

HHS COMMITTEE #1  
September 18, 2014

**MEMORANDUM**

September 16, 2014

TO: Health and Human Services Committee

FROM: Linda McMillan, Senior Legislative Analyst *L. McMillan*  
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SUBJECT: **Discussion – Electronic Cigarette (e-Cigarette) Usage**

***Expected for this session:***

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Montgomery County Health Officer  
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Lee Williams  
Coordinator, Tobacco Compliance Check Program  
Division of Licensure, Regulation and Education  
Montgomery County Department of Liquor Control

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**Background**

At its meeting on July 21, 2014, the Health and Human Services Committee received briefings from the National Institutes of Health and the Legal Resource Center for Public Health Policy on electronic cigarettes. These briefings included a discussion of the current medical understanding of the health risks and public policy concerns with electronic cigarette usage. Materials from that worksession are not reproduced in this packet, but are available from Council staff and on the internet at the following site:

[http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2014/140721/20140721\\_HHS1.pdf](http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2014/140721/20140721_HHS1.pdf)

The presentation from Dr. Walton and Dr. Boone from the National Institute on Drug Abuse begins after ©18 in the July 21<sup>st</sup> read-ahead memo link. Some items noted in the presentation include:

- 90% of smokers begin while in their teens or earlier.
- e-Cigarette use by high school students increased from less than 5% to almost 10% from 2011 to 2012.
- 1 in 5 middle school students that reported ever using e-Cigarettes have never tried conventional cigarettes.
- Reasons students gave for using e-Cigarettes include: curiosity, attraction of flavors, use by friends and family, desire to quit smoking, availability, and it is a sign of independence.
- Adult use is primarily by current smokers who give health reasons as the primary motivator for use (less harmful than conventional cigarettes, desire to cut down or quit conventional cigarettes, prevent relapse to conventional cigarettes, don't want to disturb others, use in smoke free places.)
- Concerns about e-Cigarettes include:
  - They are in general use but risks and benefits are not fully evaluated.
  - Lack of standards over design and contents.
  - Potential relapse for former smokers or use by never smokers.
  - May renormalize smoking or encourage poly-use.
  - Potential for use with controlled substances.
  - Marketing that may attract kids (kid-friendly flavors, characters or famous actors, ads in media). The presentation noted that ads during the 2013 Super Bowl reached 10 million viewers and that from 2011 to 2013, e-Cigarette ads that reach children increased by 256%.
- e-Cigarette use has doubled every year since 2010 and is estimated to be greater than a \$1.5 billion industry.

With regard to Secondhand and Thirdhand Exposure, the NIDA presentation noted:

- e-Cigarettes have no sidestream emissions like a conventional cigarette.
- Exhaled aerosol may be inhaled by nearby individuals (secondhand exposure).
- Surfaces can be coated with the nicotine-containing aerosol as it settles (thirdhand exposure). The CDC reports an increase in poison control center call from 1 call per month in 2010 to 214 calls per month in 2014.
- Health effects of indirect aerosol exposure are unclear.

In August, the World Health Organization called for stronger regulation of e-Cigarettes and the banning of use in public places. An August 26, 2014 article from the New York Times is attached at ©22-25.

At the conclusion of the briefings, Committee members directed staff to provide options relating to restricting youth access to electronic smoking devices. Section 24-305 of the Health-General Article of the Maryland Code, prohibits distribution of electronic cigarettes to a minor. However, at the July session, Dr. Shell of the Maryland Department of Health and Mental Hygiene told the Committee that there is not an enforcement mechanism and that possession of

e-Cigarettes by a minor is not illegal. As Committee members may recall from its discussion, Council legal staff believes that the Council has wide latitude in its ability to further legislate in this area. The University of Maryland's Legal Resource Center for Public Health Policy has outlined several options to restrict youth access in a paper on ©1-3. These options, in addition to others, are discussed below.

Councilmember Floreen has provided her draft legislation to restrict electronic cigarettes and asks that the Committee consider the bill along with its own recommendations. Her memo and draft bill is attached at ©13-21. Councilmember Floreen's bill would:

- prohibit the use of electronic cigarettes where smoking is prohibited;
- prohibit the sale of liquid nicotine containers in retail outlets unless the nicotine is in child-proof packaging;
- prohibit the sale of electronic cigarettes in any place that is accessible to buyers of the product without the intervention of the seller (similar to tobacco products); and
- prohibited the sale of flavored electronic cigarettes.

### **Enforcement of Current Law Restricting Tobacco Sales**

Before the Committee's discussion of possible restrictions, Council staff has asked Mr. Williams of the Department of Liquor Control, Licensing and Regulatory Enforcement to provide the Committee with a brief presentation on its program to identify entities that are selling tobacco to minors. The Committee will need to discuss enforcement of any options that it recommends and it is likely that sales and availability of flavored products would be enforced in a similar manner.

### **Issue Areas**

#### **1. Prohibit flavored electronic cigarettes**

Flavored cigarettes are prohibited under federal law, but this prohibition does not extend to electronic cigarettes. Some jurisdictions, including Providence, Rhode Island, and New York City, have enacted laws to prohibit the sale of flavored tobacco products, including electronic cigarette cartridges. In an August 6 letter to the Food and Drug Administration, (©9-11) Dr. Tillman, on behalf of the Department of Health and Human Services, urged that the flavor restrictions on cigarettes be applied to electronic cigarettes.

#### **2. Child-resistant packaging**

As Committee members learned at its last meeting on this topic, there has been an increase in child poisoning from liquid nicotine containers for electronic cigarettes. There is federal legislation pending in Congress that would require liquid nicotine be in child-resistant packaging. Several jurisdictions, including Minnesota and Vermont, have already enacted laws implementing this requirement.

### **3. Product placement / location of sales**

County law currently prohibits a retail seller of any tobacco product from displaying or storing the product “in any place that is accessible to buyers of the product without the intervention of the seller or an employee of the seller.” This prohibition could be extended to electronic cigarettes. The Council could go one step further and require electronic cigarettes to be sold in places only where adults over 18 are allowed to enter.

The County had previously placed restrictions on the availability and placement of cigarette vending machines in order to reduce the availability to minors. However, the Circuit Court found that the State’s licensing preempted local laws regulating the location of cigarette vending machines. These rules would not currently apply to a vending machine distributing electronic cigarettes.

### **4. Prohibitions on the use of electronic cigarettes**

Councilmember Floreen’s draft legislation proposes the same restrictions on the use of electronic cigarettes that are in place for smoking tobacco products. The County could enact these identical restrictions or restrict electronic cigarettes to a subset of the restrictions placed on the smoking of tobacco products.

### **5. Restricting the milligrams/milliliter of nicotine in liquid refills**

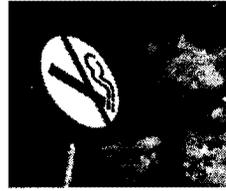
The NIDA presentation showed that there are a variety of nicotine concentrations available in liquid refills, with one as high as 36 mg/ml (©29). Marketing information from eversmoke electronic cigarettes (©30) says that traditional cigarette smokers who are use to smoking Marlboro Red for example will most likely enjoy a Full Flavored nicotine cartridge of 18mg.” If the Committee is interested in restricting the sale of refills that would have a higher concentration of nicotine than a traditional cigarette, Council staff could do additional research on any preemption issues and on the impact of nicotine levels.

### **6. Taxation**

The University of Maryland brief notes the price advantage of electronic cigarettes over tobacco products and suggests states could consider reclassifying electronic cigarettes into an already taxed class or create a new special tax class category. The brief notes that seven states have tried to do so but only Minnesota currently has such a tax in place (equal to 95% of the whole sale price).

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## State and Local Policy Options

# Electronic Smoking Devices

Electronic Smoking Devices (“ESDs”) are battery operated devices designed to heat a liquid nicotine solution to the point of vapor in order to deliver vapor the user for inhalation, mimicking the act of smoking. ESDs first began appearing widely in the United States in about 2006, and use and availability have significantly increased since.<sup>1</sup> ESD sales have doubled every year since 2008, and are projected to approach \$2 billion in 2013.<sup>2</sup> At the same time, the Centers for Disease Control and Prevention (“CDC”) reported that ESD use among students in grades 6-12 more than doubled between 2011 and 2012 – the first years for which data is available – to an estimated 1.8 million students.<sup>3</sup>

These trends are concerning due to unanswered questions about the health risks arising from ESD use, including both negative health risks resulting from inhaling ESD vapor and broader negative health consequences at the population level. With respect to individual negative biological risks from inhaling vapor, studies have indicated that ESDs cause airway constriction in users and that inhaled and exhaled aerosol contain a number of the same carcinogens found in cigarettes.<sup>4</sup> At the population level, ESDs complicate enforcement of existing prohibitions on smoking indoors, diminish those prohibitions’ secondary impact of cessation of tobacco use, and impede progress in social norm change related to smoking.<sup>5</sup> These concerning trends are compounded by a lack of accurate data on ESDs due to their short time on the market and the lack of any meaningful quality control or product standards.

Due to the lack of accurate information on ESDs and their potential health risks, jurisdictions have proposed a variety of policy options to address ESDs. This document provides information on some of those approaches, including approaches to regulating use, regulating price point, and regulating youth access.

