

Office of the City Manager

City of Richland Hills, Texas

Memorandum

To: Honorable Mayor Bill Agan and Members of the Richland Hills City Council
From: Barbara J. Childress, Chief of Police
Date: April 4, 2014
Subject: Electronic Vaping Devices Ordinance Proposal

City Council Action Requested:

Consider approving a city ordinance prohibiting the purchase and possession, or use of an electronic vaping device by a minor (persons under the age of 18 years of age) and the sale or distribution of an electronic vaping device to a minor by a business. The ordinance also amends the definition of “smoking” (found in Section 70-206) to include the use of an electronic vaping device which would prohibit the use of such device on property owned by the city.

Background Information:

At the present time, there are no state or federal laws governing the sale of electronic cigarettes or liquid nicotine to minors like there are for tobacco products. Although the Federal Drug Administration is considering appropriate regulation of e-cigarettes, municipalities may impose reasonable restrictions on these products until a federal regulatory system is implemented.

Despite the potential use of e-cigarettes and other Electronic Vaping Devices (EVD) as an aid to quitting smoking, there is significant health concerns related to them. In particular, a limited analysis by the Food and Drug Administration found that EVDs do contain carcinogens, including nitrosamines as well as toxic chemicals such as diethylene glycol.

Although EVDs do not produce the same smoke as traditional cigarettes, they do produce vapors containing unknown substances and sometimes produce an unpleasant odor. The possible health effects of bystanders breathing or absorbing these vapors through their skin is unknown, and needs further research. Additional information on EVDs is provided as Attachment 1.

The attached draft ordinance addresses the following:

First, it addresses the use of a broader category of nicotine delivery systems which are defined under the umbrella term “electronic vaping device” or “EVD.” The definition of EVDs includes e-cigarettes as well as e-pipes, e-cigars, and all similar devices. It is important to note that the definition of EVDs include “any part” of such devices. This is important because the devices are typically sold in separate component parts. The consumer first buys the device itself and then later buys “refills” of the liquid nicotine. The definition of EVDs includes “any part” of a device, and minors will be prohibited from purchasing and possessing (and businesses will be prohibited from selling to minors) the refill containers.

Second, it amends the definition of “smoking” to include the use of any EVD. This change effectively results in prohibiting the use of EVDs on property owned by the City, including the City Hall, but does not ban the use of such devices on other public or private property.

Finally, it amends two separate provisions of the code to prohibit businesses from selling EVDs to minors, and to prohibit minors from possessing and purchasing EVDs.

Board/Citizen Input:

N/A

Financial Impact:

N/A

Attachments:

1. Background and research information
2. Draft Ordinance

Staff Contact:

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Tuesday, January 7, 2014

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HEALTH

Secondhand vapor from e-cigarettes contains nicotine but not other toxins: study

Whether electronic cigarettes are harmful to health continues to be a topic of debate, and smoking them indoors was recently banned in New York City. Now a new study finds vapor from e-cigs contains lower levels of nicotine than tobacco cigarettes and less harmful particulate matter.

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Public health experts are concerned that e-cigarettes may encourage more young people to smoke, but a new study finds that the secondhand effects of the vapor, at least, do not present the same health hazards as tobacco cigarettes.

People standing near someone using an e-cigarette will be exposed to nicotine, but not to other chemicals found in tobacco cigarette smoke, according to a new study.

E-cigarettes, or electronic cigarettes, create a nicotine-rich vapor that can be inhaled, or 'vaped.'

Researchers and regulators have questioned whether e-cigarettes are a smoking cessation aid or may lure more young people toward smoking, as well as what effects they have on health.

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"There is ongoing public debate whether e-cigarettes should be allowed or prohibited in public spaces," study co-author Maciej Goniewicz told Reuters Health in an email.

Goniewicz is a cancer researcher in the Department of Health Behavior at the Roswell Park Cancer Institute in Buffalo, New York.

"E-cigarettes contain variable amounts of nicotine and some traces of toxicants. But very little is known to what extent non-users can be exposed to nicotine and other chemicals in situations when they are present in the same room with users of e-cigarettes," Goniewicz said.

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He and his colleagues conducted two studies of secondhand exposure to e-cigarette vapors in a laboratory. Their results were published in *Nicotine and Tobacco Research*.

In the first study, the researchers used an electronic smoking machine to generate vapor in an enclosed space. They measured the amount of nicotine as well as carbon monoxide and other potentially harmful gases and particles in the chamber.

The second study included five men who regularly smoked both tobacco cigarettes and e-cigarettes. Each man entered a room and smoked his usual brand of e-cigarette for two five-minute intervals over an hour while the researchers measured air quality. The room was cleaned and ventilated and the experiment was repeated with tobacco cigarettes.

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The researchers measured nicotine levels of 2.5 micrograms per cubic meter of air in the first study. Nicotine levels from e-cigarettes in the second study were slightly higher at about 3.3 micrograms per cubic meter. But tobacco cigarette smoking resulted in nicotine levels ten times higher at almost 32 micrograms per cubic meter.

