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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2013-14

(session year)

### Assembly

(Assembly, Senate or Joint)

### Committee on... State Affairs and Government Operations (AC-SAGO)

## INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (December 2014)

## Assembly

### Record of Committee Proceedings

#### **Committee on State Affairs and Government Operations**

##### **Assembly Bill 762**

Relating to: exempting electronic smoking devices from the types of smoking devices that may not be used in certain locations.

By Representatives Jagler, Murphy, Craig and Kleefisch; cosponsored by Senator Grothman.

February 13, 2014      Referred to Committee on State Affairs and Government Operations

March 04, 2014      **Public Hearing Held**

Present:    (11)    Representative Weininger; Representatives Swearingen, Craig, Knodl, Neylon, Kooyenga, Hutton, Sinicki, Ringhand, Kessler and Hulsey.  
Absent:    (0)    None.  
Excused:   (5)    Representatives Kleefisch, Ripp, Nass, Zamarripa and Kahl.

##### Appearances For

- John Jagler - Rep - 37th ASM District
- Susan Geiger - Johnson Creek Enterprises
- Julianne Endres - Johnson Creek Enterprises
- Joe Dralle - Johnson Creek Enterprises
- Kristin Noll-Marsh - Consumer Advocates for Smoke-Free Alternatives Assn
- Brian Fojtik - Njoy Inc
- Don Muehlbauer
- Rick Gundermann

##### Appearances Against

- Murray Katcher - Dr
- Gene Musser - Dr
- Dipesh Navsaria - Dr

##### Appearances for Information Only

- Gregory Conley - Hartland Institute
- Reid Rossell

##### Registrations For

- Josh Zepnick - Rep - 9th ASM District
- Dawn Gundermann

- Tony Driessen - WI Amusement and Music Operators, Bowling Centers Assn of WI
- Polly Reber - WI Assn of Distributors
- Eric Petersen - RAI Services Company
- Scott Stenger - Tavern League
- Heidi Haakenson

Registrations Against

- Melissa Horn - Health First Wisconsin
- Michael Welsh - WI Public Health Assn, WI Assn of Local Health Dept's and Boards
- Lisa Davidson - WPHCA
- Randall Radtke - American Lung Assn
- Gina Dennick-Champion - WI Nurses Assn
- Mark Grapentine - WI Medical Society
- Allison Miller - American Cancer Society
- Chris Klein - American Heart Association

Registrations for Information Only

- None.

April 08, 2014

**Failed to pass pursuant to Senate Joint Resolution 1**

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Alison Zikmund  
Committee Clerk




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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE JOHN JAGLER  
FROM:  Laura Rose, Deputy Director  
RE: Wisconsin's Smoking Ban and Electronic Cigarettes  
DATE: November 7, 2013

You asked whether Wisconsin's smoking ban applies to the use of electronic cigarettes. The answer to that question is no.

Under current law, smoking is prohibited in enclosed areas.<sup>1</sup> Section 101.123 (1) (h), Stats., defines smoking as "burning or holding, or inhaling or exhaling smoke from, any of the following items containing tobacco:

1. A lighted cigar.
2. A lighted cigarette.
3. A lighted pipe.
4. Any other lighted smoking equipment."

Electronic cigarettes, also known as e-cigarettes, are battery-operated products designed to deliver nicotine, flavor, and other chemicals. They turn nicotine and other chemicals into a vapor that is inhaled by the user, and do not contain tobacco.<sup>2</sup>

Because electronic cigarettes do not contain tobacco, and the definition of "smoking" only applies to products that contain tobacco, the smoking ban's provisions do not apply to electronic cigarettes.

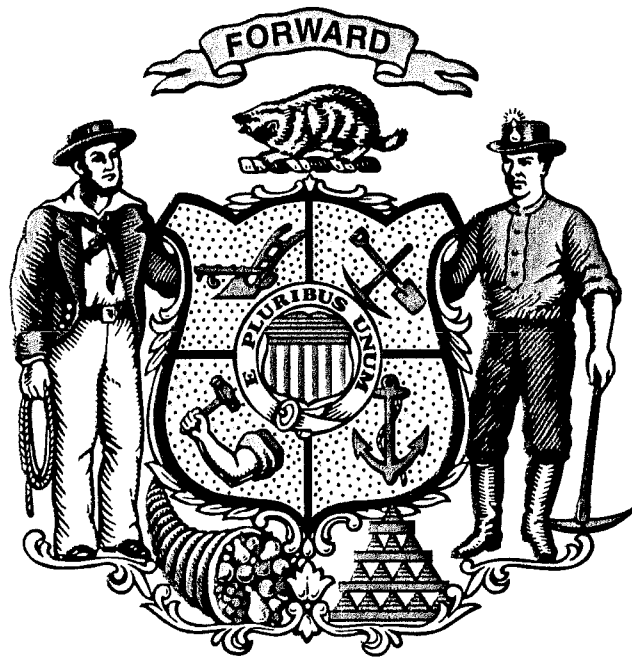
If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

LR:ksm

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<sup>1</sup> For a complete description of Wisconsin's smoking ban, see Wisconsin Legislative Council Information Memorandum 2010-07, "Smoking Ban", dated July 1, 2010.

<sup>2</sup> <http://www.fda.gov/newsevents/publichealthfocus/ucm172906.htm>.





