

# HOUSE BILL NO. 4461

April 16, 2019, Introduced by Reps. Berman, Robinson, Green and Jones and referred to the Committee on Regulatory Reform.

A bill to amend 1915 PA 31, entitled  
"Youth tobacco act,"  
by amending the title and section 2 (MCL 722.642), as amended by  
2006 PA 236.

## 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 prohibit the purchase, possession,  
4 or use of tobacco products by minors; to regulate the retail sale  
5 of tobacco products; to prescribe penalties **and civil sanctions;**



1 and to prescribe the powers and duties of certain state agencies  
2 and departments.

3 Sec. 2. (1) Subject to subsection ~~(3)~~, **(4)**, a minor shall not  
4 do any of the following:

5 (a) Purchase or attempt to purchase a tobacco product.

6 (b) Possess or attempt to possess a tobacco product.

7 (c) Use a tobacco product in a public place.

8 (d) Present or offer to an individual a purported proof of age  
9 that is false, fraudulent, or not actually his or her own proof of  
10 age for the purpose of purchasing, attempting to purchase,  
11 possessing, or attempting to possess a tobacco product.

12 (2) An individual who violates subsection (1) is ~~guilty of a~~  
13 ~~misdemeanor punishable by a fine of not more than \$50.00 for each~~  
14 ~~violation.~~ **responsible for a state civil infraction or guilty of a**  
15 **misdemeanor as follows:**

16 (a) **For the first violation, the individual is responsible for**  
17 **a state civil infraction and shall be fined not more than \$100.00.**  
18 **The court may order an individual to participate in a health**  
19 **promotion and risk reduction assessment program, if available. In**  
20 **addition, the court may order the individual to perform not more**  
21 **than 16 hours of community service in a hospice, nursing home, or**  
22 **long-term care facility. An individual may be found responsible or**  
23 **admit responsibility only once under this subdivision.**

24 (b) **If a violation of subsection (1) occurs after 1 prior**  
25 **judgment, the minor is guilty of a misdemeanor punishable by**  
26 **imprisonment for not more than 30 days or by a fine of not more**  
27 **than \$200.00, or both.** Pursuant to a probation order, the court may  
28 also require ~~an~~ **the** individual ~~who violates subsection (1) to~~  
29 participate in a health promotion and risk reduction assessment



1 program, if available. ~~An individual who is ordered to participate~~  
2 ~~in a health promotion and risk reduction assessment program under~~  
3 ~~this subsection is responsible for the costs of participating in~~  
4 ~~the program. In addition, an individual who violates subsection (1)~~  
5 ~~is subject to the following:~~

6 ~~(a) For the first violation, the court may order the~~  
7 ~~individual to do 1 of the following:~~

8 ~~(i) Perform not more than 16 hours of community service in a~~  
9 ~~hospice, nursing home, or long-term care facility.~~

10 ~~(ii) Participate in a health promotion and risk reduction~~  
11 ~~program, as described in this subsection.~~

12 ~~(b) For a second violation, in addition to participation in a~~  
13 ~~health promotion and risk reduction program, the court may order~~  
14 ~~the individual to perform not more than 32 hours of community~~  
15 ~~service in a hospice, nursing home, or long-term care facility.~~

16 ~~(c) For a third or subsequent violation, in~~ **If a violation of**  
17 **subsection (1) occurs after 2 or more prior judgments, the**  
18 **individual is guilty of a misdemeanor punishable by imprisonment**  
19 **for not more than 60 days or a fine of not more than \$500.00, or**  
20 **both. Pursuant to a probation order, the court may also require the**  
21 **individual to participate in a health promotion and risk reduction**  
22 **assessment program, if available. In addition to participation in a**  
23 **health promotion and risk reduction program, the court may order**  
24 **the individual to perform not more than 48 hours of community**  
25 **service in a hospice, nursing home, or long-term care facility.**

26 **(3) An individual who is ordered to participate in a health**  
27 **promotion and risk reduction assessment program under subsection**  
28 **(2) is responsible for the costs of participating in the program.**

29 **(4) ~~(3)~~ Subsection (1) does not apply to a minor who is**



1 participating in any of the following:

2 (a) An undercover operation in which the minor purchases or  
3 receives a tobacco product under the direction of the minor's  
4 employer and with the prior approval of the local prosecutor's  
5 office as part of an employer-sponsored internal enforcement  
6 action.

7 (b) An undercover operation in which the minor purchases or  
8 receives a tobacco product under the direction of the state police  
9 or a local police agency as part of an enforcement action, unless  
10 the initial or contemporaneous purchase or receipt of the tobacco  
11 product by the minor was not under the direction of the state  
12 police or the local police agency and was not part of the  
13 undercover operation.

14 (c) Compliance checks in which the minor attempts to purchase  
15 tobacco products for the purpose of satisfying federal substance  
16 abuse block grant youth tobacco access requirements, if the  
17 compliance checks are conducted under the direction of a substance  
18 ~~abuse-use disorder~~ coordinating agency as ~~defined in section 6103~~  
19 ~~of the public health code, 1978 PA 368, MCL 333.6103,~~ and with the  
20 prior approval of the state police or a local police agency.

21 (5) ~~(4)~~ Subsection (1) does not apply to the handling or  
22 transportation of a tobacco product by a minor under the terms of  
23 ~~that~~ **the** minor's employment.

24 (6) ~~(5)~~ This section does not prohibit ~~the~~ **an** individual from  
25 being charged with, convicted of, or sentenced for any other  
26 violation of law ~~arising~~ **that arises** out of the violation of  
27 subsection (1).

28 Enacting section 1. This amendatory act takes effect 90 days  
29 after the date it is enacted into law.

