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BILL ANALYSIS



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Senate Bills 462, 463, 465, and 466 (as introduced 6-26-25)

Sponsor: Senator Sam Singh (S.B. 462)
Senator Paul Wojno (S.B. 463)
Senator Joseph Bellino (S.B. 465)
Senator Mary Cavanagh (S.B. 466)

Committee: Regulatory Affairs

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INTRODUCTION

The bills would establish licensure requirements for nicotine and tobacco retailers. They would prescribe administrative fines, licensing sanctions, and misdemeanor penalties for specific violations of their licensure requirements and prohibitions. To obtain or renew a license, an establishment would have to apply to the Department of Licensing and Regulatory Affairs (LARA) and pay a \$500 fee. The Department would have to begin accepting license applications within 15 months of the bill's effective date. The bill's application fees and administrative and civil fines would have to be deposited into the proposed Nicotine and Tobacco Regulation Fund, which LARA could use to administer and enforce compliance with the bills. Finally, the bills would remove penalties for a minor's purchase, possession, or use of a tobacco, vapor, or alternative nicotine product.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

Senate Bills 462, 463, and 466 are similar to Senate Bills 651, 654, and 653 from the 2023-2024 Legislative Session, respectively. The bills passed the Senate but received no further action in the House.

BRIEF FISCAL IMPACT

Taken together, the bills would have a negative fiscal impact on State government and a positive impact on local governments. The bills would require LARA to administer and enforce licensure for an establishment to sell nicotine or tobacco products at retail. The total cost to LARA would depend on the cost necessary to process applications and perform compliance checks, though this would be offset by application fees and other fees required by the bill. The Department of Health and Human Services (DHHS) also would incur a cost to produce required signage. Revenue from fines imposed by the bill would be used to support local and county law libraries.

MCL 722.641 et al. (S.B. 462)
722.642 (S.B. 463)
722.52 and 722.53 (S.B. 466)
Proposed MCL 722.641m (S.B. 465)

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CONTENT

Senate Bill 462 would amend the Youth Tobacco Act to do the following:

- **Require a person to hold a valid license to sell a nicotine or tobacco product at retail.**
- **Prescribe administrative fines, licensing sanctions, and civil fines for the prohibited or unlicensed sale of a nicotine or tobacco product under the bill.**
- **Prescribe requirements for new licenses and license renewals, including conditions under which a license could be denied or revoked.**
- **Allow LARA to promulgate rules to implement licensure requirements.**
- **Require LARA to begin accepting license applications and affidavits for temporary exemption before licensure within 15 months of the bill's effective date.**
- **Prohibit an unlicensed establishment from displaying, advertising, or selling its nicotine and tobacco products.**
- **Create the Nicotine and Tobacco Regulation Fund and require fees and fines collected by LARA to be deposited into the Fund and spent on appropriation to ensure compliance with the bill.**
- **Require LARA to conduct regular compliance checks at each licensed establishment and publish the results of each check.**
- **Require an establishment to examine the photographic identification of an individual attempting to purchase a nicotine or tobacco product and prescribe requirements for this photographic identification.**
- **Rename the Act as the "Nicotine and Tobacco Act".**

Senate Bill 463 would amend the Youth Tobacco Act to discontinue penalties against a minor under the age of 21 for possessing, purchasing, or attempting to possess or purchase a tobacco, vapor, or alternative nicotine product.

Senate Bill 465 would amend the Youth Tobacco Act to exempt from the licensure requirements proposed by Senate Bill 462 a nicotine or tobacco retailer that filed an affidavit with LARA certifying that the retailer's application for licensure was pending approval by LARA.

Senate Bill 466 would amend the Age of Majority Act to specify that the Act would not apply to the Michigan Regulation and Taxation of Marihuana Act.

Senate Bills 462 through 466 are tie-barred. This includes Senate Bill 464, which would amend the Youth Tobacco Act to prescribe the circumstances under which a licensee could sell a nicotine or tobacco product at a location that was not the licensee's establishment. Senate Bills 462, 463, and 465 are described in further detail below.

