

# SENATE BILL NO. 782

February 05, 2020, Introduced by Senator BULLOCK 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 4 (MCL 722.644), as amended by 2019 PA 18, and by adding section 2d.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 TITLE  
2 An act to prohibit the selling, giving, or furnishing of  
3 tobacco products, vapor products, and alternative nicotine products  
4 to minors; to prohibit the purchase, possession, or use of tobacco  
5 products, vapor products, and alternative nicotine products by

1 minors; to regulate the retail sale of tobacco products, vapor  
2 products, alternative nicotine products, and liquid nicotine  
3 containers; **to license persons that sell vapor products;** to  
4 prescribe penalties **and provide sanctions;** **to promulgate rules;** and  
5 to prescribe the powers and duties of certain state agencies and  
6 departments.

7       Sec. 2d. (1) Beginning June 1, 2020, a person shall not sell a  
8 vapor product unless that person is licensed under this section.

9       (2) An application for a license must be in a form prescribed  
10 by the department and signed under penalty of perjury. A person  
11 shall obtain a separate license for each location where a vapor  
12 product is sold. A person who sells a vapor product at more than 1  
13 location may submit a single application to the department that  
14 lists each location where a vapor product is sold.

15       (3) The department shall grant a license to a person who  
16 submits a completed application and pays the licensing fee to the  
17 department. The department shall establish a licensing fee for a  
18 license to offset the administrative costs of the department in  
19 implementing this section, but the cost of the licensing fee must  
20 not exceed \$25.00 per license.

21       (4) The department shall issue a certificate of licensure to a  
22 person who is granted a license under this act.

23       (5) A person shall display the certificate of licensure, or a  
24 duplicate copy of the certificate of licensure, prominently and  
25 where visible to the public in the person's place of business where  
26 a vapor product is sold.

27       (6) Each license is valid for 1 year and must be renewed  
28 annually before December 31 of the year that the license expires.

29       (7) The department may deny, suspend, revoke, or refuse to

1 renew a license for good cause. For purposes of this subsection,  
2 "good cause" consists of instances in which the department  
3 determines that a person has done any of the following:

4 (a) Submitted a false or fraudulent application for a license.

5 (b) Provided a false statement in the application for a  
6 license.

7 (c) Possessed a false or fraudulent certificate of licensure.

8 (d) Displayed a false or fraudulent certificate of licensure  
9 in a place of business where a vapor product is sold.

10 (8) The department shall not deny, suspend, revoke, or refuse  
11 to renew a person's license under this section unless the person is  
12 given an opportunity for a hearing. A hearing and an appeal must be  
13 conducted under the administrative procedures act of 1969, 1969 PA  
14 306, MCL 24.201 to 24.328.

15 (9) The department may promulgate rules under the  
16 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
17 24.328, to implement this section.

18 (10) In addition to any other remedies provided by law, if the  
19 department determines that a person violated this section, the  
20 department may assess an administrative fine of not more than  
21 \$500.00.

22 (11) As used in this section:

23 (a) "Certificate of licensure" means a document issued by the  
24 department as evidence of authorization to sell a vapor product.

25 (b) "Department" means the department of licensing and  
26 regulatory affairs.

27 (c) "License" means an authorization issued by the department  
28 under this section to sell a vapor product.

29 Sec. 4. As used in this act:

1 (a) "Alternative nicotine product" means a noncombustible  
2 product containing nicotine that is intended for human consumption,  
3 whether chewed, absorbed, dissolved, or ingested by any other  
4 means. Alternative nicotine product does not include a tobacco  
5 product, a vapor product, food, or a product regulated as a drug or  
6 device by the United States Food and Drug Administration under 21  
7 USC 351 to 360fff-7.

8 (b) "Minor" means an individual who is less than ~~18~~**21** years  
9 of age.

10 ~~(c) "Person who sells vapor products or alternative nicotine~~  
11 ~~products at retail" means a person whose ordinary course of~~  
12 ~~business consists, in whole or in part, of the retail sale of vapor~~  
13 ~~products or alternative nicotine products.~~

14 **(c) "Person who sells alternative nicotine products at retail"**  
15 **means a person whose ordinary course of business consists, in whole**  
16 **or in part, of the retail sale of an alternative nicotine product.**

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

21 **(e) "Person who sells vapor products at retail" means:**

22 **(i) Until May 31, 2020, a person whose ordinary course of**  
23 **business consists, in whole or in part, of the retail sale of a**  
24 **vapor product.**

25 **(ii) Beginning June 1, 2020, a person whose ordinary course of**  
26 **business consists, in whole or in part, of the retail sale of a**  
27 **vapor product and who is licensed under section 2d.**

28 **(f) ~~(e)~~"Public place" means a public street, sidewalk, or**  
29 **park or any area open to the general public in a publicly owned or**

1 operated building or public place of business.

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

7       **(h)** ~~(g)~~—"Use a tobacco product, vapor product, or alternative  
 8 nicotine product" means to smoke, chew, suck, inhale, or otherwise  
 9 consume a tobacco product, vapor product, or alternative nicotine  
 10 product.

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

25       Enacting section 1. This amendatory act does not take effect  
 26 unless all of the following bills of the 100th Legislature are  
 27 enacted into law:

28       (a) Senate Bill No. 781.

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1 (b) Senate Bill No. 783.

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3 (c) Senate Bill No. 784.

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