"The exposure to nicotine is lower when compared to exposure from tobacco smoke. And we also know that nicotine is relatively safer when compared to other dangerous toxicants in tobacco smoke," Goniewicz said.

E-cigarettes also produced some particulate matter, but regular cigarettes produced about seven times more. E-cigarettes didn't change the amount of carbon monoxide or other gases in the air.

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"What we found is that non-users of e-cigarettes might be exposed to nicotine but not to many toxicants when they are in close proximity to e-cigarette users," said Goniewicz.

"It is currently very hard to predict what would be the health impact of such exposure," he added.

He said more research is needed to find out how the current findings correspond to "real-life" situations, when many people might be using e-cigarettes in a room with restricted ventilation.

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"This is an interesting piece and points in the direction that a number of other studies are pointing, though it begins to expand the evidence on the potential effects to others," Amy Fairchild told Reuters Health in an email.

Fairchild was not involved in the new research, but has studied how e-cigarette use might impact views on regular cigarettes at the Columbia University Mailman School of Public Health in New York.

She said the study suggests e-cigarettes are far safer, both in terms of toxins and nicotine, than tobacco cigarettes when it comes to the health effects on bystanders - although more research is needed to know for sure.

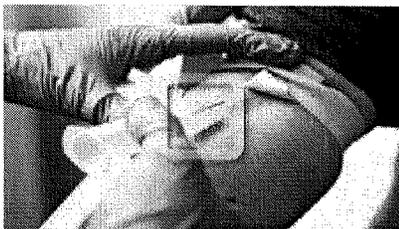
"In locales considering extending smoking bans to e-cigarettes, I think that these data weaken the case for more sweeping bans," Fairchild said. "And so this begins to answer the question about why e-cigarettes are considered better: they reduce risks to both the user and to the bystander when compared to tobacco cigarettes."

Fairfield said the concern about vaping ultimately revolves around whether e-cigarettes are going to change broader patterns of smoking at the population level.

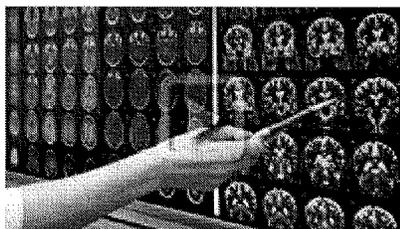
"There are potential harms, including promoting continued smoking of cigarettes and renormalizing cigarette smoking behaviors," Goniewicz said. "Regulatory agencies around the world will need to make a number of regulatory decisions about product safety that could have major effects on public health."

Goniewicz has received funding from a drug company that makes medications to aid smoking cessation. Another study author has received funds from an e-cigarette manufacturer.

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Hopes for a healthy cigarette may be nothing more than a pipe dream. A new study suggests that e-cigarettes may contain a level of carcinogens comparable to regular cigarettes.

In recent years, e-cigarettes have become a popular alternative for smokers. The devices use heat to vaporize nicotine but do not actually contain tobacco.

For smokers trying to kick their habit, or at least reduce health risks, e-cigarettes appeared to provide a desirable third way, allowing smokers to get their nicotine fixes while avoiding most of the health risks commonly associated with smoking, including cancer.

However, a report released in France's National Consumer Institute magazine on Monday says that many e-cigarettes actually contain "a significant quantity of carcinogenic molecules."

According to the study, researchers found that 3 in 10 e-cigarettes contain levels of formaldehyde and acrolein that are nearly equal to levels found in standard cigarettes.

"This is not a reason to ban them, but to place them under better control," National Consumer Institute's editor in chief Thomas Laurenceau said.

As The Wall Street Journal reports, the U.S. Food and Drug Administration is already considering new potential regulations for e-cigarettes, including a ban on online sales. Because e-cigarettes do not actually emit tobacco smoke, users have largely been able to avoid restrictions applied to traditional smokers.

On Tuesday, the Seal Beach, Calif., City Council announced it was placing a 45-day ban on e-cigarette vendors so the city could spend more time examining the potential health risks of the devices.

However, proponents of e-cigarettes say there is just as much, if not more, evidence suggesting that vaporized nicotine is not only less harmful, but has helped countless cigarette smokers give up their habit.

"I am a ex-smoker (35 years). I tried many times to quit with no success." Michael Eveliegh, owner of Oklahoma based Royal Vapor told Yahoo! News in an email interview. "E-cigs are the only thing that worked! Please know that the tobacco company's and their lobbyists are trying to discredit and confuse the issue," he said. "3 in 10 E-cigs contain levels of formaldehyde, which ones? What flavors? What nicotine level? These are vital to understanding if there is really a cause for concern or not."

The e-cigarette market has been booming. In 2012, the e-cigarette industry recorded more than \$1 billion in sales, with profits expected to reach \$10 billion within five years. Some estimate that e-cigarette sales could surpass traditional cigarette sales in the next few decades.

