

Sayers, Margery

From: Glenn Schneider <sfmglen@comcast.net> on behalf of glenn@actioncenters.net
Sent: Sunday, June 21, 2015 2:50 PM
To: CouncilMail
Subject: CB 28-2015 -- For Work Session Consideration
Attachments: Suggested Amendments to CB 28.docx

Dear Madame Chair and Members of the County Council,

I am very sorry that I could not be at the public hearing for CB 28-2015, the bill that would add vaping to our local clean indoor air act. Though I was on vacation with the family, I did tune into the hearing. Had I been there in person, I would have expressed my family's strong support for the bill and would have expressed our sincere thanks to the bill's sponsors for introducing it. I would have also submitted a few amendments for you to consider (see attached and below).

As you know, I have been an advocate for tobacco use prevention for many years in our county and across the state. For those of you who don't know or remember my personal story, my parents were wonderful people who sacrificed a lot to give me an amazing childhood, made friends everywhere they went, served their community and church, and followed the Golden Rule better than anyone I've ever known. My Dad was an RJ Reynolds tobacco salesman and my Mom a homemaker. Both my parents smoked – a lot. To say that they were addicted would be an understatement. They smoked the minute they woke up and the moment before they slept.

My Mom died of lung cancer after 40 years of smoking back in 1999 and I lost my Dad in April of this year due to smoking-caused COPD. Yes, I know what tobacco addiction looks like. And I know the devastation it causes and the loss it brings. My parents both suffered because of an addiction they struggled to kick. If I thought for ONE MINUTE that vaping could help people quit and make people healthier, I would have lined up with Mr. Conley to testify against the bill. But my public health training leads me to believe that e-cigarettes are a danger to both the user and the public.

Here are a few thoughts for you to consider:

1. Mr. Conley, though extremely polished, is a lawyer by training and is not a scientist, a medical or public health expert, or someone who can speak with authority on the studies that have been conducted on the topic. He was a fellow at the Heartlands Institute which has done much work to promote Big Tobacco's philosophies over time. See <http://www.prwatch.org/news/2014/05/12464/heartland-institute-reluctantly-stands-denial-cigarette-smoking-risks>. While he absolutely can speak to the interest of vaping companies, I would be deeply skeptical of his assertions that vaping can be used to help people quit smoking or that they bring any real benefits to its users.
2. To the contrary, there are MANY studies that show:
 - a. E-cigarettes are not useful in helping people quit; and
 - b. The aerosol and vapor emitted by e-cigarettes are a danger to public health; and
 - c. Young people are beginning to use e-cigarettes at higher rates. See <http://www.cdc.gov/media/releases/2015/p0416-e-cigarette-use.html>; and
 - d. Tobacco companies are promoting e-cigarettes as a "bridge" for people who can't smoke cigarettes in the workplace and have purchased many of the vaping companies for this purpose. See <http://bit.ly/1GfC4va>
 - e. See <http://no-smoke.org/learnmore.php?id=645> for a complete summary of research, news, and more.
3. National health authorities have already concluded that e-cigarettes are a public health risk:
 - a. You cannot use e-cigarettes on airplanes.
 - b. The FDA is considering how it might regulate the sale and advertising of e-cigarettes.

- c. 354 municipalities and 3 states already prohibit e-cigarette use in public places.
- d. The Centers for Disease Control and Prevention has been warning against e-cigarette use in its advertising. See <http://www.bloomberg.com/news/articles/2015-03-26/the-cdc-s-anti-smoking-ads-now-include-e-cigarettes>
- e. You already know that the American Heart Association, American Cancer Society and many other national public health organizations are working to educate people about the dangers of e-cigarettes and are advocating for laws to protect the public from e-cigarettes.

Voting to prohibit e-cigarette use in places where smoking is prohibited is warranted given the existing body of evidence. I would suggest some amendments to ensure that our law effectively and efficiently protects the public health. I concur with the amendments that the American Cancer Society submitted as part of its testimony. I would also suggest that you consider some additional amendments to ensure that you don't unwittingly allow e-cigarette use in places where smoking is currently not allowed. See attachment.

Thanks for considering this long email. And just to be clear, I am speaking to you as a long-time public health advocate in the community and not as a representative of the Foundation (i.e., my day job).

Let me know if you have any questions. I will be attending your work session tomorrow.

Thanks,

Glenn
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Suggested Amendments to CB 28-2015

1. Amend the definition of smoking devices as follows **(ACS Amendment)**:

“Electronic Smoking Device” means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

2. Amend the definition of smoking as follows **(ACS Amendment)**:

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

3. Amend the definition of tobacco product as follows **(ACS Amendment)**:

“Tobacco product” means:

- (a) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus; and*
- (b) Any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, cigar, pipe, or hookah.*
- (c) Notwithstanding any provision of subsections (a) and (b) to the contrary, “tobacco product” includes any component, part, or accessory of a tobacco product, whether or not sold separately.*

My proposed amendments are as follows:

4. Amend the exceptions in 12.604 to be consistent with state law.

Our county's smoking law was passed in 2006 and the State Clean Indoor Air Act was passed a year later. When state law is stronger than local law, it supercedes. When local law is stronger, it reigns supreme.

As you can see in COMAR, <http://www.dsd.state.md.us/comar/getfile.aspx?file=10.19.04.03.htm>, state law does not allow for some of the exceptions found in our local law. Therefore, they should be deleted from our law and the exceptions should be renumbered. See below. If you don't make these changes, e-cigarette use will be allowed in private clubs even though smoking in those same facilities are prohibited.

Sec. 12.604. - Exceptions to prohibition.

(a) The prohibitions in section 12.602 do not apply to:

[(1) A private club or lodge owned and operated by a membership association licensed under article 2B of the State Code if:

(i) The association's duties are performed by its members, including, but not limited to, food preparation and security; and

(ii) The members do not receive compensation for the performance of the association's duties;]

(1) A sleeping room of a hotel or motel, as long as that hotel or motel maintains at least 75 percent of all of its sleeping rooms as smoke-free;

(2) Outdoor seating areas. Smoking may be allowed in an outdoor seating area, provided that such area shall:

(i) Adjoin an enclosed restaurant or bar; and

ii) Has seating that constitutes no more than 40 percent of the total enclosed seating capacity of the establishment; and

(iii) Is not enclosed or partially enclosed; and

(iv) Is located in such a way to minimize the likelihood that smoke from the outdoor seating area will infiltrate enclosed areas where smoking is prohibited as provided by the provisions of this subtitle.

[(4) Smoking as an integral part of a theatrical performance held in a facility primarily used for theatrical performances;]

(3) A retail tobacco store provided, however, that smoke from the retail tobacco store does not infiltrate areas where smoking is prohibited under the provisions of this subtitle;

b) Notwithstanding any other provision of this section, an owner, operator, manager, or other person who controls an establishment subject to this section may declare the establishment as a nonsmoking establishment.