



# health CARE AGENCY

## PUBLIC HEALTH SERVICES HEALTH PROMOTION

### ATTACHMENT 9

**RICHARD SANCHEZ, MPH**  
ASSISTANT DIRECTOR

**DAVID M. SOULELES, MPH**  
DEPUTY AGENCY DIRECTOR

**DONNA S. FLEMING, DrPA, MSW, LCSW**  
CHIEF OF OPERATIONS

**AMY BUCH, MA**  
DIVISION MANAGER

12 CIVIC CENTER PLAZA, SUITE 127  
SANTA ANA, CA 92701

TELEPHONE: (714) 834-5728  
FAX: (714) 834-3492  
E-MAIL: abuch@ochca.com

April 9, 2015

Claire Flynn  
Assistant Community Development Services Director  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626

Dear Ms. Flynn:

We, at the Orange County Health Care Agency, appreciate the steps that the City of Costa Mesa has taken to promote the health of Costa Mesa residents. We know that the Planning Commission is exploring ways to reduce exposure to environmental tobacco smoke from hookah and other tobacco products as well as the aerosol from electronic nicotine delivery systems (ENDS). Attached, you will find for your consideration the following fact sheets:

- Vital Signs: Second Hand Smoke an Unequal Danger: Centers for Disease Control and Prevention February 2015
- Hookah Tobacco is Unsafe: California Department of Public Health January 2011
- Protect Your Family from E-Cigarettes The Facts You Need to Know: California Department of Public Health June 2014

These fact sheets are provided to give you more information about the health effects from second hand smoke, hookah and ENDS.

Orange County, California has one of the lowest smoking rates in the United States with an adult smoking rate of 12% and a youth smoking rate of 9.8%. Furthermore, according to the recent California Healthy Kids Survey results, 7% of 7<sup>th</sup> graders, 12% of 9<sup>th</sup> graders and 16% of 11<sup>th</sup> graders have used an ENDS in the past month. Community partners, such as the City of Costa Mesa, are essential to providing an environment where all Orange County residents can lead healthy lives.

Sincerely,

Amy Buch M.A.  
Division Manager

## Secondhand Smoke: An Unequal Danger



**58 million**

1 in 4 nonsmokers (58 million people)  
in the US are still exposed to  
secondhand smoke (SHS).

**2 in 5**

About 2 in every 5 children (including  
7 in 10 black children) are exposed to SHS.

**1 in 3**

More than 1 in 3  
nonsmokers who  
live in rental housing  
are exposed to SHS.

No level of secondhand smoke (SHS) exposure is safe. SHS exposure occurs when nonsmokers breathe in smoke exhaled by smokers or from burning tobacco products. It kills more than 400 infants and 41,000 adult nonsmokers\* every year. Exposure to SHS among US nonsmokers has declined, but progress has not been the same for everyone. SHS exposure is more common among children ages 3 to 11 years, blacks, people living below the poverty level, and those who rent housing.

State and city officials can help protect children and adult nonsmokers from SHS in the places they live, visit, and work by using proven methods to eliminate smoking in:

- ◇ Indoor areas of all public places such as restaurants, bars, casinos, and other private worksites.
- ◇ Multiunit housing such as apartments, condominiums, and government funded housing.

\*Infant deaths due to secondhand smoke-related Sudden Infant Death Syndrome. Deaths among nonsmoking adults due to secondhand smoke-related lung cancer and heart disease.

→ See page 4  
Want to learn more? Visit

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

## Problem

*58 million nonsmokers  
in the US are still exposed  
to secondhand smoke.*

### Who is most at risk?

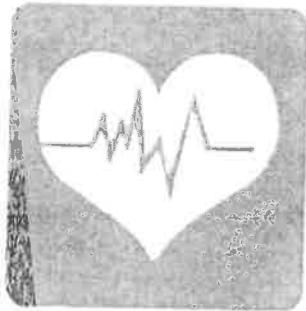
SHS exposure dropped by half from 1 in 2 nonsmokers in 1999-2000 to 1 in 4 nonsmokers in 2011-2012, but exposure remains especially high for certain groups.

