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**Public Health Committee
March 11, 2015**

Comments from the American Cancer Society Cancer Action Network on Proposed bills relating to the regulation of Electronic Cigarettes:

Proposed H.B. No. 5449 AN ACT PROHIBITING THE USE OF ELECTRONIC CIGARETTES IN THE SAME PLACES WHERE SMOKING IS PROHIBITED.

Proposed H.B. No. 6283 AN ACT REGULATING ELECTRONIC CIGARETTES.

Proposed H.B. No. 6290 AN ACT LIMITING THE ADVERTISING OF ELECTRONIC NICOTINE DELIVERY SYSTEMS.

The American Cancer Society Cancer Action Network (ACS CAN) is pleased to provide comments on proposed bills relating to the regulation of electronic cigarettes. ACS CAN is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society that supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. ACS CAN advocates for comprehensive tobacco-free laws in all schools and workplaces to protect students, faculty, staff, employees, visitors and the public from the harmful effects of tobacco use and to create communities that support tobacco-free living.

Electronic Cigarettes

E -cigarettes are typically battery-operated products designed to deliver a heated solution, or aerosol of nicotine and other chemicals, to the user. E-cigarettes can be disposable or consist of a rechargeable, battery-operated heating element; a replaceable or refillable cartridge that may contain nicotine, flavoring agents, and other chemicals (often called “e-juices”); and an atomizer that uses heat to convert the contents of the cartridge into an aerosol that is inhaled by the user.¹

A growing number of studies have examined the contents of e-cigarette aerosol. Unlike a vapor, an aerosol contains fine particles of liquid, solid, or both. Propylene glycol, nicotine, and flavorings were most commonly found in e-cigarette aerosol. Other studies have found the aerosol to contain heavy metals, volatile organic compounds and tobacco-specific nitrosamines, among other potentially harmful chemicals.^{2,3} A 2009 study done by the FDA found cancer-causing substances in several of the e-cigarette samples tested.⁴ Additionally, Food and Drug Administration (FDA) tests found nicotine in some e-cigarettes that claimed to contain no nicotine.

Firsthand exposure to the aerosol comes from personal use of an e-cigarette. Secondhand exposure occurs when the user exhales the aerosol, at which time, a nonuser can be exposed. The level of secondhand exposure to a nonuser will depend on a number of factors including the type of e-cigarette used, particle sizes in the aerosol, how the e-cigarette is used, and other environmental factors such as air flow and room size.

While the health effects of e-cigarettes are currently under study, there are still serious questions about the safety of inhaling the substances in e-cigarette aerosol. Studies have shown that the use of e-cigarettes can cause short-term lung changes and irritations, while the long-term health effects are unknown.⁵ Preliminary studies indicate nonusers can be exposed to the same potentially harmful chemicals as users, including nicotine, ultrafine particles and volatile organic compounds.^{6,7}

Electronic Cigarette Use

Increasing evidence shows electronic cigarettes are a growing problem among youth. A 2013 Centers for Disease Control and Prevention (CDC) report (National Youth Tobacco Survey, reported in Sept 5, 2013 Morbidity and Mortality Weekly Report) shows that in the United States from 2011 to 2012—just one year—the percentage of youth (middle and high school students) using e-cigarettes more than doubled. Recent use of e-cigarettes among 6-12 year olds almost doubled in the same time period. Adults are also reporting greater use of e-cigarettes. CDC estimates that one in five adults have tried an e-cigarette, doubling from ten percent in 2010 to 21 percent in 2011.

Furthermore, more than 75% of the youth surveyed who used e-cigarettes also smoked conventional cigarettes.

Refillable e-cigarettes can be used for nicotine and other substances including marijuana.

Proposed H.B. No. 5449 AN ACT PROHIBITING THE USE OF ELECTRONIC CIGARETTES IN THE SAME PLACES WHERE SMOKING IS PROHIBITED.

While we support prohibiting the use of all electronic smoking devices in public places, we will vigorously oppose any amendments to this bill to weaken or repeal any existing smoke-free laws.

We encourage the committee to keep separate any bills that intend to regulate the use of the product versus any bills intended to regulate the product itself.

Use of an e-cigarette in public places normalizes the action of smoking. Additionally, the use of these products, which often resemble traditional cigarettes, and produce a visible cloud when exhaled, are causing confusion for the public and enforcement officials alike. Business operators, striving to follow existing law shouldn't have to become experts at differentiating between cigarettes and e-cigarettes.

The use of e-cigarettes in workplaces, restaurants, and bars can also undermine the public health benefits that have been and continue to be achieved by smoke-free laws. E-cigarette users who continue to use cigarettes will not experience the health benefits of quitting, and nonusers can be exposed to their secondhand aerosol.

Prohibiting the use of e-cigarettes in workplaces, restaurants, and bars can protect the public health by preventing nonusers from being exposed nicotine and other potentially harmful chemicals in these products.

