as follows:

(a) For a first violation in a period of 3 years, \$250.00.

(b) For a second violation in a period of 3 years, \$500.00.

(c) For a third violation in a period of 3 years, \$750.00.

(d) For a fourth or subsequent violation in a period of 3 years, \$1,000.00.



(6) A licensee or third-party facilitator service that violates subsection 2(b) is subject to an administrative fine as follows:

(a) For a first violation in a period of 3 years, \$100.00.

(b) For a second violation in a period of 3 years, \$150.00.

(c) For a third violation in a period of 3 years, \$200.00.

(d) For a fourth or subsequent violation in a period of 3 years, \$250.00.

(7) An employee, other than a nonmanagerial employee, who violates subsection (1) or (2) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$200.00.

(8) A nonmanagerial employee who violates subsection (1) or (2) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$50.00.

(9) A person, other than a nonmanagerial employee, licensee, third-party facilitator service, or an employee of a licensee or third-party facilitator service, that violates subsection (1)(a) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than the following:

(a) For a first violation in a period of 3 years, \$2,000.00.

(b) For a second violation in a period of 3 years, \$3,000.00.

(c) For a third violation in a period of 3 years, \$4,000.00.

(d) For a fourth or subsequent violation in a period of 3 years, \$5,000.00.

(10) A person, other than a nonmanagerial employee, licensee, third-party facilitator service, or an employee of a licensee or third-party facilitator service, that violates subsection (1)(b) is responsible for a state civil infraction and may be ordered to pay



1 a civil fine of not more than the following:

2 (a) For a first violation in a period of 3 years, \$150.00.

3 (b) For a second violation in a period of 3 years, \$300.00.

4 (c) For a third violation in a period of 3 years, \$400.00.

5 (d) For a fourth or subsequent violation in a period of 3
6 years, \$500.00.

7 (11) The department may bring an action to collect an
8 administrative fine imposed under this section.

9 (12) Subsection (1) does not apply to a minor's handling or
10 transportation of a nicotine or tobacco product or nicotine or
11 tobacco accessory under the terms of the minor's employment.

12 (13) Subsection (1) does not apply if a licensee, third-party
13 facilitator service, or an employee of a licensee or third-party
14 facilitator service sells, gives, or furnishes a nicotine or
15 tobacco product or nicotine or tobacco accessory to a minor after
16 the licensee, third-party facilitator service, or employee makes a
17 diligent and good-faith effort to examine photographic
18 identification that meets all of the following requirements:

19 (a) Appears to be authentic and government-issued.

20 (b) Establishes the identity of the minor.

21 (c) Misrepresents that the minor is an individual 21 years of
22 age or older.

23 (14) At each of the licensee's establishments, a licensee
24 shall post ~~in a place close to the~~ that is not more than 6 feet
25 from each point of sale for a nicotine or tobacco product or
26 nicotine or tobacco accessory and conspicuous to both employees and
27 customers ~~an unobstructed~~ sign produced by the department, ~~of~~
28 ~~health and human services in the same size and color as produced by~~
29 the department, that includes the following statement:



1 ~~"The purchase of a tobacco product, vapor product, or~~
 2 ~~alternative nicotine product by a minor under 21 years of age and~~
 3 ~~the provision~~ **selling, giving, or furnishing** of a **nicotine or**
 4 tobacco product, vapor product, or alternative nicotine product to
 5 ~~a minor are~~ **an individual who is less than 21 years of age is**
 6 prohibited by law." ~~. A minor who unlawfully purchases or uses a~~
 7 ~~tobacco product, vapor product, or alternative nicotine product is~~
 8 ~~subject to criminal penalties."~~

9 **(15)** ~~(3) If the~~ **The** sign required under subsection ~~(2) is more~~
 10 ~~than 6 feet from the point of sale, it~~ **(14)** must be **not larger than**
 11 **5-1/2 inches by 8-1/2 inches**, and the statement required under
 12 subsection ~~(2)~~ **(14)** must be printed in ~~36-point~~ **boldfaced,**
 13 **uppercase** type **with high-contrast red ink**. ~~If the sign required~~
 14 ~~under subsection (2) is 6 feet or less from the point of sale, it~~
 15 ~~must be 2 inches by 4 inches and the statement required under~~
 16 ~~subsection (2) must be printed in 20-point boldfaced type.~~