### Regulating ESD Use

#### Licensure

Requiring licensure of ESD retailers should be a prerequisite to enforcement of any prohibitions on the sale or distribution of ESDs. Under Maryland law, the sale of ESDs to youth less than 18 years old is prohibited.<sup>6</sup> However, there is no existing mechanism to enforce these restrictions. In order to effectively enforce this prohibition, and any additional prohibitions, state and local governments could consider requiring that ESD retailers be licensed similarly to how sellers of cigarettes and other tobacco products are already licensed. As a secondary benefit, licensing ESD retailers would make tracking retail sales easier and could allow a comprehensive database from which the jurisdiction could select retailers to conduct inspections for compliance.

#### Applying Clean Indoor Air Laws

State and local governments could consider legislation to prohibit individuals from utilizing ESDs in public spaces or work places, typically by including them in the jurisdiction’s Clean Indoor Air Act. As discussed above, due to the novelty and short length of time these products have been widely marketed, there is a lack of scientific consensus for or against regulation of ESDs indoors. However, ESD use may create confusion in enforcement of existing clean indoor air laws, impede progress made in changing social norms around smoking, and encourage dual-use of ESDs in conjunction with traditional cigarettes.<sup>7</sup> In order to prevent dual use of these products, and to avoid the confusion of enforcing existing clean indoor air laws, state and local governments could consider prohibiting ESD use in places where smoking is already prohibited. As of 2014, three states and 108 municipalities include ESDs in their clean indoor air smoking prohibitions.<sup>8</sup>

## Restrict Use on School Grounds

State and local governments could also consider prohibiting the use of ESDs on school property. Although, as discussed above, Maryland law prohibits the sale of ESDs to minors, it does not prohibit ESD use or possession by minors. And, Maryland's statewide tobacco-free schools' policy only prohibits the use or possession of products derived from the tobacco plant that are smoked, chewed, sniffed, or otherwise consumed.<sup>9</sup> Because ESD are not expressly included in the statewide tobacco-free schools policy's definition of tobacco products, it is unclear whether possession or use of electronic smoking devices by minors is prohibited in all public schools. In order to prevent youth from using ESDs during school, and to provide school personnel with a mechanism to discipline students for using these products, state and local governments should consider expressly including ESDs in their tobacco-free school policies. In Maryland, at least Anne Arundel, Calvert, Garrett, and Prince George's Counties have expressly included ESDs in their policies.<sup>10</sup>

## Restricting Youth Access to ESDs

### Flavors

In order to make the products less appealing to youth users, state and local governments could consider prohibiting flavored ESD nicotine. Under the federal Tobacco Act, traditional cigarettes may not be flavored.<sup>11</sup> But ESDs are not included in the federal law, and flavors make nicotine use less harsh and more appealing to youth.<sup>12</sup> Providence, RI, and New York, NY, currently prohibit the sale of flavored tobacco products, including flavored electronic cigarette cartridges, in their jurisdictions except at retail stores whose primary revenue source is the sale of tobacco products.<sup>13</sup> The laws in both Providence and New York were challenged by manufacturers and upheld as valid local sales restrictions not preempted under the Tobacco Control Act.<sup>14</sup>

### Point of Sale

State and local governments could also consider legislation that limits the placement of ESDs to areas inaccessible by the consumer. Certain jurisdictions in Maryland require tobacco products to be kept in an area inaccessible to the consumer.<sup>15</sup> In addition, cigarettes may only be sold in vending machines in Maryland if the machine is located in an 18 and over establishment.<sup>16</sup> However, although ESDs may not be sold to minors, the products may remain easily accessible by underage consumers. Legislation that prohibits the sale of ESDs in areas accessible to minors would provide retailers with a clear, easily understandable rule and bring ESD product placement in line with that of traditional tobacco products.

### "18 And Over" Stores

Similarly, state and local governments could consider requiring ESDs to be sold in places only where adults over 18 are allowed to enter. As discussed above, federal law allows state and local governments to enact sales restrictions on all tobacco products. In addition, as discussed above, state law allows cigarette vending machines only in 18 and over establishments.<sup>17</sup> Legislation which would limit the sale of ESDs to specific locations would be a valid sales restriction under the Tobacco Control Act to limit youth exposure to ESDs.

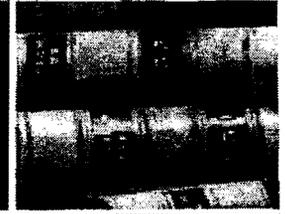
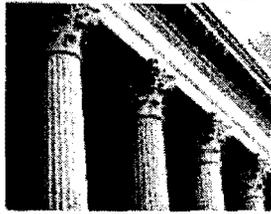
## Regulating ESD Pricing

### Taxation

To reduce the price advantage over traditional tobacco products that ESDs currently enjoy, and to impact youth use, states could consider reclassifying ESDs into a category of tobacco products already taxed or create a special tax category for ESDs. The Tobacco Control Act expressly preserves the authority of state and local governments to levy taxes on tobacco products.<sup>18</sup> Underage youth are particularly sensitive to price, as seen from declining rates correlated with tax increases with combustible products in many different jurisdictions. And, in general, ESDs are around 1/2 the cost per use compared to combustible tobacco.<sup>19</sup> At least 7 states have tried to implement a tax specifically on e-cigarettes; Minnesota is the only state to do so currently - equal to 95% of the wholesale price.<sup>20</sup>

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- <sup>1</sup> Barbara Demick, *A high-tech approach to getting a nicotine fix*, L.A. Times (April 25, 2009), <http://articles.latimes.com/2009/apr/25/world/fg-china-cigarettes25>
- <sup>2</sup> Bonnie Herzog, *Equity research*. (June 12, 2013), <http://www.smallcapfinancialwire.com/wp-content/uploads/2013/11/E-Cigs-Revolutionizing-the-Tobacco-Industry-Interactive-Model.pdf>.
- Natalie Robehmed, *E-cigarette Sales Surpass \$1 Billion As Big Tobacco Moves In*, Forbes (Sept. 17, 2013), <http://www.forbes.com/sites/natalierobehmed/2013/09/17/e-cigarette-sales-surpass-1-billion-as-big-tobacco-moves-in/>
- <sup>3</sup> CDC, *Notes from the Field: Electronic Cigarette Use Among Middle and High School Students — United States, 2011–2012*, Morbidity and Mortality Weekly Report (Sept. 6, 2013), [http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6235a6.htm?s\\_cid=mm6235a6\\_w](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6235a6.htm?s_cid=mm6235a6_w)
- <sup>4</sup> *Experts warn that e-cigarettes can damage the lungs*, European Respiratory Society (Sept. 2, 2012), <http://www.erscongress2012.org/mediacenter/news-release/item/428-experts-warn-that-e-cigarettes-can-damage-the-lungs.html>
- FDA, *Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted By FDA* (July 22, 2009), <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm>
- <sup>5</sup> Neal L. Benowitz and Maciej Goniewicz, *The Regulatory Challenge of Electronic Cigarettes*, J. OF AM. MED. ASSOC. (March 2013), [http://www.tobacco.ucsf.edu/sites/default/files/u795/Benowitz\\_Gona%20E-cig%20JAMA%202013.pdf](http://www.tobacco.ucsf.edu/sites/default/files/u795/Benowitz_Gona%20E-cig%20JAMA%202013.pdf)
- <sup>6</sup> MD. CODE ANN., HEALTH GEN. § 24-305 (2012).
- <sup>7</sup> Neal L. Benowitz and Maciej Goniewicz, *The Regulatory Challenge of Electronic Cigarettes*, J. OF AM. MED. ASSOC. (March 2013), [http://www.tobacco.ucsf.edu/sites/default/files/u795/Benowitz\\_Gona%20E-cig%20JAMA%202013.pdf](http://www.tobacco.ucsf.edu/sites/default/files/u795/Benowitz_Gona%20E-cig%20JAMA%202013.pdf)
- <sup>8</sup> American Nonsmokers' Rights Foundation, *U.S. State and Local Laws Regulating Use of Electronic Cigarettes* (January 2, 2014), <http://www.no-smoke.org/pdf/ecigslaws.pdf>
- <sup>9</sup> Code Md. Regs. 13A.0204.03
- <sup>10</sup> Legal Resource Center for Public Health Policy, *Maryland School System Tobacco-Free Policies* (January 2014), <http://www.npr.org/blogs/health/2014/02/17/276558592/candy-flavors-put-e-cigarettes-on-kids-menu>
- <sup>11</sup> 21 U.S.C.A. § 387g (West)
- <sup>12</sup> Jenny Lei Bolaroi, *Candy Flavors Put E-Cigarettes on Kid' Menu*, National Public Radio (Feb. 17, 2014),
- <sup>13</sup> Providence, R.I., Code of Ordinances § 14–309; New York City Administrative Code § 17–715
- <sup>14</sup> See Nat'l Ass'n of Tobacco Outlets, Inc. v. City of Providence, R.I., 731 F.3d 71 (1st Cir. 2013); see also U.S. Smokeless Tobacco Mfg. Co. LLC v. City of New York, 708 F.3d 428 (2d Cir. 2013)
- <sup>15</sup> Md. Code, Local Gov't. Art. §1-1202
- <sup>16</sup> Md. Code, Bus. Reg. § 16-3A-02
- <sup>17</sup> *Id.*
- <sup>18</sup> 21 USCA § 387p
- <sup>19</sup> bluBlog, *How Much Do E-Cigs Cost*, <http://blog.blucigs.com/how-much-do-e-cigs-cost/> (accessed Feb. 27, 2014).
- <sup>20</sup> Minnesota Dept. of Revenue, *Revenue Notice #12-10: Tobacco Products Tax—Taxability—E-Cigarettes*, (Oct. 22, 2012), [http://www.revenue.state.mn.us/law\\_policy/revenue\\_notices/RN\\_12-10.pdf](http://www.revenue.state.mn.us/law_policy/revenue_notices/RN_12-10.pdf)

