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E-cig bill called a 'Trojan horse'

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By **Jim Siegel**

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62

24

1011

On the surface, the bill looks simple enough — prohibit those under age 18 from purchasing alternative nicotine products such as electronic cigarettes.

“When we looked at the bill title, we thought it was something we were behind,” said Jeff Stephens, director of state policy for the American Cancer Society in Ohio. “But as we looked and shared it with our national office, they said, ‘Oh my God, this is happening all over the country.’”

Anti-smoking advocates say that below the surface of House Bill 144 is a tobacco-industry-crafted “Trojan horse” designed to ensure that the emerging electronic-cigarette



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E-cigarettes look similar to cigarettes, but when the user inhales, the device heats up nicotine-infused liquid inside, releasing a vapor that is inhaled and then exhaled.

market and other alternative nicotine products remain taxed at a lower rate than traditional cigarettes and stay outside the state’s indoor smoking ban.

“What they’re trying to do is carve out a new definition that will muddy the waters for many other tobacco products now, and new and emerging products that we don’t know about yet,” Stephens said.

The bill was brought to Rep. Stephanie Kunze, R-Hilliard, by Lorillard Tobacco Co., the nation’s third-largest cigarette manufacturer, which also purchased e-cigarette company Blu in July 2012. Ohio’s current tobacco laws do not cover e-cigarettes.

“We set about closing this loophole in Ohio and other states as Lorillard strongly believes that electronic cigarettes are for adult recreational use only,” Kurt Leib, Midwest representative for the company, told lawmakers in May.

E-cigarettes look similar to cigarettes, but when the user inhales, the device heats up nicotine-infused liquid inside, releasing a vapor that is inhaled and then exhaled. The vapor is largely odorless, and the cigarettes come in a variety of flavors, including chocolate, cotton candy and Dr Pepper.

Boston University researchers have concluded that “few, if any, chemicals at levels detected in electronic cigarettes raise serious health concerns.” Researchers also found that the products may help smokers stop using regular cigarettes.

But others warn that data on the health effects of the 3-year-old products are incomplete. Kunze said that as a mom of two teenage daughters, she saw the legislation as a way to handle “an immediate threat to our minors and our youth.”

But Stephens and Shelly Kiser, advocacy director for the American Lung Association in Ohio, say youth-access laws are among the least-effective ways to prevent minors from getting hold of tobacco products — so tobacco companies lose little by advocating the provision. But higher taxation, they argue, is a key deterrent.

Kunze said she is surprised by the opposition, which focuses on the bill’s new definition of alternative nicotine products.

Kunze said the definition is designed to cover new tobacco-industry products without having to change the law each time. “This is generic enough to allow the things they are coming out with, like lozenges,” she said.

Nine states have passed bills similar to the one introduced in Ohio, over objections from anti-smoking groups. Rhode Island Gov. Lincoln Chafee last week vetoed a similar, but somewhat more-restrictive bill, calling it “counterproductive to prohibit sales to children while simultaneously exempting electronic cigarettes from laws concerning regulation, enforcement, licensing or taxation.”

Other states passed e-cigarette access bills before the American Cancer Society became aware of the national push.

Stephens and Kiser said they have proposed a simpler way to block the sale of e-cigarettes to minors without creating a new category of alternative nicotine products.

Kunze, pointing to a recent legal opinion from the non-partisan Legislative Service Commission, argues that the bill does not change the current tax status of e-cigarettes, and that nothing would stop advocates from pushing for a higher tax rate in the future.

Cathy Callaway, associate director of state and local campaigns for the American Cancer Society’s Cancer Action Network, agrees, but she said the bill sets the stage for treating e-cigarettes differently from other tobacco products.

Asked if e-cigarettes should be taxed the same as regular cigarettes, Kunze said: “I don’t think there is enough information yet. We just don’t know to what extent they are more or less harmful.”

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