

## Konrad Jackson

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**From:** Marge Stoneking <Marge.Stoneking@lung.org>  
**Sent:** Friday, February 19, 2016 9:34 AM  
**To:** Rep. Kurt Olson; Rep. Shelley Hughes; Rep. Jim Colver; Rep. Cathy Tilton; Rep. Andy Josephson; Rep. Sam Kito; Rep. Mike Chenault; Rep. Gabrielle LeDoux  
**Subject:** HB304  
**Attachments:** ALA E-cigs Factsheet - April 2015.pdf;  
Electronic\_Nicotine\_Delivery\_Systems\_Key\_Facts\_Infographic\_CDC.pdf

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Dear Members of House Labor & Commerce Committee;

I am writing regarding House Bill 304. Thank you for considering this bill to raise the state tax on cigarettes from \$2 to \$3 per pack and taxes on other tobacco products from 75% to 100% of wholesale cost.

Tobacco taxes reduce healthcare costs by preventing youth tobacco use and reducing adult tobacco use. A tobacco tax increase at the proposed level has been solidly proven to reduce adult smoking by at least 4%, youth smoking by at least 7%, and smoking among pregnant women by at least 7%. Tobacco use is the leading cause of preventable death in Alaska through heart disease, lung disease, and cancer.

Some have had misgivings about tobacco tax increases being regressive in unfairly targeting low-income people because they have higher smoking rates. Health benefits, however, for low-income smokers, would more than compensate for the regressive tax increase. Low-income smokers are affected more, and they also benefit more through reduced consumption, success in quitting, or never starting due to tobacco taxes.

Though electronic nicotine delivery system or e-cig taxation does not yet have data to prove that same reduction, it most likely will reduce use the same, especially among youth. Alaska youth, as you may know, are now using e-cigs at 18%, while taxation, public education, and other policies have reduced youth smoking of traditional cigarettes to 11%.

Some opponents of the tax proposal state that e-cigarettes should not be taxed because they are saving the lives of those that switch from traditional cigarettes. While I do not doubt anecdotal stories and the passion of these individuals, the scientific evidence simply does not support their claims on a population level. This is also the position of the Centers for Disease Control and Prevention. Use of e-cigs has not been proven to help smokers quit, and in fact the majority of smokers who attempt to switch to e-cigs become dual-users of e-cigs and

conventional cigarettes, as seen in the attached CDC infographic. There are, however, 7 FDA approved nicotine replacement or other pharmaceutical cessation aids that have been proven to help smokers quit.

For these reasons, American Lung Association in Alaska supports the proposed tax increase and inclusion of e-cigs under other tobacco products. However, we urge you to amend the bill to include electronic nicotine delivery devices, not just the liquid, both for public health effectiveness and for state revenue implications. In addition, vapor/e-cig retailers need to be required to have a tobacco license endorsement (under AS43.70.075) and be included in AS11.76.109 so that they are subject to underage sales enforcement like tobacco retailers.

Yours in Lung Health,

Marge Stoneking

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## E-Cigarettes

April 2015

### POSITION:

The American Lung Association:

- Supports including e-cigarettes in smokefree laws and ordinances.
- Supports state laws that would prohibit the sale of any flavored e-cigarette product.
- Supports taxing e-cigarettes at a rate equivalent with all tobacco products, including cigarettes.
- Supports eliminating e-cigarette sales to youth, otherwise restricting youth access to e-cigarettes and requiring e-cigarette retailers to be licensed. E-cigarettes should be defined as tobacco products.
- Opposes creating new definitions for “vapor products” and/or “alternative nicotine products” in state laws. This tactic, which the tobacco industry is promoting in numerous states, has the potential to undermine existing tobacco control laws, including smokefree laws and tobacco taxes.