17 **(16)** If all of the following conditions are met, a licensee
 18 **that violates subsection (14) is subject to an administrative fine**
 19 **of \$50.00:**

20 **(a)** The department, or the department's designee, observed the
 21 **violation.**

22 **(b)** After the observation described in subdivision (a), the
 23 **department notified the licensee, in writing, of the violation.**

24 **(c)** The licensee did not correct the violation before 30 days
 25 **after the notification described in subdivision (b).**

26 **(17)** ~~(4)~~ The department ~~of health and human services~~ shall
 27 produce the sign required under subsection ~~(2)~~ **(14)** and have
 28 adequate copies of the sign ready for distribution, **free of charge,**
 29 to licensed wholesalers, secondary wholesalers, and unclassified



1 acquirers of tobacco products and to persons who sell vapor
 2 products or alternative nicotine products at retail. ~~free of~~
 3 ~~charge.~~ Licensed wholesalers, secondary wholesalers, and
 4 unclassified acquirers of tobacco products shall obtain copies of
 5 the sign from the department ~~of health and human services~~ and
 6 distribute them, free of charge ~~, upon~~ **and on** request, to persons
 7 who sell tobacco products and ~~who~~ are subject to subsection ~~(2).~~
 8 **(14)**. The department ~~of health and human services~~ shall provide
 9 copies of the sign, free of charge ~~, upon~~ **and on** request, to
 10 persons subject to subsection ~~(2)~~ **who (14) that** do not purchase
 11 their supply of tobacco products from wholesalers, secondary
 12 wholesalers, and unclassified acquirers of tobacco products
 13 licensed under the tobacco products tax act, 1993 PA 327, MCL
 14 205.421 to 205.436, and to persons who sell vapor products or
 15 alternative nicotine products at retail.

16 ~~(5) It is an affirmative defense to a charge under subsection~~
 17 ~~(1) that the defendant had in force at the time of arrest and~~
 18 ~~continues to have in force a written policy to prevent the sale of~~
 19 ~~tobacco products, vapor products, or alternative nicotine products,~~
 20 ~~as applicable, to individuals less than 21 years of age and that~~
 21 ~~the defendant enforced and continues to enforce the policy. A~~
 22 ~~defendant who proposes to offer evidence of the affirmative defense~~
 23 ~~described in this subsection shall file notice of the defense, in~~
 24 ~~writing, with the court and serve a copy of the notice on the~~
 25 ~~prosecuting attorney. The defendant shall serve the notice not less~~
 26 ~~than 14 days before the date set for trial.~~

27 ~~(6) A prosecuting attorney who proposes to offer testimony to~~
 28 ~~rebut the affirmative defense described in subsection (5) shall~~
 29 ~~file a notice of rebuttal, in writing, with the court and serve a~~



~~copy of the notice on the defendant. The prosecuting attorney shall serve the notice not less than 7 days before the date set for trial and shall include in the notice the name and address of each rebuttal witness.~~

~~(7) Subsection (1) does not apply to the handling or transportation of a tobacco product, vapor product, or alternative nicotine product by a minor under the terms of the minor's employment.~~

~~(8) Before selling, offering for sale, giving, or furnishing a tobacco product, vapor product, or alternative nicotine product to an individual, a person shall verify that the individual is at least 21 years of age by doing 1 of the following:~~

~~(a) If the individual appears to be less than 27 years of age, examining a government-issued photographic identification that establishes that the individual is at least 21 years of age.~~

~~(b) For sales made by the internet or other remote sales method, performing an age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of databases, that are regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is 21 years of age or older.~~

Sec. 1a. (1) The nicotine and tobacco regulation fund is created in the state treasury.

(2) The state treasurer may deposit money and other assets from any source in the fund. The state treasurer shall direct the investment of the fund and credit interest and earnings from the



1 investments to the fund. Money in the fund at the close of the
2 fiscal year does not lapse to the general fund.

3 (3) The department is the administrator of the fund for audits
4 of the fund.

5 (4) The department shall expend money from the fund on
6 appropriation, only for the administration and enforcement of
7 licensure under this act, including, but not limited to, all of the
8 following:

9 (a) To ensure compliance with applicable law that relates to
10 the retail sale of a nicotine or tobacco product.

