



Senate Fiscal Agency
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House Bill 6108 (as enrolled)
House Bill 6109 (as enrolled)
Senate Bill 576 (as enrolled)
Senate Bill 577 (as enrolled)
Sponsor: Representative Tommy Brann (H.B. 6108 & H.B. 6109)
Senator Dale W. Zorn (S.B. 576)
Senator Paul Wojno (S.B. 577)
House Committee: Judiciary
House Committee: Regulatory Reform
Committee: Regulatory Reform (discharged)

Date Completed: 7-13-22

CONTENT

House Bill 6108 would amend the Youth Tobacco Act to do the following:

- Modify the definition of minor to mean an individual who is less than 21, instead of 18, years of age (which, in effect, would increase, from 18 to 21, the age that an individual could purchase tobacco products, vapor products, or alternative nicotine products).**
- Require signs posted by retailers to indicate that the purchase of tobacco products, vapor products, or alternative nicotine products by individuals under 21, instead of 18, years of age is illegal.**
- Require a person to verify that an individual was at least 21, instead of 18, years of age before selling or furnishing a tobacco, vapor, or alternative nicotine product to that individual.**

House Bill 6109 would amend the Public Health Code to require a tobacco specialty retail store to prohibit a person under the age of 21, instead of 18, from entering the store while it was open for business.

Senate Bill 576 would amend the Michigan Penal Code to prohibit a person, as part of his, her, or its business, either directly or through an agent, from distributing tobacco products to people who did not previously pay or agree to pay for them unless that person, in addition to current requirements, ascertained that the individual who received the product was 21, instead of 18, years of age or older.

Senate Bill 577 would amend the Age of Majority Act to specify that the Act would not apply to the Youth Tobacco Act.

Senate Bills 576 and 577 are tie-barred to Senate Bill 720 and House Bills 6108 and 6109.

(Generally, Senate Bill 720 would modify the Tobacco Product Act to modify, among other things, the tax levied on tobacco products.)

House Bill 6108

Under the Youth Tobacco Act a "minor" means an individual who is less 18 years of age. The bill would modify the definition of "minor" to mean an individual who is less than 21 years of age.

The Act requires a person who sells tobacco products at retail to post a conspicuous sign in a place close to the point of sale. The sign must include a statement stating that the law prohibits a minor under the age of 18 from purchasing tobacco products, vapor products, or alternative nicotine products. Under the bill, the age included in this statement would be increased to 21 years of age.

Under the Act, before selling, offering for sale, giving, or furnishing a tobacco product, vapor product, or alternative nicotine product to an individual, a person must verify that the individual is not a minor by doing one of the following:

- If the individual appears to be under 27 years of age, examine a government-issue photographic identification that establishes that the individual is at least 18 years of age.
- 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 18 years of age or older.

The bill instead would require that the age verification requirements apply to an individual 21 years of age or older.

Currently, it is an affirmative defense to a charge of selling a tobacco product, vapor product, or alternative nicotine product to a minor that the defendant had in force at the time of the arrest and continues to have in force a written policy to prevent the sale of tobacco products, vapor products, or alternative nicotine products to minors that the defendant enforced and continued to enforce the policy. The bill would specify that minor would mean an individual less than 21 years of age.

House Bill 6109

The bill would amend the Public Health Code to modify the requirements for a tobacco specialty retail store to be exempt from the smoking prohibition of Section 12603 and allow smoking on its premises. (Generally, Section 12603 prohibits smoking in a public place or at a meeting of a public body, and a State or local government agency or the person who owns, operates, manages, or is in control of a public place must make a reasonable effort to prohibit individuals from smoking in a public place.)

Among other things, a tobacco specialty retail store must prohibit entry to a person under the age of 18 during the time the tobacco specialty retail store is open for business. Under the bill, the tobacco specialty retail store would have to prohibit entry to a person under the age of 21.

Senate Bill 576

Under the Michigan Penal Code, a person may not, as part of his, her, or its business either directly or through an agent, distribute tobacco products to entities who did not previously pay or agree to pay for the products unless certain requirements are met. Among other things,

the person distributing the tobacco product must ascertain that the person receiving the tobacco product is 18 years of age or older. Under the bill, the person that distributed the tobacco product would have to ascertain that the individual who received the tobacco product was 21 years of age or older.

The Code allows the sale for distribution of a tobacco product in Michigan through the use of the United States mail service, express mail service, or any common carrier service if the sale or distribution is in response to a consumer complaint or is part of a direct mail marketing of products to specifically named individuals, and which response or marketing involves the prior return by the same specifically-named individual of an authorization card to the tobacco company that indicates that the individual is at least 18 years of age, is signed by the individual, and is kept on file by the tobacco company for at least one year. The bill would increase the age in this provision to 21 years of age.

Senate Bill 577

The bill would modify the Age Majority of Act to specify that the Act would not apply to the Youth Tobacco Act. Generally, the Age Majority Act provides that, except as otherwise provided in the State Constitution and notwithstanding any other provision of law to the contrary, a person who is at least 18 years of age is an adult of legal age for all purposes whatsoever, and shall have the same duties, liabilities, responsibilities, rights, and legal capacity as individuals who are 21 years of age.

MCL 722.641 & 722.644 (H.B. 6108)
MCL 333.12606a (H.B. 6109)
MCL 750.42b (S.B. 576)
MCL 722.53 (S.B. 577)

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

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

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Analysis\S2122\s576es

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.