## A Summary of the Science Regarding Electronic Cigarettes

University of Wisconsin Center for Tobacco Research and Intervention (UW-CTRI)

March 4, 2014

**Background:** Electronic cigarette (“e-cigarette”) use (“vaping”) has increased dramatically in recent years, and use among American youth doubled between 2011 and 2012<sup>1</sup>. While there is limited scientific evidence regarding the health effects of e-cigarettes for individuals, most people agree that an *individual who totally switches* from combustible (burnt) cigarettes to e-cigarettes probably reduces his/her health risks. But, most people using these products *don’t totally switch* – in fact, the way most people use e-cigarettes is *in addition* to combustible cigarettes<sup>2</sup>.

There is much we don’t know about e-cigarettes, including:

**1) E-Cigarettes have not been proven as a safe product for the user or those around the user:**

- They quickly affect the respiratory system – even after 5 minutes, some adverse effects on the lungs have been reported<sup>3</sup>.
- It is unclear whether e-cigarette use results in environmental exposure to nicotine and other chemicals.

**2) The content of e-cigarette vapor is unknown:**

- They are markedly heterogeneous products, with over 250 brands on the market, many of them manufactured in China and other foreign sites with no regulation.
- Ingredients, flavors, and amount of nicotine delivered vary widely across brands.

**3) The FDA has not yet reviewed the safety of e-cigarette use:**

- Such an FDA review will provide detailed data on e-cigarettes.

**4) E-cigarettes have not been proven as effective as a smoking cessation device:**

- There is insufficient evidence regarding both the long- and short-term effects of e-cigarettes on quitting. Findings thus far have been mixed and modest.
- E-cigarettes have not been approved by the FDA for smoking cessation.
- There is rampant dual use of e-cigarettes with combustible cigarettes<sup>4</sup>.
  - About 75% of e-cigarette users (“vapers”) report they are also smokers (daily + non-daily smokers).
  - About 12% are former smokers.
  - About 3% are never smokers.

**5) The combination of cessation counseling (“coaching”) and FDA-approved medications has been endorsed by the United States Public Health Service<sup>5</sup> as both safe and effective in helping smokers quit:**

- Coaching + medication = quit rates that are 4 to 5 times higher than quitting on your own. If tobacco users want to quit, they should talk to their doctor or call

1-800-QUIT NOW for free help and FDA-approved medications from the Wisconsin Tobacco Quit Line.

**6) One of the most effective ways to reduce tobacco use is to stop young people from ever starting:**

- The added sweet flavoring and aggressive marketing of e-cigarettes could entice children to use them. The adolescent brain is exquisitely sensitive to the addictive properties of nicotine – a product delivered by e-cigarettes. As a result, there is a concern that e-cigarettes may serve as a “gateway drug” for youth to lifelong nicotine addiction and the use of deadly combusted cigarettes. The United States Centers for Disease Control recently published data showing rapid growth in e-cigarette use among young people within the last two years<sup>1</sup>.
- The United States Surgeon General has concluded that nicotine can be as difficult to quit as heroin or cocaine<sup>6</sup>.

**7) Allowing e-cigarette use indoors runs counter to the overwhelming trend nationwide:**

- 9 states and 108 municipalities, including Chicago, do not allow e-cigarette use where tobacco is banned<sup>7</sup>.
- Only one state, Utah, allows e-cigarette use despite a smoking ban, and that has a sunset date in 3 years.

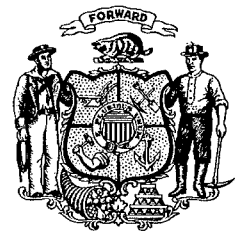
**Conclusion:** Given these substantial concerns, the lack of data, and ongoing research that should clarify these issues over time, a March 2014 scientific review by the UW-CTRI concludes that there are substantial public health concerns regarding indoor e-cigarette use. As a result, the UW-CTRI concludes there is not sufficient scientific evidence to support or recommend e-cigarette use indoors.

### References

1. CDC Morbidity and Mortality Report, September 6, 2013 / 62(35);729-730.
2. Fiore MC, Schroeder SA, Baker TB. Smoke, the Chief Killer – Strategies for Targeting Combustible Tobacco Use. NEJM. 2014;370:297-299.
3. Vardavas CI, Anagnostopoulos N, Kougias M, Evangelopoulou V; Connolly GN, Behrakis PK. Short-term Pulmonary Effects of Using an Electronic Cigarette: Impact on Respiratory Flow Resistance, Impedance, and Exhaled Nitric Oxide. Chest. 2012;141(6):1400-1406.
4. FDA Tobacco Products Scientific Advisory Committee. Presentation of Dr. Robert C. McMillen, American Academy of Pediatrics, April 30, 2013.
5. Fiore MC, Jaén CR, Baker TB, Bailey WC, Benowitz N, Curry SJ, et al. Treating tobacco use and dependence: 2008 update. Clinical Practice Guideline. Executive Summary. Rockville, MD: US Department of Health and Human Services. May 2008. Respir Care. 2008;53(9):1217-1222.
6. 1988 U.S. Surgeon General Report on nicotine addiction:  
[http://www.cdc.gov/tobacco/data\\_statistics/sgr/1998/index.htm](http://www.cdc.gov/tobacco/data_statistics/sgr/1998/index.htm)
7. U.S. State and Local Laws Regulating Use of Electronic Cigarettes, Americans for Non-Smokers Rights, Jan. 2, 2014. <http://www.no-smoke.org/pdf/ecigslaws.pdf>



# WISCONSIN STATE LEGISLATURE







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**TO:** Representative Chad Weinger, Chair, and Members of the Assembly Committee on State Affairs and Government Operations

**FROM:** Gina Dennik-Champion, RN, MSN  
Executive Director, Wisconsin Nurses Association

**DATE:** March 4, 2014

**RE:** Testimony on AB 762 and Companion Bill SB 440 - exempting electronic smoking devices from the types of smoking devices that may not be used in certain locations.