- ◊ 2 in 5 children (about 15 million) ages 3 to 11 are exposed to SHS.
- ◊ Nearly half of black nonsmokers are exposed to SHS, including 7 in 10 black children.
- ◊ More than 2 in 5 nonsmokers who live below the poverty level are exposed to SHS.
- ◊ More than 1 in 3 nonsmokers who live in rental housing are exposed to SHS.

### Homes are a major source of exposure.

Eliminating smoking in indoor spaces fully protects nonsmokers from exposure to SHS. Half of the US population is covered by state or local smokefree laws that do not allow indoor smoking in worksites and public places, including restaurants and bars. Most people have adopted smokefree rules in their home. Still, exposure in the home remains a significant problem.

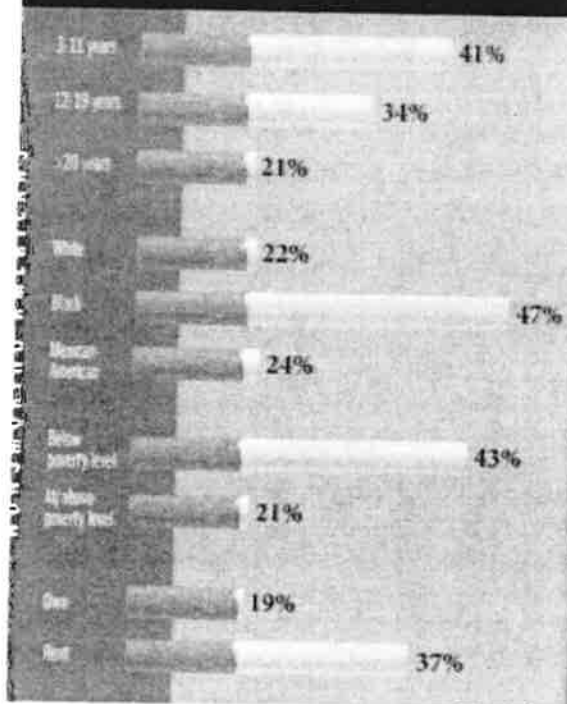
- ◊ The home is the primary source of SHS exposure for children.
- ◊ About 80 million (1 in 4) Americans live in multiunit housing and can be exposed to unwanted SHS in their homes. SHS from units or common areas where smoking occurs can seep into smokefree units.
- ◊ Many who live in public housing are especially affected by SHS, including children, the elderly, and people with disabilities.



**Secondhand smoke** and the **harmful** chemicals in it are known causes of Sudden Infant Death Syndrome, **RESPIRATORY INFECTIONS**, **ear infections**, and **asthma attacks** in infants and children.

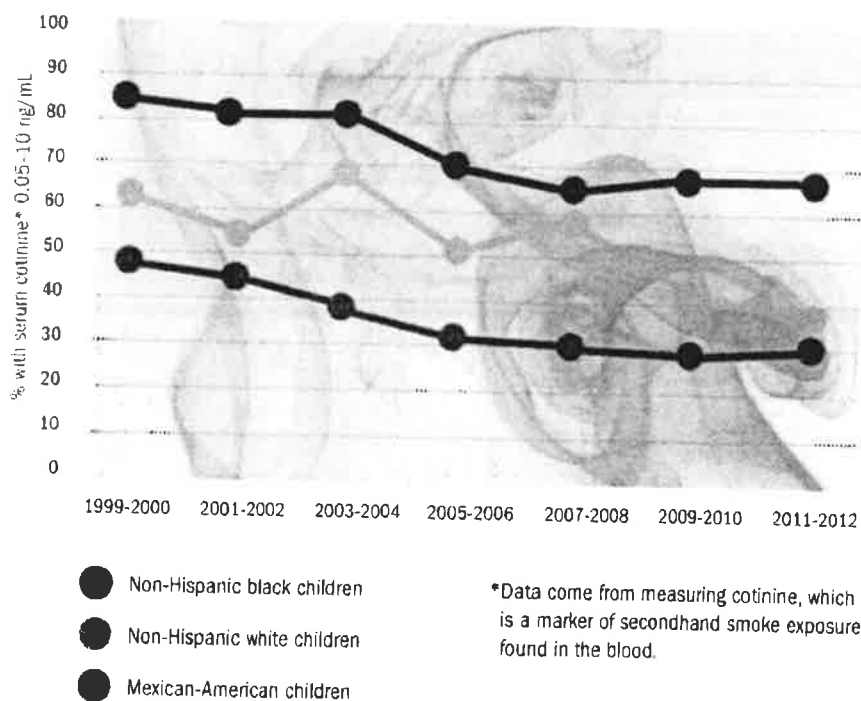
They are also known causes of **HEART DISEASE**, stroke, and **lung cancer** in adult nonsmokers.

