

## E-Cigarettes and Michigan's Smoke-Free Air Law

### Fact Sheet

Updated 6/11/10

- E-cigarettes (or electronic cigarettes) are battery-powered devices that provide inhaled doses of nicotine by way of a vaporized solution.
- Current legal analysis concludes that because e-cigarettes do not contain tobacco, they are not covered under Michigan's Smoke-Free Air Law, which takes effect May 1, 2010.
- Although e-cigarettes are not covered under Michigan's smoke-free air law, businesses may set their own policy banning the use of e-cigarettes in their establishment. Based on the information below, we encourage businesses to consider adopting such a policy.
- Businesses should be aware that e-cigarettes closely resemble real cigarettes. Therefore, it is possible that from a distance an individual may think that a person using an e-cigarette is smoking a real cigarette, which could trigger a complaint against a business related to the smoke-free air law.
- The e-cigarette is not a proven safe alternative to smoking and we discourage its use both for the user's safety and the safety of the people in the same room.
- The Food and Drug Administration (FDA) has determined that e-cigarettes meet the definition of a combination drug device product and therefore should be regulated by the FDA. Currently e-cigarettes are not approved by the FDA.
  - The FDA has concluded that e-cigarettes pose acute health risks and contain detectable levels of carcinogens and toxic chemicals. The carcinogenic substances diethylene glycol and nitrosamines have been found in FDA tested samples, as well as other tobacco-specific impurities that may be harmful to humans.
  - The vapor emitted into a room, either from exhalation or the vapor emitted from the e-cigarette itself, may not be safe. E-cigarettes contain varying levels of nicotine, a toxic substance known to contribute to heart disease and heart attacks.
  - The FDA is currently involved in a case to determine whether it may ban the import of e-cigarettes. On February 1, 2010, the U.S. Court of Appeals decided that the FDA had "satisfied the stringent standards required for a stay pending appeal" and barred further importation of e-cigarettes. The case is still in process.
  - At least two attorneys general have filed law suits to stop the sale of e-cigarettes until the FDA legal challenge is resolved. Several states are considering – or have passed, restrictions on the sale or use of these novel and unregulated products.
- There are proven safe and effective nicotine replacement medications available over-the-counter at pharmacies including patches, gum, lozenges -- oral inhalers and nasal sprays can be obtained with a prescription. Nicotine replacement patches, gum and lozenges are also available free to uninsured and county health plan clients through the Michigan Tobacco Quit Line (1-800-QUIT-NOW).