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Attorney General

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DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

March 23, 2015

Honorable Senator Monnes Anderson, Chair
Senate Committee on Health Care

Dear Chair Monnes Anderson,

State Attorneys General have long fought to protect consumers, especially young people, from the dangers of tobacco products. Every state has struggled with the terrible harms caused by smoking. Partly as a result of those efforts, the advertising, marketing, and promotion of tobacco products is strictly regulated across the nation. This is not the case for electronic cigarettes. ("E-cigarettes")

Our work protecting consumers must continue as the market changes. As I had done twice before, in August of 2014, I joined 28 of my colleagues in urging the Food and Drug Administration to take important steps in regulating electronic cigarettes. I reiterate here the points made in those letters, and offer my support for HB 2546 and SB 415. HB 2546 recognizes that e-cigarettes are inappropriate for children, need to be packaged in a way that is both child-resistant and not marketed to children, and should be used only in a manner consistent with the Clean Air Act. SB 415 recognizes the damaging potential of flavored nicotine products for our youth.

Young people are increasingly being bombarded with e-cigarette advertising – in print, online, on television and on the radio. Industry advertising expenditures shot from \$5.6 million in 2010 to \$82.1 million in 2013. Unsurprisingly, a recent study found that youth exposure to e-cigarette television ads more than doubled between 2011 and 2013. This marketing has had a clear effect on our youth. While young people are smoking fewer traditional cigarettes, a 2014 report by the U.S. Surgeon General found increased use of alternatives, including e-cigarettes.

The widespread use of flavoring in e-cigarettes also creates youth appeal. The FDA has recognized that tobacco products “containing flavors like vanilla, orange, chocolate, cherry and coffee are especially attractive to youth” and “are widely considered to be ‘starter’

products, establishing smoking habits that can lead to a lifetime of addiction.” Because nicotine has a harsh flavor often unpalatable for first-time smokers, flavor additives like those contained in e-cigarettes can be used to make a more alluring gateway to nicotine addiction. In banning the addition of such flavors to traditional cigarettes, Congress determined that “[f]lavors and product modification not only make the products more appealing to youth, but often result in exposure to additional carcinogens and other toxic constituents.”

The flavored liquid nicotine used in e-cigarettes also presents dangers. Phone calls to poison centers concerning e-cigarette liquids have increased dramatically over the past four years, from one per month to 215 per month, nationwide. Over half of those phone calls involved children under the age of five. The flavors added to e-cigarettes are often chemically indistinguishable from those added to candies and other edibles, concealing the potentially toxic levels of nicotine within. It is imperative that these chemical compounds be safely packaged to avoid accidental consumption by curious children too young to distinguish e-juice from similarly flavored foods.

Despite some positive differences between traditional cigarettes and e-cigarettes, lack of regulation creates unacceptable public health risks. The Surgeon General has noted that nicotine exposure during adolescence adversely affects development, potentially resulting in “lasting deficits in cognitive function.” As a result, the Surgeon General concluded that “the potential long-term cognitive effects of exposure to nicotine in this age group are of great concern.”

There are harmful effects for adults as well. A report from the University of California for the World Health Organization found that while e-cigarettes deliver lower levels of toxins than conventional cigarettes, they still deliver some toxins. People passively exposed to e-cigarettes aerosol vapors absorb nicotine (measured as cotinine), with one study showing levels comparable to passive smokers.

Federal, state, and local organizations have worked hard to reduce youth access to cigarettes and discourage children from becoming addicted to nicotine in any form. Those campaigns have contributed to reductions in youth smoking rates. The lack of an adequate regulatory framework around e--cigarettes threatens to undo much of that difficult work. HB 2546 protects these gains. I strongly support HB 2546 and SB 415.

Sincerely,

A handwritten signature in cursive script, reading "Ellen G. Rosenblum". The signature is written in black ink and is positioned above the typed name.

Ellen Rosenblum

Attorney General