## Some groups have higher exposure to secondhand smoke and its harmful effects



SOURCE: National Health and Nutrition Examination Survey Data 1999-2012.

## Exposure to secondhand smoke differs among children ages 3-11 by race/ethnicity



SOURCE: National Health and Nutrition Examination Survey Data 1999-2012.

## Statewide Smokefree Laws

Statewide smokefree indoor air laws for restaurants, bars, and private worksites vary from state to state.



# What Can Be Done



## Federal government is

- ◊ Monitoring SHS exposure, educating the public about the dangers of SHS, conducting research, funding programs that work to reduce tobacco use and exposure to SHS in public places, and regulating tobacco products.
- ◊ Funding and promoting tobacco education campaigns, such as CDC's *Tips From Former Smokers* ([www.cdc.gov/tips](http://www.cdc.gov/tips)), that teach people how smoking and SHS exposure can harm them.
- ◊ Encouraging smokefree policies in subsidized and public housing.
- ◊ Creating tobacco- and smoke-free environments for employees, customers, and partners.



## States and communities can

- ◊ Work to **prohibit smoking** in all indoor public places and worksites, including restaurants, bars, and casinos.
- ◊ Support efforts to prohibit smoking in multiunit housing.
- ◊ Fund comprehensive tobacco prevention and control programs at CDC-recommended levels to reach underserved populations, including those with the greatest burden of SHS exposure.



## Doctors, nurses, and other health care providers can

- ◊ Ask their patients whether they use tobacco products, encourage those who do to quit, and provide help with quitting.
- ◊ Encourage their nonsmoking patients to avoid exposure to SHS where they work, live, and gather.
- ◊ Talk with their patients about the dangers of SHS.



## Everyone can

- ◊ Call 1-800-QUIT-NOW or go to [www.smokefree.gov](http://www.smokefree.gov) for free help, if they or someone they know smokes and wants to quit.
- ◊ Make their homes and vehicles 100% smokefree. Opening a window or using fans or air fresheners does not protect nonsmokers from the dangers of SHS.
- ◊ Not allow anyone to smoke around children and avoid all public places where smoking is allowed.
- ◊ Talk to children about why they shouldn't smoke or be around SHS.  
(Visit [www.cdc.gov/tobacco/data\\_statistics/sgr/2012/](http://www.cdc.gov/tobacco/data_statistics/sgr/2012/))



For more information, please contact  
**Telephone:** 1-800-CDC-INFO (232-4636)  
**TTY:** 1-888-232-6348  
**Web:** [www.cdc.gov](http://www.cdc.gov)  
 Centers for Disease Control and Prevention  
 1600 Clifton Road NE, Atlanta, GA 30333  
 Publication date: 2/03/2015



# HOOKAH TOBACCO IS UNSAFE

## What Are Hookahs?

- Hookahs are glass or metal waterpipes that originated in India. They are shaped somewhat like a bottle and have long, flexible hoses with tips that people put into their mouths to inhale tobacco smoke. In most hookahs, hot charcoal is placed on top of tobacco in a bowl to heat it.<sup>1</sup> The tobacco, or shisha, is typically flavored, and contains the same chemicals found in all tobacco, including nicotine.<sup>2</sup>
- In recent years, there has been tremendous growth in the number of hookah bars and lounges in California.<sup>3, 4, 5</sup> Hookah smoking is **increasingly popular among underage youth and young adults**, exposing them to both tobacco use and secondhand smoke.<sup>6</sup> Many of these young people do not think that hookah smoke is as harmful and addictive as cigarette smoke.<sup>7</sup>

