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Congressional Report Presses for E-Cigarette Rules

Michael Felberbaum, April 14, 2014

RICHMOND, Va. (AP) — Concerns about electronic cigarettes, including flavors and marketing that could appeal to young people, underscore the need to regulate the fast-growing industry, according to a Congressional report released Monday.

The report written by the staff of Illinois Sen. Dick Durbin, Iowa Sen. Tom Harkin, California Rep. Henry Waxman and others highlights several issues including the lack of age restrictions and no uniform warning labels for the battery-powered devices that heat a liquid nicotine solution and create vapor that's inhaled.

While the Food and Drug Administration plans to set marketing and product regulations for electronic cigarettes in the near future, for now, almost anything goes. A 2009 law gave the FDA the power to regulate a number of aspects of tobacco marketing and manufacturing, though it cannot ban nicotine or cigarettes outright. The agency first said it planned to assert authority over e-cigarettes in 2011 but hasn't yet. The proposed FDA regulation was submitted to the Office of Management and Budget for review in October.

"I can't understand why the FDA is taking this long," Durbin said in an interview with The Associated Press. "It is clear that the longer they wait, the more young people will be addicted."

The report follows an investigation launched by the congressional delegation in September into the practices of nine e-cigarette makers. The staffs surveyed the companies for information on their marketing practices, steps taken to restrict sales to minors, types of warning labels and touting claims of health benefits or reduced exposure to potentially harmful or addictive substances.

Among the findings, the report says six of the companies surveyed spent more than \$59 million on advertising and promotion of their e-cigarettes in 2013. Several of the companies reported that their marketing spending more than doubled between 2012 and 2013, and two of the companies' marketing expenses increased more than 300 percent during that time. Sales of e-cigarettes, which are sold under more than 200 brand names, are estimated to have reached nearly \$2 billion in 2013.

Durbin said that if the agency "accepts responsibility for this product as they have for tobacco," it can start establishing standards for sales and marketing.

"If they fail to do that, I'm afraid it's going to continue reach into the ranks of our children," he said.

Harkin, chairman of the Senate Health, Education, Labor and Pensions Committee, echoed those concerns in a statement, urging regulators to stop marketing practices that already are illegal for traditional tobacco products.

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