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**Testimony of Michael Burgess
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Thank you Senator Hannon and members of the committee for this opportunity to discuss with you issues related to e-cigarette usage and products.

Other than in New York City which recently passed regulations on using e-cigarettes in public places, the use and promotion of electronic cigarettes (e-cigarettes) is currently unregulated in New York State for persons 18 and older and poses a threat to the decades-long battle against smoking. E-cigarettes are not subject to the Clean Indoor Air Act, which prohibits smoking in all public places and workplaces, including schools, malls, playgrounds, hospitals, restaurants and bars. They are not included in the definition of smoking, so people can use e-cigarettes anywhere and anytime. Their continued use and growing popularity among middle and high school students, in particular, undermines the public health campaign to prevent young people from starting with a deadly nicotine addiction. Manufacturers are also seeking to “normalize” smoking through television ads and other well-funded marketing strategies.

Let’s be clear about what we are talking about regarding your proposed legislation, (A8178-b/S6562) to include e-cigarettes as being among the products subject to the under the Clean Indoor Air Act. We are not taking away someone’s right or freedom to use e-

cigarettes. Those over 18 have that right and your legislation does not take it away. Instead, it maintains the right of the non-smokers who are the overwhelming majority in this country to be in public places without having clouds of unknown vapors being emitted.

According to data from the Centers for Disease Control and Prevention, nearly twice as many middle and high school students experimented with e-cigarettes in 2012 as in 2011, while use of tobacco cigarettes declined in the same period. If e-cigarettes prove to be a “gate-way” to other products, leading to an increase in underage smoking, their use would represent a serious setback in the fight against tobacco-related illness.

Also, new research made public this month by the University of Colorado and Mississippi State now shows that, “Electronic cigarette use has risen quickly, with adult awareness doubling from 16.4% in 2009 to 32.2% in 2010 and ever-use for adults rising rapidly from 0.6% in 2009 to 2.7% in 2010, and ever-use among 6th-12th grade students rising from 3.3% in 2011 to 6.8% in 2012.”

They concluded, “Young adults exclusively use flavored e-cigarettes. Many young adult users are current and former smokers, suggesting e-cigarettes are used to maintain nicotine addiction and use may re-expose former smokers to nicotine. Additionally, young adults are not using e-cigarettes as a cessation alternative. Continued research on patterns of use of these products in young adults is needed, particularly to understand age of initiation, flavoring, and influence of marketing, and to inform public policy and regulatory action.”

While we have made great strides in the fight to reduce smoking rates, e-cigarettes are another gimmick by the industry to “re-glamourize” the dangerous practice and get more people smoking. They are offering e-cigarettes with liquid nicotine refills that come in

flavors such as cotton candy, gummy bear, cheery cheesecake, fruit punch and bubble gum that entices and targets a young demographic. If e-cigarettes are all about helping people to quit smoking, then why all the advertising to re-glamourize it?

With the increase in popularity of e-cigarettes, calls to the U.S. Centers for Disease Control and Prevention due to poisoning from e-cigarettes have dramatically increased. Poisoning occurs through direct skin or eye exposure, ingestion or inhalation of the liquid nicotine or e-liquid. The most common health effects reported include vomiting, nausea and eye irritation. In a recent study, calls related to e-cigarettes rose from an average of one call per month in September 2010 to an astonishing 215 calls per month by February 2014. Furthermore, half of those calls involved young children under the age of five. Due to the fact that e-cigarettes and liquid nicotine refills are not regulated, there are no restrictions on their packaging.

Some proponents argue that e-cigarettes are a healthy alternative to tobacco cigarettes and help people quit smoking. However, their emissions contain nicotine, acrolein (used in weed killer), formaldehyde (an embalming agent) and acetaldehyde (an irritant and cancer causing chemical) according to recent research conducted at the Roswell Park Cancer Institute. They have not been proven to be safe and the FDA has not approved them as an effective method to quit smoking. After all, they contain nicotine, which is highly addictive and especially so when inhaled by smoking. Further, there are already many highly effective methods approved by the FDA to assist individuals wanting to quit.

There are some who are arguing strenuously that these are cessation devices and help people to not smoke. Again, that does not give them the right to vape e-cigarettes in

public places. There are many proven cessation methods including medications and counseling which are recommended for smokers¹.

I want to also note again that New York City passed a law that includes e-cigarettes under the Clean Indoor Air Act provisions which became effective recently for persons under 21 so it is desirable to have a uniform statewide policy. There are many other issues involved including the confusion of persons wondering what is allowed in public places, and the burden on property and business owners to have to allow two different sets of rules, one for cigarettes and one for e-cigarettes. The key issue though is the right of persons not to have to have clouds of unknown vapor emitted in public places. That remains the standard on which regulations and laws must be considered and the failure to protect the non-smoking and non-vaping public is not acceptable and represents a very clear erosion of the Clean Indoor Air Act.

While we are not taking a particular position on legislation regarding liquid nicotine and registration of e-cigarette vendors, we think it is a good idea to consider how to deal with the changing marketplace and what regulations are needed to protect public health and safety particular in light of our early comments about poison control.

Tobacco usage has caused millions of deaths in this country and around the world. We should not weaken the half century effort which has been successful in reducing smoking rates and lung cancer rates. For those who wish to use e-cigarettes to quit smoking they will continue to have that right in locations where it is allowed. For those who wish to open up a new market and a new generation to addiction, every legislator should be against that.

¹ **Electronic Cigarette Use among Young Adults**

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