



New York Association of Convenience Stores  
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**TESTIMONY OF JAMES S. CALVIN, PRESIDENT**  
New York Association of Convenience Stores

**Before the New York State Senate Committee on Health**

Hon. Kemp Hannon, Chairman  
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The New York Association of Convenience Stores is a statewide trade organization representing 8,000 neighborhood mini-marts, bodegas and convenience stores, the majority of which are licensed by the State of New York to sell legal tobacco products to adult customers. Many of them also sell electronic cigarettes. A smaller number sell “e-liquids.”

NYACS was one of the first entities to be approved by the New York State Department of Health as a provider of certified tobacco sales training, under legislation authored by Senator Hannon. I have personally trained over 7,000 retail clerks and cashiers in the proper procedures for preventing underage sales in accordance with state law.

I’m proud to say that this type of training – along with effective compliance enforcement by the state and county health departments and voluntary, good-faith efforts by responsible retailers – has helped drive up New York’s compliance rate from 80 percent 15 years ago to 95 percent today. Every day, all of us are striving to further improve that number.

We would like to commend you, Senator Hannon, for your principled leadership in the arena of public health policy in general, and tobacco policy in particular. We occasionally disagree, obviously, but you have always been thoughtful, forthcoming, and respectful of the retail industry’s point of view.

New York State and New York City were among the first jurisdictions in the nation to forbid smoking in bars, restaurants, places of employment, and other indoor areas. They did so because public health advocates insisted that exposure to second-hand cigarette smoke could kill non-smokers.

Private industry responded by inventing a battery-operated nicotine delivery system that smokers could use in such places *without* exposing others to second-hand smoke – the electronic cigarette.

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Some New Yorkers have responded to the advent of e-cigarettes the way they might react to seeing a spider on their kitchen floor – “Quick, stomp on it!” without knowing whether it’s really a threat to their safety, and without regard for any beneficial impact it may have.

Truth be told, the jury is still out on the degree to which e-cigarettes are a smoking cessation tool, a public health threat, or some combination of the two. The Food and Drug Administration has officially begun sorting that out in an orderly fashion, undertaking the scientific analysis necessary to objectively define benefits and risks, and then properly balance them through regulation.

Consistent with our commitment to preventing youth access to tobacco-related products, NYACS is on record supporting Senator Hannon’s bill S.7027-a, prohibiting sale of liquid nicotine to minors, requiring such products to display ingredients and a warning label, and requiring their containers to be child-proof. We also have endorsed S.7139 by Senator Hannon to require stand-alone “vaping shops” to register with the State and undergo periodic undercover compliance checks just like retail tobacco dealers do.

But in our view, outlawing the sale of liquid nicotine to adult customers under any circumstances, as proposed in S.6939-a, and completely banning e-cigarette use wherever smoking is banned, as proposed in S.6562, would be premature at best, and arachnophobic at worst.

Why squish a product category that, for many smokers, has already become the long-awaited viable solution to quitting combustible cigarettes?

Why leap-frog the FDA by enacting an e-cigarette use ban based on conjecture that may or may not conform to what the FDA ultimately deems appropriate based on science?

If there are suddenly fewer places you can use an e-cigarette, will the transition from combustibles to vaping be retarded, or even reversed? And is that in the long-term interest of public health?

Before you stomp on that spider, we implore you to first let the FDA determine whether that’s a black widow scurrying across the floor, or a species that can help achieve the objective of further reducing tobacco-related illness and death.