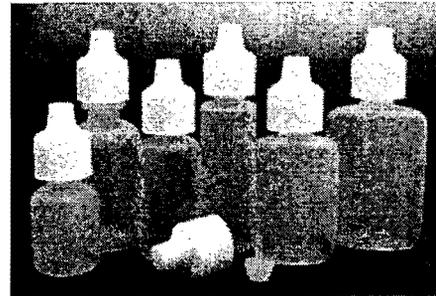


## Electronic Cigarette Liquid Packaging and Sales Requirements

The increasing use of electronic cigarettes and similar e-devices, such as vape pens, mods, tanks, and personal vaporizers, along with e-liquid refills has created several public health problems requiring policy solutions.<sup>1</sup> One such problem, which governments at all levels have only recently started to consider, is that the concentrated liquid used in these products can lead to nicotine poisoning. This fact sheet takes a brief look at this problem and possible policy approaches for addressing it.<sup>2</sup>

### Overview

Although e-cigarette use is not yet at the level of conventional cigarette use, it is increasing dramatically. Approximately one in five U.S. smokers has tried e-cigarettes.<sup>3</sup> According to industry sources, thousands of shops specialize in e-cigarettes and e-liquid in the U.S., and these shops are projected to have over \$1 billion in sales in 2014.<sup>4</sup> Additionally, many non-specialty stores, such as gas stations and convenience stores, sell e-liquid.



E-liquid comes in a variety of enticing flavors, such as cherry, chocolate, gummy bear, and bubble gum, many of which appeal to children.<sup>5</sup> According to one source, approximately 7,764 flavors of e-liquid are available through e-cigarette websites.<sup>6</sup>

The problem is that much of the e-liquid on the market contains nicotine, which depending on the concentration, can be extremely dangerous. Nicotine is an acute toxin:<sup>7</sup> exposure to nicotine by swallowing or contact with the skin can result in nausea and vomiting, as well as respiratory arrest, seizures, or even death.<sup>8</sup> A lethal dosage of nicotine is estimated to be between 1 and 13 milligrams per kilogram of bodyweight.<sup>9</sup> The nicotine level in most e-liquid ranges between 1.8 and 2.4 percent,<sup>10</sup> but nicotine concentration can be as high as 10 percent in each vial of e-liquid.<sup>11</sup> On the low end of this estimate, this means that a teaspoon of 1.8 percent nicotine concentrated e-liquid could be fatal for a 200 pound person.<sup>12</sup> Children, drawn to e-liquid because of its many kid-friendly flavors, are especially vulnerable to nicotine poisoning.<sup>13</sup>

Data from poison control centers show that poisoning is more than a theoretical risk. Calls to poison control centers regarding e-cigarettes and liquid nicotine have risen dramatically over the past four years.<sup>14</sup> In 2013, over 1,000 calls linked to liquid nicotine exposure were reported in the

U.S.<sup>15</sup> From January through March of 2014, the number of calls was already at 651.<sup>16</sup> In 2013, Minnesota alone had 50 reported children poisonings from e-liquid, a ten-fold increase from 2012.<sup>17</sup> Seventy-two percent of poison control calls in Minnesota were for children three years old or younger, while 60 percent of calls to the Kentucky poison control center involved children six years old or younger.<sup>18</sup>

Laws that require e-liquid to be sold in childproof packaging are one way to reduce the incidence of liquid nicotine poisonings, particularly among children. Some representatives of the e-cigarette industry have stated that they support efforts to require e-liquid to be sold in childproof packaging.<sup>19</sup> Packaging companies are creating and marketing childproof packaging, realizing the need for the product in the growing e-cigarette marketplace.<sup>20</sup>

### Select Legislation and Policies

A few states have already enacted legislation requiring childproof packaging for e-liquid, and federal legislation has also been introduced. Below are a few examples of laws and legislation related to e-liquid packaging. Local and state governments might also want to consider other legislative avenues or regulatory options.

Before using any language from the following policies, make sure the provision is practical and legal in your jurisdiction, and identify any issues that could affect implementation. Please note that the Tobacco Control Legal Consortium does not endorse or recommend any of the following policy approaches. These select examples are included simply to illustrate how various jurisdictions have approached the regulation of these products.

State	Legislation	Select Language
Minnesota	<u>MINN. STAT. § 461.20 (2014)</u>	For purposes of the section, “child-resistant packaging” is defined as set forth in Code of Federal Regulations, title 16, section 1700.15(b)(1), as in effect on January 1, 2015, when tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015 . . . The sale of any liquid, whether or not such liquid contains nicotine, that is intended for human consumption and use in an electronic delivery device, as defined in section 609.685, subdivision 1, that is not contained in packaging that is child-resistant, is prohibited.
New York	<u>Bill A9299D-2013</u>	No person, firm or corporation shall sell or offer for sale any electronic liquid, as defined in paragraph (E) of subdivision one of section thirteen hundred ninety-nine-CC of the public health law, unless the electronic liquid is sold or offered for sale in a child resistant bottle which is designed to prevent accidental exposure of children to electronic liquids.
Vermont	<u>7 V.S.A. § 1012 (2014)</u>	(a) Unless specifically preempted by federal law, no person shall manufacture, regardless of location, for

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sale in; offer for sale in; sell in or into the stream of commerce in; or otherwise introduce into the stream of commerce in Vermont: (1) any liquid or gel substance containing nicotine unless that product is contained in child-resistant packaging; or (2) any nicotine liquid container unless that container constitutes child-resistant packaging. (b) As used in this section: (1) "Child-resistant packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time. (2) "Nicotine liquid container" means a bottle or other container of a nicotine liquid or other substance containing nicotine which is sold, marketed, or intended for use in a tobacco substitute. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco substitute if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

Federal S. 2581

The term "liquid nicotine container" means a consumer product, as defined in section 3(a)(5) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(5)) notwithstanding subparagraph (B) of such section, that consists of a container that— (A) has an opening that is accessible through normal and reasonably foreseeable use by a consumer; and (B) is used to hold liquid containing nicotine in any concentration. ... The term "nicotine" means any form of the chemical nicotine, including any salt or complex, regardless of whether the chemical is naturally or synthetically derived. ... The term "special packaging" has the meaning given such term in section 2 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471). ... [N]ot later than 1 year after the date of the enactment of this Act, the [Consumer Product Safety] Commission shall promulgate a rule requiring special packaging for liquid nicotine containers.

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### Contact Us

Please feel free to contact the Tobacco Control Legal Consortium at (651) 290-7506 or [publichealthlaw@wmitchell.edu](mailto:publichealthlaw@wmitchell.edu) with any questions about the information included in this fact sheet or to discuss local concerns you may have about drafting or implementing any policy.

Last updated: September 2014

## Notes

<sup>1</sup> See the Tobacco Control Legal Consortium's *Regulating Electronic Cigarettes and Similar Devices* for more background on e-cigarettes and some of the policy issues associated with them.

<sup>2</sup> The information contained in this document is not intended to constitute or replace legal advice.

<sup>3</sup> Brian A. King et al., *Awareness and Ever Use of Electronic Cigarettes among U.S. Adults, 2010-2011*, 15 NICOTINE & TOBACCO RESEARCH 1623 (2013).

<sup>4</sup> Karen E. Klein, *Healthy Markups on E-Cigarettes Turn Vacant Storefronts Into 'Vape Shops'* BLOOMBERG BUSINESSWEEK, OCT. 3, 2013, available at <http://www.businessweek.com/articles/2013-10-03/healthy-markups-on-e-cigarettes-turn-vacant-storefronts-into-vape-shops>.

<sup>5</sup> Letter from National Association of Attorneys General to Margaret Hamburg, Commissioner of the Food and Drug Administration (Sept. 24, 2013), available at <http://www.naag.org/assets/files/pdf/E%20Cigarette%20Final%20Letter%20%285%29%281%29.pdf>.

<sup>6</sup> Brady Dennis, *Booming E-Cigarette Market in Need of Greater Oversight, Studies Say*, WASH. POST, June 17, 2014, available at [http://www.washingtonpost.com/national/health-science/booming-e-cigarette-market-largely-unregulated-studies-say/2014/06/16/e2a4c5ee-f589-11e3-a606-946fd632f9f1\\_story.html](http://www.washingtonpost.com/national/health-science/booming-e-cigarette-market-largely-unregulated-studies-say/2014/06/16/e2a4c5ee-f589-11e3-a606-946fd632f9f1_story.html).

<sup>7</sup> U.S. DEP'T OF HEALTH AND HUMAN SERVS., *THE HEALTH CONSEQUENCES OF SMOKING— 50 YEARS OF PROGRESS: A REPORT OF THE SURGEON GENERAL 109-27* (2014), available at <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/index.html#execsumm>.