Senate Bill 462

Licensure to Sell Nicotine or Tobacco Products

Generally, the bill would require a person to hold a valid license to sell a nicotine or tobacco product at retail. "Nicotine or tobacco product" would mean a tobacco product, a vapor product, or an alternative nicotine product. It also would mean a product that contains, is made of, or is derived from nicotine or tobacco, or is intended for human consumption or is likely to be consumed by humans by any means, including inhaling, absorbing, or ingesting. Currently, the Act's definition of "nicotine or tobacco product" includes a component, part, or accessory of a nicotine or tobacco product. Under the bill, "nicotine or tobacco accessory"

would mean a component, part, or accessory of a nicotine or tobacco product, including 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 Food and Drug Administration.

The bill would specify that "tobacco product" would exclude a product that contains marihuana. "Vapor product" also would exclude a product that includes marihuana.

"Establishment" would mean a place of business, or area within a place of business, where a licensee has been authorized by LARA to sell or offer for sale a nicotine or tobacco product at retail. The term would not include flash retail or itinerant retail. Flash retail establishments and itinerant establishments would be ineligible for licensure. "Flash retail" would mean the use of a mobile, pop-up, or temporary structure for retail.

A *person*¹ could not sell a nicotine or tobacco product at retail unless the sale was on behalf of the licensee or a person that was temporarily exempt from licensure and was conducted on the licensee's establishment or the premises of the person that was temporarily exempt from licensure.

A person who violated this prohibition would be responsible for a State civil infraction and could be ordered to pay a civil fine as follows:

- For a first violation in a period of three years, \$500.
- For a second violation in a period of three years, \$1,000.
- For a third or subsequent violation in a period of three years, \$2,000.

However, a nonmanagerial employee of a licensee would not be responsible for a State civil infraction or fine if the nonmanagerial employee did not know and did not have reason to know that the violation was taking place.

Application for & Renewal of Licensure

An application for a new license would have to be in a form prescribed by LARA. The application fee for a new license and annual renewal license would be \$500. An applicant would have to submit a separate application for each of the applicant's establishments. In the application, the applicant would have to include the following information:

- The name, address, and telephone number of the applicant and the address of the establishment.
- The organizational documents of the applicant.
- If the applicant were required to be licensed under the Tobacco Products Tax Act, proof that the applicant was licensed, as applicable, under that Act.
- Payment for the new license fee.
- An affidavit that affirmed that the applicant had not sold and would not sell a nicotine or tobacco product at retail without holding a valid license, and each operator of the applicant had read the Act and completed the required training (see Departmental Duties).

An applicant that had an application pending LARA's approval would have to inform LARA of a change in the information submitted with the application at least 10 business days after the change occurred.

¹ "Person" would mean an individual or a partnership, corporation, limited liability company, association, governmental entity, or other legal entity.

The bill would require LARA to grant a license to each establishment for which the applicant requested a license unless LARA determined that the applicant or establishment did not qualify for licensure. Subject to a license suspension or revocation, a license, a license renewal, and a certificate of licensure would be valid for one year.

To renew a license, a licensee would have to submit to LARA, between 60 and 90 days before the expiration of the license term, an application for a renewed license in a form and manner as prescribed by LARA. If a licensee failed to submit a license renewal application in a timely manner, the licensee would have to apply for a new license.

Under the bill, LARA could deny, suspend, revoke, or refuse to grant a license for any of the following reasons:

- The applicant or licensee submitted inaccurate or false information to LARA.
- The applicant or licensee violated the bill.
- The applicant or licensee failed to pay a fine assessed under the bill.
- If a licensee had an unresolved disciplinary action under the bill, LARA could not grant or renew a license if the license were for the same establishment that was associated with the unresolved disciplinary action.

The bill would allow LARA to prorate the fee for and duration of a license if the applicant for the license were a licensee.

Transfer or Change of an Establishment's Ownership Interest

A license would not be transferable. If a licensee transferred ownership of the licensee's establishment, the license for that establishment would be void. If a licensee elected to no longer sell or offer for sale nicotine or tobacco products at an establishment, the licensee would have to notify LARA within 30 days. The licensee's license for the establishment would become void when LARA received the notification.

Other Requirements

A licensee would have to publicly display the applicable certificate of licensure or a copy of the certificate. A licensee that violated this requirement would be subject to an administrative fine of up to \$50.

A licensee would have to prohibit the sale, consumption, and use of marihuana on the licensee's establishment. A licensee that violated this requirement would be subject to an administrative fine of up to \$2,500.

