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Chairman Kemp Hannon
Senate Standing Committee on Health
The Capitol, Room 420
Albany, NY 12247

Re: Opposition by blu eCigs to S 6562, "An act to amend the public health law, in relation to including electronic cigarettes within provisions regulating smoking in certain public areas."

Dear Chairman:

On behalf of blu eCigs, the leading U.S. electronic cigarette manufacturer and subsidiary of Lorillard, Inc., we thank you for the opportunity to submit the following comments regarding your proposed legislation.

One may certainly assert that electronic cigarettes are similar to traditional tobacco cigarettes since the products have the look and feel of traditional cigarettes and simulate the act of smoking. That said, it is obvious that the difference in the risk profiles between these electronic cigarettes and traditional cigarettes is significant. More specifically, as Dr. Richard Carmona, former United States Surgeon General and current board of director of an electronic cigarette manufacturer, opined in his recent written testimony to the NYC Health Committee:

"[Electronic cigarettes] contain no tobacco but rather deliver nicotine without all of the toxic, carcinogenic, and other disease-causing products of tobacco combustion. (For example, they produce no carbon monoxide (a particularly lethal constituent of secondhand tobacco smoke) and produce no sidestream emissions (a source of 85% of secondhand tobacco smoke))."

Legislation such as that proposed in S 6562 is concerning to blu eCigs because it overlooks the significant potential these products have to change the lives of current consumers of traditional cigarettes. In particular, we are troubled that the proposed bill disregards recent scientific research and the opportunity for electronic cigarettes to provide a meaningful alternative for harm reduction.

Current Scientific Research

Although the scientific research regarding electronic cigarettes is much less developed than the decades' worth of research on traditional cigarettes or smokeless tobacco, well respected public health advocates have concluded that accumulating evidence indicates electronic cigarettes may:

- reduce tobacco consumption,
- provide an effective aid to smoking cessation, and
- be safer than traditional cigarettes because virtually none of the thousands of chemicals present in cigarette smoke are present in the vapor of electronic cigarettes.

Despite the fact that electronic cigarette research is still in its infancy, numerous researchers have also concluded that because no combustion is involved in the use of electronic cigarettes, the risk associated with the products is significantly less than traditional cigarettes. By way of example, Dr. Brad Rodu concluded based on his recent research that:

“users are not exposed to the thousands of toxic agents formed when tobacco is burned.”

(Rodu, Brad. The scientific foundation for harm reduction. *Harm Reduction Journal* (2011)). In addition, Dr. Michael Siegel found:

“what the evidence shows is there really is no major cause for alarm. The levels of these components are much, much lower than they are in second hand tobacco smoke. And there is no evidence to date that this poses any risk to bystanders.”

(Siegel, Michael. Should e-cigarettes be treated like the real thing? *California Public Radio*. KPCC. Pasadena, Ca (2013)).

Tobacco Harm Reduction

blu eCigs has long-supported reasonable science-based regulation of electronic cigarettes such as establishing minimum age-of-purchase requirements, setting product quality and safety standards, and listing of ingredients and other relevant consumer information. In fact, while waiting for FDA guidance, blu eCigs implemented meaningful measures to limit access of individuals under age 18 to blu eCigs' advertising and promotional activities and to prevent minors from purchasing blu eCigs' products.

blu eCigs is also committed to continued research to show the harm reduction potential of its electronic cigarette products. In fact, our researchers' recent work shows that yields from vapor generated by blu eCigs products is not at all like cigarette smoke, and that the harmful constituent yield associated with blu™ products is actually more comparable to air than a traditional cigarette. Attachment 1 summarizes blu eCigs analysis by class of Harmful and Potentially Harmful Constituents (“HPHCs”) as identified by FDA. Column 3 and 4 show that the levels of HPHCs for

99 puffs from a blu eCigs' electronic cigarette are similar to 99 puffs of air while column 5 shows the levels of HPHCs from the vapor of a blu eCigs' electronic cigarette are nearly 100% less than that from 9 puffs from a marketing leading cigarette.

On April 24, 2014, after nearly three (3) years of studying the science of electronic cigarettes, the U.S. Food & Drug Administration ("FDA") announced a proposed new rule to extend its tobacco authority to cover electronic cigarettes. We are encouraged the proposed rule reflects the potential for reduced harm products like e-cigarettes. The FDA has acknowledged that a continuum of risk exists with respect to tobacco use, and the proposed rule defines a constructive process that recognizes e-cigarettes are different than traditional cigarettes. FDA's proposal acknowledges that one size fits all regulation is not appropriate and that regulation should be proportional to harm.

blu eCigs is engaged in the legislative and regulatory process at the federal, state and local levels and believes e-cigarette policy must reflect the opportunity for tobacco harm reduction consistent with the positions taken by respected public health advocates and researchers described herein. By extending the cigarette smoking ban to include the use of e-cigarettes, S 6562 actually represents a step backwards for public health and the harm reduction platform. If passed, it would likely discourage traditional cigarette smokers from switching to e-cigarettes and may encourage other e-cigarette users to switch back to traditional cigarettes – a result which should definitely be avoided.

Conclusion

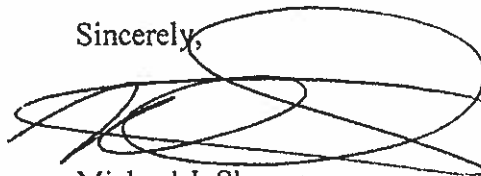
When Chicago government officials recently introduced similar electronic cigarette vaping ban legislation, Chuck Connor, former President of the American Lung Association, voiced his clear objection. He indicated the proposal was:

“misguided because it would do a public health disservice, discouraging smokers from switching to less-harmful electronic cigarettes that do not combust tobacco and therefore, do not create second-hand smoke...the lesson is crystal clear. Different products require different regulations.”

blu eCigs welcomes the opportunity to work with you and others to adopt reasonable legislation or regulation that fairly and properly reflects the distinct differences between traditional tobacco cigarettes and electronic cigarettes while also preserving the key potential role that e-cigarettes may play in tobacco harm reduction.

Thank you for your time and consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Shannon", written over a large, loopy scribble.

Michael J. Shannon

Attachment 1

Harmful Constituents at or below detectable levels

Classes of HPHC constituents	Market Leading Gold Cigarette 9 puffs (1 cigarette)	blu Product 99 puffs	"Air" 99 puffs	% less in blu vs. cigarette
Carbon Monoxide	27 mg	< 0.1 mg	< 0.1 mg	100%
Carbonyls	1.86	< 0.06	< 0.05	99.5%
Phenolics	0.204	< 0.001	< 0.001	100%
Volatiles	1.430	< 0.001	< 0.0004	99.9%
Metals	< 0.00020	< 0.00004	< 0.00004	100%
TSNAs	0.000550	< 0.00002	< 0.00002	100%
PAA	0.000024	< 0.000004	< 0.000004	100%
PAH	0.00222	< 0.00016	< 0.00015	99.5%

Source: Lorillard and blu eCigs proprietary data, based on Canadian Intense Smoking Method, June 2013