

**A RESOLUTION TO BE SUBMITTED BY
 LEGISLATORS SAVAGE, GRANT, LOUGHRAN, MILLER-WILLIAMS, BURKE**

**RE: Amend and Update County Law in Relation to the Regulation of Smoking in Erie
 County to Include E-Cigarettes**

WHEREAS, electronic cigarettes (“E-Cigarettes”) or “Electronic nicotine delivery systems” have become increasingly popular and are currently unregulated by the U.S. Food & Drug Administration (FDA), nor are they regulated by New York State or local governments; and

WHEREAS, the introduction, use and marketing of E-Cigarettes has launched an entire new industry, and at the same time, presenting challenges for public health policymakers, parents and caregivers, along with people who do not smoke but who, nonetheless, are increasingly coming into contact with E-Cigarette emissions that may pose health consequences; and

WHEREAS, government officials have also been confronted with a growth industry that has led to storefronts opening in many locations, leading officials to consider what laws need to catch up with this new consumer product in terms of regulation and inspection; and

WHEREAS, while E-Cigarettes were first marketed to people interested in quitting cigarette smoking, E-Cigarettes have unfortunately attracted the attention of school-age children who have increasingly taken up the product in what many describe as a new fad; and

WHEREAS, the utilization of E-Cigarettes for smoking cessation has been deemed appropriate by many in the healthcare industry – recently the American Heart Association issued its first policy statement concerning E-Cigarettes where they endorsed E-Cigarettes as “a last resort” for quitting cigarette smoking, following a similar statement by the American Cancer Society; however, both organizations expressed grave reservations about the casual use of E-Cigarettes due to nicotine vaporization as well as the formaldehyde that is contained in some E-Cigarette products; and

WHEREAS, the American Heart Association and the American Cancer Society have also called for more regulation of these products, and have expressed alarm concerning the growing popularity of E-Cigarettes among young people; and

WHEREAS, in 2009 the FDA warned that “laboratory analysis of electronic cigarette samples has found that they contain carcinogens and toxic chemicals such as diethylene glycol, an ingredient used in antifreeze;” and

WHEREAS, the FDA and World Medical Association have expressed concerns that the potential health risks have not been studied through rigorous clinical trials, and that E-Cigarettes are not regulated as a tobacco product, or regulated as a therapeutic device by the FDA; and

WHEREAS, the use of E-Cigarettes in smoke-free locations can cause confusion and concern because the vapor emitted is visually similar to smoke, and the increasingly social

acceptance may increase the use of nicotine in youth and undermine the progress made in recent years discouraging smoking; and

WHEREAS, Andrew Hyland, PhD., Chairman, Department of Health Behavior at Roswell Park Cancer Institute stated in remarks for the NYS Senate Health Committee regarding E- Cigarettes and liquid nicotine on May 12, 2014, "That exposure to second-hand vapor is also a concern. Work in our labs has shown that E-Cigarettes are not emission free. E-Cigarette emissions include nicotine, acrolein (which is commonly used as a weed killer), formaldehyde and other chemicals. While this exposure is less than traditional cigarettes, these chemicals are still present. Just because it's a smaller amount of poison than that observed for cigarettes doesn't mean secondhand vapor is safe;" and

WHEREAS, the Erie County Legislature Health & Human Services Committee held a fact-finding session on Tuesday, September 23, 2014 where members of the E-Cigarette industry; as well as Anthony Billoni from Tobacco Free WNY; and Mark J. Travers PhD., from Roswell Park Cancer Institute; and Commissioner of Health Gale R. Burstein, MD, testified; and

WHEREAS, Dr. Mark J. Travers is an Assistant Professor of Oncology, Department of Health Behavior said in remarks before the Health and Human Services Committee, "The use of E-Cigarettes in indoor spaces can create misunderstandings about existing laws and threatens the impact and intent of the Clean Indoor Air Act. The intent of that law is to provide workers with clean air to breathe. In addition, the use of E-Cigarettes makes it difficult for business owners and officials to enforce existing smoke-free air laws as they closely resemble traditional cigarettes. This causes confusion and leads people to believe that it is legal to smoke in smoke-free environments;" and

WHEREAS, "E-Cigarettes may expose users to carcinogens. With some of the newer E-Cigarette devices, users can control the voltage of the device to increase the vapor and nicotine production. The chemicals that support the vaping process are glycerin and propylene glycol. Roswell Park analysis found that the higher the voltage, the more toxic the E-Cigarette. Cancer causing chemicals such as the embalming agent, formaldehyde, and the chemical acetaldehyde, are emitted and may increase health risks to users," Dr. Travers said; and

WHEREAS, Dr. Travers also said, "There is the significant policy concern over our Clean Indoor Air Legislation. Traditional cigarettes have been banned from most indoor public places since 1999 in Erie County, and more so since the 2003 State Clean Indoor Air Act. Currently, E-Cigarettes are not included in these bans -- unless local municipalities, schools and businesses decide on their own to ban their use. E-Cigarettes did not exist when these laws were implemented and the science shows that harmful chemicals are present in E-Cigarette vapor;" and

WHEREAS, Erie County Local Law #5-1996 was adopted to regulate tobacco smoking and help prevent the harmful effects of nicotine and second-hand smoke, and was subsequently amended to strengthen the regulation in 1999 by Local Law #5-1999; and

WHEREAS, New York State passed the Clean Indoor Air Act-2003, strengthening the progressive and forward-thinking actions of Erie County leaders; and

WHEREAS, the Cities of Chicago, Los Angeles, San Francisco, and New York have amended their Clean Indoor Air Acts and related legislation to include the restrictions on electronic cigarettes in venues and areas that are currently designated as 100% smoke-free.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature deems it necessary to amend and update County Law in relation to the regulation of smoking in Erie County to include E-Cigarettes and electronic nicotine delivery devices; and be it further

RESOLVED, that this Honorable body request that the Erie County Attorney work with this Legislature to draft responsible amendments to Erie County Law prohibiting the use of E-Cigarettes in public areas and spaces, currently designated as smoke-free as well as prohibiting the sale to anyone under the age of eighteen; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive, County Attorney, Commissioner of Health, and all other parties deemed necessary.

FISCAL IMPACT: None for resolution.