## Why Are Hookahs Harmful?

- Smoking hookah for 45-60 minutes can be equivalent to smoking 100 or more cigarettes.<sup>8</sup>
- Secondhand hookah smoke contains the same cancer-causing chemicals found in secondhand smoke from cigarettes.
- In addition, the charcoal used in the tobacco heating process produces the toxin carbon monoxide.<sup>9</sup>
- In 2005, the World Health Organization (WHO) issued an Advisory Note about hookah use, stating that people who smoke hookah pipes or who are exposed to secondhand hookah smoke are at risk for the same diseases that are caused by smoking cigarettes, including:
  - Cancer
  - Heart disease
  - Respiratory disease
  - Adverse effects during pregnancy
- The WHO Advisory Note also warned that sharing a waterpipe mouthpiece poses a serious risk of transmission of communicable diseases, including tuberculosis and hepatitis.<sup>10</sup>
- The proliferation of hookah bars and lounges in California is leading to a growing public acceptance of smoking. This threatens to setback twenty years of progress in reducing tobacco-related death and disease.

## How Can Hookah Bars and Lounges Allow Indoor Smoking?

- While smoking inside restaurants and bars has been banned since 1998 in California, the Smoke-Free Workplace law (Labor Code Section 6404.5) includes twelve exemptions that allow smoking in certain indoor workplaces.
- Hookah bars and lounges typically claim they operate as tobacco shops and private smokers' lounges, which are among the businesses that can allow indoor smoking under exemptions in California's Smoke-Free Workplace law.
  - The California Smoke-free Workplace law defines a tobacco shop as a business establishment whose "main purpose" is to sell tobacco products. Unfortunately, the definition of "main purpose" is unclear.



California's  
Winnable  
Battle  
**Finish the Fight  
Against Tobacco**

California Department of Public Health  
California Tobacco Control Program  
P.O. Box 997377, M57706  
Sacramento, CA 95899-7377  
[www.cdph.ca.gov/programs/tobacco](http://www.cdph.ca.gov/programs/tobacco)





- For example, some hookah bars and lounges have obtained licenses to sell alcohol, serve food and nonalcoholic beverages, and provide entertainment –operating more like a bar or restaurant where smoking inside is prohibited under state law. The assertion that the “main purpose” of these businesses is the sale of tobacco is questionable.
- Other hookah bars and lounges assert that the business is owner-operated and has no employees and is therefore exempt from the state labor law.
- It is unfair that hookah bars and lounges are trying to take advantage of ambiguities in the law to allow indoor smoking, while other similar businesses (bars and restaurants) are following the law.
- The ambiguity and contradictions in state law make enforcement by cities and counties throughout California difficult. Investigating claims that hookah bars and lounges are violating the state Smoke-Free Workplace law can be time-consuming and challenging because of these seemingly contradictory interpretations of business classifications and permitting and licensing requirements and standards.

All California workers deserve to be protected from secondhand smoke. All businesses should be on a level playing field, required to abide by the same rules when it comes to protecting California's workers from secondhand smoke exposure. It's time to close the loophole on hookah bars and lounges.

