

E-Cigarettes and the Work Place

By Kellie Hennessy

E-Cigarettes are now in vogue, sparking a world-wide trend responsible for a multi-billion dollar industry. “Vaping” is the term used by ‘E-cig’ patrons. It aptly describes the process whereby an atomizer heats a liquid containing nicotine, turning it into a vapour which can be then inhaled, creating a cloud of vapour released as a by-product, resembling cigarette smoke.

This new device is not a ‘*Tobacco Product*’, as defined in the Tobacco Products Control Act No. 83 of 1993 (as amended) and its regulations (“**Tobacco Act**”), which includes any product containing tobacco that is intended for human consumption, but is not limited to any device, pipe, water pipe, papers, tubes, filters, portion pouches or similar objects. It is clear that an e-cig, without the contents of tobacco, conveniently falls into a grey area which is not included in the prohibition against smoking tobacco products in a ‘public place’, which includes a ‘work place’.

The Tobacco Act is aimed to protect people from the effects of smoking tobacco products as the use of tobacco is extremely injurious to the health of smokers and non-smokers alike. The Tobacco Act places duties on employers to produce Smoking Policies and comply with the provisions of the Tobacco Act. This ultimately assists in enhancing a healthy and safe working environment for all employees and to, as far as possible, eliminate passive smoking from the premises.

As such, little is known about the safety of ‘e-cigs’. New research published in May 2014, suggests that e-cigarette vapour produces tiny particles that users suck deep into their lungs, potentially causing or worsening respiratory diseases. This may have the potential to effect people breathing in the secondary vapour, however such studies are recent and valuable research is still required to come to a definitive conclusion.

In addressing the world-wide trend, Heathrow Airport prohibited e-cigarettes per their online smoking Policy and opened up a ‘vaping lounge’ in 2013, as a designated area for vapers at certain times. Similarly, employers faced with the growing trend of vapours in the work force; as well as the potential health hazards of e-cigarettes are recommended to follow suit. It is incumbent upon employers to protect employees and ensure safe working environments. The legislature will have to address the *lacunae* of the use of e-cigarettes in ‘public places’. However, employers faced with e-cigarette usage in the Work Place can be addressed by simple amendments to their Smoking Policies.

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