

Legislative Analysis



PROHIBIT VITAMIN E ACETATE AND CERTAIN OTHER INGREDIENTS IN MARIJUANA AND VAPING PRODUCTS

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

House Bill 4249 (H-1) as referred to second committee
House Bill 4250 (H-1) as referred to second committee
Sponsor: Rep. Abdullah Hammoud

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

House Bill 4251 (proposed substitute H-2)
Sponsor: Rep. Joseph N. Bellino, Jr.

1st Committee: Regulatory Reform
2nd Committee: Rules and Competitiveness
Complete to 5-6-21

SUMMARY:

House Bills 4249, 4250, and 4251 would prohibit the sale of marijuana products or vapor products that contain vitamin E acetate or other prohibited ingredients and establish a criminal fine for a violation. HB 4250 would also lower, from 21 to 18 years of age, the minimum age for employees or volunteers of a (recreational) marijuana establishment.

House Bill 4249 would amend the Medical Marijuana Facilities Licensing Act, which regulates medical marijuana, 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 any of the following:

- Vitamin E acetate.
- Any other ingredient, unless either of the following applies:
 - The ingredient is a botanically derived terpene that is chemically identical to a terpene derived from the plant *Cannabis sativa* L. (Generally speaking, a terpene is a compound found in many plants that can be used to add a flavor or scent to a product; for instance, citrus. Terpenes can also be chemically synthesized.)
 - Both of the following conditions are met:
 - The ingredient is approved by the FDA for inhalation.
 - The concentration of the ingredient in the marijuana or marijuana-infused product does not exceed the maximum concentration approved by the FDA.

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, which regulates recreational marijuana, to prohibit a marijuana establishment from allowing a person who is younger than 18 years of age to volunteer or work for the marijuana establishment. Currently, a marijuana establishment may not allow a person younger than 21 years of age to work or volunteer in the establishment. (Under the act, a person must be at least 21 years of age to purchase marijuana from a provisioning center or possess marijuana.)

The bill would also 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 any of the following:

- Vitamin E acetate.
- Any other ingredient, unless either of the following applies:
 - The ingredient is a botanically derived terpene that is chemically identical to a terpene derived from the plant *Cannabis sativa* L.
 - Both of the following conditions are met:
 - The ingredient is approved by the FDA for inhalation.
 - The concentration of the ingredient in the marijuana or marijuana-infused product does not exceed the maximum concentration approved by the FDA.

A violation involving a prohibited ingredient 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*** that contains or has been combined with any of the following:

- Vitamin E acetate.
- Nicotine that has been synthetically produced by the chemical conversion of one or more non-nicotine reagent compounds.
- Any other ingredient that the FDA has prohibited for inhalation at the concentration present in the ***liquid nicotine***.

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 ***liquid nicotine***, 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 liquid nicotine 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 FDA.

Liquid nicotine would mean a liquid containing nicotine in any concentration that is sold, marketed, or intended for use in a vapor product..

A violation would be a misdemeanor punishable by a fine of up to \$10,000.

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, or other ingredients specified in the bill, would be guilty of a misdemeanor punishable by a fine of up to \$10,000. Under section 602 of the Medical

Marihuana Facilities Licensing Act, all revenue from fines imposed under the act is required to be deposited into the Medical Marihuana 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, or other ingredients specified in the bill, 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 Marihuana 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 that contains or has been combined with vitamin E acetate, synthetically produced nicotine, or other ingredients that the FDA has prohibited at the concentration present in the liquid nicotine 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.

Legislative Analysts: Susan Stutzky
Rick Yuille
Fiscal Analyst: 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.