### Background

- On April 24, 2014, the U.S. Food and Drug Administration (FDA) issued its proposal to begin oversight over e-cigarettes as tobacco products. Comments were due to FDA on August 8, 2014. The American Lung Association has urged FDA to finalize this regulation no later than April 24, 2015. The Department of Health and Human Services has stated the final regulation will be released in the summer of 2015.
- According to the FDA, electronic cigarettes, or e-cigarettes, are devices that allow users to inhale an aerosol containing nicotine or other substances.<sup>1</sup>
- Unlike traditional cigarettes, e-cigarettes are generally battery-operated and use an atomizer to heat liquid from a cartridge until it becomes a chemical-filled aerosol.
- E-cigarettes are often available in flavors that may appeal to children and teens, including cotton candy, bubble gum, chocolate, strawberry and mint.<sup>2</sup>
- There are almost 500 different brands of e-cigarettes on the market today, and e-cigarettes come in 7,700 different flavors.<sup>3</sup>
- The class of e-cigarettes also includes e-hookahs, vape pens, e-cigars and other electronic products, all of which would be subject to FDA oversight.

### Who Uses E-Cigarettes?

- An increasing number of youth:
  - According to CDC, e-cigarette use among both high school and middle school students tripled in one year, increasing from 4.5 percent in 2013 to 13.4 percent in 2014 among high school students, and from 1.1 percent in 2013 to 3.9 percent in 2014 among middle school students.<sup>4</sup>
- Adults: According to CDC, during 2010 to 2013, adults reporting that they have ever used an e-cigarette increased among every demographic group except those aged 18-24 years old, Hispanics, non-Hispanic Others, and those living in the Midwest.<sup>5</sup>
- Former and current smokers: In 2013, close to one in ten former and more than one in three current cigarette smokers had used an e-cigarette, which was an increase compared to 2011 for both groups. E-cigarette use among those who never had smoked cigarettes was a much lower 1-2 percent and did not increase over this period.<sup>6</sup>
- Current smokers: From 2010-2011, 72.0 percent of people who recently used e-cigarettes also currently smoked conventional cigarettes. That number rose to 76.8 percent during 2012-2013.<sup>7</sup>
- Additional and on-going research is needed to understand the full public health impact of e-cigarettes, including their impact on youth initiation of cigarettes..

### What are the Health Effects of E-Cigarettes?

- The health consequences of the use of e-cigarettes and exposure to secondhand e-cigarette emissions are unknown. There is currently no scientific evidence establishing the safety of e-cigarettes.
- In initial lab tests 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.<sup>8</sup> The lab tests also found that cartridges labeled as nicotine-free had traceable levels of nicotine.
- There is no evidence that shows the aerosol emitted by e-cigarettes is safe for non-users to inhale. In fact, two initial studies have found formaldehyde, benzene and tobacco-specific nitrosamines (a carcinogen) coming from the secondhand emissions from e-cigarettes. The use of e-cigarettes in public places and workplaces may also complicate efforts to enforce and comply with smokefree laws. The American Lung Association supports including the use of e-cigarettes in worksites and public places under smokefree laws.

### Can E-Cigarettes Help Someone Quit Smoking?

- The FDA has not approved any e-cigarettes as a safe or effective method to help smokers quit. The U.S. Public Health Service has found that the seven therapies approved by the U.S. Food and Drug Administration in combination with individual, group or phone cessation counseling is the most effective way to help smokers quit. Until and unless the FDA approves a specific e-cigarette for use as a tobacco cessation aid, the American Lung Association does not support any direct or implied claims that e-cigarettes help smokers quit.
- A 2014 study published in the journal *Cancer* found that among cancer patients enrolled in a smoking cessation program, e-cigarette users were as likely or less likely as individuals who did not use e-cigarettes to still be smoking.<sup>9</sup>

### Why Are E-cigarettes Tobacco Products?

- In 2010, the U.S. Court of Appeals for the District of Columbia determined that e-cigarettes should be regulated as tobacco products except when a product makes a therapeutic (quit smoking) claim.
- E-cigarette companies sued FDA to be regulated as tobacco products.
- The nicotine used in e-cigarettes is derived from tobacco.
- E-cigarette marketing mirrors strategies used by cigarette companies in the past, which they are no longer allowed to use because they appeal to youth.
- FDA has not found any e-cigarettes safe and effective in helping smokers quit.

[www.lung.org](http://www.lung.org) / 1-800-LUNGUSA

<sup>1</sup> U.S. Food and Drug Administration. "E-Cigarettes: Questions and Answers." September 9, 2010. Available at: <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm225210.htm>.

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<sup>3</sup> Zhu SH et al. "Four hundred and sixty brands of e-cigarettes and counting: implications for product regulation." *Tobacco Control*. July 2014; 23 Suppl 3:ii3-ii9.

