

Legislative Analysis



PROHIBIT VITAMIN E ACETATE IN MARIJUANA AND VAPING PRODUCTS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 4249 and 4250 as introduced
Sponsor: Rep. Abdullah Hammoud

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4251 as introduced
Sponsor: Rep. Joseph N. Bellino, Jr.

Committee: Regulatory Reform
Complete to 3-15-21

SUMMARY:

House Bills 4249, 4250, and 4251 would respectively amend the Medical Marijuana Facilities Licensing Act, amend the Michigan Regulation and Taxation of Marijuana Act, and create a new act, to prohibit the sale of marijuana products, vapor products, or alternative nicotine products that contain vitamin E acetate and to establish a criminal fine for a violation.

House Bill 4249 would amend the Medical Marijuana Facilities Licensing Act to prohibit a licensed marijuana processor from processing marijuana intended for inhalation, or a marijuana-infused product intended for inhalation, that contains or has been combined with vitamin E acetate. Similarly, a licensed provisioning center could not sell marijuana intended for inhalation, or a marijuana-infused product intended for inhalation, that contains or has been combined with vitamin E acetate. A processor or provisioning center that violated the prohibition would be guilty of a misdemeanor punishable by a fine of up to \$10,000.

MCL 333.27502 et seq.

House Bill 4250 would amend the Michigan Regulation and Taxation of Marijuana Act to prohibit a marijuana processor from processing, and a marijuana retailer from selling, marijuana intended for inhalation or a marijuana-infused product intended for inhalation if the marijuana or marijuana-infused product contains or has been combined with vitamin E acetate. A violation would be a misdemeanor punishable by a fine of up to \$10,000.

MCL 333.27953 et seq.

House Bill 4251 would create a new act to prohibit the sale of a *vapor product* or *alternative nicotine product* that contains or has been combined with vitamin E acetate. A violation would be a misdemeanor punishable by a fine of up to \$10,000. [Note: The definitions of “vapor product” and “alternative nicotine product,” below, would be the same as those in the Youth Tobacco Act.]

Vapor product would mean 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. The term would include 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. The term would not include a product regulated as a drug or device by the U.S. Food and Drug Administration (FDA).

Alternative nicotine product would mean a noncombustible product containing nicotine intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term would not include a tobacco product, a vapor product, food, or a product regulated as drug or device by the FDA.

BACKGROUND:

House Bills 4249, 4250, and 4251 are reintroductions of HBs 5159, 5160, and 5161 of the 2019-20 legislative session. Those bills were passed by the House of Representatives in February 2020.

FISCAL IMPACT:

House Bill 4249 would have an indeterminate fiscal impact on the state and on local units of government. Under the bill, a processor that processes or a provisioning center that sells marijuana or a marijuana-infused product intended for inhalation that contains or has been combined with vitamin E acetate would be guilty of a misdemeanor punishable by a fine of up to \$10,000. Under section 602 of the Medical Marijuana Facilities Licensing Act, all revenue from fines imposed under the act is required to be deposited into the Medical Marijuana Excise Fund. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of additional revenue the state would collect cannot be made. The fiscal impact to local units would depend on how provisions of the bill affected court caseloads and the related administrative costs.

House Bill 4250 would have an indeterminate fiscal impact on the state and on local units of government. Under the bill, a marijuana processor or marijuana retailer that processes or sells marijuana or a marijuana-infused product intended for inhalation that contains or has been combined with vitamin E acetate would be guilty of a misdemeanor punishable by a fine of up to \$10,000. Under section 7 of the Michigan Regulation and Taxation of Marijuana Act, all revenue from fines imposed under the act is required to be deposited into the general fund. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of additional revenue the state would collect cannot be made. The fiscal impact to local units

would depend on how provisions of the bill affected court caseloads and the related administrative costs.

House Bill 4251 would have an indeterminate fiscal impact on local units of government. Under the bill, an individual that sells a vapor product or an alternative nicotine product that contains or has been combined with vitamin E acetate would be guilty of a misdemeanor punishable by a fine of up to \$10,000. The bill does not specify where the fine revenue would be deposited, so it is assumed the fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of penal fine revenues. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of additional revenue the libraries would collect cannot be made. The fiscal impact to local units would depend on how provisions of the bill affected court caseloads and the related administrative costs.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.