The Verge notes that a recent report from Wells Fargo pointed to the public's belief that e-cigarettes are healthier than traditional smoking as the reason behind their surge in popularity, describing their growth potential as a "promising opportunity" for investors.

"E-cigarettes are more than just a fad," reads an excerpt from the report. "E-Cigarettes' appeal stems from a variety of perceived advantages over traditional cigarettes, most commonly the perceptions that e-cigarettes are healthier, cheaper, and can be used almost anywhere."

However, the future of the e-cigarette industry could change with those potential FDA regulations coming as soon as this fall.

"It is true that more research is needed on the health effects of e-cigarettes," Mitch Zeller, director of the FDA's Center for Tobacco Products, told the WSJ. "However, we do not need more research on whether e-cigarettes should or should not be included in proposed FDA regulations."



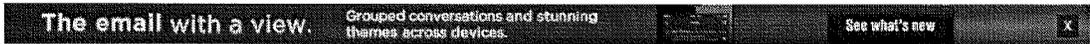
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E-cigarettes' perceived benefits may lead to higher experimentation rates

By ANI | ANI - 9 hours ago

Washington, Jan. 8 (ANI): Researchers have suggested that the belief that e-cigarettes pose less health risk could lead to



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Investigators from the Division of Epidemiology and Community Health, University of Minnesota surveyed 1379 participants from the Minnesota Adolescent Community Cohort who had never used e-cigarettes.

The initial baseline survey explored their opinions about e-cigarettes and their effect on health relative to cigarettes or their usefulness as an aid to stop smoking. Then, a follow-up survey conducted one year later asked participants if they had experimented with e-cigarettes.

Study lead author Kelvin Choi, PhD, said that participants who agreed e-cigarettes can help people quit smoking and those who agreed that e-cigarettes are less harmful than cigarettes were more likely than those who did not agree to subsequently report experimenting with e-cigarettes.

Specifically, the follow-up study found that 7.4 per cent of participants who had never used an e-cigarette at baseline reported subsequently using an e-cigarette, with 21.6 per cent among baseline current smokers, 11.9 per cent among baseline former smokers, and 2.9 per cent among baseline nonsmokers reporting use.

Choi said that the study showed that 2.9 per cent of baseline nonsmokers in this U.S. regional sample of young adults reported ever using e-cigarettes at follow-up, suggesting an interest in e-cigarettes among nonsmoking young adults.

A new study has been published in the American Journal of Preventive Medicine. (ANI)

Tobacco Facts.

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New York Moves Towards Total E-Cigarette Ban

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The New York State Assembly has voted overwhelmingly 125-0 to ban e-cigarettes [e-cigs]; a product which has already been banned in Australia, Brazil, Canada, Israel, Mexico, and New Zealand, restricted in Finland, Malaysia, and Singapore, pending restriction in the UK as a drug, and the subject of law suits by attorneys general in several states, says public interest law professor John Banzhaf, Executive Director of Action on Smoking and Health (ASH).

The decision followed an email sent by Action on Smoking and Health (ASH) to New York's legislators seeking to correct misinformation they apparently received from marketers and others. ASH previously helped persuade New Jersey and Suffolk County, NY, to ban the use of e-cigarettes in no-smoking sections.

ASH's email noted that the FDA, the only agency both authorized and qualified to evaluate whether e-cigs are both safe and effective, has reported that e-cig use poses "acute health risks," that "the dangers posed by their toxic chemicals . . . cannot seriously be questioned," and that e-cigs have caused a wide variety of potentially serious problems "including racing pulse, dizziness, slurred speech, mouth ulcers, heartburn, coughing, diarrhea, and sore throat." It ruled they are "illegal"

Virtually all of the major national and well-respected medical and antismoking organizations have also voiced strong concerns about the risks posed by e-cigarettes, and urged restrictions on their sales. These include the American Cancer Society, American Heart Association, American Lung Association, Campaign for Tobacco-Free Kids, Americans for Nonsmokers' Rights, and the Association for the Treatment of [Tobacco Use](#) and Dependence.

ASH also pointed out that the FDA, in its own words, "is concerned that electronic cigarettes, cigars, or pipes may introduce young people to nicotine use which may lead to an increase in the use of conventional [tobacco products](#) with well-known, adverse, health consequences. Additionally, it is unclear what health effects these products could have on users or if misuse or product failure could lead to nicotine poisoning or other serious adverse health consequences."

The FDA also warned that "conference participants stressed the importance of parents being aware of the health and marketing concerns associated with e-cigarettes. It was stated that parents may want to tell their children and teenagers that these products are not safe to use. . . . Of particular concern to parents is that e-cigarettes are sold without any legal age restrictions, and are available in different flavors (such as chocolate, strawberry and mint) which may appeal to young people. . . . In addition, the devices do not contain any health warnings comparable to FDA-approved nicotine replacement products or conventional cigarettes."

