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ATTORNEYS AT LAW

Up in Smoke

PRESENTED BY

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What are e-cigarettes?

- Battery powered tube like device, typically built to look like a cigarette
- Release water vapor laced with "e juice" from container
- "e juice" typically includes propylene glycol, vegetable glycerin, flavorings, and pure nicotine (non FDA regulated)
- Originates from vaporizers used by marijuana smokers
- Very little research on effects



Emerging Market

- Use increase among those smoking combustible cigarettes 2010-10%; 2011-21% (Center for Disease Control)
- Wells Fargo Sales Reports re Revenue: 2008-\$20M; 2012-\$500M; 2013-\$1B (projected)
- Top three cigarette manufacturers have started marketing their own e-cigarettes



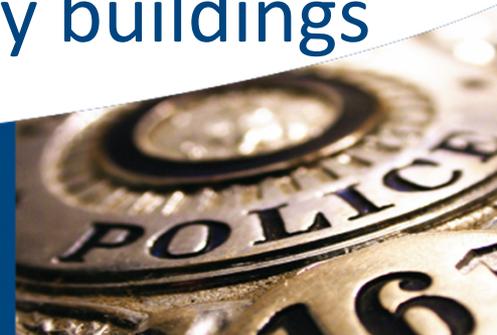
California Law

- SB 648: Attempt to ban vaping in all areas where smoking is banned.
- Was passed by Senate but died in Assembly committee; now a two year bill to be revived in next session
- Health & Safety Code section 119405 bans sales to minors (2010)



Local Legislation

- Long Beach: voted down ordinance to ban vaping in public places with one council member stating "I am not convinced e cigarettes are dangerous"
- Some Bans (Ex. Benecia last week; Petaluma)
- Moratoriums (Seal Beach; Pico Rivera; Union City)
- Riverside County: no vaping in county buildings



Arguments Against

- Re-normalizes cigarette smoking
- Hard to tell difference between cigarette smoking and vaping/ just make it simple
- Research is inconclusive on effects; No research on long term effects
- Inhaling anything not intended to be put in lungs decreases ability to breathe and has potential long term problems



Arguments Against

- Fruit and candy flavors encourages use among children down a path to nicotine addiction
- Perceived non harmful effects encourage non-smokers to become addicted to nicotine
- Use among middle and high schools users increasing exponentially (Centers for Disease Control)
- Can be used to disguise smoking hash oil in public



Advocate Arguments

- Helps decrease use of combustible cigarettes
- Some research shows significantly lower harmful effects on smokers and no secondhand effects
- Inhaling water vapors is much better than tobacco products
- Evidence of increased use among youth is alarmist
1) use is still only 6.8%; and 2) these numbers can be kept down by outlawing sales to minors
- Use of e cigs for hash oil requires special equipment because gums up the cigs



Hookah Bars



What is it?

- Water Pipe used to smoke sweet, often flavored, tobacco
- Smoke is filtered through water in base of pipe
- Use flexible hoses stretching from pipe to inhale tobacco smoke
- Place charcoal on top of pipe to heat the water
- Known to contain tar, carbon monoxide nicotine, and other carcinogens from the coal used to heat the tobacco



California Law

- Indoor smoking and smoking in a workplace is banned.
- Hookah bars claim to fall under exemptions as tobacco shop or not having employees
- Smoke shop legal def. (B&P 22962)
 - Business whose “main purpose” is to sell tobacco
 - Must generate more than 60% of gross revenues annually from sale of tobacco products and tobacco paraphernalia
 - Cannot sell alcoholic beverages or food for consumption on the premises
- Labor Code: Cannot have workers where smoking occurs
 - Way around: owner operated



Local regulation

- Moratoriums (Ex. Benecia through 2014)
- Restrict zoning (Garden Grove restricts zoning and hours believing establishments attract fighting and public disturbances)
- Ban (Escondido)



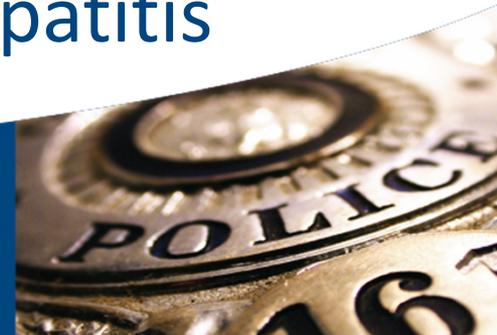
Pros

- Multicultural social experience
- Some harmful ingredients are filtered in water of the pipe



Cons

- World Health Organization 2005 study shows 45-60 mins of smoking inhales the same amount of smoke as smoking 100 cigarettes
- Harmful ingredients are not sufficiently filtered in water
- Second hand smoke effects
- Sharing hoses risks transferring communicable diseases such as tuberculosis and hepatitis



Negative secondary impacts

- Crime
- Access/proliferation
- Quality of life
- Public safety



Tools for Regulation & Enforcement

- The authority to regulate/ban is already there
 - Check your state constitutions for local control
- Unity of purpose
 - Cooperation between enforcement, legal counsel, and elected officials to effectuate common policy goals
 - Common understanding of goals and level of enforcement contemplated
 - Common public message
- Law enforcement task forces – municipal, county, state
 - Regional solutions to a regional problem
- Cost recovery (including attorney fees)



“Talking Points”

- These are public safety issues
 - Primary effects—health and protection of minors
 - Secondary effects—crime and public order
- These are quality of life issues
 - Zoning
 - Code Enforcement
- These are regional issues
 - Criminals do not care about boundaries
 - Consolidation = efficiency & cost savings



Thank you for attending.

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