<sup>8</sup> Stanton Glantz, *Child Resistant Packaging of Electronic Cigarette Devices and Refill Liquid to Prevent Child Poisoning*, Center for Tobacco Control Research & Education (July 8, 2014), <http://tobacco.ucsf.edu/child-resistant-packaging-electronic-cigarette-devices-and-refill-liquid-containers-containing-nicot>.

<sup>9</sup> Robert A. Bassett et al., *Nicotine Poisoning in an Infant*, 370 N. ENGL. J. MED. 2240 (2014), available at <http://www.nejm.org/doi/full/10.1056/NEJMc1403843>.

<sup>10</sup> *Id.*

<sup>11</sup> See, e.g., *120ml of 100mg Flavorless USP Nicotine Liquid*, VAPING ZONE, [http://vapingzone.com/product-info.php?120\\_ml\\_of\\_100\\_mg\\_Flavorless\\_USP\\_Nicotine\\_Liquid-pid589.html](http://vapingzone.com/product-info.php?120_ml_of_100_mg_Flavorless_USP_Nicotine_Liquid-pid589.html); see also Matt Richtel, *Selling a Poison by the Barrel: Liquid Nicotine for E-Cigarettes*, N.Y. TIMES, March 23, 2014, available at [http://www.nytimes.com/2014/03/24/business/selling-a-poison-by-the-barrel-liquid-nicotine-for-e-cigarettes.html?\\_r=1](http://www.nytimes.com/2014/03/24/business/selling-a-poison-by-the-barrel-liquid-nicotine-for-e-cigarettes.html?_r=1).

<sup>12</sup> Bassett et al., *supra* note 9.

<sup>13</sup> Press Release, *American Association of Poison Control Centers (AAPCC) and Poison Centers Issue Warning About Electronic Cigarettes and Liquid Nicotine* (Mar. 25, 2014), available at <http://www.aapcc.org/press/29>.

<sup>14</sup> Debra Miller *Poison Control Calls Up Related to E-Cigarettes and Children*, COUNCIL ON STATE GOVERNMENTS KNOWLEDGE CENTER (June 19, 2014), available at <http://knowledgecenter.csg.org/kc/content/poison-control-calls-related-e-cigarettes-and-children>; Press Release, Centers for Disease Control and Prevention, *New CDC Study Finds Dramatic Increase in E-Cigarette-Related Calls to Poison Centers* (Apr. 3, 2014), available at <http://www.cdc.gov/media/releases/2014/p0403-e-cigarette-poison.html>.

<sup>15</sup> AAPCC Press Release, *supra* note 13.

<sup>16</sup> *Id.*

<sup>17</sup> Richtel, *supra* note 11; Jeremy Olson, *New E-Cig Fear: Poisoned Kids*, MINN. STAR TRIB., Mar. 19, 2014 at A1.

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<sup>18</sup> Brady Dennis, *Calls to Poison Control Centers About E-Cigarettes Have Surged*, WASH. POST, April 3, 2014, available at [http://www.washingtonpost.com/national/health-science/calls-to-poison-centers-about-e-cigarettes-have-surged/2014/04/03/f2751a3e-bb3a-11e3-96ae-f2c36d2b1245\\_story.html](http://www.washingtonpost.com/national/health-science/calls-to-poison-centers-about-e-cigarettes-have-surged/2014/04/03/f2751a3e-bb3a-11e3-96ae-f2c36d2b1245_story.html).

<sup>19</sup> Dennis, *Booming E-Cig Market*, *supra* note 6.

<sup>20</sup> See, e.g., *E-liquid Packaging for Vaping and E-Cigarette Markets*, BRAND PACKAGING, <http://www.brandpackaging.com/articles/84781-e-liquid-packaging-for-vaping-and-e-cigarette-markets>.



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Isiah Leggett  
County Executive

Uma S. Ahluwalia  
Director

August 6, 2014

The Honorable Margaret Hamburg, Commissioner  
United States Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, Maryland 20993

Reference: Deeming Tobacco Products to be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act  
Docket Number FDA-2014-N-0189-20870, RIN 0910-AG38

Dear Commissioner Hamburg:

On behalf of the Montgomery County, Maryland, Department of Health and Human Services (DHHS), I am writing to provide comments on the proposed rule "Deeming Tobacco Products to be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act." DHHS delivers a comprehensive array of public health and human services to a diverse population of over one million residents living in Montgomery County.

The Department applauds the Food and Drug Administration (FDA) for proposing this rule to identify additional products to be deemed as tobacco and subject to the requirements of the Family Smoking Prevention and Tobacco Control Act. Like many cities and counties across the country, Montgomery County officials are considering local legislative action to address the growing use of e-cigarettes in order to protect our community. Of particular concern is the marketing of these products to minors. We strongly believe that Federal regulation is needed to unite efforts already begun at the local level, to provide a uniform set of standards and take action where local jurisdictions are prohibited from doing so.

In response to the proposed rule, DHHS offers the following comments and recommendations.

**1. Flavored products**

DHHS urges the FDA to apply the same flavor restrictions promulgated by the Tobacco Control Act on cigarettes to newly-deemed tobacco products. As flavors such as cherry, vanilla, and apple contribute to the increasing popularity of e-cigarettes, hookah, and cigars among youth, regulation is critical for the same reasons the FDA restricted flavor options for cigarettes. The FDA's *Parental Advisory on Flavored Tobacco Products* states that flavored tobacco products:<sup>1</sup>

- Appeal to kids.
- Disguise the bad taste of tobacco, easing adoption by youth.
- Are just as addictive as regular tobacco products.
- Have the same harmful health effects as regular tobacco products.

**Public Health Services**

401 Hungerford Drive • Rockville, Maryland 20850 • 240-777-1245 • 240-777-1295 TTY • 240-777-1494 FAX  
[www.montgomerycountymd.gov/hhs](http://www.montgomerycountymd.gov/hhs)



Local and state health departments have already taken the initiative to regulate the sale of non-regulated flavored tobacco products in their jurisdictions. Maine banned the sale and distribution of flavored cigarettes and cigars in the state in 2009.<sup>2</sup> In 2011, New York City banned the sale of flavored tobacco products.<sup>3</sup> Providence (RI) banned the sale of flavored tobacco products and redemption of tobacco industry coupons and discounts in 2013.<sup>4</sup> In 2014, Chicago banned the sale of all flavored tobacco products, including e-cigarettes (regulated as tobacco products), within a 500-foot radius of any elementary, middle, or secondary school.<sup>5</sup>

## **2. Regulation of the new noncombustible products**

DHHS urges FDA to regulate the newly-deemed tobacco products, including e-cigarettes, dissolvables, hookah, and cigars, in the same manner as existing tobacco products. Federal regulation offers an opportunity to more fully assess the public health risks of these products, which have grown in popularity since the passage of the Tobacco Control Act. There are currently no federal consumer protections in place to ensure that e-cigarettes are properly labeled and tested. FDA and other independent scientists have found numerous potentially dangerous chemicals and carcinogens as well as varying levels of nicotine that are inconsistent with the amount indicated on the labels of e-cigarette solutions. For example, a recent study of e-cigarette refill fluids found that the majority (65%) of nicotine fluids tested deviated by more than ten percent from the nicotine concentrations on the label.<sup>6</sup> Furthermore, because e-cigarettes are unregulated, there is a lack of credible information on the full range of chemicals being produced by the large number of different e-cigarettes currently on the market. The same flavoring, marketing, and self-service access rules should apply to newly-deemed products because they also pose risk to the public and can spur initiation or joint use of multiple tobacco products.

The CDC reported that e-cigarette use more than doubled among United States middle and high school students between the years of 2011-2012. There is evidence that e-cigarettes help youth to initiate smoking habits – only 20% of middle school e-cigarette users reported never having smoked conventional cigarettes.<sup>7</sup> Youth are also impressionable and can succumb to marketing ploys such as the numerous fruity and candy flavored e-cigarettes and to youth-oriented company advertising.

DHHS calls on the FDA to restrict the flavor offerings as in e-cigarettes for the same reasons that the agency restricted cigarette flavor offerings. Current e-cigarette advertisements target youth with marketing strategies such as celebrity endorsements, and messaging that promote freedom, rebelliousness, and glamour with e-cigarette use. The FDA should also restrict new product advertising in the same way that cigarette and smokeless tobacco advertising is restricted.

## **3. New product warnings**

Product warning labels are incredibly useful tools in FDA's effort to protect public health. However, the proposed warning labels for newly covered tobacco products can be strengthened to be more effective. Since the first warning labels appeared on cigarette packages in 1965, warning labels have been an important source of information for tobacco users.<sup>8</sup> While there is evidence that warning labels can become stale,<sup>9</sup> and the need for large graphic warning labels is clear,<sup>10,11,12</sup> the newly covered products will be marketed with minimal warning. This may contribute to confusion about the health effects of the newly covered products. The proposed textual warnings for cigars are fairly strong, but the single warning for the remaining products is weak and does not convey the potential extent of health risk associated with use of the products.

The Honorable Margaret Hamburg, Commissioner  
August 6, 2014  
Page 3

The FDA should require large graphic warnings for all tobacco products, similar to those required for combustible cigarettes. There is significant evidence of the specific health harms of the new products and those caused by nicotine that support stronger, more specific warnings in the "2014 U.S. Surgeon General's Report: The Health Consequences of Smoking—50 Years of Progress."