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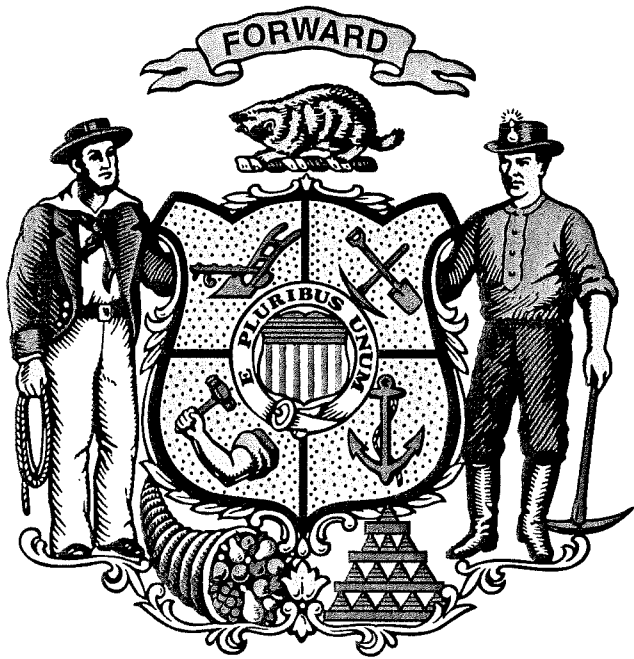
On behalf of the Wisconsin Nurses Association, I would like to thank you Chairperson Weinger and members of the Assembly Committee on State Affairs and Government Operations for holding a public hearing on AB 762, legislation that seeks to exempt for the purposes of “smoking” in public indoor locations the latest in nicotine-delivery paraphernalia.

My name is Gina Dennik-Champion. I am a registered nurse and serve as the Executive Director of the Wisconsin Nurses Association (WNA). WNA advocates on behalf of Wisconsin’s 76,000 Registered Nurses on issues pertaining to health policies impacting nursing care and practice. Part of nursing practice includes educating the public on health promotion and prevention strategies that support quality of life.

WNA does not support AB 762 and its companion SB 440. We find this legislation as a means of circumventing current law prohibiting the use of tobacco products in work and public places. We also have concerns about the lack of research and evidence regarding the impact electronic cigarette paraphernalia can have on the individual using the device and the individuals surrounding the smoker.

WNA would like to see public protection regarding this product before usage increases. We believe and support that regulation and oversight needs to be developed by the U.S. Food and Drug Administration (FDA). The regulatory standards for these devices must address the identity, strength, purity, packaging and labeling with instructions and contraindications for use, including age of the user.

It is for these reasons Chairperson Weinger and members of the Committee that WNA requests that you oppose AB 762 and SB 440.





Lisa Davidson, Director of Government Relations and Advocacy  
Testimony in opposition to Assembly Bill 762

March 4, 2014

Dear Chairman Weininger and Committee Members,

Thank you for the opportunity to speak with you today regarding our concerns with Assembly Bill 762. WPHCA is the member association for the Community Health Centers serving Wisconsin. In 2012 we provided comprehensive medical, dental and behavioral health services to over 300,000 patients in our state. As health care providers to your constituents, we cannot support Assembly Bill 762 and ask you to oppose this legislation.

WPHCA is proud to have supported the smoke-free workplace law in our state. The law is working; not only is the air cleaner for workers and patrons to enjoy, but we also now know the law is very popular. We are concerned that the actual and perceived implications of this bill weaken Wisconsin's smoke-free laws and believe that there is little evidence to support such a change in definition

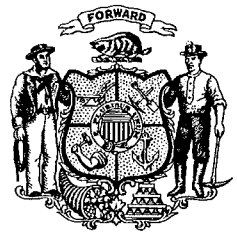
Allowing electronic smoking devices to be used inside our workplaces will not only confuse consumers, but puts at risk those who work in and patronize these establishments. Vapor emitted from these devices contain nicotine, which is a sticky substance that remains on surfaces for days and weeks, so the hazardous carcinogens continue to be created over time, which are then inhaled, absorbed or ingested. Allowing an unknown substance to circulate in the air affecting workers and patrons is contrary to the intent of the law.

To date there is no conclusive evidence that electronic smoking devices are safe. These products are currently unregulated, which leaves a great deal of unknowns not only about the health risks, but also about product manufacturing and safety. In addition, there is no scientific evidence that electronic smoking devices are an effective cessation tool. It is irresponsible to make unproven exceptions which allow for and encourage Wisconsin residents to inhale an unknown and unregulated substance either directly or through second hand contact.

Please oppose Assembly Bill 762. Thank you for your consideration.



# WISCONSIN STATE LEGISLATURE





# Wisconsin Medical Society

Your Doctor. Your Health.

