

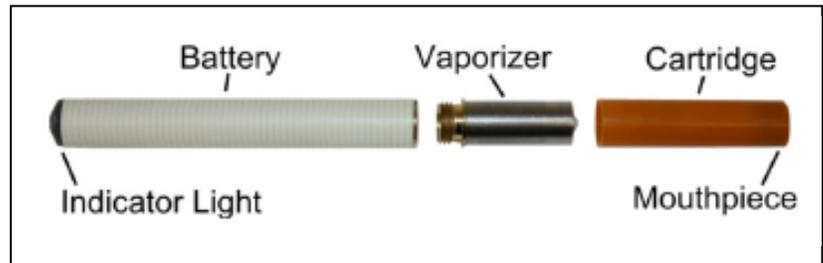


## *E-Cigarette Fact Sheet*

*February 4, 2013*

### What Are E-Cigarettes?

E-cigarettes are electronic cigarettes that are battery-operated devices designed to look like and to be used like conventional cigarettes. The devices contain cartridges filled with nicotine, flavor and other chemicals. E-cigarettes turn nicotine and other chemicals into a vapor that is inhaled by the user. No smoke or combustion is involved. Rather the device emits a vapor. E-cigarettes are marketed as less expensive and safer than tobacco cigarettes, as a more socially acceptable way to smoke in smoke-free environments and as providing relief from the social stigma of being a smoker.



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### Health Risks Identified by the Food and Drug Administration (FDA)

The FDA and many public health experts are concerned about health risks posed by e-cigarettes. The FDA has conducted a preliminary analysis of 18 of the various types of cartridges from 2 leading brands of e-cigarettes, labeled as flavored, nicotine and no-nicotine. Following were findings of the samples tested:

- Diethylene glycol, an ingredient used in antifreeze that is toxic to humans, was found in one sample.
- Certain tobacco-specific nitrosamines that are carcinogens for humans were found in half of the samples.
- Tobacco-specific impurities suspected of being harmful to humans were found in most of the samples. These included anabasine, myosine, and  $\beta$ -nicotyrine.
- Cartridges labeled as “no nicotine” had low levels of nicotine, with the exception of one.
- The amount of nicotine emitted with each puff varied markedly among 3 cartridges that all had the same label.
- One high-nicotine cartridge delivered twice the amount of nicotine compared to an FDA approved nicotine inhalation product that was developed as a smoking cessation aid.

### Additional Health Concerns

- The devices include no health warnings.
- E-cigarettes could increase nicotine addiction among young people and encourage them to try other tobacco products such as conventional cigarettes due to introduction to addictive nicotine.
- E-cigarettes available in chocolate, strawberry and mint flavors would appeal to children.

- Consumers have no information about the safety of these products, the types and concentrations of nicotine and other chemicals inhaled when using them.
- Research conducted at the Lawrence Berkeley National Laboratory found that nicotine in third hand smoke, the residue from tobacco smoke that clings to surfaces long after a cigarette has been extinguished, reacts with a common indoor air pollutant called nitrous acid and produces a hazardous carcinogen. This study demonstrates that nicotine, the addictive ingredient in tobacco smoke, is harmful. Research co-author James Pankow has stated that the results of this study should raise concerns about the safety of electronic cigarettes.  
<http://www.sciencedaily.com/releases/2010/02/100208154651.htm>

### **Not a Smoking Cessation Device**

- These products have not been tested for safety or efficacy in helping people quit smoking.
- The American Cancer Society, American Heart Association, and American Lung Association have developed statements expressing concern about the increase of e-cigarette marketing and use.

### **Undermine Progress in Changing Social Norms around Smoking**

- A key benefit to smoke-free laws is to change social norms around smoking and to make smoking less socially acceptable. E-cigarette use, particularly in areas that are covered by the second hand smoke ordinance, would undermine the progress made in social norm change.
- Use of e-cigarettes in non-smoking areas would give the public the impression that smoking is permitted as these products closely resemble traditional cigarettes and one could easily assume that the vapor emitted is smoke. In addition, e-cigarette use in areas where smoking is prohibited misleads people into believing that smoking is permitted in these areas without any consequence.

### **Complicate Enforcement Efforts**

- Allowing use of e-cigarettes would likely complicate efforts by the City as well and business owners to enforce Health Code Article 19F. Since enforcement is complaint driven, there will be no way to distinguish whether a complaint is based on e-cigarettes or smoking of traditional cigarettes. Business owners' attempts to comply with the law would also be complicated if use of e-cigarettes is not banned in the same areas.

### **E Cigarettes Already Regulated by San Francisco Government Entities**

- San Francisco General Hospital (SFGH) adopted a smoke free campus policy in 2008. In 2011, the policy was amended to include a ban on e-cigarettes on campus.
- E-cigarette use at SF Airport: In response to concerns regarding use of e-cigarettes at the airport and impact on compliance with smoke-free legislation, the Executive Committee of the San Francisco Airport Commission approved a proposal on September 20, 2010 to adopt a policy to ban the use of e-cigarettes where conventional cigarette smoking is prohibited.
- Department of Transportation prohibits use of e-cigarettes on airline flights:

On June 17, 2010, at a Senate Committee on Commerce, Science and Transportation hearing, the Assistant Secretary for Aviation and International Affairs of the U.S. Department of Transportation stated that smoking of electronic cigarettes was already banned on U.S. air carrier and foreign air carrier flights in scheduled intrastate, interstate and foreign air transportation (49 USC §41706 and 14 CFR Part 252). Additionally, the Department of Transportation planned to issue a notice of proposed rulemaking that would amend the existing general regulatory language in Part 252 to explicitly ban smoking of electronic cigarette aboard aircraft.

