

Jefferson County Board of Health Briefing

Briefing Date/Time: May 16, 2019

Office/Department & Staff Contact:

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Topic:

Tobacco and Vapor Product Prevention - Vaping in Public Places Local Policy Options

Purpose:

- Information
- Decision needed
- Follow up from previous briefing

Synopsis/Request/Recommendation:

Objectives:

- Inform the Board of proven policy options that can improve health and support tobacco prevention efforts in our community. Options for local vaping prevention policy to be discussed include:
 - 1) Expanding the Smoking in Public Places law to include vaping by editing current policy.
- Ask for input, about the BOH requested edits to ordinance for consideration by the Board of Health to restrict smoking and vaping in all public places.
- Continue to next steps.

Background

Jefferson County Public Health is a sub-contract agency of Kitsap Public Health District for the purpose of implementing the WA Department of Health Tobacco and Vapor Product Prevention Project. This project, funded by Washington State and the U.S. Centers for Disease Control and Prevention, focuses on reducing tobacco use and vaping.

Tobacco use is the #1 preventable cause of death in Washington and in the United States.

In April 2019 the Board gave direction to Tobacco Prevention staff to develop options for further discussion with the Board to strengthen the Smoking in Public Places law with the inclusion of vaping. This briefing will present options compiled from what Tobacco Prevention staff has learned from those other counties' experiences implementing their local rules.

The use of electronic vapor products is not covered by the Washington State Smoking in Public Places (SIPP) law - RCW 70.160.

Vapor products produce an aerosol by heating a liquid that usually contains nicotine, flavorings, and other chemicals that is then inhaled by the person using it. The aerosol is **not** water vapor. It contains harmful and potentially harmful substances, such as nicotine; volatile organic compounds; heavy metals like nickel, tin, and lead; and diacetyl, which is a chemical flavoring linked to serious lung disease.

Washington State has seen significant overall declines in cigarette smoking and increasing public awareness of the harmful effects of tobacco use. However, disproportionately high rates of smoking persist in certain populations. About 14% ($\pm 1\%$) of Washington adults continue to smoke (2018 Washington State Health Assessment). The use of e-cigarettes and vaping products is growing quickly, especially among youth in Jefferson County. According to 2018 Healthy Youth Survey data, 37% of Jefferson County 10th graders used vapor products in the last 30 days. Teens who use vapor products are more likely to start smoking. Vaping products appeal to youth; their design, flavors, product names, and smell are marketed to youth. Teens who start vaping are exposed to nicotine (the drug that makes cigarettes addictive). Because teen brains are still growing, becoming exposed to a drug like nicotine can quickly lead to addiction.

The SIPP law went into effect in December 2005. This law makes it illegal to smoke in all indoor public places and workplaces in our state, and within a certain distance of doors/windows/air intakes (the "25' rule"). Since the law was implemented, indoor air pollution in the form of environmental tobacco smoke has decreased by 88 percent in bars and restaurants and compliance with the law is high. In providing this protection of residents from exposure to secondhand smoke, the law did not address outdoor spaces and does not address vaping at all, as the availability and use of vapor products did not begin until the last ten years.

Currently the State of Washington does restrict use of vapor products in indoor public places, and in outdoor public areas, **only where children congregate**, such as schools, playgrounds, and parks (RCW 70.345.150). It preempts local jurisdictions from imposing additional regulations except to enhance protections consistent with state law on this matter (RCW 70.345.210). Currently, local Boards of Health in ten of Washington's thirty-nine counties have acted to pass "No Vaping in Public Places" regulations under their authority to protect public health (RCW 70.05). Nine of these 10 local regulations also restrict vaping in places of employment. In general, these regulations ensure clean air in indoor places by prohibiting vaping in the same places where smoking is not allowed under Washington's SIPP law. About 74% of Washington residents live in areas where vaping is not allowed in public places under local Board of Health regulations.

These kinds of rules reduce exposure for the majority of residents who do not use vapor products but are being exposed to the chemicals released when others vape indoors. Because vapor products, and related substance delivery devices based on inhalation are relatively new, we are still learning about potential health effects of use and exposure. Recent studies show that vape use "increases airborne concentrations of particulates and nicotine in indoor environments." In addition to nicotine, most vapor products "contain and emit numerous potentially toxic substances." (National Academy of Engineering, Sciences, and Medicine, 2018). A 2017 national survey concluded 82.4% of adults strongly or somewhat opposed the use of electronic vapor products in indoor public places. (U.S. Adult Attitudes About Electronic Vapor Product Use in Indoor Public Places, *American Journal of Preventive Medicine*.)