TO: Assembly Committee on State Affairs and Government Operations  
Representative Chad Weininger, Chair

FROM: Mark Grapentine, JD  
Senior Vice President - Government Relations

DATE: March 4, 2013

RE: Opposition to Assembly Bill 762

On behalf of more than 12,000 members statewide, the Wisconsin Medical Society thanks the committee for this opportunity to share our concerns with Assembly Bill 762, which would exempt electronic cigarettes (e-cigarettes) and other electronic smoking devices from the state's successful smoke-free law. The Society opposes the bill, as little independent research has been conducted into the devices' ingredients and either primary or second-hand health impacts.<sup>1</sup> Rather than exempting the devices from the state's smoke-free law, the Society believes sales of the devices should be restricted until gaining approval and continuing regulation from the U.S. Food and Drug Administration (FDA).

### **Electronic cigarette manufacturing**

Electronic cigarettes and other electronic smoking devices are currently produced without any regulatory oversight on the manufacturing, marketing, and quality control processes. A laboratory analysis conducted in 2009 by the FDA's Center for Drug Evaluation Office of Compliance tested 18 electronic cigarette samples from leading brands.<sup>2</sup> The analysis found several cartridges contained detectable levels of nitrosamines, a known carcinogen, and one cartridge to contain an antifreeze ingredient. Additionally, cartridges labeled as containing no nicotine tested positive for nicotine and the amount of nicotine consumed varied and differed from their labeling across the samples.<sup>3</sup>

### **Secondhand exposure risk**

The secondhand exposure risk from e-cigarettes is unclear; current research should be further developed before deciding whether e-cigarettes should be exempt from the state's smoke-free law. One study specifically examining the secondhand exposure risk found the air concentrations of nicotine emitted by the devices ranged from 0.82 to 6.23  $\mu\text{g}/\text{m}^3$ . The study calls for more research to determine the possible health consequences of secondhand exposure to nicotine, especially among vulnerable populations such as children and pregnant women.<sup>4</sup>

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<sup>1</sup> <http://www.fda.gov/newsevents/publichealthfocus/ucm172906.htm>

<sup>2</sup> <http://www.fda.gov/downloads/drugs/scienceresearch/ucm173250.pdf>

<sup>3</sup> <http://www.fda.gov/newsevents/publichealthfocus/ucm173146.htm>

<sup>4</sup> <http://ntr.oxfordjournals.org/content/early/2013/12/10/ntr.ntt203.short?rss=1>

### **Smoking-cessation tool**

No studies have directly measured the effectiveness of e-cigarettes in helping smokers quit tobacco cigarettes. Studies exist on short-term use and suggest electronic smoking devices may be as effective as nicotine patches and inhalers for quit rates and have minimal adverse side effects.<sup>5</sup> E-cigarette manufacturers have conducted their own studies regarding e-cigarettes serving as a potential smoking cessation tool, but have not applied to the FDA to have the devices approved and regulated for that purpose. More independent research is needed.

### **Impact on youth**

A number of organizations, including the Centers for Disease Control and Prevention, the American Academy of Pediatrics, the International Union Against Tuberculosis and Lung Diseases, and the FDA have expressed their concern that e-cigarettes may increase the use and addiction to nicotine and tobacco products in children. A report released by the CDC in 2013<sup>6</sup> found electronic cigarette use among middle and high school students almost doubled from 2011 to 2012. Additionally, some believe that vapor flavors like “bubble gum” and “cotton candy” are marketed with youth in mind. Some groups are concerned that an attraction to e-cigarettes could increase youth/teen addiction to nicotine.

### **American Medical Association stance**

The American Medical Association conducted research into the safety and effectiveness of electronic cigarette use.<sup>7</sup> This study led to adoption of new policy in this area, which the Society’s Council on Legislation recently endorsed:

#### **H-490.909 Use of Electronic Cigarettes in Smoking Cessation Programs**

Our AMA urges that: (1) e-cigarettes be classified as (nicotine) drug delivery devices and should be subject to FDA regulation with appropriate standards for identity, strength, purity, packaging, and labeling with instructions and contraindications for use, including age of the user; (2) state legislatures prohibit the sales of e-cigarettes and all other nicotine devices that are not FDA-approved; and (3) as currently marketed, e-cigarettes be included in smokefree laws but separately defined from tobacco products. (CSAPH Rep. 6, A-10; Reaffirmation: I-12)

In exempting e-cigarettes from the state’s smoke-free law, Assembly Bill 762 is essentially the state’s endorsement for the devices’ greater use. The Society believes more evidence is needed before making such an endorsement, and therefore we oppose the legislation.

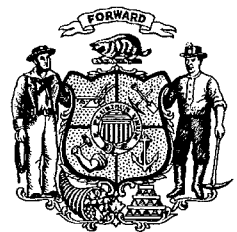
Thank you for this opportunity to share the Society’s stance on this bill. If you have further questions, please feel free to contact us at any time.

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<sup>5</sup> <http://www.biomedcentral.com/1471-2458/11/786> and  
<http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0066317>

<sup>6</sup> <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6245a2.htm>

<sup>7</sup> <http://www.ama-assn.org/resources/doc/csaph/a10csaph6ft.pdf>





# Health First WISCONSIN

TO: Members, Assembly Committee on State Affairs and Government Operations  
FROM: Melissa Horn, Government Relations Director at Health First Wisconsin  
RE: Assembly Bill 762  
DATE: March 4, 2014

Thank you for the opportunity to submit testimony on Assembly Bill 762, legislation that would endorse an exemption of electronic smoking devices (e cigarettes) from our state's smoke-free law. Health First Wisconsin urges the committee to oppose this legislation as it would unnecessarily create a special exemption for e cigarettes and send a misleading message that these products are safe to consume.

