



## **Interviews:**

The following are notes from interviews conducted with a sampling of jurisdictions that have implemented vaping in public places laws, some that allow exemptions and some that do not.

The purpose was to:

- understand the rationale behind various aspects of their laws,
- learn how they conduct enforcement,
- determine if there have been any complications with implementation or enforcement, and
- hear any recommendations and lessons-learned.

Contacting jurisdictions in other states has proved difficult, in part because the responsible agency varies from state to state. This makes it problematic to find the correct person to interview. Staff will continue to attempt additional interviews. The notes of any additional interviews will then be provided to the Board of Health.

## CLARK COUNTY PUBLIC HEALTH

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- 1. How is implementation going? If implementation is complete, have you noticed any impacts (+/-) so far?**
  - a. Passed one year ago, and have emphasized improved tobacco enforcement but not yet vaping.
  - b. Wanted to take an educational approach so delayed enforcement intentionally and set up enforcement to be more educational in nature.
  - c. Implemented HVAC rule but no system for this. They will revisit this in 2016.
  - d. Working on improving existing ordinance-using marijuana funds.
  
- 2. How is enforcement done?**
  - a. Not doing this yet but done on complaint basis following SIPP Protocol (first complaint is education, second visit, third is ticketing). If reported or an Environmental Public Health (EPH) person sees it, they send the business a letter and a flyer. This is modeled after their EPH process. Duties are shared between Chronic Disease Prevention Department and EPH.
  - b. One of the issues is that with cigarettes there is evidence but with vaping there is nothing left behind.
  
- 3. What is the size of staff dedicated to enforcement?**
  - a. Done on an as needed by Chronic Disease Prevention Team. They do not get a lot of smoking complaints and haven't received any vaping complaints.
    - i. Complaint line is advertised on phone answering option or website only.
  - b. They have printed new signs for no smoking no vaping and run news articles about the rules.
  
- 4. If you collect license fees, are they used for enforcement? Are your fees covering the cost of enforcement?**
  - a. Looking at this in 2016.
  - b. Permitting fees are charged.
  
- 5. What made your board consider exemptions (including sampling)? Are there meeting minutes available when these conversations occurred?**
  - a. Complaints were coming in from people seeing vaping in movie theaters and public places.
  - b. Sampling is only allowed in stores with separate HVAC systems or standalone businesses.
  - c. Didn't consider youth access to stores at the time they allowed sampling.
  
- 6. What has been the staff experience so far with the exemptions and enforcement?**
  - a. This seems to be going fine. As they move forward and see what other counties are doing they are thinking about what to do next. They haven't received a lot of pushback and they think it is because vape stores are able to allow sampling.
  
- 7. If you allow zero nicotine sampling, how are you monitoring and enforcing this?**
  - a. N/A

**8. Any recommendations for BOHs considering exemptions?**

- a. Be aware of what is happening with vaping regulations and pay attention to how vaping could impact neighboring businesses. They included HVAC because of this. It's a good idea to have routine inspections in the resolution.

# KING COUNTY HEALTH DEPARTMENT

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- 1. How is implementation going? If implementation is complete, have you noticed any impacts (+/-) so far?**
  - a. This was passed in 2010 when there were only 6-7 stores. Now there are 48 or so stores.
  
- 2. How is enforcement done?**
  - a. Staff respond to emails, comments, and online complaints. They also go out and do inspections. They do regular inspections for vaping devices or tobacco sales to minors (SYNAR)
  - b. Enforcement is limited because of no licensing fee. State dollars don't cover many of these. They have done some drop in visits and some education with retailers.
  
- 3. What is the size of staff dedicated to enforcement?**
  - a. One FTE – split time between SIPP and SYNAR/youth access
  
- 4. If you collect license fees, are they used for enforcement? Are your fees covering the cost of enforcement?**
  - a. Yes
  
- 5. What made your board consider exemptions (including sampling)? Are there meeting minutes available when these conversations occurred?**
  - a. No, very few vapor advocates attended but no discussions or amendments were discussed.
  
- 6. What has been the staff experience so far with the exemptions and enforcement?**
  - a. Limited capacity to enforce but have found stores who have been allowing sampling.
  
