



BRYCE DOWNEY & LENKOV
LLC

Electronic Cigarettes: Your Workers' Compensation Exposure

On 1/15/14, the Chicago City Council voted 45-4 to approve a plan backed by Mayor Rahm Emmanuel to treat e-cigarettes like other tobacco products under the Smoke-Free Illinois Act. The ordinance limits how the devices can be sold and where they can be used, including banning them from being used indoors. This follows similar laws recently enacted in New York and Philadelphia.

According to recent data published by the Centers for Disease Control and Prevention, the percentage of U.S. middle and high school students who use e-cigarettes more than doubled from 2011 to 2012. The “vaping” industry also recently passed the one billion dollar mark, with many large tobacco manufacturers joining this fast-growing and lucrative market.

What is the exposure for allowing employees to “vape” indoors?

Exposure can be significant. While electronic cigarettes are still relatively new (introduced to the U.S. market in 2007), and therefore their effects are still being researched, most studies show that vaping does carry significant risks both to the smoker and others. According to a Nicotine and Tobacco Research Journal study published in December 2013, e-cigarette vapor containing nicotine and other toxic products found in cigarette smoke.

It is inevitable that employers who allow vaping in the workplace will see second-hand smoke claims. These claims were common for regular smoking until this practice was widely banned inside almost every workplace over the last two decades.

Our advice for now to reduce your exposure for second-hand smoke claims is to follow the lead of what will be the trend for most employers and cities, which is to ban indoor e-smoking.



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Rich brings a killer instinct and unparalleled focus to representing his clients. Rich partners closely with his clients, ranging from Fortune 50 Corporations to small businesses, to achieve successful litigation outcomes.

Named as both a Super Lawyer and Leading Lawyer, designations only given to 5% percent of attorneys, Rich enjoys the respect of his peers and leaders in his practice areas. Rich is also a frequent lecturer and involved in a number of national organizations, including:

- Claims and Litigation Management Alliance
- RIMS
- Illinois Association of Defense Trial Counsel
- Illinois Retail Merchants Association
- Foodservice Industry Risk Management Association
- Workers' Compensation Defense Institute

Rich is also very involved in his community, including serving on the Board of Visitors for the Northern Illinois University College of Law, as Local School Counsel Chairperson for Agassiz Elementary School and on the Advisory Board of Legal Prep Charter Academy, Chicago's only legal-themed charter school. Rich was recently honored as NIU School of Law Alumnus of the Year. When not practicing law, Rich enjoys spending time with his family and playing basketball.