

HOUSE BILL No. 5850

September 8, 2016, Introduced by Rep. Miller, A. and referred to the Committee on Regulatory Reform.

A bill to amend 1915 PA 31, entitled
"Youth tobacco act,"
by amending section 4 (MCL 722.644), as amended by 2006 PA 236, and
by adding section 2b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2B. (1) A PERSON SHALL NOT SELL IN THIS STATE AN
2 ELECTRONIC NICOTINE DELIVERY SYSTEM OR OTHER SIMILAR PRODUCT THAT
3 RELIES ON VAPORIZATION OR AEROSOLIZATION OF NICOTINE, OR A
4 COMPONENT OF ANY OF THESE, UNLESS THE SYSTEM, PRODUCT, OR COMPONENT
5 IS PACKAGED IN A CHILD-RESISTANT CONTAINER THAT MEETS THE
6 REQUIREMENTS OF THE POISON PREVENTION PACKAGING ACT OF 1970, PUBLIC
7 LAW 91-601, AND OF 16 CFR PART 1700.
8 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A
9 MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$50.00 FOR EACH
10 VIOLATION.

1 Sec. 4. As used in this act:

2 (A) "ACCESSORY" MEANS A PRODUCT THAT IS INTENDED OR REASONABLY
3 EXPECTED TO BE USED WITH OR FOR THE HUMAN CONSUMPTION OF A TOBACCO
4 PRODUCT, DOES NOT CONTAIN TOBACCO AND IS NOT MADE OR DERIVED FROM
5 TOBACCO, AND MEETS EITHER OF THE FOLLOWING REQUIREMENTS:

6 (i) THE PRODUCT IS NOT INTENDED OR REASONABLY EXPECTED TO
7 AFFECT OR ALTER THE PERFORMANCE, COMPOSITION, CONSTITUENTS, OR
8 CHARACTERISTICS OF A TOBACCO PRODUCT.

9 (ii) THE PRODUCT IS INTENDED OR REASONABLY EXPECTED TO AFFECT
10 OR MAINTAIN THE PERFORMANCE, COMPOSITION, CONSTITUENTS, OR
11 CHARACTERISTICS OF A TOBACCO PRODUCT, BUT THE PRODUCT EITHER SOLELY
12 CONTROLS MOISTURE OR TEMPERATURE OF A STORED TOBACCO PRODUCT OR
13 SOLELY PROVIDES AN EXTERNAL HEAT SOURCE TO INITIATE BUT NOT
14 MAINTAIN COMBUSTION OF A TOBACCO PRODUCT.

15 (B) "COMPONENT PART" MEANS AN OBJECT THAT IS INTENDED OR
16 REASONABLY EXPECTED TO BE USED WITH OR FOR THE HUMAN CONSUMPTION OF
17 A TOBACCO PRODUCT AND THAT IS NOT AN ACCESSORY.

18 (C) "ELECTRONIC NICOTINE DELIVERY SYSTEM" MEANS A PRODUCT THAT
19 CONTAINS OR DELIVERS NICOTINE OR ANOTHER SIMILAR SUBSTANCE THAT IS
20 INTENDED FOR HUMAN CONSUMPTION AND THAT CAN BE USED BY AN
21 INDIVIDUAL TO SIMULATE SMOKING THROUGH INHALATION OF VAPOR OR
22 AEROSOL FROM THE PRODUCT. ELECTRONIC NICOTINE DELIVERY SYSTEM
23 INCLUDES, BUT IS NOT LIMITED TO, ELECTRONIC SMOKING DEVICES, E-
24 CIGARETTES, E-CIGARS, HOOKAH PENS, VAPE PENS, PERSONAL VAPORIZERS,
25 AND ELECTRONIC PIPES. ELECTRONIC NICOTINE DELIVERY SYSTEM INCLUDES
26 A COMPONENT PART OF AN ELECTRONIC NICOTINE DELIVERY SYSTEM,
27 REGARDLESS OF WHETHER THE COMPONENT PART IS SOLD SEPARATELY.

1 (D) ~~(a)~~ "Minor" means an individual ~~under~~ **WHO IS LESS THAN** 18
2 years of age.

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

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

10 (G) ~~(d)~~ "Tobacco product" means a product that contains **OR IS**
11 **MADE OR DERIVED FROM** tobacco, **NICOTINE, OR ANOTHER SIMILAR**
12 **SUBSTANCE** and **THAT** is intended for human consumption, ~~including,~~
13 **WHETHER SMOKED, HEATED, CHEWED, ABSORBED, DISSOLVED, INHALED,**
14 **SNORTED, SNIFFED, OR INGESTED BY ANY OTHER MEANS. TOBACCO PRODUCT**
15 **INCLUDES,** but **IS** not limited to, cigarettes, ~~noneigarette smoking~~
16 ~~tobacco, or smokeless tobacco, as those terms are defined in~~
17 ~~section 2 of the tobacco products tax act, 1993 PA 327, MCL~~
18 ~~205.422, and cigars,~~ **LITTLE CIGARS, CHEWING TOBACCO, PIPE TOBACCO,**
19 **SNUFF, SNUS, OR ELECTRONIC NICOTINE DELIVERY SYSTEMS OR OTHER**
20 **SIMILAR PRODUCTS THAT RELY ON VAPORIZATION OR AEROSOLIZATION.**
21 **TOBACCO PRODUCT INCLUDES A COMPONENT PART OF A TOBACCO PRODUCT**
22 **REGARDLESS OF WHETHER THE COMPONENT IS SOLD SEPARATELY. TOBACCO**
23 **PRODUCT DOES NOT INCLUDE A PRODUCT SPECIFICALLY APPROVED BY THE**
24 **UNITED STATES FOOD AND DRUG ADMINISTRATION FOR SALE AS A TOBACCO**
25 **CESSATION PRODUCT THAT IS BEING MARKETED AND SOLD SOLELY FOR THE**
26 **APPROVED PURPOSE.**

27 (H) ~~(e)~~ "Use a tobacco product" means to smoke, chew, suck,

1 inhale, **SNORT, SNIFF, INGEST**, or otherwise consume a tobacco
2 product.

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