Although some users claim that the products helped them to quit smoking, ASH countered by citing the FDA's own findings: "at this time, we are not aware of any data establishing electronic cigarettes, cigars, or pipes as generally recognized among scientific experts as safe and effective. . . . There may be a perception among some users that electronic cigarettes, cigars, or pipes are safer alternatives to conventional tobacco products. There may also be a perception that these products are a safe and effective means to quit smoking conventional forms of tobacco. However, FDA is not aware of any scientific data to support those perceptions."

Michael Eriksen, ScD, the former director of CDC's Office of Smoking and Health and an FDA adviser warned: "I have seen no evidence that people switch from tobacco cigarettes to e-cigarettes or other smokeless tobacco products. If you look at how smokeless products are marketed, they are sold as something to use at times you can't smoke. The implication is you will increase nicotine exposure, not reduce smoking."

ASH also raised concerns not yet addressed by the FDA: the extent to which the vapor exhaled by e-cig users — including propylene glycol (a respiratory irritant used in antifreeze and known to cause respiratory tract infections), nicotine (a deadly and addictive drug which can help trigger heart attacks), and other substances the FDA labels as "carcinogens" and "toxins" — could threaten the health of nearby nonsmokers.

ASH cited a typical reaction from a sensitive bystander: "My first exposure to e-cigarettes was last year in a hospital. Smokers were made to go outside but 3 e-smokers plus 2 staff were using the e-cigarettes inside . . . I have lupus and the vapor irritated my nose, eyes, throat, and chest, plus the nicotine was making me feel nauseous so there must have been significant quantities in the side-vapor."

ASH, America's first antismoking organization, and the one which started the nonsmokers' rights movement by first getting smoking restricted and ultimately banned on airplanes and in many public places, believes that nonsmokers should not be subjected to the vapors emitted by e-cig users unless and until they have conclusively been shown to be completely safe, even to children, the elderly, those at increased risk, and those with special medical problems.

Public interest law professor John Banzhaf of ASH, argues that there is no possible justification for subjecting the great majority of Americans who are nonsmokers to the totally unnecessary risks posed by a mixture of toxins and carcinogens. Even if e-cigarettes did help some smokers quit — which the FDA denies — "it's your monkey, keep him off my back."

PROFESSOR JOHN F. BANZHAF III
Professor of Public Interest Law at GWU,
FAMRI Dr. William Cahan Distinguished Professor,
FELLOW, World Technology Network, and
Executive Director and Chief Counsel
Action on Smoking and Health (ASH)
America's First Antismoking Organization
2013 H Street, NW

Electronic cigarettes pose health risks, study finds

Date: 2010-12-03
Contact: Iqbal Pittalwala
Phone: (951) 827-6050
Email: iqbal@ucr.edu

Electronic cigarettes (or e-cigarettes), also called "electronic nicotine delivery systems," are increasingly used worldwide even though only sparse information is available on their health effects. In the United States, e-cigarettes are readily available in shopping malls in most states and on the Internet. But how safe are e-cigarettes?

To address this question, researchers at the University of California, Riverside, evaluated five e-cigarette brands and found design flaws, lack of adequate labeling, and several concerns about quality control and health issues. They conclude that e-cigarettes are potentially harmful and urge regulators to consider removing e-cigarettes from the market until their safety is adequately evaluated.

Unlike conventional cigarettes, which burn tobacco, e-cigarettes vaporize nicotine, along with other compounds present in the cartridge, in the form of aerosol created by heating, but do not produce the thousands of chemicals and toxicants created by tobacco combustion. Nothing is known, however, about the chemicals present in the aerosolized vapors emanating from e-cigarettes.

"As a result, some people believe that e-cigarettes are a safe substitute for conventional cigarettes," said Prue Talbot, the director of UC Riverside's Stem Cell Center, whose lab led the research. "However, there are virtually no scientific studies on e-cigarettes and their safety. Our study — one of the first studies to evaluate e-cigarettes — shows that this product has many flaws, which could cause serious public health problems in the future if the flaws go uncorrected."

Study results appear in this month's issue of Tobacco Control.

Talbot, a professor of cell biology and neuroscience, was joined in the study by Anna Trtchounian, the first author of the research paper. Together, they examined the design, accuracy and clarity of labeling, nicotine content, leakiness, defective parts, disposal, errors in filling orders, instruction manual quality and advertizing for the following brands of e-cigarettes: NJOY, Liberty Stix, Crown Seven (Hydro), Smoking Everywhere (Gold and Platinum) and VapCigs.

Their main observations are that:

- Batteries, atomizers, cartridges, cartridge wrappers, packs and instruction manuals lack important information regarding e-cigarette content, use and essential warnings.
- E-cigarette cartridges leak, which could expose nicotine, an addictive and dangerous chemical, to children, adults, pets and the environment.
- Currently, there are no methods for proper disposal of e-cigarettes products and accessories, including cartridges, which could result in nicotine contamination from discarded cartridges entering water sources and soil, and adversely impacting the environment.
- The manufacture, quality control, sales, and advertisement of e-cigarettes are unregulated.

The study was funded by a grant to Talbot from the University of California Tobacco-Related Disease Research Program (TRDRP).

