



STATE OF MICHIGAN

DEPARTMENT OF COMMUNITY HEALTH  
LANSING

GRETCHEN WHITMER  
GOVERNOR

ROBERT GORDON  
DIRECTOR

**Testimony Regarding Senate Bill 106 – Tobacco retail sales to minors – amend the Youth Tobacco Act**

**March 12, 2019**

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**Curbing Youth Access to Tobacco Products**

Honorable Members of the Committee, I am grateful for the opportunity to address you today regarding the issue of electronic cigarettes and youth access. I am Farid Shamo, I am a Public Health Consultant in the Michigan Department of Health and Human Services' Tobacco Control Program. The Administration strongly supports legislative efforts to restrict the availability of all forms of tobacco or nicotine products, including electronic cigarettes, their components and refill fluids to underage youth.

With the advent of electronic cigarettes and other electronic smoking devices, Michigan youth have shifted away from conventional cigarettes to new and lower priced tobacco products, most particularly electronic cigarettes. Each year 4,400 Michigan youth under the age of 18 become regular daily smokers and 10.4% of Michigan high schoolers currently smoke conventional cigarettes. In 2017, 15% of Michigan high schoolers used electronic cigarettes, and 22.8% used any form of tobacco (cigarettes, cigars, smokeless tobacco and electronic cigarettes). More recent statistics from our Counties indicate that e-cigarette use among youth has skyrocketed in 2018 at an epidemic level (as shown in the enclosed table)

Current state law does not treat electronic cigarettes as tobacco products for any regulatory purpose, including youth access. This has contributed to the increase in sales to youth and created a confusing situation in which electronic cigarettes are regulated as a tobacco product at the federal level, but the state is silent on the products.

The Administration does not support Senate Bill 106 because it excludes alternative nicotine products and vapor products, including electronic cigarettes, from the definition of tobacco products and prohibits them from being regulated as tobacco products under Michigan law. Legal consequences for not considering them as tobacco products, are that they will not be subjected to regulations already applied to other tobacco products in Michigan including the use of tobacco products in schools and Smoke Free Air Law and other public places.

The previous Governor, Mr. Snyder vetoed similar legislation in January 2015. He said at the time, "We need to make sure that e-cigarettes and other nicotine-containing devices are regulated in the best interest of public health. It's important that these devices be treated like tobacco products and help people become aware of the dangers e-cigarettes pose."

On August 8, 2016, the U.S. Food and Drug Administration finalized a rule to regulate all tobacco products, and immediately began to enforce prohibitions on selling electronic cigarettes to youth under the age of 18, among other requirements. Under this rule, electronic cigarette devices and e-liquid and other products made or derived from tobacco are defined as tobacco products. Michigan should not enact new state law that is not consistent with the legally-mandated approach now enforced by the U.S. Food and Drug Administration. To do so will unnecessarily sow confusion and will send a mixed health message to the public that these products are less harmful or even safe.

For the purposes of curbing youth use and access to electronic cigarettes, we are concerned that the definitions may be too limited by tying the definition solely to nicotine-based electronic cigarettes. As a matter of enforcement for underage use and sales, it will be difficult to assess whether a minor is indeed using a nicotine-free device.

We believe a more inclusive tobacco products definition that includes all tobacco and nicotine delivery products for purposes of underage youth sales would dramatically improve the bill's health impact. The more inclusive definition would have two positive public policy impacts: first, it would bring state law into alignment with the current tobacco market reality and the U.S. Food and Drug Administration rule by restricting all tobacco products appropriately and uniformly for health reasons for underage youth. Second, it would clarify for retailers and Michigan enforcement agencies that youth access to electronic cigarettes, no matter their content, is not appropriate.

The Administration strongly supports efforts to prohibit youth access to all tobacco products, including electronic cigarettes, cartridges, refill fluid and alternative nicotine products. Thank you again for the Committee's work in this area, and for the opportunity to speak. I would be happy to answer questions or share additional information with the Committee.

**E-cigarette use rates among high school students in 25 Michigan Counties. Source: MIPHY**

Percentage of Michigan's high school students who used an electronic vapor product during the past 30 days				
#	County	2015-2016	2017-2018	% increase
1	Allegan	16.8%	25.9%	54%
2	Muskegon	17.5	24.9	42%
3	Berrien	19	24.5	29%
4	Ingham	11.5	20.3	77%
5	Jackson	16.7	23.8	43%
6	Branch	14.4	30.2	109%
7	Genesee	18.8	24.4	30%
8	St. Clair	20.6	31.9	55%
9	Wayne	15.1	24.2	60%
10	Macomb	14.8	29	96%
11	Oakland	16	28.4	78%
12	Manistee	16.2	31.1	92%
13	Chippewa/Luce/Mackinac	15.3	20.7	35%
14	Charlevoix	17.3	35.2	103%
15	Livingston	21.6	28	30%
16	Saginaw	14.4	19.9	38%
17	Kent	15.4	22.2	44%
18	Huron	18.3	30.9	69%
19	Van Buren	13.3	20.2	52%
20	Kalamazoo	16.1	21.6	34%
21	St. Joseph	18.6	26.7	44%
22	Alpena/Montmorency/Alcona	22.4	36.1	61%
23	Barry	16	30.3	89%
24	Emmet	13.4	24.7	84%