Tobacco Substitutes (Electronic Cigarettes)

Vermont Regulations:

- Electronic cigarettes (commonly called e-cigarettes) are defined as a "tobacco substitutes." They include electronic cigarettes or other electronic or battery-powered devices that contain and are designed to deliver nicotine or other substances into the body through inhaling vapor and that have not been approved by the United States Food and Drug Administration for tobacco cessation or other medical purposes. Products that have been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes shall not be considered to be tobacco substitutes (7 V.S.A. § 1001)
- Like cigarettes and other tobacco products, tobacco substitutes are only accessible to consumers in stores with direct assistance by the sales personnel. (7 V.S.A. § 1003, May 2012)
- Tobacco substitutes, like cigarettes and other tobacco products, cannot be sold to any person under the age of 18. (7 V.S.A. § 1003, May 2012)
- Act 135, effective July 1, 2014, prohibits the use of all tobacco products and tobacco substitutes on public school grounds, at school-sponsored events, and license child care facilities (inside and out) or at in-home day care centers while children are present. (16 V.S.A. § 140 and 33 V.S.A. § 3504, May 2014)
- As of January 1, 2015, Vermont requires child-resistant packaging for the nicotine liquid used in electronic cigarettes (unless the cartridge is pre-filled and sealed by the manufacturer). (7 V.S.A. § 1012, May 2014)
- Vermont banned the delivery of cigarettes, roll-your-own tobacco, little cigars and snuff ordered or purchased by mail or electronically other than to a licensed wholesale or retail dealer. This law does not apply to electronic cigarettes. (Title 7, § 1010)
- There is no excise tax on e-cigarettes (as compared to $2.75 per pack for traditional cigarettes and 92% wholesale on other tobacco products for example).

Current Federal Regulations:

- In 2009, Congress passed the Family Smoking Prevention and Tobacco Control Act to give the U.S. Food and Drug Administration (FDA) the authority to regulate all tobacco products, including electronic cigarettes.
- In 2009, FDA announced its intention to regulate e-cigarettes as drug delivery devices. The parent company of NJOY – Sottera – sued FDA, saying e-cigarettes should be regulated as a tobacco product. FDA lost the case.

- The Court created an exception for products that make claim to provide a specific medical therapy but research must prove that the product is "safe and effective"; it appears no manufacturers have yet submitted a therapeutic claim for FDA approval.
- In April of 2014, the FDA issued a proposed rule which would regulate electronic cigarettes as tobacco products. The Comment Period for the Rule ended on July 9, 2014. Final action is anticipated in 2015. There is currently no way for the consumer or the medical community to know the contents of e-cigarettes or related health implications.

Studies and Research:

- Vapor from electronic cigarettes may increase young people's risk of respiratory infections, whether or not it contains nicotine, a new laboratory study has found.[1]
- In initial lab tests[2] conducted in 2009, FDA found detectable levels of toxic cancer-causing chemicals, including an ingredient used in anti-freeze, in two leading brands of e-cigarettes and 18 various cartridges. The lab tests also found that cartridges labeled as nicotine-free had traceable levels of nicotine.
- According to one researcher, there are more than 250 e-cigarette brands for sale today, over half of which offered fruit or candy-flavors, which is a proven tobacco industry tactic to hook kids.[3]
- According to the Centers for Disease Control and Prevention (CDC), youth usage of e-cigarettes tripled from 2011 to 2014 (1.5% to 4.5%), and more than a quarter million adolescents and teens who had never smoked traditional cigarettes used an electronic cigarette in 2013, a threefold increase from 2011.[4]
- A study conducted by the CDC showed the number of e-cigarette exposure calls per month to poison centers rose from **one per month** in September 2010 to **215 per month** in February of 2014. More than half of the calls to poison centers due to e-cigarettes involved children 5 years and under![5]

Questions?
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[1] Qun Wu, M.D., Ph.D., lung disease researcher, National Jewish Health
[2] U.S. Food and Drug Administration. "Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA." July 22, 2009. http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm
[3] 2013 study: Lee M, Zhu S, Huang Y, Mayoral A, Conway MA (2013) "A survey of more than 250 E-cigarette brands on the Internet." 19th Annual Meeting of the Society for Research on Nicotine and Tobacco
[4] http://1.usa.gov/14iOC91 Morbidity and Mortality Weekly Report, online November 13, 2014
[5] http://www.cdc.gov/media/releases/2014/p0403-e-cigarette-poison.html