11 (b) The education and training of all of the following:

12 (i) Persons that sell, or intend to sell, a nicotine or tobacco
13 product at retail.

14 (ii) Department staff.

15 (iii) Any other person that is subject to or enforces the
16 applicable law.

17 (c) Application processing.

18 (d) Compliance checks.

19 (e) After all expenditures have been made under subdivisions
20 (a) to (d), the creation and operation of the program described in
21 section 1f(2).

22 (5) A fee or administrative fine collected under this act must
23 be deposited in the fund.

24 Sec. 1b. (1) Except as provided in section 1i and not earlier
25 than when the department begins accepting affidavits under section
26 1i and license applications, a person must hold a license to sell a
27 nicotine or tobacco product at retail.

28 (2) An individual shall not sell a nicotine or tobacco product
29 at retail unless the sale is on behalf of a licensee or a person



1 that is temporarily exempt from licensure under section 1i.

2 (3) Except as otherwise provided in subsection (4), a person
3 that violates subsection (1) or an individual who violates
4 subsection (2) is responsible for a state civil infraction and may
5 be ordered to pay a civil fine as follows:

6 (a) For a first violation in a period of 3 years, \$500.00.

7 (b) For a second violation in a period of 3 years, \$1,000.00.

8 (c) For a third or subsequent violation in a period of 3
9 years, \$2,000.00.

10 (4) A nonmanagerial employee is not subject to subsection (3)
11 if both of the following conditions are met:

12 (a) The nonmanagerial employee is employed by a person that is
13 in violation of this act and the person is 1 of the following:

14 (i) A licensee.

15 (ii) A person that is temporarily exempt from licensure under
16 section 1i.

17 (iii) A person that communicates or indicates, explicitly or
18 implicitly, to the nonmanagerial employee that the person is a
19 licensee or a person that is temporarily exempt from licensure
20 under section 1i.

21 (b) The nonmanagerial employee does not know, and does not
22 have reason to know, that the person described in subdivision (a)
23 is in violation of this act.

24 (5) A licensee shall publicly display at the licensee's
25 establishment the applicable certificate of licensure issued under
26 section 1c, or a copy of the certificate. A licensee that violates
27 this subsection is subject to an administrative fine of not more
28 than \$500.00.

29 (6) A licensee shall prohibit the sale, consumption, and use



1 of marihuana on the licensee's establishment. A licensee that
2 violates this subsection is subject to an administrative fine of
3 not more than \$2,500.00.

4 (7) A licensee shall not sell a nicotine or tobacco product
5 itinerantly by flash retail. A licensee that violates this
6 subsection is subject to an administrative fine of not less than
7 \$250.00 but not more than \$2,000.00.

8 Sec. 1c. (1) The department shall begin accepting affidavits
9 under section 1i and license applications not later than 15 months
10 after the effective date of the amendatory act that added this
11 section.

12 (2) The fee to submit an application for a new license is
13 \$500.00.

14 (3) An application for a new license must be in a form
15 prescribed by the department. An applicant must submit a separate
16 application for each of the applicant's establishments. In an
17 applicant's application, the applicant shall include all of the
18 following:

19 (a) The name, address, and telephone number of the applicant
20 and the address of the establishment.

21 (b) The organizational documents of the applicant.

22 (c) If the applicant is required to be licensed under the
23 tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436,
24 proof that the applicant is licensed under that act.

25 (d) An affidavit that affirms both of the following:

26 (i) Except as provided in section 1i, the applicant has not
27 sold and will not sell a nicotine or tobacco product at retail
28 without holding a license.

29 (ii) Each operator of the applicant has read this act and has



1 read the training materials required under section 1f(3).

2 (e) Payment for the new license fee described in subsection
3 (2).

4 (4) An applicant that has an application pending department
5 approval under this act shall inform the department of a change in
6 the information submitted with the application not later than 10
7 business days after the change occurs.

8 (5) The department shall grant a license for each
9 establishment for which the applicant requested a license unless
10 the department determines that the applicant or establishment does
11 not qualify for licensure.

12 (6) For each license granted under subsection (5) and each
13 license renewal granted under section 1d, the department shall
14 issue a certificate of licensure to the licensee.