#### 4. Additional opportunities

The proposed rule presents an opportunity to require child-resistant packaging for e-cigarette liquids to prevent child poisonings. Currently, e-cigarette liquid refill containers are not required to be sold in child-resistant packaging and that may encourage children to ingest the product's poisonous content.<sup>13</sup> Some e-cigarette refill product packaging features cartoons, colorful labeling, or illustrates edible ingredients representing particular flavors, such as cherry, chocolate, or bubble gum. The contents themselves can have the aroma of the edible ingredient pictured on the label.<sup>14</sup> Any of these factors can prompt a child to investigate and the contents can be extremely dangerous, if not lethal.

CDC analyzed calls to U.S. Poison Centers from 2010 to 2014 related to e-cigarette exposures. The results showed that e-cigarettes accounted for an increasing proportion of the calls, 0.3% in September 2010 to 41.7% in February 2014.<sup>15</sup> Half of the calls made regarding exposure were for incidents involving children ages 0-5.<sup>18</sup> The prevalence of poisonings and the potential danger to children promoted the American Association of Poison Control Centers and its member centers to issue a statement warning e-cigarette users to keep the devices and liquids away from children.<sup>16</sup> One teaspoon (5 ml) of a 1.8% nicotine solution can be lethal for a person weighing 200 pounds.<sup>16</sup> Most nicotine solutions range between 1.8% and 2.4%, and the refill bottles contain 10-30 ml of solution.<sup>17</sup> Due to the dramatic increase in calls to poison control centers, some states have taken precautions through new regulations. Minnesota and Vermont created statutes that require child protective packaging on all liquid nicotine refill bottles, and some retailers have voluntarily begun selling their refills with child-resistant caps.<sup>20</sup> While those who oppose such requirements note there have been no confirmed poisoning deaths in the United States due to the ingestion of liquid nicotine, the FDA must not wait for tragic consequences before acting.

DHHS is pleased to support the deeming of additional products as tobacco as proposed in the rule and urges the FDA to do the following: apply the same requirements of the Family Smoking Prevention and Tobacco Control Act for combustible cigarettes to all of the newly deemed products regarding flavors, marketing, and self-service access; strengthen the content and requirements for the warning labels on newly deemed products; and create a requirement for child-resistant packaging for e-cigarette liquids. Thank you for your attention to these recommendations.

Sincerely,



Ulder J. Tillman, MD, MPH  
Health Officer and Chief

UJT:ss

c: Uma S. Ahluwalia, Director

- 
- <sup>1</sup> U.S. Food and Drug Administration. (2013). FDA parental advisory on flavored tobacco products - what you need to know. Retrieved July 22, 2014, from <http://www.fda.gov/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/ucm183196.htm>.
- <sup>2</sup> State of Maine. (2007, September 25). News: Governor celebrates ban on flavored cigarettes. Retrieved July 16, 2014, from <http://www.maine.gov/tools/whatsnew/index.php?topic=Portal+News&id=42524&v=article-2006>.
- <sup>3</sup> New York City Department of Health and Mental Hygiene. Smoking legislation webpage. Retrieved July 22, 2014, from <http://www.nyc.gov/html/doh/html/environmental/smoke-law.shtml>.
- <sup>4</sup> City of Providence, Rhode Island. (2013). Providence tobacco laws go into effect January 3. Retrieved July 16, 2014, from <http://www.providenceri.com/healthy-communities/providence-tobacco-laws-go-into-effect-january-3>.
- <sup>5</sup> City of Chicago. Tobacco regulations webpage. Retrieved July 16, 2014, from [http://www.cityofchicago.org/city/en/depts/bacp/supp\\_info/tobaccoregulations.html](http://www.cityofchicago.org/city/en/depts/bacp/supp_info/tobaccoregulations.html).
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- <sup>7</sup> Centers for Disease Control and Prevention. (2013, September 6). Notes from the field: Electronic cigarette use among middle and high school students – United States, 2011-2012. *MMWR*, 62(35), 729-730. Retrieved on July 7, 2014, from <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6235a6.htm>.
- <sup>8</sup> U.S. Department of Health and Human Services. (2000). *Reducing tobacco use: A report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.
- <sup>9</sup> Institute of Medicine (U.S.). Committee on Reducing Tobacco Use: Strategies, Barriers, and Consequences. (2007). *Ending the tobacco problem: A blueprint for the nation*. R. J. Bonnie, K. Stratton, R. B. Wallace (Eds.) Washington, DC: National Academies Press.
- <sup>10</sup> Azagba, S., and Sharaf M.F. (2013). The effect of graphic cigarette warning labels on smoking behavior: Evidence from the Canadian experience. *Nicotine & Tobacco Research*, 15(3), 708-17. doi: 10.1093/ntr/nts194.
- <sup>11</sup> Cantrell, J., Vallone, D. F., Thrasher, J. F., Nagler, R. H., Feirman, S. P., Muenz, L. R., et al. (2013). Impact of tobacco-related health warning labels across socioeconomic, race and ethnic groups: Results from a randomized web-based experiment. *PLoS One*, 8(1), e52206. doi: 10.1371/journal.pone.0052206.
- <sup>12</sup> Strasser, A. A., Tang, K. Z., Romer, D., Jepson, C., and Cappella, J. N. (2012). Graphic warning labels in cigarette advertisements: Recall and viewing patterns. *American Journal of Preventive Medicine*, 43(1), 41-7. doi: 10.106/j.ameprev.2012.02.026.
- <sup>13</sup> Bassett, R. A., Osterhoudt, K., and Brabazon, T. (2014). Nicotine poisoning in an infant. *New England Journal of Medicine*, 370(23), 2249-50. doi: 10.1056/NEJMc1403843.
- <sup>14</sup> Leys, T. (2014, March 25). Iowa Poison Control Center: E-cigarette liquid refill warning. Retrieved July 7, 2014, from <http://www.iowapoison.org/news-and-recalls/e-cigarette-liquid-refill-warning/>.
- <sup>15</sup> Chatham-Stephens, K., Law, R., Taylor, E., Melstrom, P., Bunnell, R., Wang, B., et al. (2014, April 4). Notes from the field: Calls to Poison Centers for exposures to electronic cigarettes. *MMWR*, 63(13), 292-293. Retrieved on July 7, 2014, from <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6313a4.htm>.
- <sup>16</sup> American Association of Poison Control Centers. (2014, March 25). News Release: AAPCC and Poison Centers issue warning about electronic cigarette devices and liquid nicotine. Retrieved July 7, 2014, from [https://aapcc.s3.amazonaws.com/pdfs/releases/E-cigarette\\_Release.pdf](https://aapcc.s3.amazonaws.com/pdfs/releases/E-cigarette_Release.pdf).
- <sup>17</sup> Richtel, R. (2014, March 23). Selling a poison by the barrel: Liquid nicotine for e-cigarettes. *The New York Times*. Retrieved July 4, 2014, from <http://www.nytimes.com/2014/03/24/business/selling-a-poison-by-the-barrel-liquid-nicotine-for-e-cigarettes.html?module=Search&mabReward=relbias%3Aw>.



MONTGOMERY COUNTY COUNCIL  
ROCKVILLE, MARYLAND

NANCY FLOREEN  
COUNCILMEMBER AT-LARGE

**MEMORANDUM**

September 15, 2014

TO: George Leventhal, Chair, HHS Committee  
FROM: Councilmember *mf* Nancy Floreen  
SUBJECT: Draft Legislation on Electronic Cigarettes

Like the HHS Committee, I have been concerned for some time about the growth in electronic cigarettes and the impacts on those using them and those exposed to vapor and contents of refills. Earlier this summer I requested legislation be drafted to place restrictions on the use and availability of electronic cigarettes. The session the HHS Committee held in July was extremely informative and I believe confirmed the need for action.

I am asking that the HHS Committee consider my draft legislation as a part of its September 18<sup>th</sup> worksession and perhaps use it as a vehicle for recommendations the Committee may have. I have attached a copy to this memo so that it may be included in the staff packet. I would like to have legislation introduced so that it can be acted on before our December recess.

Thank you.

Attachment

Bill No. xx-14  
Concerning: Health and Sanitation -  
Smoking - Electronic Cigarettes  
Revised: 9/9/2014 Draft No. 3  
Introduced: \_\_\_\_\_  
Expires: \_\_\_\_\_  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Floreen

**AN ACT** to:

- (1) prohibit the use of electronic cigarettes in certain public places;
- (2) restrict the sale of certain liquid nicotine or liquid nicotine containers in retail outlets unless the nicotine is in a container considered child resistant packaging;
- (3) restrict the accessibility of certain tobacco products in retail settings, and require retail sellers of those products to take certain actions;
- (4) prohibit the sale of flavored electronic cigarettes; and
- (5) generally amend County law regarding smoking, electronic cigarettes, and health and sanitation.

