

American Cancer Society Cancer Action Network
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February 5, 2014

To: Chair Tomei, House Committee on Human Services and Housing
From: Jason Parks, Government Relations Director, American Cancer Society Cancer Action Network
RE: E-Cigarette Legislation

The American Cancer Society Cancer Action Network (ACS CAN) of Oregon appreciates the opportunity to provide feedback regarding HB4115 and HB4073.

Over the last several years, there has been a dramatic growth in the marketing and sale of e-cigarettes and in the claims being made by e-cigarette manufacturers, as well as a proliferation in the various types of e-cigarettes being sold. Despite the dramatic rise in the use of e-cigarettes, very little is known about their actual health risks or their impact on youth tobacco use or whether they are effective in helping smokers quit. No federal agency currently regulates how e-cigarettes are made or how and to whom they are marketed and sold.

We do know that youth are trying e-cigarettes at an alarming rate. A recent Centers for Disease Control and Prevention (CDC) report (*National Youth Tobacco Survey, reported in Sept 5, 2013 Morbidity and Mortality Weekly Report*) shows that in the United States from 2011 to 2012— just one year—the percentage of youth (middle and high school students) using e-cigarettes more than doubled. Furthermore, more than 75% of the youth surveyed who used e-cigarettes also smoked conventional cigarettes. As well, 1 in 5 who used e-cigarettes had never tried traditional cigarettes. This could indicate that e-cigarettes are a gateway to traditional tobacco products.

The e-cigarette industry is using many of the marketing techniques created and perfected by big tobacco companies to addict youth. From candy and fruit flavors like cotton candy and gummy bears, attractive packaging and designs, to targeted print, television and online advertising, and free giveaways of “starter kits,” these products are luring our youth, portraying smoking behavior as glamorous, and taking a page right out of Big Tobacco’s marketing manual. In fact, every major tobacco company now offers an electronic cigarette.

In regard to the bills in question, ACS CAN is concerned with any legislation that does not include electronic smoking devices within the definition of tobacco products. This concern stems out of the ruling by the U.S. Court of Appeals in Washington, D.C. that restricts the Food and Drug Administration (FDA) from regulating e-cigarettes under the drug and device provisions of the Food, Drug and Cosmetic Act absent therapeutic claims. Instead the ruling states e-cigarettes can be

regulated as tobacco products under the Family Smoking Prevention and Tobacco Control Act. Any state legislation that defines them in a manner other than tobacco products provides the industry with the opportunity for litigation that we fear will further delay regulation.

In addition, not including electronic smoking devices in the definition of tobacco products sets the stage for these products to be treated differently than other tobacco products in Oregon and ACS CAN opposes attempts to change laws for e-cigarettes that could in the short or long term undermine existing effective tobacco control laws.

We are also concerned about legislation that creates regulatory exemptions for "vapor products" by excluding "any product that is regulated by the United States Food and Drug Administration under chapter V of the Federal Food, Drug, and Cosmetic Act. ACS CAN does not want legislation to create exemptions for these products and enforcement that other nicotine products do not receive

In conclusion, here are five things to know about e-cigarettes:

- While e-cigarettes are, in the short term, likely less harmful than cigarettes, there are concerns that they may create new tobacco users and reverse efforts that have made smoking socially unacceptable.
- ACS CAN does not recommend e-cigs as a cessation tool. While they are likely less harmful than regular cigarettes, we don't have evidence to know if they are more effective than the thoroughly tested and FDA-approved smoking cessation medications.
- ACS CAN strongly supports FDA regulation of e-cigs, including restricting sales to minors.
- ACS CAN opposes attempts to change laws for e-cigs that could undermine tobacco control laws.
- More research is needed to determine the safety of e-cigarettes, especially over the long-term, and their efficacy as a cessation tool.

Thank you for your time and consideration.

Sincerely,

Jason Parks
Oregon Director of Government Relations
American Cancer Society Cancer Action Network