

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Nicotine in Electronic Cigarette Devices

February 27, 2015

This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health (“CEH”), 2201 Broadway, Suite 302, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Charlie Pizarro is the Associate Director of and a responsible individual within CEH.

Description of Violation:

- Violators: The names and addresses of the violators are identified in the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least February 27, 2012, and are continuing to this day.
- Provision of Proposition 65: This Notice of Violation covers the “warning provision” of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The name of the listed chemical involved in these violations is nicotine. Exposures to nicotine occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing this violation is electronic cigarette devices, also known as “tanks” and “vape pens.” Non-exclusive examples of this specific type of product are identified in the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to nicotine. Use of the products identified in this Notice results in human exposures to nicotine. Electronic cigarette devices are designed, marketed and intended for use with liquid that contains nicotine. In the case of disposable electronic cigarette devices, the products are pre-loaded with nicotine. The primary route of exposure for the violations is inhalation and direct ingestion when consumers inhale the aerosol emitted from electronic cigarette devices utilizing the nicotine-containing liquids. In addition, the products cause dermal and secondary ingestion exposures when the nicotine from the products is deposited in indoor environments where the products are used. These exposures occur in homes, workplaces and everywhere else throughout California where the products are used. No clear and reasonable warning is provided with these products regarding the reproductive hazards of nicotine.

Resolution of Noticed Claims:

Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each alleged violator unless such violator agrees in a binding written instrument to: (1) recall products already sold; (2) provide clear and reasonable warnings for products sold in the future; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any alleged violator is interested in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to contact CEH through its counsel identified below. It should be noted that CEH cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this Notice to CEH's counsel Mark N. Todzo at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, mtodzo at lexlawgroup.com.

EXHIBIT 1
February 27, 2015 Notice of Violation
Nicotine in Electronic Cigarette Devices

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	SKU or Further Description
<p style="text-align: center;">180 Smoke, LLC 2711 Centerville Road, Suite 400 Wilmington, DE 19808</p> <p style="text-align: center;">2360149 Ontario Inc. 657 Yonge Street Toronto, Ontario M4Y 1Z9 Canada</p>	<p style="text-align: center;">180 Smoke Essential Starter Kit with Rechargeable Electronic Cigarette</p>	<p style="text-align: center;">SKU No. 7-66150-44147-5</p>
<p style="text-align: center;">American Vapor Inc. dba Artisan Vapor Company 2100 Regency Drive Irving, TX 75062</p>	<p style="text-align: center;">Artisan Vapor Company Ballistix 1100 mAh Starter Kit with E-Cigarette</p>	<p style="text-align: center;">n/a</p>
<p style="text-align: center;">Avail Vapor, LLC 820 Southlake Blvd. Richmond, VA 23236</p>	<p style="text-align: center;">Avail Infuse Kit with Vape Pen</p>	<p style="text-align: center;">SKU No. KIT00001BLK</p>
<p style="text-align: center;">CB Distributors, Inc. 2500 Kennedy Drive Beloit, WI 53511</p>	<p style="text-align: center;">Vapin Plus Liquid Vaporizer Pen Kit 650 mAh Battery</p>	<p style="text-align: center;">SKU No. 3-65860-38336-7</p>
	<p style="text-align: center;">Vapin Plus Liquid Vaporizer Pen Kit 1100 mAh Battery</p>	<p style="text-align: center;">SKU No. 3-65860-37400-6</p>
<p style="text-align: center;">Flying J Inc. 185 South State Street, Suite 201 Salk Lake City, UT 84111</p> <p style="text-align: center;">Pilot Travel Centers LLC 5508 Lonas Drive Knoxville, TN 37909</p>	<p style="text-align: center;">Vapin Plus Liquid Vaporizer Pen Kit 650 mAh Battery</p>	<p style="text-align: center;">SKU No. 3-65860-38336-7</p>

<p>Love's Country Stores of California 10601 N. Pennsylvania Avenue Oklahoma City, OK 73120</p>	<p>Nicotek Faze Basic Personal Vaporizer Kit</p>	<p>n/a</p>
<p>National Tobacco Company, L.P. 5201 Interchange Way Louisville, KY 40229</p>	<p>Zig-Zag Liquid Vaporizer Pen</p>	<p>SKU No. 8-40439-16401-6</p>
<p>Pink Spot Vapors Inc. 6485 N. Decatur Blvd. Suite 180 Las Vegas, NV 89131</p>	<p>Pink Spot Vapors Disposable E-Cig in Watermelon Wave</p>	<p>Code No. PSV-DispWat</p>
<p>Robinson Oil Corporation dba Rotten Robbie 955 Martin Avenue Santa Clara, CA 95050</p>	<p>Zig-Zag Liquid Vaporizer Pen</p>	<p>SKU No. 8-40439-16401-6</p>
<p>Saffire Vapor, Inc. 204 Sunnyside Drive Chapel Hill, TN 37034</p> <p>Saffire Vapor, Inc. 425 N Thompson Lane Murfreesboro, TN 37129</p> <p>Saffire Vapor, Inc. 204 Sunnyside Drive Chapel Hill, TN 37034</p>	<p>Saffire Vapor EVOD Starter Kit with E-Cigarette</p>	<p>KangerTech ID No. K3PCQRR6W1</p>
<p>SS Choice, LLC 525 Commerce Street Southlake, TX 76092</p> <p>VapeTech, LLC 525 Commerce Street Southlake, TX 76092</p>	<p>7's Micro Refillable Booster Pack with E-Cigarette</p>	<p>SKU No. N7-MC-R-BP</p>