Wisconsin's smoke-free law is widely popular among the public. In fact, since the law was enacted, polling has shown that 75% of Wisconsinites support the law, with 89% viewing it as a law that protects the health of employees and customers, and 86% saying it has made establishments nicer and more enjoyable to patronize.<sup>i</sup> There is no need to open up a law that is clearly working and well-liked to promote a product that, if anything, potentially poses a risk to the public.

On their own websites, manufacturers of e cigarettes like *Johnson Creek Smoke Juice & Electronic Cigarettes* even say "products and accessories are only intended for committed smokers of legal smoking age and not by non-smokers, children, women who are pregnant or may become pregnant or any person with an elevated risk of, or preexisting condition of, any medical condition which includes, but is not limited to, heart disease, diabetes, high blood pressure or asthma".<sup>ii</sup> Furthermore, they state their products "may be poisonous if orally ingested" and add "for their own protection, please keep out of reach from children". Product websites like *V2 Cigs* explicitly warn about the nicotine in the inhalants of their products that they "can be toxic if inhaled or ingested and may cause irritation if it comes into contact with your eyes or skin".<sup>iii</sup> So, again, why would we want to create a special exemption for these products when the companies that make them even recognize how dangerous they are to inhale for an individual much less those around them?

There is no reason Wisconsin needs to call out exceptions to the law when the public made clear and continues to strongly support safe, healthy work environments and establishments to patronize.

Lastly, many other rule-making authorities are prudently restricting exposure to e cigarettes rather than endangering the public to their potential health problems. The U.S. Department of Transportation recently proposed a rule to ban e cigarettes from airlines<sup>iv</sup>, Amtrak has banned the use of electronic smoking devices on trains and in any area where smoking is prohibited<sup>v</sup> and the Air Force Surgeon General issued a memorandum highlighting the safety concerns regarding electronic cigarettes<sup>vi</sup> and placed them in the same category as tobacco products. In addition, the National Attorney Generals Association<sup>vii</sup> and countless other leading health organizations have actively been urging the Food and Drug Administration to regulate these devices as tobacco products due to the hazards they could pose to the public. Does Wisconsin really want to be the state that instead endorses these products when it's clear everyone else is urging further study of their risk and are taking steps to limit the exposure of these inhalants to the public?

There is no reason to go backward on our smoke-free law by opening it up to promote a product that poses an unknown amount of threat towards the health and safety of the public. Please oppose this exemption and protect our popular and effective statewide smoke-free air law as is. Alternatively, we urge the committee to instead look to pass legislation that improves environments where Wisconsinites and visitors live, work and play.



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<sup>i</sup> Survey, Public Opinion Strategies, June 15-16, 2011. Surveying "500 likely voters in Wisconsin."

<sup>ii</sup> *Johnson Creek Smoke Juice & Electronic Cigarettes*. Retrieved March 3, 2014 from <https://www.johnsoncreeksmokejuice.com>

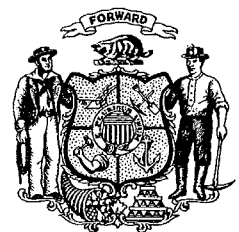
<sup>iii</sup> *V2 Cigs*. Retrieved March 3, 2014 from <http://www.v2cigs.com>

<sup>iv</sup> *U.S. Department of Transportation*. U.S. Department of Transportation Proposes to Ban the Use of Electronic Cigarettes on Aircraft. Retrieved on March 3, 2014 from <http://www.dot.gov/briefing-room/us-department-transportation-proposes-ban-use-electronic-cigarettes-aircraft>

<sup>v</sup> *Amtrak*. Smoking Policy. Retrieved on March 3, 2014 from <http://www.amtrak.com/smoking-policy>

<sup>vi</sup> *U.S. Air Force*. AF surgeon general issues warning about safety of electronic cigarettes. <http://www.af.mil/News/ArticleDisplay/tabid/223/Article/115820/af-surgeon-general-issues-warning-about-safety-of-electronic-cigarettes.aspx>

<sup>vii</sup> *National Association of Attorney Generals*. Re: Regulation of E Cigarettes. Retrieved on March 3, 2014 from [http://www.naag.org/assets/files/pdf/E%20Cigarette%20Final%20Letter%20\(5\)\(1\).pdf](http://www.naag.org/assets/files/pdf/E%20Cigarette%20Final%20Letter%20(5)(1).pdf)



To: Members of the Assembly Committee of State Affairs & Government Operations  
From: Chris Klein, Government Relations Director, American Heart Association  
Re: Testimony in opposition to AB 762  
Date: March 4, 2014

Dear Chairman Weininger and members of the committee:

I appreciate the opportunity to submit testimony in opposition to Assembly Bill 762, which would allow the use of electronic cigarettes in public places and workplaces where smoking is otherwise prohibited.

This proposed legislation would create a special exemption for electronic cigarettes. There is no reason e-cigarettes should be treated differently than other tobacco products. Creating a separate classification for e-cigarettes will send the message that these new products are safe and kids may believe they then must be safe to consume.

The Center for Disease Control and Prevention (CDC) recently released a report that showed the use of electronic cigarettes among middle and high school students more than doubled from 2011 to 2012. The CDC's disturbing data on the increased use of electronic cigarettes reinforces the need for the U.S. Food and Drug Administration (FDA) to take immediate action to oversee these products.