"More research on e-cigarettes is crucially needed to protect the health of e-cigarette users and even those who do not use e-cigarettes," said Kamlesh Asotra, a research administrator at UC TRDRP. "Contrary to the claims of the manufacturers and marketers of e-cigarettes being 'safe,' in fact, virtually nothing is known about the toxicity of the vapors generated by these e-cigarettes. Until we know any thing about the potential health risks of the toxins generated upon heating the nicotine-containing content of the e-cigarette cartridges, the 'safety' claims of the manufactureres are dubious at best.

"Justifiably, more information about the potential toxic and health effects of e-cigarette vapors is necessary before the public can have a definitive answer about the touted safety of e-cigarettes. Hopefully, in the near future, scientists can provide firm evidence for or against the claimed 'safety' of e-cigarettes as a nicotine-delivery tool."

UC TRDRP supports research that focuses on the prevention, causes, and treatment of tobacco-related disease and the reduction of the human and economic costs of tobacco use in California.

About electronic cigarettes:

E-cigarettes consist of a battery, a charger, a power cord, an atomizer, and a cartridge containing nicotine and propylene glycol. When a smoker draws air through an e-cigarette, an airflow sensor activates the battery that turns the tip of the cigarette red to simulate smoking and heats the atomizer to vaporize the propylene glycol and nicotine. Upon inhalation, the aerosol vapor delivers a dose of nicotine into the lungs of the smoker, after which, residual aerosol is exhaled into the environment.

The University of California, Riverside (www.ucr.edu) is a doctoral research university, a living laboratory for groundbreaking exploration of issues critical to Inland Southern California, the state and communities around the world.

Reflecting California's diverse culture, UCR's enrollment has exceeded 20,500 students. The campus will open a medical school in 2012 and has reached the heart of the Coachella Valley by way of the UCR Palm Desert Graduate Center. The campus has an annual statewide economic impact of more than \$1 billion.

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Electronic cigarettes can be life-threatening for small children, caution experts, who noticed a recent surge in the number of children being rushed to the emergency room for accidentally ingesting the e-cigarette liquid.



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Electronic cigarettes pose poisoning risk to small children

"Accidental exposure by children to e-cigarettes is a public health concern that we need to take seriously," LaQuandra Nesbitt, director of the Louisville Metro Department of Public Health and Wellness, told USA TODAY. "Parents need to be aware of the potential dangers to their children."

Most of the products available in the market lack any child-resistant caps and contain high doses of nicotine. Even a low exposure to the nicotine in the e-cigarettes can cause adverse health outcomes including coma and death, USA TODAY reported.

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Poison Control Center of Kosair Children's Hospital, added to the website.

Even though e-cigarettes haven't claimed any lives, there exist reports of a significant number of children seeking medical help for experiencing fast heartbeat, headache, vomiting, sweating, hyperactivity, flushing, dizziness and diarrhoea after swallowing the liquid.

E-cigarettes have always been a topic of discussion since it was first launched in the Chinese markets in 2004. The main purpose was helping people quit smoking.

They soon received wide attention and became very popular. According to the supporters, e-cigarettes are safer than traditional cigarettes as they provide less nicotine than the latter, and do not contain the cancer-causing toxins or produce harmful substances associated with smoking real cigarettes (tar and carbon monoxide).

However, they were not fully free from concerns. A team of American researchers reported recently that e-cigarettes cannot help stop smoking, on the other hand, can turn youngsters into dual smokers, making them smoke more nicotine. Reports show that like the second-hand smoke associated with cigarettes, the e-cigarettes produce second-hand vapour that can irritate eyes, nose and throat.

However, latest research has also shown that the second-hand exposure to nicotine provided by e-cigarettes is 10 times lesser than the traditional cigarettes.

"At the end of the day, everything's attractive to kids," explained Ray Story, chief executive officer of the Tobacco Vapor Electronic Cigarette Association.

"They either ingest the liquid or get it onto their skin. Even on the skin, the nicotine is absorbed," Ashley Webb, director of the Kentucky Regional

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E-cigarettes' growing popularity poses danger to kids

Laura Ungar, The (Louisville, Ky.) Courier-Journal 6 a.m. EST January 5, 2014

Scientists are raising concerns about the effects of e-cigarettes' "secondhand vapor" on children.



(Photo: Michael Clevenger, The (Louisville, Ky.) Courier-Journal)

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LOUISVILLE, Ky. -- Billed as a safer, cleaner way to get a nicotine fix, electronic cigarettes are surging in popularity. But some doctors and researchers say these smoking substitutes are far from harmless — especially to children.

More teens are trying these products, even as scientists increasingly raise concerns about the effects of e-cigarettes' "secondhand vapor" on children.

In addition, the liquid nicotine used in the devices, which comes in flavors such as bubblegum and cola, is being blamed for a growing number of poisonings across the nation.

