



**Testimony of
The New York City Department of Health and Mental Hygiene**

before the

New York State Senate Committee on Health

on

Electronic Cigarettes

May 12, 2014

**Hearing Room A
Albany, New York**

Senator Hannon and members of the New York State Senate Health Committee, thank you for providing the New York City Department of Health and Mental Hygiene (the Department) with the opportunity to provide testimony on electronic cigarettes. We thank the Senate Health Committee for their focus on these products, which are of concern to the Department and many of our partners in the public health community.

Electronic cigarettes, commonly called e-cigarettes, are nicotine delivery devices that emit vapor and are often designed to look like conventional cigarettes. Among United States high school students, electronic cigarette use more than doubled between 2011 and 2012, from 4.7 percent to 10 percent.¹ In 2012, more than 1.78 million middle and high school students nationwide tried electronic cigarettes.² Sales of these products have doubled in just two years from nearly \$300 million in 2011 to \$600 million in 2012,³ and were expected to reach \$2 billion in 2013.⁴

Because e-cigarettes are so new, we know very little about them and are still working to answer many of the important questions that health experts have about their short-term, long-term, and indirect effects. The Food and Drug Administration (FDA) has found that some electronic cigarettes contain toxins and carcinogens.^{5,6} Some studies suggest that electronic cigarettes release emissions containing volatile organic compounds⁷ and fine particulate matter,^{8,9} which

¹ Centers for Disease Control and Prevention. Notes from the Field: Electronic Cigarette Use Among Middle and High School Students — United States, 2011–2012. *Morbidity and Mortality Weekly Report* 2013;62(35):729-30.

² Centers for Disease Control and Prevention. Notes from the Field: Electronic Cigarette Use Among Middle and High School Students — United States, 2011–2012. *Morbidity and Mortality Weekly Report* 2013;62(35):729-30.

³ CBSNews.Com. Booming E-cigarette industry raises questions on safety, regulation. July 22, 2013. Last accessed November 25, 2013. Available at:

http://www.cbsnews.com/8301-505263_162-57594842/booming-e-cigarette-industry-raises-questions-on-safety-regulation/

⁴ Wiczner, Jenn. The Wall Street Journal. 10 Things E-Cigarettes Won't Tell You. November 10, 2013. Last accessed November 25, 2013. Available at: <http://online.wsj.com/news/articles/SB10001424052702304448204579184052293918312>

⁵ FDA warns about health risks posed by e-cigarettes. Last accessed November 27, 2013. Available at:

<http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm173401.htm>

⁶ Food and Drug Administration. Evaluation of e-cigarettes. May 4, 2009. Last accessed November 27, 2013. Available at: <http://www.fda.gov/downloads/drugs/scienceresearch/ucm173250.pdf>

⁷ Schripp T, Markewitz D, Uhde E, et al. Does e-cigarette consumption cause passive vaping? *Indoor Air* 2013;23:25–31.

are associated, in large enough concentrations, with respiratory problems. Electronic cigarettes have not been subjected to any long-term scientific studies and their impact on health over time is unknown. What we do know with certainty is that most of these devices contain nicotine, a highly addictive substance, and many electronic cigarettes look virtually identical to and mimic the action of smoking a conventional cigarette.

In April 2014 the FDA announced that it will regulate e-cigarettes, and the Department applauds this important step. However, years may pass before the proposed regulations go into effect. In the interim, there is no federal regulation of these products, meaning there is no way of knowing the levels of nicotine or amounts or kinds of other chemicals they deliver to the lungs of users.¹⁰

All of this country's big cigarette companies are now producing and heavily marketing e-cigarettes, undercutting decades of public health efforts to de-glamorize smoking. By one estimate, e-cigarette companies spent more than \$15 million in the first quarter of 2013 promoting e-cigarettes, compared to \$2 million during the same period the year before.¹¹ E-cigarette advertisements regularly employ youth-oriented marketing strategies, including those utilized by the tobacco industry decades ago, such as celebrity endorsements and messages that associate smoking e-cigarettes with themes like freedom, rebelliousness, and glamour. Also, electronic cigarettes are often sold in youth-friendly packaging and flavors, such as ice cream sundae, bubble gum and apple pie.

⁸ Schripp T, Markewitz D, Uhde E, et al. Does e-cigarette consumption cause passive vaping? *Indoor Air* 2013;23:25–31.

⁹ Zhang Y, Sumner W, Chen D-R. In Vitro Particle Size Distributions in Electronic and Conventional Cigarette Aerosols Suggest Comparable Deposition Patterns. *Nicotine & Tobacco Research* 2013;15(2):501-508.

In addition, e-cigarettes are often marketed using unsubstantiated health claims. Such advertising is misleading and, in fact, the FDA has never approved an e-cigarette manufacturer to make a claim that their product poses less of a health risk than tobacco products like cigarettes. Furthermore, the FDA has never approved an e-cigarette for helping smokers to quit.

In 2013, the New York City Council passed two laws regulating e-cigarettes. The first law, which went into effect on April 29, 2014, is similar to Senator Hannon's bill (S06562) in that it prohibits the use of e-cigarettes in places where smoking is prohibited. Many other jurisdictions regulate the use of e-cigarettes in public places where smoking is prohibited, including New Jersey, Utah, North Dakota, Boston, San Francisco, Philadelphia, Chicago and Los Angeles. The second law, which will go into effect later this week, prohibits the sale of electronic cigarettes to persons under 21 years old. We believe both of these laws are important from protecting youth and others from the unknown impact of these products and maintaining the integrity of the Smoke-Free Air Act.

Progress in tobacco control has helped to de-normalize smoking. The emergence of e-cigarettes may undermine hard-fought gains in tobacco control and expose another generation to nicotine addiction, warranting sensible e-cigarette regulations, such as those that limit availability and accessibility of these products to youth. The Department strongly supports the Senate's efforts to pass legislation that will address the potentially negative health consequences of electronic cigarettes.

Thank you again for the opportunity to provide testimony.