Jefferson Co. Board of Health, Briefing on vapor products policy options

To combat the increase in youth use of vapor products, the Washington State legislature passed a law RCW 70.345.210, that creates new licensing provisions for stores selling these products. This law went into effect June 2016. In addition, the Food and Drug Administration (FDA) released a deeming rule that extended the federal Prevention and Tobacco Control Act of 2009 to electronic delivery systems (including all vapor products with nicotine), hookah, tobacco, cigars, pipe tobacco, dissolvables, and other products that may be created in the future. This deeming rule went into effect August 2016.

RCW 70.345.210 Vapor Products, State preemption—Exceptions.

(1) This chapter preempts political subdivisions from adopting or enforcing requirements for the licensure and regulation of vapor product promotions and sales at retail. No political subdivision may impose fees or license requirements on retail outlets for possessing or selling vapor products, other than general business taxes or license fees not primarily levied on such products.

(2) No political subdivision may regulate the use of vapor products in outdoor public places, unless the public place is an area where children congregate, such as schools, playgrounds, and parks.

(3) Subject to RCW **70.345.150**, political subdivisions may regulate the use of vapor products in indoor public places.

The Pierce County Lawsuit (referenced in WA State Department of Health Overview of Local Board of Health Regulations on Use of Vapor Products) involves language in Pierce County ordinance about ventilation system requirements and strong policy language about vapor product sampling environment restrictions. This language is not included in proposed edits for Jefferson County ordinance updates.

Documents Provided in April BOH packet:

- National Academies of Science Engineering and Medicine PUBLIC HEALTH CONSEQUENCES OF E-CIGARETTES CONCLUSIONS BY LEVEL OF EVIDENCE January 2018
- WA State Department of Health Overview of Local Board of Health Regulations on Use of Vapor Products
- Evidence on the Health Impacts of E-Cigarettes and Vaping- WA DOH January 2019

Summary & Financial Impact:

The work is funded by a DOH contract, so costs to staff and indirect for developing the local policy are covered for Public Health staff.

If county-wide vaping regulations were adopted there would be costs for updating signage in businesses, along with costs to the county for education and enforcement efforts similar to the current work done to ensure the SIPP law is followed.

There would also be an impact to vape and smoking product retailers.

Affected Parties:

All Jefferson County residents and visitors.

Potential affected parties: Jefferson County Public Health staff (especially in Tobacco and Vapor Prevention program, and the Environmental Health Food & Environmental Services Section, Food Safety Program); restaurants and other public places (and thus Jefferson County building owners/manager and business owners) as defined by the Washington State Smoking in Public Places law.

Options with Pros & Cons:

1. Option One: Authorize staff to proceed with prepared edits to Jefferson County Clean Indoor Air regulations to include no Vaping in Public Places to strengthen Smoking in indoor public places law in our community.

Pros:

- Protects public's health from secondhand vapor exposure.
- Supports healthy behaviors (not smoking/vaping) as the norm in public places.
- Affirms clean air as the standard in public places where the public gather.
- Reinforces that vaping is an unhealthy behavior.
- Supports the 2016 Jefferson County Community Health Improvement Plan Goals - Prevent the abuse of alcohol, tobacco, and other drugs in Jefferson County.
- Reflects the Jefferson County vision that states in part "Community members of all ages have access to safe and active environments, healthcare—including preventative, mental health, and long-term care—as well as fresh and abundant local food."

Cons:

- Will increase staff time for community education (specifically about this new rule, though this could be fully paid for from state tobacco funding).
- Cost for business signage (which can be paid for using state tobacco funds provided to Tobacco and Vapor Prevention Program).

Affected parties: as above.

Tobacco and Vapor Prevention Program Staff recommend Option One.

2. Option Two: Maintain current status.

Pros:

- No costs to Jefferson County programs other than continuing to have ordinary levels of complaints about secondhand smoke.

Cons:

- The majority of Jefferson County residents, who do not vape or use substances consumed through smoke, vapor or other inhalation methods, will continue to be exposed to vapor and similar emissions in public places.
- Absence of a policy that expresses a community norm against vaping in public places makes prevention efforts, both toward secondhand exposures and youth initiation of use, more difficult.

Affected parties: All Jefferson County residents, particularly young people.

Board Direction:

Next Steps/Timeframe:

Based on the Board's recommendation, describe the next steps required in order to bring this item to conclusion. Include the time frame for each step, and when the Board should expect to see this issue before them again.