"Accidental exposure by children to e-cigarettes is a public health concern that we need to take seriously," said LaQuandra Nesbitt, director of the Louisville Metro Department of Public Health and Wellness, which will soon recommend age restrictions on the devices. "Parents need to be aware of the potential dangers to their children."

The battery-operated units contain cartridges filled with nicotine, flavor and other chemicals, which are heated to create a vapor inhaled by the user. Starter kits can cost \$60-\$80, five-packs of cartridges can run around \$10, and sales of e-cigarettes have doubled to more than \$1.5 billion in the past year.

But problems among children also have risen.

Ashley Webb, director of the Kentucky Regional Poison Control Center of Kosair Children's Hospital, said the center received more than 40 calls involving e-cigarette poisonings in 2013, up from nine in 2012 and one in 2010. Nationally, there were 427 such exposures in 2012, according to the latest annual report from the National Poison Data System. Meanwhile, the 2012 National Youth Tobacco Survey shows that recent e-cigarette use nearly doubled in one year among U.S. high school students, rising from 1.5% in 2011 to 2.8% smoking them in 2012.

While Indiana prohibits sales of e-cigarettes to minors, Kentucky and the federal government do not. But a soon-to-be-released report from the Louisville health department recommends restricting the sale of e-cigarettes to Jefferson County minors.

The U.S. Food and Drug Administration is also considering whether to regulate e-cigarettes. The agency issued a warning in 2009 that the devices were being marketed to youth, but does not regulate the products unless they make therapeutic claims.

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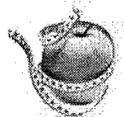
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E-cigarettes' growing popularity poses danger to kids

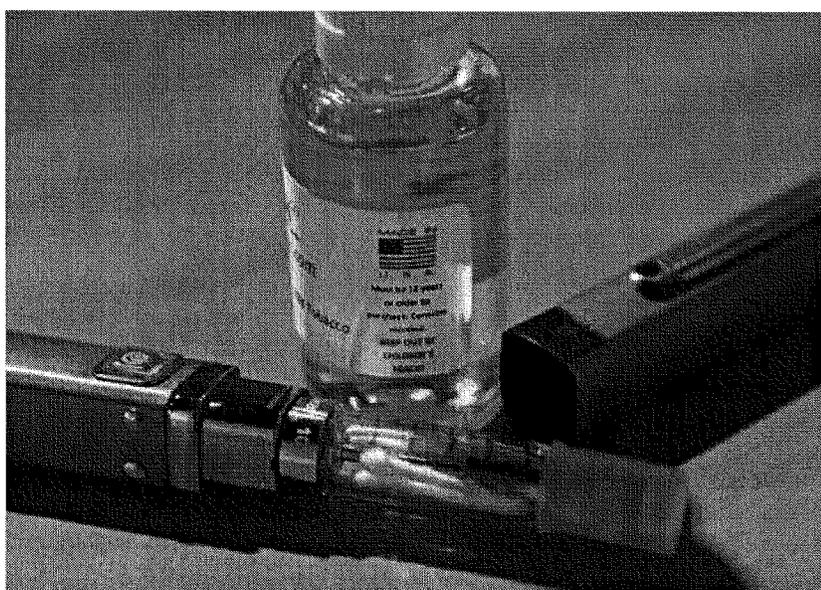
"It's really up to individual store owners not to sell to children," said Troy LeBlanc, owner of Derb E Cigs in Jeffersontown, who won't sell to anyone younger than 18. "I wouldn't be opposed to government age restrictions."

LeBlanc said e-cigarettes can be beneficial for adults, helping them quit tobacco smoking, which is documented to be more dangerous.

Ray Story, chief executive officer of the Tobacco Vapor Electronic Cigarette Association, agreed they're an effective smoking substitute, saying the industry designs and markets the devices for adults. He said the vapor is harmless, and it's up to adults to keep children from the e-liquid, which can sicken them.

"At the end of the day, everything's attractive to kids," Story said. "If you're an adult, it's a matter of choice. But we have to safeguard those who don't have the ability to safeguard themselves."

Webb said parents often don't think of nicotine as a poison, so they may leave liquid e-cigarette cartridges within reach of children.



The warning label on the e-cigarette fluid states "Must be 18 years or older to purchase, contains nicotine," and "Keep out of children's reach." (Photo: Michael Clevenger, The (Louisville, Ky.) Courier-Journal)

Children are getting ahold of e-cigarettes and taking them apart, she said. "They either ingest the liquid or get it onto their skin. Even on the skin, the nicotine is absorbed."

She said toddlers and preschoolers sometimes lick the containers or drink the liquid, enticed by the flavoring.

"Kids will eat most anything," said George Rodgers, associate medical director of the poison control center.

Ingesting e-liquid can give children a harmful or even deadly dose of nicotine. Rodgers said many cartridges contain more than 14 milligrams, enough to cause harm.

"And since children are not used to consuming nicotine, their symptoms may be more severe at lower levels," he said.

