

Legislative Analysis



PROHIBIT SALE OF MARIJUANA AND VAPING PRODUCTS CONTAINING VITAMIN E ACETATE

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

House Bill 5159 (H-1) as referred to second committee
Sponsor: Rep. Abdullah Hammoud

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

House Bill 5160 as referred
Sponsor: Rep. Frank Liberati

House Bill 5161 as referred
Sponsor: Rep. Joseph N. Bellino, Jr.

1st Committee: Regulatory Reform
2nd Committee: Judiciary
Revised 1-14-20

SUMMARY:

House Bills 5159, 5160, and 5161 would amend the Medical Marihuana Facilities Licensing Act and the Michigan Regulation and Taxation of Marihuana Act and create a new act, respectively, to prohibit the sale of marijuana products, vapor products, or alternative nicotine products that contain vitamin E acetate.

House Bill 5159 would amend the Medical Marihuana Facilities Licensing Act to prohibit licensed marijuana processors from processing marijuana or marijuana-infused products that contain or have been combined with vitamin E acetate. In addition, the bill would prohibit marijuana provisioning centers from selling marijuana or marijuana-infused products that contain or have been combined with vitamin E acetate.

A processor or provisioning center that violated these prohibitions would be guilty of a misdemeanor punishable by a civil fine as follows:

- Up to \$100 for a first offense.
- Up to \$500 for a second offense.
- Up to \$2,500 for a third or subsequent offense.

MCL 333.27102 et seq.

House Bill 5160 would amend the Michigan Regulation and Taxation of Marihuana Act to prohibit a marijuana processor from processing, and prohibit a marijuana retailer from selling, marijuana that contains or has been combined with vitamin E acetate.

A processor or retailer that violated these prohibitions would be guilty of a misdemeanor punishable by a civil fine as follows:

- Up to \$100 for a first offense.
- Up to \$500 for a second offense.
- Up to \$2,500 for a third or subsequent offense.

MCL 333.27953 et seq.

House Bill 5161 would create a new act to prohibit the sale of vapor products (such as e-cigarettes) or alternative nicotine products (such as nicotine gum or patches) that contain or have been combined with vitamin E acetate.

A person who violated this prohibition would be guilty of a misdemeanor punishable by a fine as follows:

- Up to \$100 for a first offense.
- Up to \$500 for a second offense.
- Up to \$2,500 for a third or subsequent offense.

BRIEF DISCUSSION:

Vitamin E acetate has been linked by the Centers for Disease Control and Prevention (CDC) to an outbreak of vaping-related illnesses in over 2,600 people across the country.¹ (As of January 10, 2020, the Michigan Department of Health and Human Services had identified 65 confirmed or probable cases of severe lung disease associated with vaping in Michigan, including three deaths.) Vitamin E acetate is used as an additive in vaping products to thicken or dilute them; it is most commonly used in vaping products that contain THC (tetrahydrocannabinol, the active chemical in marijuana), but is also found in some liquid nicotine products. While vitamin E acetate can usually be safely ingested or applied topically, when used in products such as nutritional supplements or skin creams, it can be dangerous when inhaled into the lungs. To date, Colorado, Ohio, and Washington have banned vaping products that contain vitamin E acetate. In November 2019, emergency rules issued by the Marijuana Regulatory Agency banned the use of vitamin E acetate in marijuana vaping products in Michigan.²

FISCAL IMPACT:

House Bills 5159 and 5160 would not have an appreciable fiscal impact on the Department of Licensing and Regulatory Affairs (LARA), except that fine revenues would be deposited to funds administered by the department. (Specifically, any additional civil fine revenue collected under HB 5159 would be deposited into the Medical Marijuana Excise Fund, and any additional civil fine revenue collected under HB 5160 would be deposited into the Marijuana Regulation Fund.)

House Bill 5161 would not have an appreciable fiscal impact on LARA or on any law enforcement entities, but would have an indeterminate fiscal impact on the state and on local units of government. The impact would depend on the number of individuals convicted of a misdemeanor and ordered to pay a fine, as well as on the amount of fine that is assigned. Any impact on local court systems would depend on how court caseloads and related administrative costs are affected and any increase in fine revenue would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

Legislative Analyst: Rick Yuille
Fiscal Analysts: Marcus Coffin
Robin Risko

■ 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.

¹ https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html

² <https://www.michigan.gov/lara/0,4601,7-154-11472-513083--,00.html>