By amending

Montgomery County Code  
Chapter 24, Health and Sanitation  
Section 24-9

By adding

Chapter 24, Health and Sanitation  
Sections 24-13 and 24-14

By renumbering

Chapter 24, Health and Sanitation  
Sections 24-2, 24-3, 24-4, 24-5, 24-6, 24-7, 24-8, 24-9B, 24-9C, 24-9D, 24-10, 24-11,  
24-11A

By repealing

Chapter 24, Health and Sanitation  
Section 24-9A

By renaming

Chapter 24, Health and Sanitation  
Article II

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Sections 24-2, 24-3, 24-4, 24-5, 24-6, 24-7, 24-8, 24-10, 24-11, and**  
2 **24-11A are renumbered as follows:**

3 **24-2, 24-3. [Reserved.]**

4 **24-[4]2. Communicable diseases generally — Warning signs.**

5   \*       \*       \*

6 **24-[5]3. [Same] Communicable diseases — Unauthorized removal of**  
7 **warning signs.**

8   \*       \*       \*

9       **24-[6]4. [Same] Communicable diseases — Control in food establishments.**

10    \*       \*       \*

11 **24-[7]5. Use of certain shoe-fitting devices or machines prohibited.**

12    \*       \*       \*

13 **24-[8]6. Commitment of chronic alcoholics.**

14    \*       \*       \*

15 **24-[10]7. Catastrophic health insurance plan.**

16    \*       \*       \*

17 **24-[11]8. Massage.**

18    \*       \*       \*

19 **24-[11A]8A. Fitness centers — defibrillators.**

20    \*       \*       \*

21           **Sec. 2. Article II is renamed; Section 24-9 is amended; Section 24-9A is**  
22 **repealed; Sections 24-9B, 24-9C, and 24-9D are renumbered; and Section**  
23 **24-13 is added as follows:**

24                                   **Article II. [Reserved] Smoking, Tobacco, and Nicotine.**

25 **24-9. Smoking and using electronic cigarettes in public places.**

26       (a) **Definitions.** In this [Section] Article, the following words and phrases  
27           have the meanings indicated:

28    \*       \*       \*

29 Electronic cigarette means an electronic device that delivers vapor for  
30 inhalation, including any refill, cartridge, or any other component of  
31 an electronic cigarette. Electronic cigarette does not include any  
32 product approved by the Food and Drug Administration for sale as a  
33 drug or medical device.

34 \* \* \*

35 Smoking or smoke means the act of lighting, smoking, or carrying a  
36 lighted or smoldering cigar, cigarette, or pipe, of any kind.

37 \* \* \*

38 (b) Smoking and using an electronic cigarette are prohibited in certain  
39 public places. A person must not smoke or use any electronic  
40 cigarette in or on any:

41 \* \* \*

42 (c) Exceptions. Smoking or using an electronic cigarette is not prohibited  
43 by this Section:

44 \* \* \*

45 (3) When smoking or using an electronic cigarette is necessary to  
46 the conduct of scientific research into the health effects of  
47 tobacco smoke and is conducted at an analytical or educational  
48 laboratory;

49 \* \* \*

50 (d) Notwithstanding paragraph (b)(11), the Director of the Department of  
51 Health and Human Services may designate an outside area on  
52 property that is owned or leased by the County where smoking or  
53 using an electronic cigarette is allowed if the Director finds that a  
54 complete prohibition on that property would impede a program's  
55 mission or effective delivery of services.

56 (e) *Posting signs.*  
 57 (1) Except as provided in paragraph (e)(4), signs prohibiting or  
 58 permitting smoking or using an electronic cigarette, as the case  
 59 may be, must be posted conspicuously at each entrance to a  
 60 public place covered by this Section.

61 (2) Where smoking or using an electronic cigarette is prohibited by  
 62 this Section, the sign either must read “No smoking or using an  
 63 electronic cigarette by order of Montgomery County Code § 24-  
 64 9. Enforced by (department designated by the County  
 65 Executive)” or be a performance-oriented sign such as “No  
 66 Smoking or Using an Electronic Cigarette” or “This is a Smoke  
 67 Free Establishment.” The international no-smoking symbol  
 68 may replace the words “No smoking.”

69 \* \* \*

70 (f) *Duty to prevent smoking in certain areas.* The owner or person in  
 71 control of a building or area covered by this Section must refuse to  
 72 serve or seat any person who smokes where smoking or using an  
 73 electronic cigarette is prohibited, and must ask the person to leave the  
 74 building or area if the person continues to smoke after proper warning.

75 \* \* \*

76 (k) *Enforcement and penalties.*  
 77 (1) Any violation of this [Section] Article is a class C civil  
 78 violation. Each day a violation exists is a separate offense.  
 79 (2) The County Attorney or any affected party may file an action in  
 80 a court with jurisdiction to enjoin repeated violations of the  
 81 Section.

82 (3) The Director of the Department of Health and Human Services  
83 may suspend a license issued under Chapter 15 for up to 3 days  
84 if the Director finds, under the procedures of Section 15-16,  
85 that the operator of an eating and drinking establishment has  
86 knowingly and repeatedly violated any provision of this  
87 Section.

88 [24-9A. Reserved.]

89 24-[9B]10. Availability of tobacco products to minors.

90 \* \* \*

91 24-[9C]11. Distribution of tobacco products to minors.

92 \* \* \*

93 24-[9D]12. Tobacco and electronic cigarette [Products – Placement] products  
94 = placement.

95 (a) Placement. A retail seller of any tobacco or electronic cigarette  
96 product must not display or store the product in any place that is  
97 accessible to buyers of the product without the intervention of the  
98 seller or an employee of the seller.

99 (b) Definitions. *Tobacco product* means any substance containing  
100 tobacco, including cigarette, cigars, smoking tobacco, snuff, or  
101 smokeless tobacco.

102 (c) Applicability. This Section does not apply to:

103 (1) the sale of any tobacco or electronic cigarette product from a  
104 vending machine that complies with all requirements of state  
105 law; and

106 (2) any store where only or primarily tobacco or electronic  
107 cigarette products are sold.

108           [(d) Enforcement. The County Executive must designate by Executive  
 109           order one or more County departments or agencies to enforce this  
 110           Section.]

111 **[24-12. Reserved.]**

112 **24-13. [Reserved] Child Resistant Packaging of Liquid Nicotine Container**  
 113 **Required.**

114           (a) Definitions. In this Section, the following words have the meanings  
 115           indicated:

116           Child resistant packaging means packaging that is:

117           (1) designed or constructed to be significantly difficult for children  
 118           under 5 years of age to open or obtain a toxic or harmful  
 119           amount of the substance contained therein within a reasonable  
 120           time; and

121           (2) not difficult for normal adults to use properly.

122           Child resistant packaging does not mean packaging which all such  
 123           children cannot open or obtain a toxic or harmful amount within a  
 124           reasonable time.

125           Liquid nicotine container means a container that is used to hold liquid  
 126           containing nicotine in any concentration.

127           (b) Child resistant packaging required. A retail seller of any liquid  
 128           nicotine or liquid nicotine container must not sell, resell, distribute,  
 129           dispense, or give away:

130           (1) any liquid or gel substance containing nicotine unless the  
 131           substance is in child resistant packaging; or

132           (2) any nicotine liquid container unless the container constitutes  
 133           child resistant packaging.

134 (c) Exceptions. This Section does not apply to a liquid nicotine container  
135 that is sold, marketed, or intended for use in an electronic cigarette if  
136 the container is prefilled and sealed by the manufacturer and not  
137 intended to be opened by the consumer.

138 **24-14. Flavored electronic cigarettes prohibited.**

139 (a) Definitions. In this Section, the following words have the meanings  
140 indicated:

141 Characterizing flavor means a distinguishing taste or aroma, other  
142 than the taste or aroma of tobacco, menthol, mint, or wintergreen,  
143 imparted either before or during use of an electronic cigarette or  
144 component part. Characterizing flavor includes any taste or aroma  
145 relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert,  
146 alcoholic beverage, herb, or spice. However, an electronic cigarette is  
147 not deemed to have a characterizing flavor solely because of the use  
148 of additives or flavorings or the provision of ingredient information.

149 Constituent means any ingredient, substance, chemical, or compound,  
150 other than nicotine, tobacco, water, or reconstituted tobacco sheet, that  
151 is added by the manufacturer to an electronic cigarette during the  
152 processing, manufacture or packing of the electronic cigarette.

153 Flavored electronic cigarette means any electronic cigarette or any  
154 component part thereof that contains a constituent that imparts a  
155 characterizing flavor.

156 (b) Flavored electronic cigarettes prohibited. A person must not sell or  
157 offer for sale any flavored electronic cigarette, except in a tobacco  
158 shop.

159 **24-[12]15-24-21. Reserved.**

**The New York Times** <http://nyti.ms/1t9joek>



INTERNATIONAL BUSINESS | NYT NOW

## World Health Organization Urges Stronger Regulation of Electronic Cigarettes

By DAVID JOLLY and SABRINA TAVERNISE AUG. 26, 2014

PARIS — Governments should ban the use of electronic cigarettes in public places and outlaw tactics to lure young users, the World Health Organization said in a report released on Tuesday that calls for some of the toughest measures yet proposed for the increasingly popular devices.

It also expressed “grave concern” about the growing role of the powerful tobacco industry in the e-cigarette market, warning that the financially powerful companies could come to dominate the new business and use the current tolerance of the new products as a gateway to ensnaring a new generation of smokers at a time when the public health authorities seem to be winning the battle against tobacco.

The proposals by the organization, a United Nations agency, are only recommendations that might have little likelihood of being widely adopted. But health experts said they would serve as an important reference point for policy makers, both nationally and locally, as they try to navigate the complex balance of benefits and risks with very little science on which to base conclusions.

And the report seems likely to spur further intense lobbying by the tobacco and e-cigarette industries against more regulation.

Many health experts welcomed the recommendations, which they said would help guide policy makers around the world as they struggle to keep up with a multibillion-dollar industry.