1. California's Clean Air Project. *Hookah – In Your Community: Ideas for Action*. ETR Associates, 2005.
2. Shihadeh, A. and Saleh, R. Polycyclic aromatic hydrocarbons, carbon monoxide, “tar”, and nicotine in the mainstream smoke aerosol of the narghile water pipe. *Food and Chemical Toxicology*, 2005, 43, 655–661.
3. Asotra, K. and Kiser, D. Policies Needed to Regulate Hookah Smoking and Hookah Bars in California. *Burning Issues* 9(2): 4-5, 9, 2007. Available at: <http://www.trdrp.org/publications/newsletters/2007/407nwltr.pdf>
4. American Lung Association. *Tobacco Policy Trend Alert: An Emerging Deadly Trend: Waterpipe Tobacco Use*, 2007. Available at: [http://www.lungusa2.org/embargo/slati/TrendAlert\\_Waterpipes.pdf](http://www.lungusa2.org/embargo/slati/TrendAlert_Waterpipes.pdf)
5. BACCHUS Network. *Reducing Hookah Use: A Public Health Challenge for the 21st Century*. 2007. Available at: <http://www.tobaccofreeu.org/pdf/HookahWhitePaper.pdf>
6. Eissenberg T., Ward K.D., Smith-Simone S., Maziak, W. Waterpipe tobacco smoking on a U.S. college campus: prevalence and predictors. *Journal of Adolescent Health*, 42(5), 2008, 526-529. Available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2362063/pdf/nihms46743.pdf>
7. Aljarrah, K., Ababneh, Z. Q. and Al-Delaimy, W.K. Perceptions of hookah smoking harmfulness: predictors and characteristics among current hookah users. *Tobacco Induced Diseases*, 2009, 5:16. Available at: <http://www.tobaccoinduceddiseases.com/content/5/1/16>
8. World Health Organization Study Group on Tobacco Product Regulation (TobReg). *Advisory Note: Waterpipe Tobacco Smoking: Health Effects, Research Needs and Recommended Actions by Regulators*. 2005. Available at: [http://www.who.int/tobacco/global\\_interaction/tobreg/Waterpipe%20recommendation\\_Final.pdf](http://www.who.int/tobacco/global_interaction/tobreg/Waterpipe%20recommendation_Final.pdf)
9. Shihadeh, A. and Saleh, R. Polycyclic aromatic hydrocarbons, carbon monoxide, “tar”, and nicotine in the mainstream smoke aerosol of the narghile water pipe. *Food and Chemical Toxicology*, 2005, 43, 655–661.
10. World Health Organization Study Group on Tobacco Product Regulation (TobReg). *Advisory Note: Waterpipe Tobacco Smoking: Health Effects, Research Needs and Recommended Actions by Regulators*. 2005. Available at: [http://www.who.int/tobacco/global\\_interaction/tobreg/Waterpipe%20recommendation\\_Final.pdf](http://www.who.int/tobacco/global_interaction/tobreg/Waterpipe%20recommendation_Final.pdf)



#### HOW DO I PROTECT MY FAMILY AND FRIENDS?

Nicotine is a poison. Never leave e-cigarettes or e-liquids where children can get them. Immediately call the California Poison Control System at 1-800-222-1222 if any e-liquid is swallowed, gets on the skin or in the eyes.

Never allow the use of e-cigarettes in your home. They pollute the air and are harmful to you and your family.

Pregnant and breastfeeding women, children and teens should never use e-cigarettes or be exposed to the aerosol due to the harm nicotine may cause to brain development.

Support policies that do not allow e-cigarettes to be used indoors and where children are present.

If you use e-cigarettes or other tobacco products, call for free help with quitting: 1-800-NO BUTTS (1-800-662-8887).

**For more information, visit**  
**[www.cdph.ca.gov/programs/tobacco](http://www.cdph.ca.gov/programs/tobacco)**



Funded by the Centers for Disease Control and Prevention  
under Grant # 2U58DP002007-06, 2014.

# PROTECT YOUR FAMILY FROM E-CIGARETTES

## The Facts You Need to Know





# THE FACTS YOU NEED TO KNOW



## WHAT ARE E-CIGARETTES?

E-cigarettes are devices that use a battery to heat a liquid nicotine solution ("e-liquid"). The heated e-liquid creates an aerosol that is breathed into the lungs.

E-cigarettes go by other names such as e-cigs, e-hookahs, hookah pens, vapes, vape pens or mods. They come in many shapes and sizes. Some can only be used once, while others can be refilled. Others have a tank which may hold large amounts of e-liquid containing nicotine, flavorings, and other chemicals.

E-cigarettes are also used to smoke illegal substances like marijuana and hash oil.



## WHY ARE THEY DANGEROUS?

E-cigarettes contain nicotine and chemicals that can cause cancer, birth defects or other health problems.

E-cigarettes and e-liquids come in fruit and candy flavors that appeal to children who may taste or drink the e-liquid.

E-liquids are poisonous if swallowed, and are harmful if the liquid gets on skin or in the eyes. The e-cigarette batteries are also poisonous if swallowed.



## AREN'T THEY SAFER THAN TOBACCO CIGARETTES?

E-cigarettes contain harmful chemicals, but not as many as regular cigarettes.

E-cigarettes produce an aerosol, not water vapor. The aerosol is a mixture of chemicals and small particles that can hurt the lungs just like cigarette smoke.

E-cigarettes are just as addictive as regular cigarettes.

People can become addicted to nicotine from using e-cigarettes and then may start using regular cigarettes.