**FDA Legal Authority**

- The FDA could issue regulations of e-cigarettes as a tobacco product under the 2009 the Family Smoking Prevention and Tobacco Control Act. However the FDA cannot regulate where e-cigarettes are used and it cannot prohibit their use in places where smoking traditional cigarettes is already prohibited. The FDA also provides state and local governments with the authority to regulate the sale or use of tobacco products, including e-cigarettes.
- In September 2008, the FDA moved to establish authority over e-cigarettes as drug delivery devices based on the Food, Drug and Cosmetic Act. Specifically, the FDA banned the import of new e-cigarette product shipments.
- E-cigarette manufacturers sued the FDA, claiming that their products should be regulated as tobacco products, not as drugs.
- In January 2010, a Washington DC district court ruled that the FDA could not regulate e-cigarettes as a drug or drug delivery device (because the nicotine was derived from tobacco) but that the FDA could regulate them as tobacco products.

**Authority of State or Local Governments to Regulate E-cigarettes**

1. Local smoke free laws can include e-cigarettes in their definition of smoking.
2. Local tobacco licensing laws can include a requirement to obtain a local tobacco permit to sell e-cigarettes. In San Francisco, no tobacco permits are allowed in business establishments with pharmacies or on city and county property.
3. New local legislation can be adopted with findings unique to e-cigarettes that apply local smoking restrictions to e-cigarettes.

**Limits on E-cigarettes Adopted by State and Local Governments**

As of September 2010, California law banned e-cigarette sales to minors, putting the product in the same category as traditional cigarettes. The table below provides a list of e-cigarette legislation adopted by various government entities, including the rationale cited for the policies.

<b>E-cig Law Enacted</b>	<b>Sale of E-cigarettes</b>	<b>Use of E-cigarettes</b>
Canada, Argentina, Singapore, Brazil, Israel, Hong Kong,	No e-cigarette sales, distribution or importation.	

Jordan, Victoria (Australia), Turkey		
Malta		Bans use in public places where smoking is banned.
California	No sales to minors	
Savannah, Georgia		Bans use in public places and workplaces
Madison County, Kentucky		Bans use in public places and workplaces
New Jersey	No sales to minors	Bans use in enclosed indoor places of public access and workplaces
New Hampshire	No sales to minors or free sampling; Includes liquid nicotine	
Utah		Bans use in public places
Boston, Massachusetts	No sales of unregulated nicotine delivery products to minors	Bans use in workplaces
North Adams, Massachusetts	No sales to or use by minors	Bans use in public places and workplaces
Great Barrington, Massachusetts		Bans use where smoking is prohibited
Saugus, Massachusetts	No sales to minors	Bans use in public places.
Paramus, NJ		Bans use in indoor public places and workplaces
Cattaraugus County, NY	No sales to minors	Bans use in public places and workplaces
Suffolk County, NY	No sales to minors	Bans use in public places and workplaces
Bergen County, NJ		Bans use in county parks where children present, inside county buildings, and county vehicles
King County, WA (includes Seattle)	No sales to minors, or sampling, or coupons	Bans use in places where smoking is prohibited by law (workplaces, public places)
Tacoma- Pierce County, Washington	No sales to minors or free sampling.	Bans use in public places where minors are permitted (exempts places of employment that are not public places)

### **Ordinance Proposed would:**

1. Prohibit use of and sale of e-cigarettes on City and County property.
2. Prohibit use of e-cigarettes in places where smoking is prohibited by law.
3. Require a tobacco permit for the sale or furnishing of e-cigarettes.

### Rationale:

1. A ban on the use and sale of e-cigarettes on City and County property would be of particular priority, to be consistent with other policies adopted by the City to protect the public health. These include the bans on: tobacco advertising and tobacco sales on City and County property; smoking in City parks, gardens and squares, smoking within 20 feet of entrances to the airport, as well as the smoke-free campus policy adopted by San Francisco General Hospital in 2008. As an example, SFGH has conducted extensive education and training of staff and outreach to patients and visitors to gain compliance with the smoke-free campus policy. SFGH later amended the policy to ban e-cigarettes. Allowing e-cigarettes in locations where cigarette smoking is not allowed would act as a trigger for smokers and former smokers, and would also send a confusing message regarding the smoking policy.
2. Allowing use of e-cigarettes would likely complicate efforts to enforce Health Code Article 19F by the City as well as business owners. Since enforcement is complaint driven, there will be no way to distinguish whether a complaint is based on e-cigarettes or smoking of traditional cigarettes. A key benefit to smoke-free laws is to change social norms around smoking and to make smoking less socially acceptable. E-cigarette use, particularly in areas that are covered by the second hand smoke ordinance, would undermine the progress made in social norm change.
3. Requiring a tobacco permit for the sale or furnishing of e-cigarettes would provide another mechanism to regulate e-cigarettes. Police youth decoy operations conducted to enforce Penal Code 308, the ban on tobacco sales to minors, could be utilized to assure retailers are complying with the California ban on e-cigarette sales to minors. Permitting would additionally result in a ban on the sale of e-cigarettes in pharmacies, consistent with the fact that the FDA has not approved e-cigarettes as medical smoking cessation devices. The permit requirement would ensure establishments selling e-cigarettes be in a permanent location and would not permit temporary e-cigarette booths at shopping malls as have been seen in Westfield and Stonestown shopping centers.