



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES

LANSING

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## **Interpretive Statement Regarding Emergency Rules for Protection of Youth from Nicotine Addiction**

This interpretive statement represents the Michigan Department of Health and Human Services' (MDHHS) official position regarding enforcement of the Emergency Rules for Protection of Youth from Nicotine Addiction, issued September 18, 2019 (Rules). This interpretative statement is issued in accordance with the Michigan Administrative Procedures Act, MCL 24.201 *et seq.*, and more specifically MCL 24.232.

### **1. Possession of Flavored Nicotine Vapor Products**

The Rules prohibit selling, giving or otherwise distributing flavored nicotine vapor products in the State of Michigan. The Rules also prohibit possession of these products *with the intent* to sell, give, or otherwise distribute. Rule 2(1)(a).

The Rules do not, however, prohibit mere possession of flavored nicotine vapor products in Michigan. Persons 18 years of age and older may possess any amount of flavored nicotine vapor products as long as they do not intend to sell, give, or distribute the product in Michigan. It is recommended that persons possessing these products clearly indicate that they are not for sale, such as by placing them in a secured storage location that is not visible to customers and instituting other similar safeguards.

### **2. Shipment of Flavored Nicotine Vapor Products Outside of the State of Michigan**

The Rules prohibit the transportation of flavored nicotine vapor products "intended for delivery to any retailer or reseller *in violation of these rules.*" Rule 2(2)(emphasis added).

The Rules do not prohibit a retailer of flavored nicotine vapor products from returning those products to a wholesaler or manufacturer. A retailer that unwinds an existing transaction that occurred prior to October 2, 2019, has not engaged in a sale in violation of Rule 2(1)(a).

Likewise, the Rules do not prohibit the transportation of flavored nicotine vapor products to persons outside of the State of Michigan. Such activity is not in violation of the Rules.