Symptoms include hyperactivity, flushing, sweating, headache, dizziness, rapid heart rate, vomiting and diarrhea. Even small amounts on a child's skin can cause irritation and a burning sensation. In very severe cases, a child's heart rate and blood pressure may drop dangerously low, resulting in a coma or even death.



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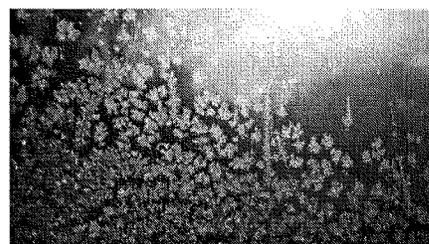
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E-cigarettes' growing popularity poses danger to kids

Webb said there have been no deaths so far among cases her center has handled, but children have ended up in the emergency room.

Story said his organization has pushed for safety packaging, and e-liquid refills come with tamper-evident caps.

LeBlanc said some of his products now come with child-resistant caps, and "we're transferring everything to child-resistant."

"All of our liquids have a warning on them to keep out of the reach of children," he added.

Jenny Haliski, an FDA spokeswoman, said federal regulations now apply only to conventional cigarettes and other tobacco products, but her agency is considering new rules that may cover e-cigarettes.

Stephen Wright, Kosair hospital's medical director, said people should be cautious.

"Since the industry is still so new, we don't yet know all of the long-term health effects of e-cigarettes to the user, in addition to any effects of secondhand vapor," he said.

"We do know that not smoking anything — especially around children — is always the best bet."

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11. Are electronic cigarettes (e-cigarettes) safe to use?

As the safety and efficacy of e-cigarettes have not been fully studied, consumers of e-cigarette products currently have no way of knowing whether e-cigarettes are safe for their intended use, how much nicotine or other potentially harmful chemicals are being inhaled during use, or if there are any benefits associated with using these products. Further research is needed to assess the potential public health benefits and risks of electronic cigarettes.

Currently, only e-cigarettes that are marketed for therapeutic purposes are regulated by the FDA Center for Drug Evaluation and Research.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF RICHLAND HILLS, ARTICLE V, "PUBLIC BUILDINGS AND FACILITIES," OF CHAPTER 70, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," TO ADD A DEFINITION FOR "ELECTRONIC VAPING DEVICE" AND TO AMEND THE DEFINITION OF "SMOKING" TO INCLUDE THE USE OF AN ELECTRONIC VAPING DEVICE; AND AMENDING CHAPTER 18, "BUSINESSES," OF THE CODE OF ORDINANCES BY ADDING ARTICLE X, "ELECTRONIC VAPING DEVICES," TO PROHIBIT THE SALE AND DISTRIBUTION OF ELECTRONIC VAPING DEVICES TO MINORS; AND AMENDING ARTICLE II, "MINORS," OF CHAPTER 58, "OFFENSES AND MISCELLANEOUS PROVISIONS," OF THE CODE OF ORDINANCES BY ADDING DIVISION 3, "ELECTRONIC VAPING DEVICES," TO PROHIBIT THE PURCHASE AND POSSESSION OF ELECTRONIC VAPING DEVICES BY MINORS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Richland Hills, Texas is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council has investigated and determined that electronic vaping devices permit users of the devices to inhale vapor containing variable amounts of nicotine and other harmful toxicants; and

WHEREAS, the City Council has further investigated and determined that exposure to electronic vaping devices by minors is a serious health concern; and

WHEREAS, the City Council has further investigated and determined that the 2012 National Youth Tobacco Survey shows that the use of electronic vaping devices by U.S. high school students has doubled from the previous year to 2.8%; and

WHEREAS, the City Council has further investigated and determined that medical and pharmacological experts have opined that electronic vaping devices contain nicotine in a liquid form that may escape from the devices and be ingested by minors which may cause symptoms such as hyperactivity, flushing, sweating, headache, dizziness, rapid heart rate, vomiting, diarrhea, burning and irritation of the skin and, in severe cases, may result in a coma or death; and

WHEREAS, the City Council has further investigated and determined that studies have shown that electronic vaping devices can serve as a “gateway” to smoking traditional tobacco products which are illegal for minors to purchase or possess; and

WHEREAS, the City Council has further investigated and determined that electronic vaping devices are currently not regulated by the State of Texas or the federal government; and

WHEREAS, the City Council has determined that it is in the best interest and welfare of the citizens of Richland Hills to prohibit the possession and purchase of electronic vaping devices by minors and the sale and distribution of electronic vaping devices to minors; and

WHEREAS, the U.S. Food and Drug Administration (“FDA”) acknowledges that the safety and efficacy of electronic vaping devices in adults have not been fully studied; therefore, consumers have no way of knowing, among other things, whether such devices are safe for their intended use or how much nicotine or other potentially harmful chemicals are being inhaled during use; and

WHEREAS, the FDA is considering appropriate regulation of electronic vaping devices, but the City Council has determined that it is essential for the City to impose some type of reasonable restriction on these products until a federal regulatory system may be properly implemented; and

WHEREAS, the City Council has determined that the regulation of electronic vaping devices by prohibiting the use of such devices in all city buildings and facilities, except in designated smoking areas, is in the best interests of the City of Richland Hills and will promote the health, safety and welfare of the citizens of the City of Richland Hills and the general public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHLAND HILLS, TEXAS, THAT:

SECTION 1.