- 7. If you allow zero nicotine sampling, how are you monitoring and enforcing this?**
  - a. N/A
  
- 8. Any recommendations for BOHs considering exemptions?**
  - a. More research is showing the products are dangerous and the FDA isn't taking any action. It is ill-advised to allow these in public places and places of employment. The best way to approach this is to have a standardized policy that aligns with clean indoor air law. The more you add, the more complicated it gets for enforcement and regulation. It is simpler to say no to sampling and allow businesses to figure out how to operate.
  - b. The experience of King County has shown that vapor-only stores do just fine with no indoor sampling. When vapor devices were added under SIPP with no exclusions, only 6 or 7 stores were in existence. Now there are 48 (or more) that are open and doing well without the ability to sample in the store. No other businesses are permitted the kind of exclusions proposed.

A recommended approach is:

1. Include all vapor devices under SIPP with no exceptions. One reason the SIPP law has been successful is that everyone is required to play by the same rules with no exclusions. Allowing exclusions weakens the effort and makes enforcement more difficult.
2. Require signage similar to SIPP and, if possible, have it produced "in-house" so there is control of wording and all businesses throughout the county promote the same message
3. Once the norm of no-smoking and now no-vaping indoors in public places and places of employment is established, additional restrictions or changes can be considered by the Board of Health.

# SNOHOMISH COUNTY HEALTH DEPARTMENT

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- 1. How is implementation going? If implementation is complete, have you noticed any impacts (+/-) so far?**
  - a. They are currently reaching out to all businesses who sell devices to get signage up. They are sending signs with all new food permits.
  - b. They are currently reaching out to new licensees for businesses with rules and signage.
  - c. Enforcement has recently moved from Healthy Communities to Environmental Public Health and they are doing enforcement by using existing database from when HC was operating compliance
  - d. It is challenging to figure out who is selling devices. When policy passed, they got a list of tobacco retailers and sent a mailing with overview and license application. They have received about 50% of these back (of ~600 letters).
  
- 2. How is enforcement done?**
  - a. Stores are still in timeline for getting licenses so this hasn't started yet.
  - b. They don't have the ability to fine businesses and are working on compliance with education and inspections
  - c. May 2016 is the deadline for having permit. They do not yet have procedures for how to implement permitting and identifying bus is what is most challenging. Industry is a moving target (one business opens, one closes)
  
- 3. What is the size of staff dedicated to enforcement?**
  - a. Between vaping and SIPP compliance it is a .5 staff person and after implementation it will drop down to .25
  
- 4. If you collect license fees, are they used for enforcement? Are your fees covering the cost of enforcement?**
  - a. Yes, hourly rate is \$168 and fee structure for stores selling devices is different for who wants to allow sampling – so far they have processed 270 licenses.
  - b. Category 1 Annual: \$145.00 – Retailers selling vapor products
  - c. Category 2 Annual: \$350.00 – Retailers selling vapor products and providing limited sampling (7-8 of these so far and there was ~ 40 stores but only 7-8 have applied for licensing).
    - i. This is a new permit requirement and they think some businesses do not want to apply for the permit because of the restrictions around sampling.
  - d. One time plan review: \$500.00 (includes pre operational inspection). This fee helps cover cost of staff time to review plans.
  - e. Re-inspection fees for re-inspection: \$100.00
  
- 5. What made your board consider exemptions (including sampling)? Are there meeting minutes available when these conversations occurred?**
  - a. They hosted a forum and people from Washington Vape Association came, not people from Snohomish County.
  - b. This happened early on and there was pressure to please all parties (industry, public health, community)
  - c. Notes are available from Board of Health meetings
  
- 6. What has been the staff experience so far with the exemptions and enforcement?**
  - a. Still implementing. If a businesses was an existing business, they have one year to comply. New stores (after Dec 10) have to comply with all rules upon opening.
  - b. It is not easy to identify stores and even after thorough job of research, more is needed.

**7. If you allow zero nicotine sampling, how are you monitoring and enforcing this?**

- a. The rules are that no sampling is allowed of anything people bring in the store or anything purchased.
- b. Customers can only use the sample products the store provides.
- c. Employees cannot vape– can only demonstrate. EPH is responsible for enforcement on this – hard to do compliance.
- d. Hard to regulate relying on complaints for Category 2 – they expect complaints would probably be from neighboring businesses and not people who visit the vape store.

