



STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
LANSING

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The State of Michigan and its Department of Community Health have the duty to protect public health, which includes protecting Michiganders from the devastating consequences of all tobacco products, including e-cigarettes and other emerging tobacco products. Michigan is concerned about the consequences of youth exposure to and use of e-cigarettes, cigars and hookah. Michigan is alarmed at the rise in youth use rates, child poisonings, and the erroneous marketing of the devices as cessation devices. Michigan has witnessed an increase in urban youth use of little cigars since the Family Smoking Prevention and Tobacco Control Act, due to the increased variety of flavors, access, and cost state taxes are much lower than for cigarettes. Michigan has also witnessed an explosion of hookah use expanding from home use among Michiganders large Arab and Chaldean American community, to public spaces including lounges, concerts, and beaches among youth and young adults.

FDA's proposed rule would take important steps to regulate e-cigarettes, cigars, dissolvable nicotine products and hookah; however, there are critical gaps that must be addressed in the final rule.

FDA should not exempt any cigars from regulation. Cigars are not just smoked by adults. The CDC reports high school boys smoke cigars at the same rate as cigarettes, and more male high school seniors smoke cigars than smoke cigarettes. According to the proposed rule, all cigars are harmful and potentially addictive and a large cigar may contain as much tobacco as a whole pack of cigarettes. Exempting any category of tobacco product supports a dangerous loophole that the tobacco industry exploits to create and market products that appeal to kids. Premium cigars are just as dangerous as the cheap ones; they should be subject to the same regulation as any other cigar.

While FDA sets a national age of 18 for purchase of tobacco, there are additional steps FDA must take to protect kids. Prohibiting self-service displays would help keep tobacco products out of the hands of kids by requiring customers to ask a sales clerk for assistance to be consistent with current rules for cigarettes and smokeless tobacco. Without a prohibition on self-service displays, these products can be placed next to candy in stores, making them attractive and accessible to kids. In Michigan, hookah is available in grocery stores on self-service shelves next to the checkout.

FDA should eliminate e-cigarette marketing and flavors that appeal to kids. E-cigarette companies are using the same tactics used to market regular cigarettes to kids including celebrities and cartoon characters to pitch products, and ads that portray e-cigarettes as glamorous and rebellious. E-cigarettes are also being sold in a wide-variety of kid-friendly flavors. It's not surprising that the percentage of middle and high school students who reported ever using e-cigarettes doubled from 2011 to 2012, according to the CDC.

FDA should bring hookah under regulation. Hookah smoking brings with it the same serious health risks associated with all tobacco use. There is an added concern with infectious disease transmission from using unclean or shared mouthpieces. Hookah use is a common practice among Middle Eastern Americans but its use has exploded among the general population. Lack of regulation, failure of the public to understand hookah as a dangerous tobacco product, widespread availability at a low cost, flavors, and acceptance of hookah as an experience and perception that it is not really smoking combine to make this tobacco product an alluring one for youth. Studies show hookah carries the same or worse health risks associated with cigarettes, and that teens that have ever used hookah are 8 times more likely to smoke cigarettes. Bringing hookah under FDA regulation would raise awareness of the tobacco connection for legislatures and the public, and would have a salutary effect on public health through ingredient control and steps to keep hookah out of the hands of youth.

FDA must finish this rule by April 2015. Too many critical timelines such as those for warning labels, advertising, flavors, and online sales are tied to rule finalization. Delay confuses debates in state legislatures about federal definition and treatment of e-cigarettes and other emerging tobacco products. Rising youth use and poisoning rates will continue while FDA finalizes this rule. In Michigan the FDA's delay has had the impact of confusing the definition of what a tobacco product is with regard to e-cigarettes. The Governor and Attorney General have called for e-cigarettes to be treated as tobacco products; a final FDA rule would end the debate. We cannot afford to wait for changes in the marketplace to have FDA regulate cigars, e-cigarettes, hookah and other tobacco products.