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June 4, 2019

Michigan Senate
State Capital
Lansing, Michigan 48909-7536

Senators,

Today I sign, with significant reservations, Enrolled Senate Bills 106 and 155.

Youth use of e-cigarettes has become a public health crisis. In 2018, 21% of American high school students and 5% of middle school students—children as young as 12—reported having used e-cigarettes or other vape products in the last 30 days. And these rates are climbing fast: fueled by the availability of flavors akin to Fruit Loops, Fanta, and Nilla wafers (to name just a few), e-cigarette sales to high school students increased 78% from 2017 to 2018.

Behind the candy taste, however, is a product that hooks kids and adults alike: e-cigarettes can deliver nicotine more than twice as quickly as tobacco cigarettes. Recent research has found that children who had used e-cigarettes were more than four times more likely to try smoking tobacco cigarettes, and nearly three times more likely to become regular smokers within two years. Michigan is in no position to take the public health risks presented by e-cigarettes lightly: according to the United States Surgeon General, the above-average rates of high school and adult smoking in our state indicate that an estimated 213,000 kids now under 18 will ultimately die prematurely as a result of smoking.

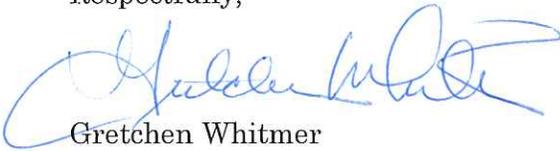
The legislation I sign today amends the Youth Tobacco Act to make it illegal for retailers to sell e-cigarettes and other non-traditional nicotine products to minors, and illegal for minors to use these products. But, instead of making clear that Michigan's tobacco control laws—including its tobacco taxes, public smoking ban, and advertising restrictions—apply to e-cigarettes, it muddies the waters. SB 106 creates two new categories of nicotine products—"vapor products" and "alternative nicotine products"—and restricts youth access to them. In so doing, it separates e-cigarettes from the definition of tobacco products in a way that could be used to exempt these products from evidence-based tobacco control. That is a mistake—but it is a mistake confined to the Youth Tobacco Act, and does not extend to the rest of Michigan's tobacco control laws.

In 2016, the FDA took the historic step of deeming non-traditional nicotine products, like e-cigarettes, to be subject to the same tobacco product regulations as cigarettes, roll-your-own tobacco, and smokeless tobacco. That rule makes good sense: the liquid nicotine that hooks e-cigarette users usually comes from the very same tobacco leaf as the contents of a traditional rolled cigarette. And, with teen e-cigarette users becoming smokers at shockingly high rates, it's also good policy.

That is why today I'm taking two additional steps, beyond signing these bills. First, I'm asking the Department of Health and Human Services to marshal the science behind the FDA's decision in order to provide recommendations on how Michigan should regulate e-cigarettes and similar products going forward. Second, I am asking the Department of the Treasury to consider DHHS's recommendations and determine whether the FDA's reasons for deeming e-cigarettes to be tobacco products should also apply to Michigan law on the licensing and taxation of tobacco products. Each Department should report back to me at the earliest possible date.

As Governor, I am committed to protecting public health. There is no doubt that keeping nicotine out of the hands of kids is one of the most powerful ways to fulfill that commitment. E-cigarettes were initially marketed as a tool to help smokers avoid the harmful effects of inhaling tobacco smoke. Today, that pitch looks like a bait-and-switch: the marketing, packaging, and taste of e-cigarettes are perfectly designed to create new nicotine addicts, who then convert to lifelong smokers at alarming rates. SB 106 and 155 move Michigan one step in the right direction by expressly banning sales of these products to minors, and one step in the wrong direction by creating special new categories that could be used to exempt e-cigarettes from evidence-based tobacco regulation. Let's not undo decades of successful tobacco control by letting waves of addictive tobacco-derived products flow unchecked and unmonitored into our state.

Respectfully,



Gretchen Whitmer
Governor