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**Testimony of American Cancer Society Cancer Action Network
to the New York City Council, Committee on Health
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Re: Statement in support of Preconsidered Int. No. ____ (Gennaro, Quinn, Arroyo) to amend the administrative code in relation to the regulation of electronic cigarettes.

Chair Arroyo, members of the health committee, thank you for the opportunity to testify today. My name is Michael Davoli and I represent the American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, nonpartisan, advocacy affiliate of the American Cancer Society. We are pleased to be able to speak in support of legislation that will help preserve the integrity of New York City's landmark Smoke Free Air Act by prohibiting the use of electronic cigarettes where smoking is otherwise prohibited.

New York City has been a national leader in its commitment to protecting youth and adults from the deadly impact of tobacco use. In fact, we just celebrated the 10 year anniversary of the passage of the Smoke Free Air Act, a bold act of leadership which had tremendous positive effects on the health of New Yorkers and an impact around the globe by influencing other locales to go smoke-free. Further, New York City has passed numerous laws to protect the public from the hazards of secondhand smoke (*Smoke Free Parks and Beaches, and Smoke-Free Hospital Grounds*) and to change social norms around smoking. Allowing the use of electronic cigarettes or e-cigarettes in public spaces undermines these effective Smoke Free laws and creates confusion for business owners, among the public and in enforcement efforts.

Over the last several years, there has been a dramatic growth in the marketing and sale of e-cigarettes and in the claims being made by e-cigarette manufacturers, as well as a proliferation in the various types of e-cigarettes being sold. Despite the dramatic rise in the use of e-cigarettes, very little is known about their actual health risks or their impact on youth tobacco use or whether they are effective in helping smokers quit. No federal agency currently regulates how e-cigarettes are made or how and to whom they are marketed and sold. ACS CAN supports New York City applying its laws governing cigarettes and other tobacco products to e-cigarettes.

We applaud the Council's leadership in proposing the regulation of electronic cigarettes in the same manner as traditional cigarette smoking under the Smoke Free Air Act.

Electronic Cigarettes should not be exempt from the Smoke Free Air Act.

Because electronic cigarette use simulates the behavior of smoking, use of these products complicates enforcement of the Smoke Free Air Law, and weakens its effectiveness. De-normalizing smoking, in addition to reducing exposure to secondhand smoke, is a key rationale for secondhand smoke laws in public places.¹ Product advertisements show e-cigarettes being used in areas where smoking is prohibited—touted for their ability to be “smoked anywhere”. The use of e-cigarettes in this manner undermines the city's successful efforts to create a smoke-free environment, modeling healthy behavior, especially for children. Not only does this behavior deteriorate the social norms that the city has worked hard to institute, but it can be a trigger to smoke for smokers who are trying to quit. 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. If it looks like someone is smoking in a public space where it is prohibited, it should be treated as such. This confusion around enforcement has already led some businesses to voluntarily declare that use of electronic cigarettes is prohibited in their establishments. Furthermore, 3 states and more than 100 localities have enacted provisions to their smoke free laws, similar to this proposal, to deal with this growing problem².

Growing evidence shows electronic cigarettes are a growing problem among youth.

The use of e-cigarettes is increasing, including among youth. A recent 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. Furthermore, more than 75% of the youth surveyed who used e-cigarettes also smoked conventional cigarettes. As well, 1 in 5 who used e-cigarettes had never tried traditional cigarettes. This could indicate that e-cigarettes are a gateway to traditional tobacco products.

The e-cigarette industry is using many of the marketing techniques created and perfected by big tobacco companies to addict youth; and to date they remain completely unregulated. From candy and fruit flavors like cotton candy and gummy bears, attractive packaging and designs, to targeted print, television and online advertising, and free giveaways of “starter kits,” these products are luring our youth, portraying smoking behavior as glamorous, and taking a page

¹ U.S. Department of Health and Human Services (HHS), Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General, HHS, U.S. Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012.

² Americans for Non-Smokers Rights. <http://www.no-smoke.org/>

right out of Big Tobacco's marketing manual. In fact, every major tobacco company now offers an electronic cigarette.

Since there is no regulation of these products at all, including packaging, we are further concerned that children could ingest toxic, potentially lethal amounts of nicotine (*which happened in May, killing a toddler as reported here <http://www.timesofisrael.com/police-investigating-toddler-death-from-nicotine-overdose/>*).

Electronic cigarettes vary widely since they are not yet subject to regulation or standardization. They are readily available for purchase at an ever growing number of stores in the city and the devices used to add nicotine to the product are available in a variety of forms, vials or cartridges, or liquid drops (often called "juice"). Again, these doses are not regulated at all. In fact there are large variations among the products of their strength and dosage. Users do not have any way of knowing how much nicotine they are getting, and there is currently no method for evaluating what is in the various products offered, or whether they are being accurately labeled. An FDA study in July of 2009 found that the amounts of nicotine actually in the products were not the same as what was advertised on the products³. Since e-cigarettes currently have no oversight at all, users have no way of knowing exactly what it is they are inhaling. This poses serious concerns about health and safety.

More research and regulation is needed on electronic cigarettes.

There simply isn't enough high-quality, objective scientific evidence yet to know whether e-cigarettes are safe or effective. And there is currently no scientific evidence to back up the electronic cigarette industry's claims that their products are safe. The FDA conducted a limited study in July of 2009 and found that several e-cigarette products and numerous cartridges contained carcinogens and toxic chemicals, including the ingredients found in anti-freeze.⁴ More research on e-cigarettes is needed to determine what ingredients they contain, how they are being used, and what effect they have on users. ACS CAN has concerns about the potential public health effects of e-cigarettes and significant additional research is needed on these products and how they are used.

ACS CAN supports the inclusion of electronic cigarettes in the NYC Smoke Free Air Act. These amendments won't prohibit e-cigarettes, but simply regulate them like other tobacco products. People of appropriate age will continue to be free to use them, just not in places where smoking is prohibited.

Effective regulation is absolutely essential to guard against these risks and prevent e-cigarettes from creating a new generation of youth tobacco users, increasing the overall number of people addicted to nicotine, convincing current tobacco users not to quit or re-glamorizing the

³ 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>.

⁴ Eissenberg, T, "Electronic nicotine delivery devices: ineffective nicotine delivery and craving suppression after acute administration," *Tobacco Control* 19:87-88, 2010

act of smoking. The New York City Council can ensure that history does not repeat itself with a new generation of products, by passing this intro and maintaining the integrity of its landmark Smoke Free Air Act.