

- 2) Further restrict the use of all tobacco and related products, including e-cigarettes, by eliminating areas where smoking traditional tobacco products or inhaling e-cigarettes could be used. The newly defined locations where smoking or using e-cigarettes would be permitted would include retail tobacco stores and cigar bars if they were in stand-alone buildings, state-licensed casinos and the like, designated outdoor smoking areas, private residences (unless a private residence was used for child care) or clubs, all limousines for hire, enclosed areas within restaurants, bars, conference and meeting rooms, hotel or motel rooms designated as allowing smoking (but only 10 percent of all rooms in a given motel or hotel could be designated as allowing smoking), theatrical stages or motion picture sets when “necessary for performers to smoke as part of the performance.”

In addition, a new definition of “secondhand smoke” is proposed, to include smoke emitted from cigarettes, cigars, pipes or hookahs or coming from other lighted or heated tobacco or other plant products (to include marijuana) or any other use of an e-cigarette.

FISCAL IMPLICATIONS

No fiscal impacts are identified by the responding agency, although greater need for enforcement actions might be anticipated.

SIGNIFICANT ISSUES

The use of e-cigarettes has markedly increased since passage of the Dee Johnson Clean Indoor Air Act in 2007. Among New Mexico youth in ninth to twelfth grades, the prevalence of tobacco smoking has decreased considerably in the last several decades (current smoking, defined as at least once in the past 30 days, is down from 14.4 percent in 2013 to 10.6 percent in New Mexico in 2017), according to data in the New Mexico Youth Risk and Resiliency Survey, <http://www.youthrisk.org/tables/>, a salutary change. But from the same source, current use of e-cigarettes has increased from 8.6 percent in 2013 to 24.6 percent in 2017, a very disturbing trend, as nicotine addiction can occur with either type of product.

The American Academy of Pediatrics states its concern about the increasing use of e-cigarettes as one of the resources available to help pediatricians counsel families about the dangers of e-cigarettes on its website at <https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/Richmond-Center/Pages/Electronic-Nicotine-Delivery-Systems.aspx>

Quick Facts about E-Cigarettes

- E-Cigarettes are the most commonly-used tobacco products among youth, and use is rising at an alarming rate. In 2018, 21 percent of high school students and 5 percent of middle school students reported having used e-cigarettes in the last 30 days. This represents an increase of 1.5 million youth from 2017-2018.¹
- Youth who use e-cigarettes are more likely to use cigarettes or other tobacco products.^{2,6}
- E-Cigarettes contain a liquid solution that is usually flavored. Flavors, which are appealing to children, can include fruit flavors, candy, coffee, piña colada, peppermint, bubble gum, or chocolate. You can read more about the ways the

Tobacco Industry uses flavors to lure kids into using tobacco products in “The Flavor Trap,” a report issued by AAP and four partner organizations.

- E-Cigarette solution has chemicals (i.e., anti-freeze, diethylene glycol, and carcinogens like nitrosamines).³
- E-Cigarette devices mimic conventional cigarette use and help re-normalize smoking behaviors.
- E-Cigarettes are not approved for smoking cessation, and the long-term health effects to users and bystanders are still unknown. The chemical compounds in an e-cigarette device can vary between brands.³
- E-liquid from e-cigarettes and refill packs can contaminate skin, leading to nicotine poisoning. Symptoms of nicotine poisoning include vomiting, sweating, dizziness, increased heart rate, lethargy, seizures, and difficulty breathing.³
- In 2014, poison centers in the US reported 3,783 exposures to e-cigarette devices and nicotine liquid, compared to only 1,543 exposures in 2013. In 2015, 3,073 exposures were reported.⁴
- Some states have enacted legislation to require child-resistant packaging for e-cigarettes and liquids, and a bill to do this at the national level was signed into law by President Obama in early 2016.
- E-Cigarette users should always keep e-cigarettes and liquid nicotine locked up and out of the reach of children and follow the specific disposal instructions on the label.⁵
- In 2016, US Surgeon General Vivek Murthy, MD MBA released a report, "E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General." The report concluded that youth should not use e-cigarettes due to the health effects on users and on others exposed to secondhand e-cigarette aerosol.⁶

DOH makes several additional points about the reasons for restricting smoking of traditional tobacco products and e-cigarettes:

The 2016 *Surgeon General’s Report on E-Cigarette Use Among Youth and Young Adults* calls on states and localities to include e-cigarettes in smoke-free policies, noting “to protect the public from both secondhand smoke and secondhand aerosol, smoke-free air policies should be modernized to include e-cigarettes.” The Surgeon General found that including e-cigarettes in smoke-free policies, “will maintain current standards for clean indoor air, reduce the potential for renormalization of tobacco product use, and prevent involuntary exposure to nicotine and other aerosolized emissions from e-cigarettes.” (www.surgeongeneral.gov/library/2016ecigarettes/index.html#fullreport)

According to the Centers for Disease Control and Prevention (CDC), e-cigarette aerosol is not harmless “water vapor” and it is not as safe as clean air.

(www.cdc.gov/tobacco/stateandcommunity/pdfs/ends-key-facts-oct-2016.pdf). E-cigarette aerosol contains nicotine, which is absorbed by users and bystanders. Studies have found other chemicals and toxins present in some e-cigarettes, including formaldehyde, acrolein, volatile organic compounds like toluene, tobacco-specific nitrosamines, and metals like nickel and lead. (http://tobaccocontrol.bmj.com/content/23/suppl_2/ii11.full). These compounds are generally present at levels much lower than in cigarette smoke,

although the compounds themselves are found on Food and Drug Administration’s list of harmful or potentially harmful substances.

(www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/ucm297786.htm).

Because of the limited data available on the safety of exposure to e-cigarette emissions, in 2015 the National Institute for Occupational Safety and Health issued a recommendation that e-cigarettes be included in smoke-free workplace policies.

(www.cdc.gov/niosh/updates/upd-04-02-15.html)

As of October 1, 2018, 14 states and 789 municipalities prohibit the use of electronic smoking devices to create 100 percent smoke-free venues. (<http://no-smoke.org/wp-content/uploads/pdf/ecigslaws.pdf>). In New Mexico, the Dee Johnson Clean Indoor Air Act restricts cigarette smoking in public but does not currently restrict the use of e-cigarettes or other electronic smoking devices. At the local level in New Mexico, however, Carlsbad has passed a law that prohibits the use of e-cigarettes in workplaces. Similarly, Santa Fe and Las Cruces also prohibits the use of e-cigarettes in workplaces, restaurants, and bars. El Paso, TX, prohibits the use of e-cigarettes or other electronic smoking devices in places covered by clean indoor air legislation. About 65 percent of New Mexico adults report that they “favor” or “strongly favor” prohibiting the use of e-cigarettes inside public places (2018 NM Tobacco Evaluation Survey).

RELATED to Senate Bill 338, which would add e-cigarettes to the list of products that could not be used in Clean Air Act locations, but would not change the locations as would House Bill 256.

ADMINISTRATIVE IMPLICATIONS

Enforcement agencies would be tasked with bringing new locations into compliance

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