Tucker Ellis LLP

E-Cigarette Litigation

Overview

The popularity of e-cigarettes (e-cigs) as a replacement for traditional cigarettes continues to increase. E-cigs use e-liquids containing nicotine, glycerin, and propylene glycol and come in a plethora of flavors. The e-cig's battery and heating coils heat the flavored liquid into a vapor that is inhaled by the user, known as "vaping." There is much debate surrounding the safety and possible long-term health consequences of e-cig use.

An estimated 500+ companies now manufacture and sell e-cigs worldwide. This virtually unregulated industry has seen sales grow to approximately $7 billion per year, and this growth is expected to continue. Despite this rapid growth, the regulation of e-cigs is still developing and varies from state to state.

In January 2017, the U.S. Surgeon General issued a report, finding that e-cig use or vaping by U.S. high school students had increased 900% since 2011 (1.5% in 2011 to 16% in 2015). The U.S. Food & Drug Administration (FDA) plans to continue to increase its regulation and scrutiny of the e-cig industry. In fact, as of August 2018, manufacturers of e-cigs are required to include a nicotine warning on their packaging, stating: "WARNING: This product contains nicotine. Nicotine is an addictive chemical."

With the increased use of e-cigs, e-cig-related lawsuits are on the rise. Many of these suits allege that the use of e-cigs exposes users to injury and cancer-causing materials such as diacetyl (a chemical used in many e-cig flavors) and metals, including lead, cadmium, nickel, and manganese. Other suits allege that e-cig batteries can overheat and explode during use or charging, causing severe burns and property damage.

How Tucker Ellis Can Help

Manufacturers, distributors, and suppliers of e-cigs and e-liquids face the challenging task of complying with an increasing number of state and federal regulations and requirements, developing packaging and warnings, and protecting intellectual property rights. They may also be targets in product liability litigation alleging injury from the use of these products by consumers. The Tucker Ellis Mass Tort & Product Liability Group can assist clients with these legal issues and help develop strategies to manage risks.

The Tucker Ellis Mass Tort & Product Liability Group represents product manufacturers in tens of thousands of cases filed in state and federal courts nationwide at both the trial and appellate levels. Our lawyers focus on the national, regional, and local defense of product liability cases involving industrial, commercial, and consumer products and toxic tort cases

related to alleged exposure to naturally occurring substances such as asbestos, silica, coal mine dust, and talc, as well as welding fume, mold, and other claimed toxins.