## DO E-CIGARETTES HELP SMOKERS QUIT?

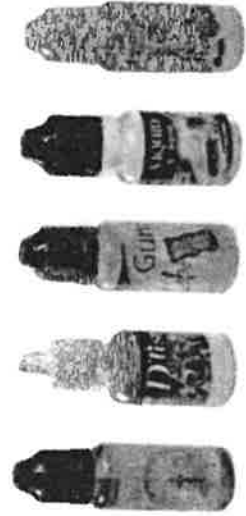
Studies show that e-cigarettes do not help people quit smoking cigarettes. Instead, many people end up using both products.

Over-the-counter and prescription medicines are widely available and very effective at helping people quit smoking cigarettes.



## ARE THEY SAFE TO SMOKE INDOORS?

No. E-cigarettes pollute the air with tiny particles that get trapped in the lungs. Just like regular cigarettes, the pollution from e-cigarettes may hurt others.





LUNGFORCE.ORG

#### AMERICAN LUNG ASSOCIATION IN CALIFORNIA

333 HEGENBERGER ROAD, SUITE 450, OAKLAND, CA 94621  
phone: 510.638.5864 | fax: 510.638.8984

July 24, 2015

STATE OFFICE/  
GREATER BAY AREA  
333 Hegenberger Road  
Suite 450  
Oakland, CA 94621  
510-638-5864

BAKERSFIELD  
2025 Westwind Drive  
Suite C  
Bakersfield, CA 93301  
805-847-4700

CHICO  
25 Jan Court  
Chico, CA 95928  
530-894-5864

FRESNO  
1782 E. Bullard Avenue  
Suite 103  
Fresno, CA 93710  
559-222-4800

LOS ANGELES  
1320 Wilshire Blvd  
Suite 900  
Los Angeles, CA 90017  
213-584-5864

ORANGE COUNTY  
511 E. 1<sup>st</sup> Street  
Suite B  
Tustin, CA 92780  
714-835-5864

SACRAMENTO  
1635 I Street  
Suite 201  
Sacramento, CA 95814  
916-554-5864

SAN BERNARDINO  
441 Mar Ray Drive  
San Bernardino, CA 92408  
909-684-5864

SAN DIEGO  
2750 La Jolla Village  
San Diego, CA 92161  
619-297-5901

Claire Flynn  
Assistant Community Development Services Director  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626

Dear Ms. Flynn:

The American Lung Association in California is the leading public health organization fighting to reduce and prevent the harmful effects of tobacco use. With a mission of saving lives and improving the health of Californians and their lungs, the Lung Association support the Costa Mesa's strong commitment to protect the public health by prohibiting the use of electronic cigarettes where smoking is prohibited and limiting the locations of smoking lounges, including vapor and hookah lounges.

The Lung Association is concerned that very little is known about the health effects of electronic cigarettes and of the vapors they release, or what the health consequences of them might be. Two initial studies have found formaldehyde, benzene and tobacco-specific nitrosamines (a cancer-causing chemical) coming from the secondhand emissions from e-cigarettes. While we have a lot more to learn about these products, it's clear that there is much to be concerned about and there's a lot more than just 'water vapor' in these products. In addition, it is important to note that e-cigarettes have not been approved by the U.S. Food and Drug Administration (FDA) to be safe and effective in helping smokers quit cigarettes. More recently, the California Department of Public Health and the state health officer issued a Health Advisory and report warning Californians of the toxicity of e-cigarettes.

And finally, it's worth highlighting that the e-cigarette industry appears to be using the same playbook as the cigarette companies did a generation ago. We are deeply concerned that these products are starting kids on a lifetime addiction to nicotine. According to one researcher, there are more than 250 e-cigarette brands for sale today, over half of which offered fruit or candy-flavors. We've seen candy flavors including Captain Crunch, gummy bear, cotton candy, Atomic Fireball and fruit loops.

It is critical for communities to remain on the cutting edge in protecting their residents, especially their young people, from new and emerging tobacco products. Maintaining your current Tobacco Retailer Licensing policy language will do just that.

