

Dare County Board of Health & Human Services Rule Prohibiting the Use of Electronic Nicotine Delivery System Products in Restaurants and Bars

Section One: Definitions

The following definitions shall apply in the interpretation and enforcement of this rule.

North Carolina's Smoke-Free Law – means legislation enacted by North Carolina in 2010 known as NCGS 130A-497 which prohibits the use of tobacco products inside restaurants and bars.

NCGS – North Carolina General Statutes.

Electronic Nicotine Delivery Systems (ENDS) – means battery powered devices that provide nicotine and other additives to the user in the form of an aerosol.

Electronic Cigarettes (E-Cigarettes) - part of the ENDS range of products. E-Cigarettes means battery operated devices that heat a liquid nicotine solution in a disposable cartridge, creating vapor that the smoker inhales. A tiny light on the tip glows like a cigarette.

Board – means the Dare County Board of Health and Human Services.

Director – means the Dare County Department of Health and Human Services' Public Health Division Director.

Section Two: Purpose

To adopt a rule extending North Carolina's Smoke-Free Restaurant and Bars Law, as set forth in NCGS 130A-497 to include the use of ENDS products inside restaurants and bars.

Since January 2, 2010, nearly all restaurants and bars in North Carolina, and many lodging establishments, have been smoke-free, as a result of N.C. General Statute 130A-497, otherwise known as North Carolina's Smoke-Free Restaurants and Bars Law. The legislation that came into effect in January 2010 does not include ENDS products. This rule is required to include ENDS products in those regulations set forth in NCGS 130A-497 for the following reasons:

- ENDS products are not currently approved as cessation aids to smoking by the Food and Drug Administration ("FDA"), nor are they regulated as a tobacco product.
- ENDS products are not proven safe alternatives to smoking and may pose safety risks to others. Additionally, there is no scientific evidence that they help smokers quit. There are proven safe and effective nicotine replacement medications available over the counter, including patches, gum and lozenges. Oral inhalers and nasal sprays can be obtained with a prescription.

- The aerosol emitted into a room, either from exhalation, or the aerosol emitted from the product itself may not be safe.
- This aerosol can contain toxins such as formaldehyde, acrolein, tin, toluene and aluminum, which are associated with a range of negative health effects such as skin, eye and respiratory irritation, neurological effects, damage to reproductive systems and premature death from heart attack or stroke. The aerosol has been found to contain higher concentrations of formaldehyde than tobacco smoke.
- Product contains varying levels of nicotine.
- As these products are not regulated as tobacco products, very little is known as to the ingredients of liquids. There is no information from manufacturers regarding the purity of the product or stability.

Section Three: Adoption of Rule

The Board of Health and Human Services declares that the following rule for the protection of public health is hereby adopted pursuant to the authority granted by Chapter 130A Section 39 of the North Carolina General Statutes.

Effective July 1, 2015, the regulations as set forth in NCGS 130A-497 shall be extended to apply to all Electronic Nicotine Delivery Systems (ENDS) as defined in Section 1 of this rule, including but not limited to e-cigarettes, e-hookas, hooka pens, e-cigars and vape-pens. All ENDS products are hereby prohibited from use inside restaurants and bars. This rule shall apply throughout all of Dare County, North Carolina.

Section Four: Appeals

Appeals concerning interpretation and enforcement of this rule shall be made by petition to the Director and shall be made as follows:

1. The aggrieved person shall give written notice of appeal to the Director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect.
2. Upon filing of the notice, the Director shall, within five working days, transmit to Board the notice of appeal and the papers and materials upon which the challenged action was taken.
3. The Board shall hold a hearing within 15 days of the receipt of the notice of appeal. The Board shall give the person not less than 10 days' notice of the date, time and place of the hearing.

4. On appeal, the Board shall issue a written decision based on the evidence presented at the hearing. The decision shall contain a concise statement of the reasons for the decision.
5. A person who wishes to contest a decision of the Board under Item 3 of this procedure shall have a right to appeal to the district court having jurisdiction within 30 days after the date of the decision by the Board.

Section Five: Remedies

If a person violates any part of this rule, then he (she) shall be guilty of a misdemeanor and shall be subject to the sanctions provided in Chapter 130A Section 25 of the North Carolina General Statutes.


Section Six: Severability

If any provision of this rule or the application thereof to any person or any circumstance is declared invalid, then the remainder of the rule or the application of such provisions to other persons or circumstances shall not thereby be affected.

Section Seven: Effective Date

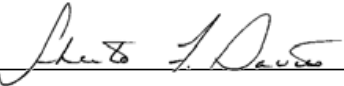
This rule shall become effective on the 1st day of July, 2015.

Adopted this the 16th day of June, 2015

Signed : 

Tim Shearin, Chair

Dare County
Board of Health & Human Services

Signed : 

Sheila F. Davies, PhD

Dare County
Department of Health & Human Services
Director – Public Health Division



County of Dare

Department of Health & Human Services

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