But some experts said they worried that the proposals were so restrictive that they might undermine the potential benefits of e-cigarettes, which, because they use battery-powered heating units to vaporize a liquid nicotine solution rather

than burn tobacco, might not expose users to as many hazards as conventional cigarettes. Some experts have even argued that e-cigarettes have the potential to drastically reduce rates of smoking, one of the biggest causes of preventable death worldwide, and so should not be overregulated.

“We’re disappointed,” said David Abrams, executive director of the Schroeder Institute for Tobacco Research and Policy Studies in Washington. “They are overregulating by equating e-cigarettes with regular cigarettes. We have to find a balance between protecting youth and helping smokers quit. This document doesn’t do that.”

Mr. Abrams was one of more than 50 public health experts who recently signed a letter calling on the World Health Organization to moderate its approach to e-cigarettes by calling for lighter regulation than applies to cigarettes.

But in its report, the organization said that because there were still too many uncertainties surrounding e-cigarettes, which have been on the market for less than a decade, their use indoors should be banned “until exhaled vapor is proven to be not harmful to bystanders.”

The report also called for regulation to ensure the products contain a standard dose of nicotine, as the drug content now varies widely among manufacturers. And to stop children from picking up the habit, it said that e-cigarette sales to minors should be banned and that fruity, candy-type flavorings should be prohibited.

The 13-page report, which summarizes the growing body of evidence on the health impact of electronic cigarettes, was prepared by the World Health Organization for the United Nations Framework Convention on Tobacco Control, to be held in mid-October in Moscow. The organization has no power to enforce its recommendations, but delegates to the meeting could, in theory, endorse the measures for inclusion in the treaty or call for yet more studies before taking further action.

The proposals come from the same organization that successfully pushed for the United Nations tobacco treaty, adopted in 2003, that is intended to reduce illnesses and deaths caused by tobacco. The signatory countries promise to eliminate or limit tobacco advertising, to raise cigarette taxes and to take steps to end smoking in public places.

Under the administration of former President George W. Bush, the United States signed the treaty in 2004. But Mr. Bush never sent it to the Senate for

ratification and President Obama has yet to do so. That leaves the United States, along with Argentina, Cuba, Haiti, Morocco, Mozambique and Switzerland, as the only countries among the treaty's roughly 180 signatories not to have ratified it.

The rapid growth of the market for e-cigarettes has left national regulatory systems and health policy experts struggling to keep up, as old notions about the dangers of tobacco and smoking are posed in a new light. The health body said that there were now 466 brands of e-cigarettes globally, in a market valued last year at \$3 billion. The market research firm Euromonitor forecasts sales will swell by a factor of 17 by 2030.

Anecdotal evidence suggests that e-cigarettes may hold promise as smoking cessation aids. But the World Health Organization report noted that there was scant evidence for their effectiveness in helping smokers give up the habit.

"Vapers," as e-cigarette aficionados are known, have become a potent lobby on behalf of the products. Their support helped the tobacco industry defeat a European Commission proposal that the devices be regulated in Europe as medicines. In February, the European Parliament voted to adopt a set of rules that include a ban on advertising. The tobacco industry is lobbying to water down the measures before they are to go into effect in 2016.

In the United States, the Food and Drug Administration proposed in April extending its regulation of tobacco products to include e-cigarettes, with a ban on their sale to people under 18. The proposal remains under consideration.

The number of young Americans who have tried electronic cigarettes but never used conventional tobacco tripled in 2013 from 2011, to more than 250,000, according to a report on Monday from the Centers for Disease Control and Prevention in Atlanta. Youth smoking rates in the United States dropped by half from 1997 to 2011, according to federal data, but the pace of the decline has slowed in recent years. Many health advocates worry that e-cigarettes may lead teenagers to use conventional cigarettes instead of serving as an alternative to them.

The World Health Organization's proposal to limit smoking in public places goes substantially further than the European Union's rules, which leave the decision about whether to restrict e-cigarette use to the 28 European Union member states. Some among them, including Britain and France, have said they were considering such measures.

The rules being considered by the F.D.A. in the United States do not address where e-cigarettes can be smoked. That policy decision, at least for now, is made mostly at the local level, with a number of states and cities banning the use of e-cigarettes in public places. Until recently, the American government had not even asserted its authority over e-cigarettes, leaving the entire industry virtually unregulated.

The World Health Organization report worries that Big Tobacco is becoming “increasingly aggressive in the battle for the fast-growing e-cigarette market.” It said that while the current crop of independent e-cigarette companies had “no interest in perpetuating tobacco use, the tobacco industry involved in the production and sale of electronic nicotine delivery systems certainly is.”

Philip Morris International, which this year bought one of Britain’s biggest e-cigarette makers, Nicocigs, said the World Health Organization was unfairly singling out tobacco companies, which a spokesman argued were well placed to create the best e-cigarette products.

“The W.H.O. has once again called for de facto exclusion of tobacco companies in the democratic process,” said the spokesman, Tommaso Di Giovanni. “This view ignores the fact that product innovation to develop and assess truly reduced risk alternatives to combustible cigarettes can play an important role for public health.”

Companies like Philip Morris, Mr. Di Giovanni argued, “are not only driving this innovation, but have the necessary knowledge and resources to contribute to achieving that goal.”

David Jolly reported from Paris and Sabrina Tavernise from Washington.

A version of this article appears in print on August 27, 2014, on page B3 of the New York edition with the headline: Agency Urges Strict Curbs on Electronic Cigarettes.

## Coming Soon to Theaters Near You: E-Cigarettes

By ERICH SCHWARTZEL

LOS ANGELES—A new film adaptation of William Shakespeare's "Cymbeline" stars Ethan Hawke and takes place in the present day. It even gives one lead character a very current accessory: an electronic cigarette.

Throughout the movie, actress Milla Jovovich puffs away on an e-cigarette called a SmokeStik. In one scene, signs for the brand hang in a convenience store next to condoms and calling cards.

The product's cameo appear-

ance comes courtesy of Canada-based SmokeStik International Inc.—in just the kind of paid-product placement that has been off-limits to traditional tobacco companies in Hollywood for nearly two decades.

"I don't see a problem with glamorizing something that saves lives," says SmokeStik's chief executive, Bill Marangos. Like others in his business, he considers e-cigarettes to be a less-harmful alternative to traditional smokes.

"Cymbeline" is a movie with  
*Please turn to page A6*

# Coming Soon to Theaters Near You: E-Cigarettes

Continued from Page One  
limited distribution. But the SmokeStik deal has far-reaching implications for Hollywood and big tobacco—two industries that have been entwined in a complicated relationship for more than half a century.

The film business was hooked on smoking by the time Audrey Hepburn wielded an elegant cigarette holder in "Breakfast at Tiffany's" and Humphrey Bogart lighted up at Rick's Café Américain in "Casablanca."

But for the past 16 years, cigarette companies have been black-listed in Hollywood. Thanks to a sweeping settlement agreement between the state governments and big tobacco intended to minimize smoking's glamorous sheen, cigarette brands aren't allowed to pay for product placement in films or hire celebrity spokespeople.

E-cigarette companies, however, aren't bound by that 1998 agreement with 46 state attorneys general, and are moving quickly to enlist Hollywood in pitching their products.

At the same time, big-tobacco firms have been snapping up the makers of e-cigarettes, whose exemption from traditional marketing rules opens the door for the old guard to do business with Hollywood once again through their new subsidiaries.

The collaborations come as federal and state authorities have yet to issue broader rules on marketing and permitted use that would cover most of the e-cigarette industry.

"I think they're quite aware that at some point, regulation is going to happen," says Pamela Ling, a professor at the University of California San Francisco who studies tobacco marketing. "There is a spirit of, 'As long as we can get away with this, let's do it now!'"

Meanwhile, e-cigarette sales grew to more than \$710 million last year, up from \$2.2 million in 2009, according to IRI, a Chicago-based market-research firm. That doesn't include sales conducted over the Internet or at specialty tobacco or "vape shops," pushing the number closer to \$2 billion, according to some industry estimates.



SmokeStik paid for placement in 'Cymbeline,' which will show actress Milla Jovovich with its e-cigarettes.

High-profile manufacturers have hired celebrity representatives to feed that growth, like Lorillard Inc.'s Blu brand, which enlisted former talk show host Jenny McCarthy. But the most aggressive moves have come from small, independent operators who say their distance from traditional tobacco makes Hollywood more willing to work with them.

Such is the case with SmokeStik, which plans to feature products in "Cymbeline" and about five other films, says Mr. Marangos. "Cymbeline" producers didn't respond to requests for comment.

Mr. Marangos wouldn't say how much the company paid for the placements, but he does allow: "They know we pay well."

Vapor Corp., a publicly traded company whose brands include Krave, is getting ready for its close-up with direct help from Hollywood: In March, Relativity Media LLC CEO Ryan Kavanaugh joined the Vapor Corp. board of directors. He is paid in company shares to present opportunities for Vapor Corp. integration into films and television shows.

Mr. Kavanaugh, whose studio has distributed movies like "Don Jon," starring Joseph Gordon-Lev-

itt and produces MTV's "Catfish," described his marketing strategy at an investor conference in March.

"What I offer: having access to the other side of the world, which is access to entertainment and film and talent and athletes and television, digital, music," said Mr. Kavanaugh, according to an audio recording of the presentation.