**8. Any recommendations for BOHs considering exemptions?**

- a. Would have been nice to implement without exemptions and then go back and add.
- b. Draw on public comment from places who have neighbors who allow sampling.
- c. Make it so adult only venues cannot allow use.
- d. Do not consider sampling exemption. Allowing sampling in a vape store doesn't consider employees who might work in a store and sampling exemptions is contrary to other public health rules we have set.
- e. If you are going to allow sampling, only allow vape products in the stores and no other products.

# TACOMA PIERCE COUNTY HEALTH DEPARTMENT

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- 1. How is implementation going? If implementation is complete, have you noticed any impacts (+/-) so far?**
  - a. The Tobacco Program helped pass this but transitioning to code enforcement for implementation
  - b. They hired a new position for permitting piece of this
    - i. Code enforcement is working on responding to and implementing permitting piece.
  
- 2. How is enforcement done?**
  - a. All retailers will be checked two times per year.
    - i. Businesses who have a license to allow sampling get checked three times per year and businesses without sampling twice per year
  - b. There are three permits:
    - i. 1. Retail permit is required for all convenience stores, grocery stores, tobacco shops, retail and medical marijuana, or stores who sell products and do not allow sampling
    - ii. License for stores who only sell vapor products
      1. If stores want to allow sampling there is a higher license fee and other requirements (i.e. HVAC system, no entry to under 18, signage, no seating or entertainment, no sale of other products, child resistant packaging for all liquids used for vaping)
    - iii. License for vending machines in adult only establishments (must be so many feet from the door and comply with tobacco regulations)
      1. Fees are:
      2. Cat. 1 retailer \$375/yr
      3. Cat. 2 retailer \$565/yr
      4. Vending machine \$160/yr
      5. Re-inspection fee \$160/yr
  - c. Person will respond to complaints – still writing protocols on this. Will be using youth for this.
  
- 3. What is the size of staff dedicated to enforcement?**
  - a. One FTE.
  
- 4. If you collect license fees, are they used for enforcement? Are your fees covering the cost of enforcement?**
  - a. Yes
  
- 5. What made your board consider exemptions (including sampling)? Are there meeting minutes available when these conversations occurred?**
  - a. In 2011 they passed no vaping in public places but exempted worksites and adult only establishments.
  - b. Primarily healthy youth survey data informed the need to tighten regulations and there was no legislature action on this.
  - c. They had a discussion with community partners, heard strong feedback that industry needed to be consistent with tobacco laws -needed more uniform policy.
  - d. Discussion with BOH involved commitment to community engagement, used people who would be impacted to help inform process and were open to opinions changing opinion. Industry gave testimony that they believe they are helping community and felt that they can't help them if they can't show customers devices through sampling, and felt that businesses wouldn't succeed without exemption.
    - i. BOH allowed sampling but put in safeguards to protect from second hand vapor
  
- 6. What has been the staff experience so far with the exemptions and enforcement?**
  - a. Many things need to be implemented still.
  - b. Businesses showing concern about inequity over enforcement.

**7. If you allow zero nicotine sampling, how are you monitoring and enforcing this?**

- a. Zero nicotine for sampling only – they reserved right to test and will do so at expense of retailer. This is creating a lot of concerns (in the form of calls) from people don't want to pursue a sample permit because they don't know how much it will cost to do testing.
- b. No protocol for how much testing but it's not a way to make money rather than to ensure compliance.
- c. All tests will go to a lab – anticipated costs are about \$200 per sample.

**8. Any recommendations for BOHs considering exemptions?**

- a. Know what your goal is. The more criteria you put into it the more challenges that can create.
- b. Keep it simple

**9. What parts of your policy have been referenced in the lawsuit that has been brought against the Tacoma Pierce Health Department?**

- a. Lawsuit indicates that the new rules are overstepping and businesses should be able to provide seating and provide customers coffee. It is burdensome to require businesses to make such a large investment into changes (HVAC, etc)
- b. People who are complying are losing businesses to people who are not complying
  - i. Some businesses are not complying and are OK with being fined by law enforcement