Sincerely,

Kimberly Amazeen  
Vice President, Public Policy & Advocacy

Visit [lung.org/california](http://lung.org/california)

Watch yr - 5 1 - 'californialung

Like [facebook.com/alacalifornia](https://facebook.com/alacalifornia)

Follow [twitter.com/californialung](https://twitter.com/californialung)



August 15, 2015

Costa Mesa Planning Commission

Dear Vice Chair Dickson

The American Cancer Society Cancer Action Network is committed to protecting the health and well-being of the residents of Costa Mesa. As such we are encouraged by your efforts to protect residents from the devastation caused by tobacco use, and we support including electronic cigarettes in current smoking prohibitions.

When electronic cigarettes are regulated, numerous public health groups agree- the definitions matter; strong definitions allow for limited interpretation, making consistent enforcement possible, and this further protects our community. We strongly encourage you to modify two definitions in your municipal code:

- 1) Define electronic cigarettes and similar products under the definition of tobacco as follows:
  - a) “Electronic smoking device” means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.
- 2) “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

The health effects of electronic cigarettes, or e-cigarettes – especially the longer-term effects – are scientifically uncertain. Currently, only a limited number of studies have examined the contents of e-cigarette aerosol. In addition to the unknown health effects, failing to include e-cigarettes in our smoke-free laws may create new tobacco users and reverse efforts that have made smoking socially unacceptable. Unregulated use of e-cigarettes may have significant implications for youth initiation and adult continuation of cigarette smoking. The familiar appearance and enticing flavors could actually encourage kids to try traditional cigarettes, rather than avoid them. In addition, allowing the



use of electronic smoking devices in public places where smoking is otherwise prohibited can create confusion with enforcement issues.

Countless jurisdictions across the country, from New York to San Diego, have already chosen to protect their residents by taking the important step of redefining smoking to include electronic smoking devices and adding retail sales restrictions on these devices. The American Cancer Society Cancer Action Network encourages Costa Mesa to join numerous municipalities that have developed and implemented a comprehensive tobacco control ordinance that includes electronic cigarette usage.

Sincerely,

Lynda Barbour, MPH

August 16, 2015

Stephanie Roxas  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626

RE: Ordinance No. 15 – City Council of the City of Costa Mesa, California

Dear Stephanie,

Thank you for making time to speak with me regarding the smoking lounge ordinance.

Orange County Cigars has recently celebrated its 8th year of business in the city of Costa Mesa. It's our intention to continue our business, complying with all city ordinances, and remain in good standing with the city of Costa Mesa.

After careful review, we support the draft of Ordinance No. 15 that will help ensure good business practices for all smoking lounges within the city of Costa Mesa.

If you have any questions, please give me a call.

Sincerely,



John Gleason  
Orange County Cigars



Chris McDonald  
Orange County Cigars

JG:bms

Letter of Opposition To Inclusion Of Electronic Cigarettes in Costa Mesa's Amended Smoking Ordinances.

Dear Council Members,

My name is Mark Burton and I am a fifth generation Southern Californian resident. In July of 2012 I had a heart attack. Among the primary causes for the attack was my 30-year, two packs of cigarettes a day habit. After my heart attack, I knew I had to quit. I had tried all of the big pharmaceutical company products including the patches, nicotine gum, Wellbutrin and Chantix; in other words, I had tried everything that the American Heart Association, American Cancer Association and American Lung Association recommended. Nothing had worked and the drugs had had significant side effects on me. I decided to give personal vaporizers, also known as E-cigarettes or "Ecigs" a chance. It was magic. Once I started on them, I never looked back. My health has improved substantially, to the point that I now work out four to five times a week including power walking/sprinting without having problems breathing traditionally associated with smoking.

I became very passionate about the personal vaporizer products and learned about the industry. My firm, a merchant bank (investment bank with a private equity fund inside of it) found the industry interesting as well and appointed me to head up consulting and financial services for our then new vaporizer practice group. In addition to helping these companies become more sustainable, I also joined the Smoke Free Alternatives Trade Association (SFATA), the largest trade organization in the world for vapor companies, as the Co-President for the Southern California Chapter. I do this as a volunteer and receive no compensation for my efforts as I see the amazing potential for this new technology on so many levels. One critical factor for me in joining SFATA is the fact that it has no members who are owned or controlled by "Big Tobacco."

