

Administrative Rule Analysis



PROTECTION OF YOUTH FROM NICOTINE PRODUCT ADDICTION

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Rule Set No.: 2019-107 HS
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Analysis available at
<http://www.legislature.mi.gov>

Department: Health and Human Services
Agency: Population Health and Community Services
Enabling Statute: Public Health Code 1978 PA 368, MCL 333.2221, 333.2226, and 333.2233, and Executive Reorganization Order No. 2015-1, MCL 400.227

Analysis Complete to: 08/18/2021

BACKGROUND AND SUMMARY OF PROPOSED RULES

The proposed rules are a set of 7 new rules related to the protection of youth from nicotine addiction from flavored nicotine vapor products. Note that the rules do not apply to tobacco flavored vaping products, unflavored vaping products, or 0% nicotine flavored vaping products.

The 7 rules do the following:

1. Define terms.
2. Prohibit sale of flavored nicotine vapor products.
3. Prohibit use of fraudulent or misleading statement to sell nicotine vapor products.
4. Establish that federal advertising format and content restrictions for cigarettes and smokeless tobacco shall apply to flavored nicotine vapor products.
5. Establish restrictions for placement of advertisements for flavored nicotine vapor products.
6. Establish violation of these rules as a misdemeanor punishable by fines of \$100 - \$200 or imprisonment for not more than 6 months, or both.
7. Establish that if any of these rules is found to be invalid by a court, all remaining rules remain valid.

FISCAL IMPACT OF PROPOSED RULES

STATE - The proposed new rules would have a minor direct fiscal impact on the State, for costs to the Department of Health and Human Services for technical assistance to local health departments and other enforcement entities. The intent of the rules to reduce youth nicotine consumption and addiction would have long-term health care cost savings.

Any revenue from fines collected under Rule 6 due to violations of these rules, would increase funding used to support public and county law libraries, and any related imprisonment costs would be borne by the local and state incarceration systems.

LOCAL - The proposed new rules may increase inspection, compliance, and enforcement costs of local public health departments and local law enforcement related to tobacco retailers in Michigan. Local health departments may charge for the cost of providing inspection services. The Regulatory Impact Statement and Cost-Benefit Analysis submitted on the rules indicates that there are 8,590 tobacco retailers in Michigan, some of which sell vaping products.

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