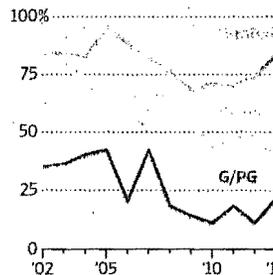
Vapor Corp. is a client of Relativity's marketing arm, and plans for the company include a "natural, integrated, viral campaign" for Vapor Corp.'s products over the next two years, he said. In a media environment where viewers often fast-forward through commercials, an advertising campaign must be so integrated into a feature that audiences don't know they're being marketed to, he said.

Vapor Corp. CEO Jeffrey Holman said the promotional strategy is likely to involve product placements in Relativity movies and TV shows, beginning at the script stage. He wouldn't comment on specific plans while deals are still being negotiated. Mr. Kavanaugh recently helped get the company's e-cigarettes into glitzy parties at this year's Cannes Film Festival, he added.

The e-cigarette's arrival in Hollywood comes as tobacco products

## Smoke Screens

Percentage of top-grossing films with tobacco imagery



Source: UCSF and Breathe California of Sacramento-Emigrant Trails  
The Wall Street Journal

are still seen in many films—appearing as props written into the script rather than paid-placement items. About 38% of top-grossing PG-13 movies in 2013 featured tobacco imagery, compared with 80% in 2002, according to a UC San Francisco report.

When he founded SmokeStik nearly seven years ago, Hollywood wasn't on Mr. Marangos's mind. A Toronto engineer and former three-pack-a-day smoker, Mr. Marangos attracted new customers by

giving away e-cigarette starter kits in Ziploc bags.

Then a business associate met actor Justin Neill about five years ago in a freebie "gifted suite" at the Academy Awards. Mr. Neill's career was fizzling; he'd started in commercials as a child and hadn't worked much since a bit role as a pushy jock in 2002's "Spider-Man."

Mr. Neill, now a 33-year-old marketing executive, quickly became SmokeStik's man in Hollywood.

His tactics were on full display on a recent Thursday night. He began the evening at a party for personal assistants of celebrities. Carrying a box of complimentary SmokeStiks for the crowd, he said, "I've seen firsthand the power of assistants."

An old friend of Mr. Neill's who worked for "Grey's Anatomy" star Katherine Heigl got a SmokeStik to the actress. When Ms. Heigl used it during a 2010 appearance on "The Late Show With David Letterman"—something SmokeStik says it didn't ask her to do—the company couldn't keep up with demand for two months. SmokeStik thanked Ms. Heigl by donating a portion of sales to an animal-rescue charity that the actress founded.

While Mr. Neill was spreading SmokeStiks across Hollywood, the e-cigarette began making its first unpaid appearances on screen. The effect wasn't exactly glamorous.

In "The Hangover Part III," for instance, actor John Goodman plays a mob kingpin who smokes e-cigarettes. The movie's writer, Craig Mazin, appreciated the irony of an overweight hit man with the affectation of an e-cigarette.

"Cymbeline" was recently screened at the Venice International Film Festival and was acquired for distribution in spring 2015 by a branch of Lions Gate Entertainment Corp.

For Mr. Neill, placing a SmokeStik into the hand of Ms. Jovovich, a former supermodel, can only enhance the product's status.

"If Hollywood is doing it," he says, "then it must be the best."

—Mike Esterl  
contributed to this article.

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**From:** Rice's Office, Councilmember  
**Sent:** Tuesday, July 15, 2014 9:24:55 AM  
**To:** Montgomery County Council  
**Subject:** FW: E-Cigarette Briefing

**From:** lobbyannapolis@comcast.net [mailto:lobbyannapolis@comcast.net]

**Sent:** Tuesday, July 15, 2014 9:24 AM

**To:** Andrews's Office, Councilmember; Berliner's Office, Councilmember; Elrich's Office, Councilmember; Branson's Office, Councilmember; Floreen's Office, Councilmember; Leventhal's Office, Councilmember; Navarro's Office, Councilmember; Rice's Office, Councilmember; Riemer's Office, Councilmember

**Subject:** E-Cigarette Briefing

I understand that this Thursday, July 17<sup>th</sup> the Montgomery County Council is holding a briefing on e-cigarette usage. Regretfully, I will be out of town and cannot attend to participate. On behalf of my client, the Maryland Association of Tobacco and Candy Distributors, I submit the following comments and information for the record.

1. The health effects of using electronic cigarettes scientifically and reliably are currently unknown, the FDA's recent announcement and proposed regulations clearly reflect that in that while the FDA is seeking standards in the industry there are no proposed regulations attempting to ban or restrict their usage by adults.
2. Since 2012 Maryland has had a statute on the books, which my client fully supported and helped enact, which forbids and prohibits minors from selling or purchasing or using e-cigarettes. See Health General Article Section 24-305.
3. Recent decisions by the Court of Appeals, Altadis U.S.A., Inc. vs. Prince George's County in April 2013 and Allied Vending vs. City of Bowie in 1993 make clear that local governments have no authority to legislate or regulate any cigarette or tobacco products in terms of the sale or placement thereof and that would include in my view e-cigarettes which contain nicotine product as to cigarettes and are likened to cigarettes to when government bodies try to regulate or restrict them.
4. The attached document gives information and explains the contents and parts of an e-cigarette. E-cigarettes only produce a vapor comprised of only of water, propylene glycol, and do not smell or contain any order and do not unlike cigarettes possibly have any secondary hand effects on others.
5. Propylene glycol is approved by the FDA for use in a large number of consumer products and it is not associated with any adverse health effects.
6. Respectfully, I do not feel that the Montgomery County Council has the authority to legislate concerning the sale or placement of e-cigarettes and for the Council to consider or classify e-cigarettes in the same category of cigarettes would be scientifically wrong and without proper foundation and this subject matter should be left to the FDA for further study and regulation in a consistent and uniform fashion.

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# Tank Systems and Liquid Refills

- Tank systems give users access to an extensive assortment of flavors and nicotine concentrations

	Strength					
Red Label	0.0%	0.6%	1.0%	1.4%	1.8%	3.0%
Herbal e-liquid	0.0%					
Titan Fluid	11mg/ml		18mg/ml		36mg/ml	
Patriot Range	6mg/ml	10mg/ml	14mg/ml	18mg/ml	30mg/ml	
Original e-liquid	8mg/ml	11mg/ml	18mg/ml	24mg/ml	36mg/ml	



**100+ FLAVORS**

- These devices are gaining in popularity
- Can have larger, more powerful batteries
- Concerns about accidental liquid nicotine poisoning
  - CDC reports increase in poison control center calls regarding e-cigarettes: 1 call/month in 2010, 214 calls/month in 2014
  - Regulatory efforts discussed to require child-safe packaging



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on Drug Abuse



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E-Cigarette Knowledge Center

Home > Electronic Cigarette Library > What E-Cigarette Nicotine Strength Do I Require?

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### WHAT E-CIGARETTE NICOTINE STRENGTH DO I REQUIRE?

When a first time e-cigarette user is ordering their new starter kit, the most common question is - "What strength of nicotine do I choose?"

This all depends on the user. People react differently to nicotine levels. Heavy smokers might not like high levels of nicotine, and light smokers might want higher levels to satisfy cravings... this all depends on the individual.

When choosing your nicotine strength, it is recommended to try a couple of different strengths before committing to one. Nicotine strength is based on the amount of nicotine per milliliter. EverSmoke e-cigaerettes offers four different nicotine strengths:

- Full Flavored (18 mg of nicotine)
- Light (12 mg of nicotine)
- Ultra Light (6 mg of nicotine)
- No Nicotine cartridge (...for those who still need the sensation of a cigarette but don't want the addictive nicotine)

Traditional cigarette smokers who are used to smoking Marlboro Red for example will most likely enjoy a Full Flavored nicotine cartridge of 18mg.

Smokers who enjoy smoking Marlboro Lights tend to fall in the category of a light smoker and use a light strength (12 mg) cartridge.

Light or casual smokers, who traditionally smoke Marlboro Ultra Light, would tend to choose EverSmoke's Ultra Light cartridges containing 6mg of nicotine.

Then there are the customers who either enjoy the act of smoking and have weaned themselves off of nicotine, or just enjoy the taste of tobacco, or one of the many e-cigarette liquid flavors out there. These customers would purchase a No Nicotine cartridge, which contain no nicotine at all.

When smoking an e-cigarette, there are a few things to keep in mind.

First is the difference between traditional and e-cigarettes. Your new e-cigarette is not going to taste identical to the traditional cigarette you have been smoking for years. If you were used to smoking Marlboro Reds, but are trying to wean off of nicotine all together, you should start off with Full Flavored and work to lower your nicotine dosage from there. A new electronic cigarette user should remember that you can always go down in nicotine strength.

EverSmoke offers cartridges in 10 different flavors. The cartridges come in Classic Tobacco, Royal Tobacco, Golden Tobacco, Piña Colada, Peach Passion, Coffee Creation, Peppermint Party, Very Vanilla, Cool Menthol and Cherry Crush.

An EverSmoke cartridge is equivalent to one and a half packs of cigarettes, equal to about 300-500 puffs, depending on the user.

Each of these flavors is available in a variety of nicotine strengths.

So pick one and give it a try. Remember, you can adjust the nicotine strength to find the right type of cartridge for your needs.