A licensee could not sell a nicotine or tobacco product itinerantly by flash retail. A licensee that violated this prohibition would be subject to an administrative fine of between \$250 and \$2,000.

Departmental Duties

The bill would require LARA and the Department of Treasury to share information that was necessary for the effective administration or enforcement of the Act.

The bill would prohibit LARA from denying, suspending, revoking, or refusing to renew a license or imposing an administrative fine or license ineligibility period under the Act unless the person subject to LARA's action was provided notice and an opportunity for a hearing.

The bill would require LARA to regularly inspect each establishment for compliance with the bill. Every year, or more frequently, LARA would have to publish the results of each compliance check that was conducted during the applicable time period. The Department could create and operate an education and training program for individuals involved in the inspections.

Additionally, the bill would require LARA to develop a training course for persons that sold, or intended to sell, a nicotine or tobacco product at retail. The Department would have to administer the training course or contract with a third party to administer the training course. A licensee would have to ensure that the licensee, each operator or a licensee, and each of the licensee's employees who sold a nicotine or tobacco product at retail completed the training course at least once each calendar year. A licensee would have to maintain, for at least one year, a record that showed that the licensee, an operator, or an employee, as applicable, completed the training course. The training course would have to include at least the following information:

- That the sale of a nicotine or tobacco product to a minor was prohibited by law.
- The consequences of selling a nicotine or tobacco product to a minor.
- The types of identification that were permissible under the Act for proof of an individual's age.
- Any other information LARA found necessary for the administration or enforcement of the Act.

By October 1 of each year, beginning in 2027, LARA would have to create a report that included the following information for the one-year period immediately preceding the report:

- The number of licensees.
- The number of inspections conducted.
- The number of inspections failed by licensees.
- The number of inspections in which a licensee failed the immediately preceding inspection.
- A detailed statement of whether the fees for licensure were sufficient for the LARA to administer the Act.

The report would have to be made available to the public at no cost on LARA's website.

Prohibition Against Sale to Minors, Identification Requirements, Penalties and Fees

Among other things, the Act prohibits a person from selling, giving, or furnishing a tobacco product, vapor product, or alternative nicotine product to a minor, including through a vending machine. A person who violates this prohibition is guilty of a misdemeanor punishable by a fine as follows:

- For a first offense, not more than \$100.
- For a second offense, not more than \$500.
- For a third or subsequent offense, not more than \$2,500.

Instead, the bill would delete the misdemeanor penalties and specify that a person could not sell, give, or furnish a nicotine or tobacco product (including a tobacco vapor product) or a nicotine or tobacco accessory to a minor, including those sold through a vending machine.

Additionally, the bill would specify that the prohibition would not apply to a minor's handling or transportation of a nicotine or tobacco product under the terms of the minor's employment. Nor would this prohibition apply if an establishment sold, gave, or furnished a nicotine or tobacco product to a minor after the establishment made a diligent and good-faith effort to examine photographic identification in person.

The bill would require a licensee or employee of a licensee to examine, in person, photographic identification of the individual attempting to purchase a nicotine or tobacco product before the product was sold, given, or furnished. The photographic identification would have to meet all the following requirements:

- Appear to be authentic and government issued.
- Establish the identity of the minor.
- Misrepresent that the minor was an individual 21 years of age or older.

A licensee that sold, gave, or furnished a nicotine or tobacco *product* to a minor would be subject to an administrative fine, suspension or revocation of the licensee's license, or both, as follows:

- For a first violation in a period of three years, \$250.
- For a second violation in a period of three years, \$500.
- For a third violation in a period of three years, \$2,500, and LARA would have to suspend the license for seven days.
- For a fourth violation in a period of three years, \$10,000, and LARA would have to revoke the license.

A licensee that sold, gave, or furnished a nicotine or tobacco *accessory* to a minor would be subject to an administrative fine as follows:

- For a first violation in a period of three years, \$100.
- For a second violation in a period of three years, \$150.
- For a third violation in a period of three years, \$200.
- For a fourth or subsequent violation in a period of three years, \$400.

A licensee who sold, gave, or furnished a nicotine or tobacco *product* to an individual without examining, in person, photographic identification of the individual, would be subject to an administrative fine as follows:

- For a first violation in a period of three years, \$250.
- For a second violation in a period of three years, \$500.
- For a third violation in a period of three years, \$750.
- For a fourth or subsequent violation in a period of three years, \$1,000.

