



**Governor's Advisory Council for Exceptional Citizens (GACEC)**  
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### **MEMORANDUM**

**DATE:** April 22, 2015

**TO:** The Honorable Members of the Delaware General Assembly

**FROM:** Robert D. Overmiller, Chairperson  
GACEC

**RE:** **House Bill No. 5 (E-Cigarettes)**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed **House Bill No. 5** which adds electronic smoking devices to the Clean Indoor Air Act and prohibits the use of electronic smoking devices in all public places where smoking is prohibited under current law. Use of an "electronic smoking device" would be barred from "any indoor enclosed area to which the general public is invited or in which the general public is permitted" (lines 29-30) on the same basis as lighted cigarettes, pipes, and cigars.

The rationale for the legislation is compelling. E-cigarette marketing is pervasive and growing, especially among teens and young adults. There are 466 brands and 7,700 flavors. See August 25, 2014 News Journal article. Use among high schoolers has tripled in only two years. See November 14, 2014 USA Today article. The Delaware Division of Public Health Director recently published an excellent article on the danger of exposure to vapors and emissions from e-cigarettes. See April 2, 2015 News Journal article. Two amendments have been placed with the bill. House Amendment (H.A.) No. 1 would exempt tobacco smoking and e-cigarette use in both "tobacco businesses" and "vapor businesses". H.A. No. 2 would "grandfather" existing vapor shops to allow on-premises consumption of electronic cigarettes for two years after enactment of House Bill No. 5. The prime sponsor, Representative Heffernan, does not support either amendment. See April 3, 2015 News Journal article.

Council **strongly endorses** the proposed legislation given the health dangers to innocent bystanders from second-hand smoke and emissions. The ban should also make highly addictive e-cigarette use less attractive to individuals considering use. Council **opposes** both proposed amendments.

H.A. No. 1 is the most harmful since it would totally exempt tobacco businesses and vapor businesses from the entire Indoor Clean Air Act. Therefore, such sites could be pumping tobacco smoke and cancer-linked emissions into indoor areas with aplomb. The November 14, 2014 USA Today article notes that e-cigarettes are frequently sold in kiosks in malls. Thus, the amendment would allow kiosks and covered businesses within malls to issue pervasive emissions throughout the entire indoor mall. Nearby businesses would suffer through exposure to their employees and deterrence of customers. Apart from malls, "tobacco businesses" and "vapor businesses" could open as kiosks or small contractors within bowling alleys, supermarkets, theaters, etc. and undermine the entire Indoor Clean Air Act. The April 3, 2015 News Journal article notes that the Delaware Restaurant Association supports H.B. No. 5. It is simply "bad business" to allow the proliferation of vendors

emitting second-hand smoke and toxic vapors affecting the public.

H.A. No. 2 is similarly problematic since it would exempt the operation of vapor shops for another two years. It would predictably result in a rush to open new shops prior to June 15 to take advantage of the exemption. The reference to “indoor enclosed area” provides insufficient protection to others since air conditioning and heating ducts may be shared within malls and multi-unit commercial establishments.

Thank you for your time and consideration of our observations and recommendations. Please feel free to contact me or Wendy Strauss should you have any questions.