15 (7) Except as provided in section 91 of the administrative
16 procedures act of 1969, 1969 PA 306, MCL 24.291, and subject to a
17 license suspension, revocation, or proration, a license granted
18 under subsection (5) or license renewal granted under section 1d
19 and a certificate of licensure issued under subsection (6) are
20 valid for 1 year.

21 Sec. 1d. (1) To renew a license, a licensee must, not earlier
22 than 90 days before the license expires but not later than 60 days
23 after the license expires, submit both of the following to the
24 department:

25 (a) An application for a renewed license in a form and manner
26 as prescribed by the department.

27 (b) The application renewal fee described in subsection (3).

28 (2) If a licensee fails to submit a license renewal
29 application under subsection (1), the licensee may submit an



1 application under section 1c only.

2 (3) The fee to submit an application for a license renewal is
3 \$500.00.

4 (4) If the department receives a complete application for a
5 renewed license under subsection (1), the department shall grant
6 the license unless the department determines that the applicant or
7 establishment does not qualify for licensure.

8 Sec. 1e. (1) A licensee may contract with a third-party
9 facilitator service to facilitate, by means of the internet or
10 mobile application, the retail sale of a nicotine or tobacco
11 product to be delivered to the home or designated location of an
12 individual if all of the following conditions are met:

13 (a) If the third-party facilitator service delivers a nicotine
14 or tobacco product to an individual at retail, the third-party
15 facilitator service complies with this act.

16 (b) The licensee does not have a direct or indirect interest
17 in the third-party facilitator service.

18 (c) The licensee does not aid or assist the third-party
19 facilitator service by gift, loan of money or property of any
20 description, or other valuable thing, and the third-party
21 facilitator service does not accept any of these items from the
22 licensee.

23 (d) The licensee or individual pays the fees associated with
24 services provided by the third-party facilitator service.

25 (e) The third-party facilitator service offers services for
26 all nicotine or tobacco products that are available at the
27 licensee's establishment.

28 (2) A person shall not deliver a nicotine or tobacco product
29 to an individual at retail or facilitate the retail sale of a



1 nicotine or tobacco product unless the person holds a third-party
2 facilitator service license granted by the department. The
3 department may charge a reasonable application fee, initial license
4 fee, and annual license renewal fee. The department shall establish
5 and publish the fees described in this subsection.

6 (3) If a third-party facilitator service violates this
7 section, the department shall not treat the violation as a
8 violation by a licensee.

9 Sec. 1f. (1) The department shall do all of the following:

10 (a) Regularly inspect establishments to ensure compliance with
11 this act and to verify that violations of this act have been
12 corrected.

13 (b) Perform undercover operations during which an individual,
14 18 years of age or older but younger than 21 years of age, enters
15 an establishment and attempts to purchase a nicotine or tobacco
16 product.

17 (c) Every year, or more frequently, publish a list of
18 disciplinary actions taken by the department against licensees
19 during the applicable time period.

20 (2) The department may create and operate an education and
21 training program for individuals involved in the inspections
22 conducted under subsection (1).

23 (3) The department shall develop training materials for, and
24 provide the training materials to, persons that sell, or intend to
25 sell, a nicotine or tobacco product at retail. The department may
26 contract with a third party to develop and provide the training
27 materials. A licensee shall ensure that the licensee, each operator
28 of the licensee, and each of the licensee's employees who sells a
29 nicotine or tobacco product at retail reads the training materials



1 at least 1 time every calendar year. A licensee shall maintain, for
2 at least 1 year, a record that shows that the licensee, an
3 operator, or an employee, as applicable, has read the training
4 materials.

5 (4) The training materials described in subsection (3) must
6 include, at a minimum, all of the following information:

7 (a) The sale of a nicotine or tobacco product to a minor is
8 prohibited by law.

9 (b) The consequences of selling a nicotine or tobacco product
10 to a minor.

11 (c) The types of identification that are permissible under
12 this act for proof of an individual's age.

13 (d) Any other information that the department finds necessary
14 for the administration or enforcement of this act.

15 (5) The department may contract with another state department
16 or agency or a third party to implement subsection (1)(b).

17 Sec. 1g. (1) A license or third-party facilitator service
18 license is not transferable. If a licensee transfers ownership of
19 the licensee's establishment, the license for that establishment is
20 void.