<sup>4</sup> Centers for Disease Control and Prevention. [Tobacco Use Among Middle and High School Students — United States, 2011–2014](#). *Morbidity and Mortality Weekly Report*. April 17, 2015; 64(14):381-5.

<sup>5</sup> King, BA, Patel R, Nguyen K, Dube S. "Trends in Awareness and Use of Electronic Cigarettes Among U.S. Adults, 2010-2013." *Nicotine & Tobacco Research*. September 2014; ntu191v3-ntu191.

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<sup>8</sup> U.S. Food and Drug Administration. "Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA." July 22, 2009. Available at: <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm>.

<sup>9</sup> Borderud, S. P., Li, Y., Burkhalter, J. E., Sheffer, C. E. and Ostroff, J. S. (2014), Electronic cigarette use among patients with cancer: Characteristics of electronic cigarette users and their smoking cessation outcomes. *Cancer*. doi: 10.1002/cncr.28811

# ELECTRONIC NICOTINE DELIVERY SYSTEMS **KEY FACTS**

## Youth use of ENDS continues to rise rapidly in the U.S.

From 2011 to 2014, **past 30-day use** of e-cigarettes increased



**9x** for high school students  
(1.5% to 13.4%)

and more than **6x** for middle school students (0.6% to 3.9%)



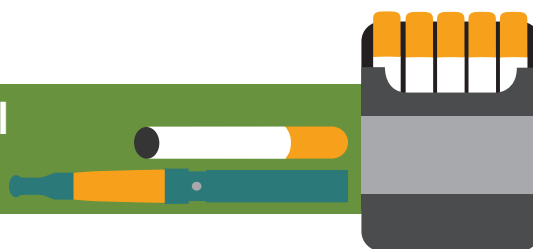
**Nearly 2.5 million** U.S. middle and high school students were **past 30-day e-cigarette users** in 2014



including about **1 in 7** high school students.<sup>1</sup>

In 2013, more than **a quarter of a million** (263,000) middle and high school students who **had never smoked cigarettes had ever used e-cigarettes.**<sup>2</sup>

Most adult ENDS users also smoke conventional cigarettes, which is referred to as “dual use.”



In 2012/2013, 1.9% of adults were **past 30 day e-cigarette users**, including **9.4% of conventional cigarette smokers.**<sup>3</sup>

Among adult **past 30 day e-cigarette users**, **76.8% were also current cigarette smokers** (i.e., “dual users”) in 2012/2013.<sup>3</sup>

**Nicotine poses dangers to pregnant women and fetuses, children, and adolescents. Youth use of nicotine in any form, including ENDS, is unsafe.**<sup>4,5</sup>

- Nicotine is highly addictive.<sup>4</sup>
- Nicotine is toxic to developing fetuses and impairs fetal brain and lung development.<sup>4,5</sup>
- Poisonings have resulted among users and non-users due to ingestion of nicotine liquid, absorption through the skin, and inhalation.<sup>6</sup> E-cigarette exposure calls to poison centers increased from one per month in September 2010 to 215 per month in February 2014, and over half of those calls were regarding children ages 5 and under.<sup>6</sup>

- Because the adolescent brain is still developing, nicotine use during adolescence can disrupt the formation of brain circuits that control attention, learning, and susceptibility to addiction.<sup>5</sup>
- According to the Surgeon General, the evidence is already sufficient to warn pregnant women, women of reproductive age, and adolescents about the use of nicotine containing products such as smokeless tobacco, dissolvables, and ENDS as alternatives to smoking.<sup>4</sup>



U.S. Department of  
Health and Human Services  
Centers for Disease  
Control and Prevention

[www.cdc.gov/tobacco](http://www.cdc.gov/tobacco)

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# Any combusted tobacco use at any age is dangerous.