CERTIFICATE OF MERIT
Health & Safety Code §25249.7(d)

I, Mark N. Todzo, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health & Safety Code §25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies or other data regarding the exposures to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of the Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code §25249.7(h)(2), i.e. (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies or other data reviewed by those persons.

February 27, 2015



Mark N. Todzo
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL

I declare that:

I am employed in San Francisco County, California; my business address is 503 Divisadero Street, San Francisco, California 94117. I am over the age of 18 years and not a party to the within cause and my electronic notification address is cfisher@lexlawgroup.com.

On February 27, 2015, I served true copies of the following documents:

NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;

CERTIFICATE OF MERIT; and

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (only sent to those on service list marked with an asterisk).

On this date, I deposited fully prepaid and sealed envelopes containing the above-mentioned documents with the United States Postal Service, addressed to the following individuals:

Please see attached service list.

Also on this date, I transmitted via electronic mail the documents listed above to the electronic mail addresses set forth below at 12:20 P.m. on February 27, 2015:

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Dije Ndreu, Deputy District Attorney
Monterey County
230 Church Street, Bldg. 2
Salinas, CA 93901
Prop65DA@co.monterey.ca.us

Yeng Dang
Supervising Deputy District Attorney
Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110
epu@da.sccgov.org

Gary Lieberstein, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Drive, Rm. 212J
Santa Rosa, CA 95403
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney
Tulare County
221 S. Mooney Avenue, Rm. 224
Visalia, CA 93291
Prop65@co.tulare.ca.us

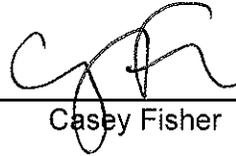
Paul E. Zellerbach, District Attorney
Riverside County
4075 Main Street
Riverside, CA 92501
Prop65@rivcoda.org

Gregory D. Totten, District Attorney Ventura
County
800 South Victoria Avenue
Ventura, CA 93009
daspecialops@ventura.org

The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on February 27, 2015, at San Francisco, California.

Signed: _____

A handwritten signature in black ink, appearing to be 'CF', written over a horizontal line.

Casey Fisher

SERVICE LIST

District Attorney of Alameda County
1225 Fallon Street, Rm. 900
Oakland, CA 94612

District Attorney of Alpine County
P.O. Box 248
Markleeville, CA 96120

District Attorney of Amador County
708 Court Street, Ste. 202
Jackson, CA 95642

District Attorney of Butte County
Administration Building
25 County Center Drive
Oroville, CA 95965

District Attorney of Calaveras
County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney of Colusa County
547 Market Street, Ste. 102
Colusa, CA 95932

District Attorney of Del Norte County
450 H Street, Ste. 171
Crescent City, CA 95531

District Attorney of El Dorado
County
515 Main Street
Placerville, CA 95667

District Attorney of Fresno County
2220 Tulare Street, Ste. 1000
Fresno, CA 93721

District Attorney of Glenn County
P.O. Box 430
Willows, CA 95988

District Attorney of Humboldt County
825 5th Street
Eureka, CA 95501

District Attorney of Imperial County
939 Main Street, Ste. 102
El Centro, CA 92243

District Attorney of Inyo County
P.O. Drawer D
Independence, CA 93526

District Attorney of Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney of Kings County
1400 West Lacey Blvd.
Hanford, CA 93230

District Attorney of Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney of Lassen County
220 S. Lassen Street, Ste. 8
Susanville, CA 96130

District Attorney of Los Angeles
County
210 W. Temple Street, Ste. 1800
Los Angeles, CA 90012-3210

District Attorney of Madera County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney of Marin County
3501 Civic Center Drive, Rm. 130
San Rafael, CA 94903

District Attorney of Mariposa
County
P.O. Box 730
Mariposa, CA 95338

District Attorney of Mendocino
County
P.O. Box 1000
Ukiah, CA 95482

District Attorney of Merced County
2222 "M" Street
Merced, CA 95340

District Attorney of Modoc County
204 S. Court Street, Rm. 202
Alturas, CA 96101-4020