21 (2) If a licensee elects to no longer sell or offer for sale
22 nicotine or tobacco products at an establishment, the licensee
23 shall, not later than 30 days after the licensee stops selling
24 nicotine or tobacco products at the establishment, notify the
25 department. The licensee's license for the establishment becomes
26 void when the department receives the licensee's notification.

27 Sec. 1h. (1) The department may promulgate rules to implement
28 the licensure provisions of this act under the administrative
29 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.



1 (2) If requested by the department of health and human
2 services, the department shall provide publicly available
3 information about a licensee to the department of health and human
4 services.

5 (3) The department may deny, suspend, revoke, or refuse to
6 grant a license for any of the following reasons:

7 (a) The applicant or licensee submitted inaccurate or false
8 information to the department.

9 (b) The applicant or licensee violated this act.

10 (c) The applicant or licensee failed to pay a fine assessed
11 under this act.

12 (4) If a licensee has an unresolved disciplinary action under
13 this act, the department shall not grant or renew a license if the
14 license is for the same establishment that is associated with the
15 unresolved disciplinary action.

16 (5) If an applicant for a new license is a licensee, the
17 department shall prorate the fee for and duration of the new
18 license so that the new license expires on the same date that every
19 other license of the licensee expires.

20 (6) The department shall not deny, suspend, revoke, or refuse
21 to renew a license or impose an administrative fine or license
22 ineligibility period under this act unless the person that is
23 subject to the department's action is provided notice and an
24 opportunity for a hearing under the administrative procedures act
25 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

26 (7) Not later than October 1 of each year, beginning in 2027,
27 the department shall create a report and make the report available
28 to the public at no cost on the department's website. The report
29 must include all of the following information for the 1-year period



1 immediately preceding the date the report is created:

2 (a) The number of licenses that were issued.

3 (b) The number of licenses that were renewed.

4 (c) The number of inspections conducted under section
5 1f(1) (a) .

6 (d) The number of inspections conducted under section
7 1f(1) (b) .

8 (e) A list of disciplinary actions taken against licensees for
9 violations of this act.

10 (f) A detailed statement of whether the fees for licensure are
11 sufficient for the department to administer this act.

12 Sec. 4. As used in this act:

13 (a) "Alternative nicotine product" means a noncombustible
14 product ~~containing that~~ **contains** nicotine ~~that~~ **and** is intended for
15 human consumption, whether chewed, absorbed, dissolved, or ingested
16 by any other means. Alternative nicotine product does not include a
17 **marihuana product**, a tobacco product, a vapor product, food, or a
18 product regulated as a drug or device by the United States Food and
19 Drug Administration under 21 USC 351 to ~~360fff-7~~.**360fff-8**.

20 (b) "Applicant" means either of the following, as applicable:

21 (i) A person that submits an application for a new license
22 under section 1c.

23 (ii) A person that submits an application to renew a license
24 under section 1d.

25 (c) "At retail" or "retail" does not include the sale of a
26 tobacco product by the department of treasury under section 9 of
27 the tobacco products tax act, 1993 PA 327, MCL 205.429.

28 (d) "Department" means the department of licensing and
29 regulatory affairs.



(e) "Establishment" means a place of business, or area within a place of business, located in this state where a licensee has been authorized by the department to sell or offer for sale a nicotine or tobacco product at retail. Establishment does not include flash retail or itinerant retail.

(f) "Fair" means that term as defined in section 1107 of the food law, 2000 PA 92, MCL 289.1107.

(g) "Farmers' market" means that term as defined in section 1107 of the food law, 2000 PA 92, MCL 289.1107.

(h) "Festival" means that term as defined in section 1107 of the food law, 2000 PA 92, MCL 289.1107.

(i) "Flash retail" means the use of a mobile, pop-up, or temporary structure for retail.

(j) "Fund" means the nicotine and tobacco regulation fund created in section 1a.

(k) "License" means the license described in section 1c.

(l) "Licensee" means a person that has been granted and holds a license under section 1c.

(m) "Marihuana" means that term as defined in section 3 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27953.

(n) ~~(b)~~—"Minor" means an individual who is less than 21 years of age.