Our recommended definitions for including e-cigarettes in smoke-free laws are as follows:

“Electronic Smoking Device” means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

Proposed H.B. No. 6283 AN ACT REGULATING ELECTRONIC CIGARETTES

While this intent bill mentions some promising practices, we will need more detail on the intentions before we can support it in its entirety. In the meantime we have these suggestions:

A) We strongly support defining electronic cigarettes as a tobacco product.

We recommend amending section 55-344b of the General statutes to replace the existing definition with the following:

“Tobacco product” means:

(a) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus; and

(b) Any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, cigar, pipe, or hookah.

(c) Notwithstanding any provision of subsections (a) and (b) to the contrary, “tobacco product” includes any component, part, or accessory of a tobacco product, whether or not sold separately. “Tobacco product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

B) Smoke Free - As with HB 5449, we encourage the committee to keep separate any bills that intend to regulate the use of the product versus any bills intended to regulate the product itself. For the purposes of prohibiting the use of e-cigarettes in public places, we recommend using the definitions suggested for HB 5449

C) Marketing - See comments on HB 6290 below.

D) Flavors – We support parity with all tobacco products and we recommend limiting sales of all flavored products to adult only tobacco retail stores.

E) Quality Control Manufacturing – Given the Governor’s Budget proposes to eliminate tobacco control funding, we have strong concerns this runs the risk of diverting limited tobacco control dollars to testing and enforcing such a provision.

F) Carry Ingredient Labels – We have strong concerns because, again, this could potentially divert limited funding away from proven tobacco control programs. The state has no mechanism or infrastructure in place to be able to scientifically analyze such products to verify or refute the claims made on package labeling.

Beyond the provisions of this or any other electronic cigarette bill before this General Assembly, a far larger concern, however, is that the Governor’s proposed biennium budget would eliminate the annual transfer of funds from the Tobacco Settlement fund to the Tobacco and Health Trust Fund (THTF), thereby eliminating all non-Medicaid tobacco control spending in Connecticut for the next two years. From a policy perspective, this action will result in increased tobacco use, increased health risks as well as increased costs to the state. As the budget serves not only as a fiscal blueprint, but a statement of principles and policy, this provision sends a horrible message.

Tobacco related diseases are the single most preventable cause of death in our society, yet according to DPH statistics, tobacco use kills more people in Connecticut each year than alcohol, AIDS, car crashes, illegal drugs, accidents, murders and suicides combined. Every year.

The CDC projects that a combined 9800 people will die from tobacco related illnesses over the two years of this budget- that's a larger number than the populations of 79 towns in Connecticut.

What's worse is that 8600 people over the two years, about 8000 of whom are minors, will start the habit as well.

Meanwhile, big tobacco will spend \$78 million in advertising alone in CT this year and tobacco related illness will cost the state at least \$2 billion each of the next two years.

We strongly urge more funding for tobacco control including for surveillance and evaluation so the state could discern the magnitude of e cigarette use in CT as well as funding public education campaigns to ensure the public knows the harms of e-cigarette use and promotion of cessation resources.

Proposed H.B. No. 6290 AN ACT LIMITING THE ADVERTISING OF ELECTRONIC NICOTINE DELIVERY SYSTEMS

Last session, the Legislature passed PA 14-76, which established section 53-344b of the General Statutes, pertaining to youth access of electronic nicotine delivery systems. We opposed this language because it created a separate classification for e-cigarettes, which exempts them from existing tobacco control laws and policies.

As the definition of electronic nicotine delivery system in 53-344b does not classify such products as a tobacco product, applying tobacco advertising restrictions to these products would be problematic.

We appreciate the opportunity to comment on these bills and look forward to working with the committee as these bills continue through the process.

ACS CAN and other public health organizations have concerns that the widespread, unregulated use of e-cigarettes has the potential to result in smoking again becoming a socially acceptable behavior. We must protect the progress we've made in reducing smoking rates of youth and adults over the past 50 years, and ensure state laws related to e-cigarettes are contributing to a movement toward a "tobacco-free generation".

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¹ 1 U.S. Food and Drug Administration. E-Cigarettes: Questions and Answers. September 17, 2010. Available online at <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm225210.htm>.

² Cheng, T. Chemical evaluation of electronic cigarettes. Tobacco Control 2014; 23: ii11-ii17.

³ Goniewicz, ML et al. Levels of selected carcinogens and toxicants in vapour from electronic cigarettes. Tobacco Control 2014; 23:122-9.

⁴ U.S. Food and Drug Administration. Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA. July 22, 2009. Available online at <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm>.

5 Callahan-Lyon, P. Electronic cigarettes: human health effects. *Tobacco Control* 2014; 23: ii36-ii40.

6 Saffari, A et al. particulate metals and organic compounds from electronic and tobacco-containing cigarettes: comparison of emission rates and secondhand smoke exposure. *Environmental Science Processes & Impacts* 2014; DOI: 10.1039/c4em00415a.

7 Flouris, AD et al. Acute impact of active and passive electronic cigarette smoking on serum cotinine and lung function. *Inhalation Toxicology* 2013; 25(2): 91-101. 8 American Cancer Society Cancer Action Network. How Do You Measure Up 2014. <http://www.acscan.org/content/wp-content/uploads/2014/08/HDYMU-2014-Report.pdf>