



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

**DATE:** May 14, 2014

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

**FROM:** Terri Hancharick, Chairperson  
GACEC

**RE:** **House Bill No. 309 (Clean Indoor Air Act and Electronic Cigarettes)**

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Bill No. 309 which is intended to update the Clean Indoor Air Act to specifically include "electronic cigarettes".

Delaware became the second state to ban smoking in indoor workplaces and public places when it enacted its Clean Indoor Air Act in 2002. Since then, at least 27 states and the District of Columbia have enacted clean indoor air laws covering bars and restaurants. According to a May 1, 2014 News Journal article, three other states ban indoor e-cigarette usage and nine other states ban use in certain buildings and other venues such as public transportation. The American Lung Association Statement on E-Cigarettes observes that e-cigarette vapors include carcinogens. Consumer Reports articles describe both pros and cons to usage. Council **endorses** the proposed legislation and would like to share the following suggestions.

First, according to the attached February 27, 2014 industry article, many states are proposing taxes on e-cigarettes. Delaware could consider a similar initiative.

Second, lines 19-20 of the legislation contain an exemption for "any product that has been approved by the United States Food and Drug Administration for tobacco cessation or other medical purpose." The problem with this exemption is that even a very limited FDA approval of e-cigarettes would result in a wholesale exemption from the State law. For example, the FDA could potentially approve e-cigarettes as transitional smoking cessation devices for chronic smokers. Some states do not include an FDA reference in their legislation. See, e.g., the attached enacted N.J. legislation. Other states include an FDA exemption. See, e.g., the attached enacted Kentucky legislation. The sponsors may wish to consider whether the sentence should be deleted.

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

Attachments