Article V of Chapter 70 of the Code of Ordinances of the City of Richland Hills, Texas is hereby amended by amending Section 70-206 by adding a definition for “Electronic Vaping Device” and by amending the definition of “Smoking” to read as follows:

“Sec. 70-206. Definitions.

The following words and phrases when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * * *

Electronic vaping device shall mean any electronically powered or battery powered device designed to simulate the smoking of tobacco, cigarettes, pipes or cigars. An electronic vaping device includes personal vaporizers, electronic cigarettes (e-cigarettes), electronic pipes (e-pipes), electronic cigars (e-cigars) and any other type of electronic nicotine delivery system or any part thereof.

* * * *

Smoking means the combustion of any cigar, cigarette, pipe tobacco or similar article using any form of tobacco or tobacco product which is ignited and inhaled, ingested or otherwise drawn into the mouth, nose or lungs of any person, and the use of any electronic vaping device.

* * * *”

SECTION 2.

Chapter 18 of the Code of Ordinances of the City of Richland Hills, Texas is hereby amended by adding Article X to read as follows:

“ARTICLE X. ELECTRONIC VAPING DEVICES.

Sec. 18-501. Definitions.

- (1) *Electronic vaping device* shall mean any electronically powered or battery powered device designed to simulate the smoking of tobacco, cigarettes, pipes or cigars. An electronic vaping device includes personal vaporizers, electronic cigarettes (e-cigarettes), electronic pipes (e-pipes), electronic

cigars (e-cigars) and any other type of electronic nicotine delivery system or any part thereof.

- (2) *Minor* shall mean, for the purpose of this article only, a person younger than 18 years of age.
- (3) *Person* shall mean an individual, corporation, sole proprietorship, and any other type of business entity recognized under Texas law.

Sec. 18-502. Sale or Distribution of Electronic Vaping Devices to Minors

Prohibited.

- (a) A person commits an offense if the person sells, gives or causes to be sold or given an electronic vaping device to a minor or to a person who intends to deliver it to a minor.
- (b) If the offense under this section occurs in connection with a sale of an electronic device at a business by an employee of the business, the employee who committed the offense is subject to prosecution.
- (c) It is a defense to prosecution under subsection (b) that at the time of the sale, the minor presented the person with an apparently valid proof of identification showing the minor was at least 18 years of age.
- (d) A proof of identification satisfies the requirements of subsection (c) if it contains the name of the minor, a photograph resembling the appearance of the minor and was issued by a state or federal government agency.
- (e) It is not a defense under this section that the minor purchased the electronic vaping device from a vending machine or other self-service merchandising mechanism if the machine or mechanism was located on the premises of the person.”

Secs. 18-503 – 18-550. Reserved.”

SECTION 3.

Article II of Chapter 58 of the Code of Ordinances of the City of Richland Hills, Texas is hereby amended by adding Division 3 to read as follows:

“DIVISION 3. ELECTRONIC VAPING DEVICES.

Sec. 58-81. Possession of Electronic Vaping Devices by Minors Prohibited.

- (a) A minor commits an offense if the minor possesses, purchases or attempts to purchase an electronic vaping device.
- (b) A minor commits an offense if the minor falsely represents himself or herself to be 18 years of age or older for the purpose of purchasing or receiving an electronic vaping device.
- (c) It shall be a defense to prosecution for a violation of this section if at the time of the purchase, the minor:
 - (1) was in the presence of an adult parent or legal guardian of the minor;
 - (2) was in the course of scope of the minor’s employment and the purchase of the electronic vaping device was a part of the duties of such employment; or
 - (3) was participating in an inspection or test of compliance in conjunction with local law enforcement.

Secs. 58-82 – 58-90. Reserved.”

SECTION 4. CUMULATIVE

This Ordinance shall be cumulative of all provisions of the City Code and other ordinances of the City of Richland Hills, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION 5. SEVERABLE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if a phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of the unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 6. SAVINGS

All rights and remedies of the City of Richland Hills are expressly saved as to any and all violations of the provisions of the City Code or any other ordinances regulating solicitors, canvassers or handbill distribution that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 7. PENALTY

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense.

SECTION 8. PUBLICATION

The City Secretary of the City of Richland Hills is hereby directed to publish caption, penalty clause, and effective date clause in the official newspaper at least once within ten (10) days after the passage of this ordinance.

SECTION 9. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS _____ DAY OF _____, 2014.

THE HONORABLE BILL AGAN, MAYOR

ATTEST:

LINDA CANTU, CITY SECRETARY

EFFECTIVE DATE: _____

APPROVED AS TO FORM AND LEGALITY:

BETSY ELAM, CITY ATTORNEY