(o) "Nicotine or tobacco accessory" means a component, part, or accessory of a nicotine or tobacco product, including, but not limited to, filters, rolling papers, blunt or hemp wraps, flavor enhancers, or pipes, if the component, part, or accessory is not a product regulated as a drug or device by the United States Food and Drug Administration under 21 USC 351 to 360fff-8.



1 (p) "Nicotine or tobacco product" means any of the following:

2 (i) A product that meets all of the following conditions:

3 (A) Contains, is made of, or is derived from nicotine or
4 tobacco, from any source.

5 (B) Is intended for human consumption or is likely to be
6 consumed by humans, by any means, including, but not limited to,
7 inhaling, absorbing, or ingesting.

8 (C) Is not regulated as a drug or device by the United States
9 Food and Drug Administration under 21 USC 351 to 360fff-8.

10 (D) Is not a marihuana product.

11 (ii) An alternative nicotine product.

12 (iii) A tobacco product.

13 (iv) A vapor product.

14 (q) "Nonmanagerial employee" means a cashier or clerk who does
15 not have managerial control at the cashier's or clerk's employer
16 under the terms of the cashier's or clerk's employment.

17 (r) "Operator" means a person that holds an ownership interest
18 of not less than 10% in another person.

19 (s) "Person" means an individual or a partnership,
20 corporation, limited liability company, association, governmental
21 entity, or other legal entity.

22 (t) "Person who sells tobacco products at retail" means a
23 person whose ordinary course of business consists, in whole or in
24 part, of the retail sale of tobacco products subject to state sales
25 tax.

26 (u) ~~(e)~~—"Person who sells vapor products or alternative
27 nicotine products at retail" means a person whose ordinary course
28 of business consists, in whole or in part, of the retail sale of
29 vapor products or alternative nicotine products.



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

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

(w) "Third-party facilitator service" means a person that has been granted and holds a license under section 1e.

(x) "Third-party facilitator service license" means the license described in section 1e.

(y) ~~(f)~~ "Tobacco product" means a product that contains tobacco and is intended for human consumption, including, but not limited to, a **cigar, a** cigarette, noncigarette smoking tobacco, or smokeless tobacco ~~, as those terms are defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422. , and a~~
cigar. Tobacco product does not include either of the following:

(i) A product regulated as a drug or device by the United States Food and Drug Administration under 21 USC 351 to 360fff-8.

(ii) A product that contains marihuana.

(z) ~~(g)~~ "Use a tobacco product, vapor product, or alternative nicotine product" means to smoke, chew, suck, inhale, or otherwise consume a tobacco product, vapor product, or alternative nicotine product.

(aa) "Valuable thing" means a good, service, or intangible good that is given, loaned, leased, or sold and that has value regardless of whether the value is nominal. Valuable thing includes, but is not limited to, a good, service, or intangible good that provides a benefit, regardless of how nominal, to a



1 **person.**

2 **(bb)** ~~(h)~~ "Vapor product" means a noncombustible product that
 3 employs a heating element, power source, electronic circuit, or
 4 other electronic, chemical, or mechanical means, regardless of
 5 shape or size, ~~that can be used to~~ produce vapor from nicotine or
 6 any other substance, **not including marihuana**, and the use or
 7 inhalation of which simulates smoking. Vapor product includes an
 8 electronic cigarette, electronic cigar, electronic cigarillo,
 9 electronic pipe, or similar product or device and a vapor cartridge
 10 or other container of nicotine or other substance, **not including**
 11 **marihuana**, in a solution or other form that is intended to be used
 12 with or in an electronic cigarette, electronic cigar, electronic
 13 cigarillo, electronic pipe, or similar product or device. Vapor
 14 product does not include a product regulated as a drug or device by
 15 the United States Food and Drug Administration under 21 USC 351 to
 16 ~~360fff-7.360fff-8.~~

17 Sec. 5. This act ~~shall be known and~~ may be cited as the "~~youth~~
 18 **"nicotine and tobacco act"**".

19 Enacting section 1. This amendatory act does not take effect
 20 unless all of the following bills of the 103rd Legislature are
 21 enacted into law:

22 (a) Senate Bill No. 463 or House Bill No. ____ (request no.
 23 H01094'25).

24 (b) Senate Bill No. 465 or House Bill No. ____ (request no.
 25 H01722'25).

26 (c) Senate Bill No. 466 or House Bill No. ____ (request no.
 27 H01094'25 a).