District Attorney of Mono County
P.O. Box 617
Bridgeport, CA 93546

District Attorney of Nevada County
201 Commercial Street
Nevada City, CA 95959

District Attorney of Orange
County
401 Civic Center Drive West
Santa Ana, CA 92701

District Attorney of Placer County
10810 Justice Center Drive, Ste.
240
Roseville, CA 95678

District Attorney of Plumas
County
520 Main Street, Rm. 404
Quincy, CA 95971

District Attorney of Sacramento
County
901 "G" Street
Sacramento, CA 95814

District Attorney of San Benito
County
419 Fourth Street, 2nd Fl.
Hollister, CA 95023

District Attorney of San
Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415

District Attorney of San Diego
County
330 West Broadway, Ste. 1300
San Diego, CA 92101

District Attorney of San
Francisco County
850 Bryant Street, Rm. 325
San Francisco, CA 94103

District Attorney of San Joaquin
County
P.O. Box 990
Stockton, CA 95202

District Attorney of San Luis
Obispo County
1050 Monterey Street, Rm. 450
San Luis Obispo, CA 93408

District Attorney of San Mateo
County
400 County Center, 3rd Fl.
Redwood City, CA 94063

District Attorney of Santa Cruz County 701 Ocean Street, Rm. 200 Santa Cruz, CA 95060	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Rm. 800 Los Angeles, CA 90012	President * Flying J Inc. 185 South State Street, Suite 201 Salk Lake City, UT 84111
District Attorney of Santa Barbara County Attn: Jerry Lule-Jian 312-D E. Cook Street Santa Maria, CA 93454	San Diego City Attorney's Office 1200 Third Avenue, Ste. 1620 San Diego, CA 92101	President * Love's Country Stores of California 10601 N. Pennsylvania Avenue Oklahoma City, OK 73120
District Attorney of Shasta County 1355 West Street Redding, CA 96001	San Francisco City Attorney's Office City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102	President * Love's Country Stores of California P.O. Box 26210 Oklahoma City, OK 73126
District Attorney of Sierra County Courthouse 100 Courthouse Sq., 2 nd Fl. Downieville, CA 95936	San Jose City Attorney's Office 200 East Santa Clara Street San Jose, CA 95113	President * National Tobacco Company, L.P. 5201 Interchange Way Louisville, KY 40229
District Attorney of Siskiyou County P.O. Box 986 Yreka, CA 96097	California Attorney General's Office Attention: Proposition 65 Coordinator and Robert Thomas 1515 Clay Street, Ste. 2000 P.O. Box 70550 Oakland, CA 94612-0550	President * Pilot Travel Centers LLC 5508 Lonas Drive Knoxville, TN 37909
District Attorney of Solano County 675 Texas Street, Ste. 4500 Fairfield, CA 94533	President * 180 Smoke, LLC 2711 Centerville Road, Suite 400 Wilmington, DE 19808	President * Pilot Travel Centers LLC P.O. Box 10146 Knoxville, TN 37939
District Attorney of Stanislaus County 832 12th Street, Ste. 300 Modesto, CA 95354	President * 2360149 Ontario Inc. 657 Yonge Street Toronto, Ontario M4Y 1Z9 Canada	Penn Elletson, President * Pink Spot Vapors Inc. 6485 N. Decatur Blvd. Suite 180 Las Vegas, NV 89131
District Attorney of Sutter County 446 Second Street Yuba City, CA 95991	Umair A. Kaimkhani, President * American Vapor Inc. dba Artisan Vapor Company 2100 Regency Drive Irving, TX 75062	Thomas Robinson, President * Robinson Oil Corporation dba Rotten Robbie 955 Martin Avenue Santa Clara, CA 95050
District Attorney of Tehama County P.O. Box 519 Red Bluff, CA 96080	Umair A. Kaimkhani, President * American Vapor Inc. 908 E. 15th Street Plano, TX 75074	President * Saffire Vapor, Inc. 204 Sunnyside Drive Chapel Hill, TN 37034
District Attorney of Trinity County P.O. Box 310 11 Court Street Weaverville, CA 96093	President * Avail Vapor, LLC 820 Southlake Blvd. Richmond, VA 23236	President * Saffire Vapor, Inc. 425 N Thompson Lane Murfreesboro, TN 37129
District Attorney of Tuolumne County 423 N. Washington Street Sonora, CA 95370	President * CB Distributors, Inc. 2500 Kennedy Drive Beloit, WI 53511	
District Attorney of Yolo County 301 Second Street Woodland, CA 95695		
District Attorney of Yuba County 215 Fifth Street Marysville, CA 95901		

President *
Saffire Vapor, Inc..
475 Metroplex Drive, Suite 300
Nashville, TN 37211

Kyle Newton, President *
SS Choice, LLC
525 Commerce Street
Southlake, TX 76092

Kyle Newton, President *
VapeTech, LLC
525 Commerce Street
Southlake, TX 76092