A licensee who sold, gave, or furnished a nicotine or tobacco *accessory* to an individual without examining, in person, photographic identification of the individual, would be subject to an administrative fine as follows:

- For a first violation in a period of three years, \$100.
- For a second violation in a period of three years, \$150.
- For a third violation in a period of three years, \$200.
- For a fourth or subsequent violation in a period of three years, \$250.

An employee, other than a nonmanagerial employee, who violated these prohibitions would be responsible for a State civil infraction and could be ordered to pay a civil fine of up to \$200. A nonmanagerial employee who violated these prohibitions would be responsible for a State civil infraction and could be ordered to pay a civil fine of up to \$50.

A person, other than a nonmanagerial employee, licensee, or employee of a licensee, that sold, gave, or furnished a nicotine or tobacco *product* to a minor would be responsible for a State civil infraction and could be ordered to pay a civil fine of up to the following:

- For a first violation in a period of three years, \$2,000.
- For a second violation in a period of three years, \$3,000.
- For a third violation in a period of three years, \$4,000.
- For a fourth or subsequent violation in a period of three years, \$5,000.

A person, other than a nonmanagerial employee, licensee, or employee of a licensee, who sold, gave, or furnished a nicotine or tobacco accessory to a minor would be responsible for a State civil infraction and could be ordered to pay a civil fine of up to the following:

- For a first violation in a period of three years, \$150.
- For a second violation in a period of three years, \$300.
- For a third violation in a period of three years, \$400.
- For a fourth or subsequent violation in a period of three years, \$500.

Under the bill, LARA could bring an action to collect administrative fines imposed.

Required Signage

The Act requires a person who sells tobacco products, vapor products, or alternative nicotine products at retail to post, in a place close to the point of sale and conspicuous to employees and customers, a sign produced by the DHHS, in the same size and color as produced by DHHS.

If the sign is more than six feet from the point of sale, it must be 5.5 inches by 8.5 inches and the statement required must be printed in 36-point boldfaced type. If the sign is six feet or less from the point of sale, it must be two inches by four inches and the statement required must be printed in 20-point boldfaced type. Currently, the sign must read as follows:

"The selling, giving, or furnishing of a tobacco product, vapor product, or alternative nicotine product to an individual who is less than 21 years of age is prohibited by law."

The bill would require this sign to be unobstructed and placed within six feet from each point of sale of nicotine and tobacco products or nicotine or tobacco accessories. It would have to be not larger than 5.5 inches by 8.5 inches, with the text printed with uppercase letters using high-contrast red ink. Additionally, the bill would amend the text to read as follows:

"The selling, giving, or furnishing of a nicotine or tobacco product, vapor product, or alternative nicotine product to an individual who is less than 21 years of age is prohibited by law."

The bill would require LARA, instead of the DHHS, to produce the sign and have adequate copies ready for distribution, free of charge.

If LARA, or the Department's designee, observed a violation of these requirements, notified the licensee in writing of the violation, and the licensee did not correct the violation within 30 days after the notification, the licensee would be subject to an administrative fine of \$50.

The Nicotine and Tobacco Regulation Fund

The bill would create the Fund in the State Treasury and require the bill's fees and

administrative fines to be deposited into the Fund. The State Treasurer could deposit money and other assets from any source into the Fund. The State Treasurer would have to direct the investment of the Fund and credit interest and earnings from the investments to the Fund. Money in the Fund at the close of the fiscal year would not lapse to the General Fund. The bill would require LARA to be the administrator of the Nicotine and Tobacco Regulation Fund for auditing purposes.

The bill would allow LARA to spend money from the Fund on appropriation only for the administration and enforcement or licensure under the Act, including all the following:

- To ensure compliance with applicable law that related to the retail sale of a nicotine or tobacco product, the education and training of persons that sold, or intended to sell, a nicotine or tobacco product at retail; LARA staff; and others that were subject to or enforce the applicable law.
- Application processing.
- Compliance checks.

After these expenditures were made, LARA would have to spend money from the Fund on the creation and operation of the education and training program for individuals involved in the inspections required under the bill.