The evidence is increasingly clear that e-cigarettes are appealing to children and youth, likely because they are available in a wide variety of appealing candy and fruit flavors, including chocolate, cotton candy, gummy bear, bubble gum, Atomic Fireball, orange soda, as well as grape, apple and strawberry. This report raises the concern that e-cigarettes may be an entry point for youths to begin using more traditional tobacco products, including cigarettes.

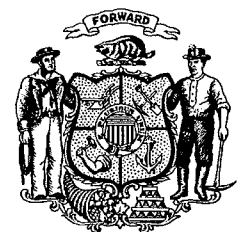
Every day, each of the 1,200 Americans who die from tobacco-related diseases is replaced by two smokers under the age of 26. If e-cigarettes are luring high school and middle school students into a lifetime of addiction, it represents a public health tragedy.

Attorneys General of 40 U.S. states have urged the FDA to regulate e-cigarettes like tobacco as there has been a drastic increase in use of the product by children and youth who want to experience the effects of nicotine. The 40 attorneys general noted that nicotine is highly addictive and has an immediate bio-chemical effect on the brain and body.

The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), which passed the Congress with overwhelming bipartisan majorities and was signed into law on June 22, 2009, gave the FDA immediate authority over cigarettes, smokeless and roll-your-own tobacco. It also gave the authority to the Secretary of Health and Human Services to deem other tobacco products subject to FDA's jurisdiction. Under this provision, the FDA has stated it plans to regulate e-cigarettes. Until this occurs, there is no federal oversight of these products or restrictions in place to protect the public health against potential risks posed by these products, particularly to the health of our children.

The American Heart Association has serious concerns about the potential public health effects of e-cigarettes and significant additional research is needed on these products and how they are used. Until more research is conducted and the FDA issues regulations, we strongly recommend that states treat e-cigarettes like all other tobacco products.

Thank you and please contact me at 608-320-9026 or [chris.klein@heart.org](mailto:chris.klein@heart.org) with any questions.



Hello, my name is Don Muehlbauer, I am here to speak for the passage of AB762 and SB440. As background, I am not and have never been a smoker, nor a vaper, and don't plan to ever become one. I hold both Engineering and Business degrees from the University of Wisconsin – Milwaukee, and I am the founder of the second largest US-Based manufacturer of flavored nicotine solutions, or eLiquid, used in electronic cigarettes. We are based in Wauwatosa, WI, were the first ISO9001:2008 quality certified eLiquid laboratory in the USA and manufacture for Durasmoke and several other national and international brands.

I personally believe electronic cigarettes are a great invention, and help a lot of people. Unfortunately, the good news is not allowed to be spread. The FDA forbids us from using testimonials of customers, including doctors, who use our product and have had great personal results, they call that "making unsubstantiated medical claims". They also forbid us from telling our customers about scientific studies that have been done that show electronic cigarettes as a good "quit smoking" or "harm reduction" strategy, also as "making unsubstantiated medical claims".

So we can't get out the good news, and I'm not here today to make any medical claims for electronic cigarettes, and my words should not be construed as such. I'm just here to tell you a few stories of customers I've talked to and their personal experiences with electronic cigarettes, and to share a few medical studies that have been done, so that your constituents who couldn't be here today can be heard through me.

My first story is about Mike, a 24 year old co-worker, who came into my office in 2009 to show off "the new toy he just bought". It was an electronic cigarette. Mike had been using it for about 2 weeks, and had noticed that he was breathing better and wasn't as winded at work as he had been. Mike was the reason we got into the electronic cigarette business.

Next, I'd like to tell you about Tom, a piano player in Florida. Tom went to his dentist for a normal cleaning/checkup. Without prompting, his dentist told him he could see he quit smoking. He hadn't, he had switched to vaping.

My next story is about Jacqueline from California. Jacqueline's doctor told her he'd prefer she not smoke, but if she must, to use an electronic cigarette, and to buy her eLiquid from us, an American eLiquid manufacturer. (I don't personally know Jacqueline's doctor, but I assume he is also a customer of ours.)

Next, I'd like to tell you about a personal friend of mine, Tony from West Allis, Wisconsin. Tony is an elderly gentleman, a very heavy smoker and has some other very serious issues. I met Tony in person in 2010, as he doesn't have access to the internet, and I personally delivered his first electronic cigarette and eLiquid. We get together at least on the phone every month or so. I can't say this is absolute medical truth, but I know if Tony were here, he'd tell you, and he would believe, that his electronic cigarette saved his life, that he wouldn't be here without it.

Next, I'd like to tell you an anonymous story, as it's about the father of one of our employees, who was a very heavy smoker. His son convinced him to try an electronic cigarette, and he started out with a very high level of nicotine, higher than traditional cigarettes. Over time, his son moved him down from our highest, to regular, to light, nicotine levels, without every telling the father that anything was changing. The father didn't notice, and his nicotine usage was reduced by 2/3.