The **burden of death and disease** from tobacco use in the U.S. is overwhelmingly caused by cigarettes and other combusted tobacco products.<sup>4</sup>

There is **no safe level** of exposure to secondhand tobacco smoke.<sup>7</sup>

**In order for adult smokers to benefit from ENDS, they must completely quit combusted tobacco use. Smoking even a few cigarettes per day is dangerous to your health.**

RIP

**Smokers who cut back on cigarettes by using ENDS, but who don't completely quit smoking cigarettes, aren't fully protecting their health:**

- Smoking just **1-4 cigarettes a day doubles the risk** of dying from **heart disease**.<sup>8</sup>
- **Heavy smokers** who reduce their cigarette use by half still have a very high **risk for early death**.<sup>9</sup>



**Benefits of quitting smoking completely:**

- **Heart disease risk is cut in half 1 year after quitting** and continues to drop overtime.<sup>4</sup>
- Even **quitting at age 50 cuts your risk in half** for early death from a smoking-related disease.<sup>4</sup>

## ENDS are not an FDA-approved quit aid.



Currently the **evidence is insufficient** to conclude **that ENDS are effective for smoking cessation**.



**Seven medicines** are approved by the FDA for smoking cessation, and are proven safe and effective when used as directed.<sup>10</sup>

## ENDS aerosol is NOT harmless "water vapor" and is NOT as safe as clean air.<sup>18</sup>

- ENDS generally emit lower levels of dangerous toxins than combusted cigarettes. However, in addition to nicotine, **ENDS aerosols can contain heavy metals, ultrafine particulate, and cancer-causing agents like acrolein**.<sup>11</sup>
- ENDS aerosols also contain propylene glycol or glycerin and flavorings.
- Some ENDS manufacturers claim that the use of propylene glycol, glycerin, and food flavorings is safe because they meet the FDA definition of "Generally Recognized as Safe" (GRAS). However, **GRAS status applies to additives for use in foods, NOT for inhalation**. The health effects of inhaling these substances are currently unknown.

# ENDS are aggressively marketed using similar tactics as those proven to lead to youth cigarette smoking.



Although the advertisement of cigarettes has been banned from television in the United States since 1971, ENDS are now marketed on television and other mainstream media channels.<sup>2</sup>



NO SMOKING  
IN THIS AREA

In a randomized controlled trial, adolescents who viewed e-cigarette TV advertisements reported a significantly greater likelihood of future e-cigarette use compared with the control group. They were also more likely to agree that e-cigarettes can be used in places where smoking is not allowed.<sup>15</sup>

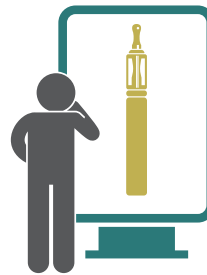


**Spending on advertising of ENDS tripled each year from 2011 to 2013.**<sup>12,13</sup> Sales of ENDS also increased dramatically over a similar period.<sup>14</sup>

**Some ENDS companies are using techniques similar to those used by cigarette companies that have been shown in the 2012 Surgeon General's Report to increase use of cigarettes by youth**, including: candy-flavored products; youth-resonant themes such as rebellion, glamour, and sex; celebrity endorsements; and sports and music sponsorships.<sup>13,16</sup>

ENDS marketing has included **unproven claims of safety** and use for smoking cessation, and statements that they are **exempt from clean air policies that restrict smoking**.<sup>4</sup> These messages could:

- Promote situational substitution of ENDS when smokers cannot smoke cigarettes, rather than complete substitution of ENDS for cigarettes.
- **Undermine clean indoor air standards**, smokefree policy enforcement, and tobacco-free social norms.



**Visual depictions** of ENDS use in advertisements may serve as smoking cues to smokers and former smokers, **increasing the urge to smoke and undermining efforts to quit or abstain** from smoking.<sup>17</sup>

## Given the currently available evidence on ENDS, several policy levers are appropriate to protect public health:

- **Prohibitions on marketing or sales** of ENDS that result in youth use of any tobacco product, including ENDS.
  - **States laws prohibiting sales of ENDS to minors** that feature strong enforcement provisions and allow localities to develop more stringent policies are more likely to help prevent youth access.<sup>18</sup>
- **Prohibitions on ENDS use in indoor areas** where conventional smoking is not allowed could:
  - **Preserve clean indoor air standards** and protect bystanders from exposure to secondhand ENDS aerosol.
  - **Support tobacco-free norms.**
- When addressing potential public health harms associated with ENDS, it is important to simultaneously **uphold and accelerate strategies found by the Surgeon General to prevent and reduce combustible tobacco use**, including tobacco **price increases**, comprehensive **smoke-free laws**, high-impact media campaigns, barrier-free cessation treatment and services, and comprehensive **statewide tobacco control programs**.<sup>4,18</sup>

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