



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

GRETCHEN WHITMER
GOVERNOR

ELIZABETH HERTEL
DIRECTOR

October 13, 2022

Dear Partners,

In response to inquiries about the recent passage of tobacco 21 in Michigan, the Michigan Department of Health and Human Services (MDHHS) Tobacco Section has prepared a list of frequently asked questions to support partners with implementation. If you have additional questions, please contact 517-335-8376 or visit Michigan.gov/Tobacco for more tobacco prevention and control resources.

Sincerely,

A handwritten signature in cursive script that reads "Amanda Gallaher".

Amanda Gallaher, MPH, RD
Public Health Consultant
MDHHS Tobacco Section

Michigan Tobacco 21 Frequently Asked Questions

1. What is tobacco 21?

Tobacco 21 refers to increasing the minimum legal sale age for tobacco products, which means that tobacco products (as well as other products as outlined in Michigan statute) cannot be sold to anyone under 21 years of age.

2. When did tobacco 21 pass in Michigan?

On July 21, 2022, Governor Whitmer signed into law Public Acts 167, 168, 169, and 170 of 2022 with immediate effect, which established tobacco 21 as well as other similar provisions. Here is a description of each bill:

- [House Bill 6108](#) (Public Act 167 of 2022) amends the Youth Tobacco Act to raise the minimum legal sale of tobacco products, vapor products, and alternative nicotine products from 18 to 21, in alignment with federal law. Penalties for the sale of tobacco products to under-aged individuals remain up to \$100 for the first offense, up to \$500 for the second offense, and up to \$2,500 for third and subsequent offenses.
- [House Bill 6109](#) (Public Act 168 of 2022) prohibits anyone under the age of 21 from entering a tobacco specialty retail store or cigar bar.

- [Senate Bill 576](#) (Public Act 169 of 2022) amends a portion of the Michigan Penal Code to require agents who distribute tobacco through the mail to verify that the recipient is 21 years of age, revising the previous age limit of 18.
- [Senate Bill 577](#) (Public Act 170 of 2022) is an amendment to the Age of Majority Act of 1971, which prescribes the rights, liabilities, and responsibilities of individuals aged 18-20. The legislation states that the act will not apply to the Youth Tobacco Act, which now prohibits tobacco use for those under 21, rather than 18.

3. What are some of the key changes implemented by these bills?

- Raises the minimum legal sale age for tobacco products, vapor products, and alternative nicotine products from 18 to 21 years and requires age verification.
- Updates the language on required signage for those who sell tobacco products, vapor products, or alternative nicotine products at retail to state the following:
“The purchase of a tobacco product, vapor product, or alternative nicotine product by a minor under 21 years of age and the provision of a tobacco product, vapor product, or alternative nicotine product to a minor are prohibited by law. A minor who unlawfully purchases or uses a tobacco product, vapor product, or alternative nicotine product is subject to criminal penalties.”
- Changes the age for penalties on youth purchase, use, and possession of tobacco products, vapor products, and alternative nicotine products from 18 to those under 21 years. The penalties did not change.
- Prohibits anyone under the age of 21 from entering a tobacco specialty retail store or cigar bar.
- Requires a person that distributes tobacco products through the mail to verify that the recipient is 21 years of age, revising the previous age limit of 18.

4. Didn't tobacco 21 already go into effect?

In 2019, President Trump signed tobacco 21 into law at the federal level, which meant that minimum age of sale of tobacco products under federal law was changed to 21. However, state and local law enforcement could not enforce tobacco 21 under state law until Michigan also updated its laws to reflect the updated minimum legal sale age.

5. Specifically, what products are addressed by Michigan's new tobacco 21 laws?

Michigan's Tobacco 21 statutes apply to tobacco products, vapor products, and alternative nicotine products as defined below ([MCL 722.644](#)):

- **“Tobacco product”** means a product that contains tobacco and is intended for human consumption, including, but not limited to, a cigarette, noncigarette smoking tobacco, or smokeless tobacco, as those terms are defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422, and a cigar.
- **“Vapor product”** means a noncombustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine or any other substance, and the use or inhalation of which simulates smoking. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine or other substance in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include a product regulated as a drug or device by the United States Food and Drug Administration under 21 USC 351 to 360fff-7.

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

6. Can individuals under the age of 21 sell tobacco products to others?

The new legislation changes the minimum age of entry to a cigar bar or tobacco specialty retail store from 18 to 21 years ([MCL 333.12606a](#)).

The updated Youth Tobacco Act provides that the subsection stating that “A person shall not sell, give, or furnish a tobacco product, vapor product, or alternative nicotine product to a minor” does not apply to the “handling or transportation of a tobacco product, vapor product, or alternative nicotine product by a minor under the terms of the minor’s employment” ([MCL 722.641](#)). Additionally, the penalties related to minor purchase, use, and possession “do not apply to the handling or transportation of a tobacco product, vapor product, or alternative nicotine product by a minor under the terms of the minor’s employment” ([MCL 722.642](#)).

7. How do I report violations for tobacco products sales to those under the age of 21?

There are several avenues for reporting tobacco sales violations:

1. Report a potential tobacco violation to the U.S. Food and Drug Administration through their [online form](#), by calling 1-877-CTP-1373 or sending an email to CTPCompliance@FDA.hhs.gov.
2. Contact the non-emergency number for your local law enforcement agency or your [nearest Michigan State Police post](#).
3. Report potential tobacco violations to the Michigan Department of Health and Human Services using the following [complaint form](#).

8. What are the penalties for selling a tobacco product, vapor product, or alternative nicotine product to an individual under the age of 21 years?

According to Michigan’s Youth Tobacco Act:

(1) A person shall not sell, give, or furnish a tobacco product, vapor product, or alternative nicotine product to a minor, including, but not limited to, through a vending machine. A person who violates this subsection or subsection (8) is guilty of a misdemeanor punishable by a fine as follows:

- (a) For a first offense, not more than \$100.00.*
 - (b) For a second offense, not more than \$500.00.*
 - (c) For a third or subsequent offense, not more than \$2,500.00.*
- ([MCL 722.641](#))

9. What resources are available to assist retailers with adhering to state and federal law?

- [Michigan Youth Access to Tobacco and Synar Info](#) (MDHHS)
- [Federal Tobacco 21 Frequently Asked Questions](#) (FDA)
- [Retailer Training and Enforcement](#) (FDA)
- [This is Our Watch Campaign](#) (FDA)
- [Order FREE stickers, posters, flyers, and calculators](#) (FDA)