Last story, an email from Julie in Florida, I will paraphrase, but you can to see her entire email in print:

*You want to hear motivating? Here's our story... My entire family smokes... well smoked. From my grandparents, down to my parents and siblings and all of my aunts and uncles... most of my coublings. As of 2004, for the previous 38 years, every single person that passed away in my family had been diagnosed with cancer. My father died from lung cancer at the age of 64. No cancer death has been from the same type of cancer either. Only one person survived longer than 3 months after diagnosis (18 months to be exact). Not one heart attack, stroke, accident or any natural cause of death. They were all cancer related. Apparently my gene pool is riddled with cancer receptors.*

*In 2004, at the age of 36, I was diagnosed with cancer. Stage 3, very aggressive. With the knowledge of all of the cancer deaths in my family, and the short time between diagnosis and death, I still couldn't quit smoking (although I did cut back quite a bit). No one in my family could quit either. As shocked as we all were with my diagnosis, the cigarettes seemed to be stronger than our will to live a long life. Two years after I beat my battle with cancer, I lost my mom to a very rare form of cancer. Can you guess if any of us quit then? Nope, not a one of us. You wouldn't know it by our idiotic actions, but we are not an uneducated bunch of people.*

*Fast forward to this year. We all continued to smoke like chimneys. I have my ritual follow up with my oncologist. We have a problem. Seems to be that a new cancer is trying to pry it's way into my life and I need to have surgery to get rid of it. My oncologist starts with the finger wagging again and tells me that I HAVE TO QUIT SMOKING. Uh huh, ok, will do. I schedule my surgery to take place in three weeks and I leave the office... and have a cigarette. Stupid is as stupid does.*

*Two days later I am at my sisters when her step daughter introduces us to an ecig. Novel I think. It's a Gen I thing. But we all tried it anyway and were kind of impressed. My brother gets there and he actually had bought one already. Now I'm REALLY impressed. Remember, he is the 2 – 3 pack a day, 30 year, never gonna quit and you can't make me. He was the first to order from you. He got his order within a couple of days and came over to see us. We tried his Ego with MegaCartomizer and it was a done deal. We all ordered from you and as soon as we got our kit, we quit smoking----immediately----without even trying. To be honest, everybody did this because regular cigarettes were just too expensive anymore. Nobody, except for me (just a little) did this with the intention of completely quitting. Just trying to supplement our expensive habit with something less expensive intermittently. Anyway....*

*Three week pass and I go in for surgery. It was to take an hour, but after 15 minutes I was done. Surgeon comes out and tells my husband that most of the cancerous cells were gone prior to the actual surgery. He said if what he saw that day was what he had seen the first day, there wouldn't have been a surgery, just a wait and see approach. My husband tells him I quit smoking three weeks prior, except for the ecig. He was happy to hear it and said that smoking the ecig was fine with him and probably has saved my life in the long run. Oh, and he happens to be my sister in laws oncologist too. Not only does this garbage run IN my family, it runs OUT of my family and into others as well! When we told the oncologist that my sister in law had also quit he said "I'll believe it when I see it." And sure enough, she had an appointment with him the next day. He could hardly believe it, but he could tell she quit. His interested in hearing more about it from us. So far, all three of my oncologists, my allergist and my regular MD are in full support of my "smoking" the ecig.*

*As far as "How do we feel?" We can breathe! I mean really breathe. Deep inhales without coughing up a lung. We can smell things better, which is good and bad, because not all things smell good! WE SMELL GOOD though! Gonna save money on hand lotion, perfume, gum and mints too. We walk without getting out of breath. We seem to have more energy, but maybe that's because we aren't always out of breath. The bottom line to my very long story for your very to the point question.....*

- 1. No intention of quitting smoking, but we all quit the very day we got our order from you. We still get on the phone and say "I can't believe you quid" to each other.*
- 2. We have never, ever, felt so good in our ENTIRE adult lives. Inside and out.*
- 3. Oncologist approved, at least around here.*
- 4. In my situation, probably a life saving move. I am one of those lives being saved as quoted in your email. I really am living proof, as we found out through my oncologist and the outcome of my surgery.*

*Sorry to have written such a long letter, but I thought you might be interested in how your product has positively affected an entire family, and probably saved their lives as well.*

*Thanks again for your help. As you can see, I really needed it.*

*Julie*

These stories are just a very few from the 10's of thousands of customers we deal with. It's very common to hear people say that after about 2 weeks of only using an electronic cigarette, and not also smoking regular cigarettes, their smoker's cough is reduced, or gone. They tell us they breathe better. Some even comment that they now use less sugar in their coffee, because their taste buds came back.

No we don't have a blind medical study we can point to that proves electronic cigarettes are completely healthy, so we can't make that claim. Our small company can't afford to fund such a study on a scale that would satisfy the FDA. What we do have is a 5 year history of people continually using our



products, and continuing to tell us LOUDLY that they feel better, and their smoking related symptoms are reduced.

Now let me tell you about just a few of the medical studies that have been done, that we aren't allowed to post or share:

**Publisher:** European Society of Cardiology

**Date:** 8/25/2012

**Topic:** Cardiovascular Disease Prevention - Risk Assessment and Management

**Findings:**

- Smoking is the most preventable risk factor for cardiac and lung disease and is expected to cause 1 billion deaths during the 21st century.
- Since heart disease is the main cause of morbidity and mortality in smokers, with 40% of deaths in smokers due to coronary artery disease alone, the research team decided to perform the first clinical study of the acute effects of electronic cigarettes on cardiac function.
- The researchers found that smoking one tobacco cigarette led to significant acute myocardial dysfunction but electronic cigarettes had no acute adverse effects on cardiac function. Smoking a tobacco cigarette had important hemodynamic consequences, with significant increases in systolic and diastolic blood pressure and in heart rate. In contrast, electronic cigarettes produced only a slight elevation in diastolic blood pressure.

