

CRAIN'S DETROIT BUSINESS

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Commentary: What should we ban next?



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Michigan will become the first state to ban e-cigarettes.

It's not every day the governor decides to unilaterally put an entire sector out of business.

But that would appear to be the bottom-line effect of Gov. Gretchen Whitmer's order last week for regulators to create emergency rules to ban the sale of flavored

electronic cigarettes.

The order has to send a chill through any business that sells a legal product that somebody doesn't like.

E-cigarettes, or "vapes," let people get a fix of nicotine by inhaling the vapor from a heated liquid. Retailers and other e-cigarette businesses encompass literally hundreds of small businesses, and most of the product they sell won't be legal. The stores can still sell e-cigarettes and liquids that taste like tobacco. Dedicated "vape shops," of which there are many, are going to have a tough time surviving.

Whitmer cited reports of hospitalizations involving e-cigarettes and rampant use by teenagers among the reasons for the emergency order.

Vaping is unquestionably a problem among young people — where kids used to smoke cigarettes in school bathrooms, they now call the bathroom the "Juul room." Juuls are more popular than old-fashioned cancer sticks among young people now.

However, the Legislature only last year passed a package of laws regulating e-cigarettes, banning their sale to people younger than 18. The candy and fruit flavors Whitmer is seeking to ban are certainly appealing to young people. Further actions by the Legislature might be needed.

But they're also appealing to adult smokers who want to quit smoking and have looked to e-cigarettes as a help. How many will switch back to their Marlboros? Or switch to home-brewed vape juice, which would seem to carry risks all its own.

It also won't work. People who want a pleasant-tasting nicotine fix can go to Ohio, and a black market for vape juice will spring up. Sellers of bootleg e-cigarettes will make a lot of money.

Many of the lung conditions that have hospitalized a few users have been tied to online sales of liquids based on cannabis that contain THC, the ingredient that gets you high. This new ban won't touch such sellers, who are already breaking the law, and it will encourage users to seek out black market sources.

Normally when a product poses that kind of danger, regulators will identify which are dangerous and shut down production at specific makers. When there's listeria in a specific brand of ice cream, we don't shut down the whole ice cream business.

The ban is well-intentioned. It's hard to argue that fruit-flavored vapes improve society. They *might* improve cigarette smokers' health, but not too many people would argue that should come at the expense of hooking a new generation on nicotine.

It may well be that we're on a slow path to a national ban. As long as it comes about as part of a legislative process that allows for debate and takes into consideration all the risks and benefits, that's as it should be.

But for now, businesses that employ hundreds or thousands of people and have invested in store buildouts and other infrastructure have to scramble to figure out how to survive.

A unilateral ban raises the question of what other products or activities that carry health risks might the right official deem an emergency. Diabetes is an epidemic — ban soda? Heart disease is the number one killer — ban steak?

There doesn't seem to be any immediate threat of those. But it's becoming harder to tell what might happen.

Inline Play

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