Today, you are considering amending your smoking ordinances to include Ecigs in its zoning and usage prohibitions. I would urge you as council members to take into consideration the potential negative consequences of over-regulation, particularly of imposing restrictions upon the sale/usage and consumer access to these products when Costa Mesa is one of the Meccas of the vapor industry.

Costa Mesa is the home to numerous vapor product manufacturers, distributors and retailers. The city has amongst the most vapor related businesses in the nation. As such, these companies provide a wide range of benefits to the Costa Mesa. These include both direct and indirect jobs (most vapor industry jobs including retail pay more than the current minimum wage), a strong tax base and strengthen the city's reputation as a friendly place for small to mid-sized closely held and/or family owned businesses.



There are numerous implications of the proposed zoning ordinances that would have a negative impact upon these vapor businesses and in turn upon the city itself.

Perhaps the most troubling would be the potential to ban the use of vapor products inside of vapor retailers and manufacturing facilities. Taking the retail locations first; if vapor retailers are not allowed to provide their clientele with the ability to try the devices and E-liquids, their clients will not purchase from them. The customer need only go a few blocks outside of Costa Mesa to be able to try products and make educated purchasing decisions. The only people who will be in Vapor stores are those who are interested in making the switch from cigarettes or who are ongoing customers and have either reduced or completely ended their use of traditional cigarettes. There is no logical basis for this provision of the amendment unless one's goal is to close down retail businesses in Costa Mesa.

If the council members visited vapor dedicated stores both in Costa Mesa and in the surrounding areas, you will find that all of the responsible ones have existing signs stating that no one under the age of 18 is allowed to purchase any item, try any product or even be in the store. In fact, all the stores I know, will request a minor to leave the premises immediately. Additionally, SFATA has rolled out it's "Age to Vape" program that has every retailer member of our organization placing a sign in the store similar to those found in liquor stores advising people of how old they need to be to vape.

Further, research and development of new flavors is a critical component to the success of E-liquid manufacturers. Forbidding vaping within their facilities would eliminate their ability to formulate new products and therefore would end their ability to provide smokers and ex-smokers with flavors that help them achieve their goals. This in turn would inevitably lead consumers to go elsewhere, or continue smoking, and thus to business failure. Clearly, no business will accept this fate and these firms will leave Costa Mesa for other cities resulting in an increase in unemployment and a decrease in the city's tax revenues.

Given that the proposed amendments would have far reaching consequences for residents of the City of Costa Mesa, including both smokers and ex-smokers who have switched to vaping and find it beneficial, employees who rely on these businesses for their living, along with entrepreneurs who invested their money into building a business around both a technology they believe in and in a city they believe progressive enough to support them, it would only be appropriate for the City Council to learn more about the vapor industry and engage vapor consumers, business owners and organizations in a dialog before making a decision that will have significant effect upon all of the stakeholders in the vaping industry.

The report to the Council raises a number of different concerns. Among them is a statement that the Federal Food and Drug Administration (FDA) has not regulated E-cigs. This statement is in fact, only partially true. The FDA is in the midst of promulgating those regulations at this very moment. It is expected that their regulations will be published and implementation of those regulations will begin within the next few months. In addition, the California legislature will be considering a number of different bills related to the vapor industry in August. Given that both the federal and state governments are currently working regulatory schemes, any action by the City Council would be premature before seeing what the FDA and state of California decide to do.

Another concern noted in to the council is that enforcement is difficult for law enforcement due to their prospective inability to tell the difference between smoke and vapor. While on its face this looks to be a semi-legitimate argument, the exact same comparison can be made between vodka and water. I think we would all agree that it would be silly to ban water due to visual similarities. I would further note that vapor does not smell anything like smoke and the vapor dissipates very quickly leaving behind no ambient odor. Additionally, most vapor products that fall into the open tank system classification have little to no resemblance to a traditional cigarette. It should be noted that no Big Tobacco companies currently have products in this segment of the vapor industry.

At this time, I would ask that the City Council members take more time to learn about the industry and the technology and to meet with myself and other stakeholders in the vapor industry. The proposed amendments to the smoking laws that you are considering will have an affect on smokers looking for an alternative, vapors looking to continue being ex-smokers, the owners of small businesses that have put their life's savings into their business along with the employees of those stores.

Thank you for your time and consideration.

Mark Burton, JD CMAA