**PUBLISHER: Tobacco Control**

**Date: published Online first 3/6/2013**

**Topic: Levels of selected carcinogens and toxicants in vapour from electronic cigarettes**

**Findings:**

- The aim of this study was to screen e-cigarette vapours for content from four groups of potentially toxic and carcinogenic compounds, Carbonyls, volatile organic compounds, nitrosamines and heavy metals
- We found that e-cigarette vapours contained some toxic substances. The levels of the toxicants were 9 to 450 times lower than in cigarette smoke, and were, in many cases, comparable with trace amounts found in the reference products.
- Conclusion: Our findings are consistent with the idea that substituting tobacco cigarettes with e-cigarettes may substantially reduce exposure to selected tobacco-specific toxicants.

**Publisher:** BMJ, formerly known as the British Medical Journal

**Date:** 10/7/2013

**Topics:** E-cigarettes: good for children?

**Findings:**

- An opinion piece by one pediatrician, but I think very interesting...
  - He comments: 'The main untapped potential of e-cigarettes, however, might not be in treatment of the minority of smokers seeking help with quitting, but rather as a safer consumer product for use by smokers in general.' One could add that they may also be a safer product for those who share the same space as smokers. From a paediatrician's perspective, e-cigarettes would appear to be an undeniably good thing: virtually no harmful substances are released into the environment, and it may be that parents who cannot shake off their nicotine addiction could improve their children's health by switching. Interestingly, in this study, a third of those who failed to give up tobacco completely continued to use e-cigarettes alongside the real thing. As so many parents are unable to quit completely, perhaps we could persuade some to use only e-cigarettes when around their children.
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Publisher: American Journal of Preventative Medicine

Date: April, 2011

Topic: Electronic Cigarettes as a Smoking Cessation Tool

Findings:

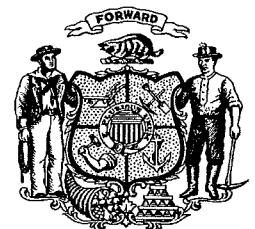
- The primary finding was that the 6-month point prevalence of smoking abstinence among the e-cigarette users in the sample was 31.0% (95% CI=24.8%, 37.2%). A large percentage of respondents reported a reduction in the number of cigarettes they smoked (66.8%) and almost half reported abstinence from smoking for a period of time (48.8%). Those respondents using e-cigarettes more than 20 times per day had a quit rate of 70.0%. Of respondents who were not smoking at 6 months, 34.3% were not using e-cigarettes or any nicotine-containing products at the time.
- **Conclusions:** Findings suggest that e-cigarettes may hold promise as a smoking-cessation method and that they are worthy of further study using more-rigorous research designs.

Finally, I would like to thank the sponsors of both bills – Representative John Jagler, Representative David Murphy, Representative Craig, Representative Kleefisch, and especially Senator Glen Grothman, for sponsoring bills that use the currently available science and common sense to help their constituents, rather than divisive media hype and extremist views.

Thank you.



# WISCONSIN STATE LEGISLATURE



*Testimony Opposing AB762*  
*Dr Dipesh Navsaria, MPH, MSLIS, MD*  
*dipesh@navsaria.com*  
*4 March 2014*

To the members of the Assembly Committee on State Affairs and Government Operations, thank you for this opportunity to share with you my thoughts on AB762. I am a practicing primary care pediatrician with public health training. I spend a lot of time in my clinical work as well as population health work and medical education looking at population- and policy-based approaches to improving the health of Wisconsin's citizens.

AB762 is a bill which allows for a commercial product with unknown health implications to be used widely. "E-cigarettes" have no clear unbiased research indicating their safety to both users and those in the environments around them. I strongly support calls for FDA regulation with appropriate standards for identity, strength, purity, packaging and labeling with instructions and contraindications for use — including age of the user.

Additionally, from a pediatric perspective, broadening the number of locations at which children could observe behaviours that may lower their own resistance to eventual nicotine addiction is poor policy. I have many parents who are addicted to nicotine tell me that they don't smoke around their young children and "always go outside" (even in the deeply frigid Wisconsin winter, interestingly enough). That is certainly preferable to smoking in their immediate vicinity, but not only is second-hand smoke a direct health threat, the fact is that even very young children know what their parents are going outside to do – and this can translate into an acceptance of such behavior. While many parents are surprised to hear this, the single greatest influence on children's decisions around actions is generally what their own parents may do or think.

This is not theoretical: Centers for Disease Control and Prevention data indicates that the number of middle and high school students who reported using e-cigarettes doubled from 2011 to 2012. In 2012, 1.78 million middle and high school students had tried "vaping". While there is much talk about (but no evidence supporting) whether electronic cigarettes may offer a "safer" solution to nicotine addiction, let's be very clear: the best route is to avoid starting a nicotine addiction in the first place.

Finally, I would be remiss if I didn't point to the long history the tobacco industry has of marketing in both overtly and inherently deceptive ways. Many claims were made for the health benefits of tobacco until overwhelming scientific evidence revealed those claims to be false. Additionally, marketing to children has been accomplished through a number of routes, not the least of which is via the use of flavors. Electronic cigarettes have gone this route already, and I fear that the twin appeals of flavoring and the unproven perception of safety through broader visibility will effectively create the next generation of nicotine addicts.