

701—235.2(453E) Devices.

235.2(1) Device. “Device” is defined in Iowa Code section 453E.1 and provides the factors the department will consider when determining whether a particular product is subject to regulation under Iowa Code chapter 453E and these rules.

235.2(2) Examples.

EXAMPLE 1: Retailer A holds a retail tobacco permit. Retailer A sells an object made from glass. The object has a bowl, a water reservoir, a tube, and a mouthpiece. The accompanying instructions direct users to place tobacco in the bowl, heat the bowl, and inhale the resulting aerosol. Because the object is made entirely of glass and is designed for use in inhaling through combustion tobacco, the object is a device.

EXAMPLE 2: Retailer B holds a retail tobacco permit. Retailer B sells an object identical to Example 1, except the object has no instructions and Retailer B describes it as a “sculpture.” Retailer B also displays a sign next to the object that says, “DECORATION ONLY. DO NOT USE WITH TOBACCO.” Despite the signage and lack of instructions, the object is a device; Retailer B is a supplier of tobacco products, and the object is designed for use as a device.

EXAMPLE 3: Retailer C holds a retail tobacco permit. Retailer C sells an object described as a “hookah.” The object has a metal bowl to fill with water, a metal pipe, tubing, and a mouthpiece. The object’s accompanying instructions direct users to place lit coals next to shisha (flavored tobacco) in order to heat the shisha without burning the shisha. By heating the shisha, the hookah creates an aerosol. Users can then inhale the aerosol from the shisha. Because the shisha is intended to be inhaled through combustion in the object, the object is a device.

EXAMPLE 4: Retailer D holds a retail tobacco permit. Retailer D sells a small silk flower packaged within a four-inch-long glass tube. Purchasers commonly dispose of the silk flower and use the tube for inhaling through combustion tobacco, hemp, other plant materials, or a controlled substance. Therefore the glass tube is a device. The sale is subject to regulation under Iowa Code chapter 453E, and the device excise tax applies to the entire sales price.

EXAMPLE 5: Retailer E does not hold a retail tobacco permit. Retailer E primarily sells scientific supplies and equipment, including a 100-millimeter-long glass test tube. The test tube’s instructions only concern its scientific use. The descriptive materials accompanying the test tube only depict its scientific use. The test tube’s advertising only concerns its scientific use. Retailer E only displays the test tube in a scientific manner. Retailer E otherwise is not a supplier of devices or related items. The test tube is commonly used for legitimate scientific purposes in the scientific community. While some individuals outside of the scientific community may be able to use this test tube as a means for drug consumption, the product is designed for use in scientific applications. The test tube is not a device.

This rule is intended to implement Iowa Code chapter 453E.

[ARC 9710C, IAB 11/12/25, effective 12/17/25]