Deleted Provisions

Currently, the Act specifies that it is an affirmative defense to a charge of a violation of selling a tobacco product, vapor product, or alternative nicotine product that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of tobacco products, vapor products, or alternative nicotine products, as applicable, to individuals less than 21 years of age and that the defendant enforced and continues to enforce the policy. The Act prescribes a process for the defendant and prosecutor to provide and rebut the affirmative defense.

The Act also prescribes requirements for verifying the age of an individual before selling, offering for sale, giving, or furnishing a tobacco product, vapor product, or alternative nicotine product to the individual. Generally, a person must verify that the individual is at least 21 years of age by examining identification if the individual appears younger than 27 years old or performing an age verification through a third-party servicer for sales made on the internet.

The bill would delete these provisions.

Senate Bill 463

Remove Penalization of Youth Possession

The Youth Tobacco Act prohibits a minor under the age of 21 from purchasing, attempting to purchase, possessing, attempting to possess, or using in a public place a tobacco, vapor, or alternative nicotine product. It also prohibits a minor from presenting a proof of age that is false for the purpose of any of these activities. An individual in violation of these provisions is guilty of a misdemeanor or State civil infraction and a maximum \$50 fine.

In addition to a fine for each violation, a court may order the individual to participate in a health promotion and risk reduction program at the individual's own cost, and an individual also could be responsible through court order for the following:

- For a first offense, up to 16 hours of community service.

- For a second offense, up to 32 hours of community service.
- For a third and subsequent offense, up to 48 hours of community service.

Generally, the prohibitions do not apply to a minor participating in an undercover law enforcement operation or a compliance check or handling products in the course of employment.

Under the bill, the provisions described above would not apply after the bill's effective date.

Senate Bill 465

The bill would exempt from the licensure requirements proposed by Senate Bill 462 a person that filed an affidavit with LARA that affirmed all the following:

- Before the bill's effective date, the person lawfully sold a nicotine or tobacco product at retail.
- The person had applied for licensure, and the application was pending LARA approval.
- The person had not been granted a license.

A person's exemption would expire when the person's application was no longer pending LARA approval.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

Senate Bills 462, 463, and 466 are similar to Senate Bills 651, 654, and 653 from the 2023-2024 Legislative Session, respectively. Senate Bills 651, 654, and 653 passed the Senate but received no further action in the House.

FISCAL IMPACT

Senate Bill 462

The bill would not have a significant fiscal impact on the Department of Treasury. Depending on the average daily balance of the newly created Nicotine and Tobacco Regulation Fund, Treasury could incur minor administrative costs related to the investment of the Fund. The average balance of the Fund would depend on the amount of fees or fines deposited. This amount is unknown currently. It is likely that existing appropriations would be adequate for most expenses associated with the creation and investment of the Fund.

The bill would have an indeterminate negative fiscal impact on LARA. The total cost would depend on the implementation costs minus the amount appropriated by the Legislature from the Fund. The bill would require LARA to administer and enforce licensure for an establishment to sell nicotine or tobacco products at retail. The total cost to LARA would depend on the number of additional full-time equivalents (FTEs) necessary to process applications and perform compliance checks, as well as the cost of any information technology programs and upgrades, which could be significant. The average FTE annually costs approximately \$138,900, which includes salary and benefits.

These costs would be offset by fees collected upon submission of an application for a new license or the renewal of a license, which the bill specifies should be set at a level sufficient to cover the cost of administration and enforcement of licensure. These fees, along with other fees collected under the bill, would be deposited into the Fund. Money from the Fund could only be spent upon appropriation by the Legislature, meaning that it is likely that there would

be a lag between when LARA incurred costs to establish the licensing program under the bill and when the fees deposited into the Fund were available.

Senate Bill 463 and 465

The bills would have no fiscal impact on State or local government.

Senate Bill 466

The bill would have a minor negative fiscal impact on the DHHS and no fiscal impact on local units of government. The DHHS would incur minor administrative and production costs related to the creation and provision, free of charge, of the signage required under the bill to establishments that sell vapor products or alternative nicotine products at retail. The bill could have a positive fiscal impact on local units of government. The bill would impose misdemeanor fines ranging from \$100 up to \$2,500. Revenue collected from misdemeanor fines is used to support local and county law libraries. The amount of revenue for local libraries depends on the actual number of violations.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.