

North Dakota’s Statewide Clean Indoor Air Law Prohibits Conventional Tobacco Products and E-Cigarettes

In November 2012, North Dakota achieved a remarkable victory for statewide clean indoor air (BreatheND n.d.a.) despite major obstacles, including a harsh winter climate, an adult smoking rate of 21.9% (CDC 2013), and several prior failed legislative attempts to close exemptions in the state’s 2005 clean indoor air law (CDC 2014). Despite these impediments, two-thirds of the state voted to prohibit both the smoking of conventional tobacco products and use of e-cigarettes in all non-hospitality workplaces; restaurants; bars; hotel guest rooms and communal areas; health care facilities; assisted living facilities; all licensed child and adult day care facilities; gaming facilities; indoor areas of sports arenas; and within 20 feet of entrances, exits, operable windows, air intakes, and ventilation systems of enclosed areas where smoking is not allowed (BreatheND n.d.b.). Additionally, the law provided no exemptions for tobacco-only retail or “vape shops” (Americans for Nonsmokers’ Rights Foundation 2015, n.d.).

The 2012 ballot initiative on statewide clean indoor air resulted from the lack of progress in working with the legislature to try to close smoking exemptions in the state law. The initiative’s sponsors, Tobacco Free North Dakota and the American Lung Association in North Dakota, worked closely with the Tobacco Control Legal Consortium to draft policy language, which included prohibiting the use of e-cigarettes anywhere smoking was prohibited. The sponsors approached stakeholders and assessed public support. Little opposition was encountered to prohibiting the use of e-cigarettes indoors. In addition to the sponsors’ efforts, the North Dakota Center for Tobacco Prevention and Control Policy conducted a media campaign and worked with local partners to educate their communities, resulting in 11 smokefree ordinances prior to the issuing of the statewide ballot initiative. The landslide victory (66% vs. 33%) in favor of clean indoor air, with the initiative successfully carried in every one of North Dakota’s 53 counties, demonstrated widespread public support for clean indoor air (Ballotpedia 2012).

Only a few years later, the law continues to enjoy strong public support from nonsmokers (84.4%) and smokers (58%) alike. Compliance with the law is comparable to cigarette smoking; just 16.8% of North Dakotans reported having observed smoking indoors in areas where it was prohibited, and 23.2% reported having seen e-cigarettes used indoors in such places. Local enforcement personnel confirm a high level of compliance, reporting violations primarily related to smoking within 20 feet of entrances. To date, the only prosecuted violation of the law involved the sampling of an e-cigarette product inside a “vape shop” (BreatheND 2014). In hindsight, the decision to include e-cigarettes in North Dakota’s smokefree law was helpful, given increasing concerns about involuntary exposure to nicotine and other aerosolized e-cigarette emissions.

Summary and Recommendations

The Surgeon General has long played a leading role in identifying the harms of tobacco use and documenting the most effective ways to reduce them. This report comes amid the rising use of e-cigarettes among the nation’s youth and young adults. It calls attention to this problem and the need to implement immediately a comprehensive strategy to minimize any negative public health impact now and in the future, giving consideration to the potential for youth to be harmed from e-cigarettes while, simultaneously, acknowledging that gains might be made if the use of combustible tobacco products fell among adult smokers. Chapters 1–4 documented the particular challenges posed by the rapid emergence and dynamic nature of e-cigarette use among youth and young adults. The marketplace is diverse, and although it includes the large tobacco companies, e-cigarettes are sold in thousands of “vape shops”

and other small commercial locations and on the Internet. Marketing strategies exploit social media, reaching widely and with tailored targeting to consumers.

The differences notwithstanding, the principles and strategies articulated in the 2014 Surgeon General’s report and prior reports remain relevant to e-cigarettes. The 2014 report was written not long after the use of e-cigarettes began to surge dramatically; that report commented on the need for rapid elimination of conventional cigarettes and other combustible tobacco products but did not specify a role for e-cigarettes or discuss strategies to minimize adverse effects among youth and young adults (USDHHS 2014). The report’s final chapter, however, set out an evidence-based strategy for the future. The present report builds on this foundation, adding recommendations related to e-cigarettes.