

TO: Chairman Wiggam, Vice Chair Stephens, Ranking Member Kelly, and members of the House State & Local Government Committee

FROM: Luminex Home Décor & Fragrance Company, LLC and Candle-lite Company, LLC

DATE: June 8, 2020

RE: Written Testimony in Support of House Bill 621, the "Ohio Business Fairness Act"

My name is Calvin Johnston and I am the Chief Executive Officer of Luminex Home Décor & Fragrance Company, LLC and Candle-Lite Company, LLC ("Candle-lite"). I thank you for the opportunity to express my strong support for House Bill 621, the "Ohio Business Fairness Act", the legislation sponsored by Rep. Wilkin and Rep. Cross that will help ensure there is competitive fairness for large and small businesses alike during a state of emergency. In support of the Ohio Business Fairness Act, I state as follows:

### **Background**

With manufacturing and distribution facilities located at 250 Eastern Avenue, Leesburg, Ohio 45135, Candle-lite is America's oldest candle manufacturer and is the largest candle manufacturing facility in the world. Candle-lite is also the largest private employer in Leesburg and Highland County, with over 700 employees. Candle-lite is the leading provider of candles to several leading grocers and retailers including as Kroger, Walmart, Rite-Aid, Big Lots, CVS, Meijer and True-Value. Candle-lite is first and foremost committed to the health and safety of its employees and community and has adhered to the practices and procedures proscribed by the Center for Disease Control and other governmental authorities in response to the COVID-19 pandemic.

### **Competitive Disadvantage and Lack of Relief**

By order dated March 24, 2020, the Highland County Health Commissioner ordered Candle-lite to close its manufacturing operations on the theory that it was not an "Essential Business" as defined by the under the Ohio Director of Public Health's Stay at Home Order issued March 22, 2020. The Highland County Health Commissioner disregarded the "supply chain" provisions of the Stay at Home Order, which were applicable to Candle-lite as a supplier to Essential Businesses such as Kroger and Walmart, and ordered Candle-lite's manufacturing operations to close. In accordance with that order, Candle-lite ceased all business activities except for certain Minimum Basic Operations as permitted in Sections 2 and 13 of the Stay at Home Order.

It is Candle-lite's understanding that other Ohio counties interpreted the Stay at Home Order to permit manufacturers of inventory for Essential Businesses, to continue their manufacturing operations because they, like Candle-lite, supply products to those Essential

Businesses. Because of the inconsistent interpretations of the Stay at Home Order and differing policies being followed by the counties, Candle-lite was at a severe competitive disadvantage, threatening the permanent loss of Ohio jobs and tax revenue that are crucial to the safety and economic security of the Leesburg community and greater Highland County. Candle-lite was without a meaningful avenue for recourse.

This lack of recourse had a direct impact on the well-being of Candle-lite's community. In response to the Highland County Health Commissioner's original order to cease operations, Candle-Lite was forced to furlough over 700 employees without pay in its Leesburg facility and Blue Ash corporate office and implement compensation reduction measures to try to protect the financial viability of the company.

While the review process from the Dispute Resolution Commission eventually became available, it did not sufficiently protect Candle-lite, its business customers, or the ultimate consumers. Moreover, the policies failed to recognize and properly take into account that Candle-lite's direct competitors are not just businesses in Ohio—Candle-lite competes with businesses in other states and even other countries. Candle-lite was forced to cease operating while several of its competitors in other states continued manufacturing operations and attempted to convince Candle-lite's customers to place orders with them instead of the Candle-lite. In the future, Candle-lite would be left without any meaningful recourse if orders were issued by Ohio health authorities that failed to consider this potentially devastating consequences.

In the unfortunate event that the Director of Public Health would find it necessary to issue another Stay at Home Order, the Ohio Business Fairness Act, would provide clarity that those business, like Candle-lite, that supply product to a business that is permitted to continue operations, are themselves permitted to continue operations provided they comply with appropriate health and safety protocols. Future differences in interpretation by the individual health commissioners would be avoided, leveling the playing field for all similarly situated suppliers and ensuring that essential businesses receive the products that they need to meet consumer demand.

### **Social Distancing and Other Health and Safety Policies and Practices Implemented**

Importantly, the Ohio Business Fairness Act also requires that all suppliers comply with the safety precautions and regulations required of business that are permitted to remain open under any future stay at home order. This strikes the right balance between protecting the physical health of Ohioans while also protecting their economic well-being.

As stated at the outset, Candle-Lite remains committed to the health and safety of its employees and the community. Candle-lite began implementing safety procedures to protect its employees and the community from the spread of COVID-19 in early February 2020. We are committed to following all guidelines and recommendations for social distancing, COVID-19 prevention and maintenance of a safe workplace from the Centers for Disease Control and Prevention, the United States Department of Labor, the United States Department of Health and Human Services, and the Ohio Department of Public Health. Particularly, Candle-lite has implemented policies to:

- Designate six-foot distances between employees or installed plastic barriers to separate employees on the production and distribution floor;
- Have hand sanitizer and sanitizing products readily available for employee use;
- Institute temperature checks for employees;
- Utilize an industrial nurse to complete health assessments, monitor employees for illness, administer over-the-counter medications, and evaluate employee health concerns;
- Separate any employees who appear to have acute respiratory illness symptoms from other employees, provide them with masks, and send them home with instruction to contact a medical professional;
- Actively encourage sick employees to stay at home until they are free from fever for at least 72 hours and symptoms have improved for at least 72 hours and at least 7 days have passed since symptoms first began;
- Encourage employees to do a self-assessment each day to check if they have any COVID-19 symptoms (fever, cough, shortness of breath);
- Reinforce to employees to stay home when sick, use cough and sneeze etiquette, and practice hand hygiene and place posters regarding these key messages in places where they are most likely to be seen by employees;
- Provide protection supplies such as soap, water, hand sanitizer, tissues, and no touch disposal receptacles for employee use;
- Allocate PPE equipment to personnel where possible;
- Limit shifts and institute gaps between shifts to limit exposure and allow for proper cleaning;
- Limit the number of breakrooms and bathrooms available for employee use;
- Frequently perform enhanced environmental cleaning of commonly touched surfaces and use industrial cleaning agents and follow the instructions on the label of the cleaning agent;
- Provide disposable wipes so that employees can wipe down commonly used surfaces before use;
- Instruct employees to wipe down workstations and equipment at the beginning and end of their shifts; and
- Ensure that the Company's sick leave policies are up to date, flexible, and non-punitive to allow employees to stay home and care for themselves, children, or other family members.

In the event of a second wave of COVID-19 infections or a future pandemic, Candle-lite should be allowed to continue operations to provide products to Essential Businesses as a primary component of their supply chain without the disruption and economic hardship resulting on the company and its employees as a result of an unfair and inequitable decision that the company must cease operations that is followed by a lengthy and uncertain review process. The "Ohio

Fair Business Act” would ensure fairness and equity by allowing Candle-lite’s over 700 local employees to continue earning a paycheck and thereby ensure Highland County continues to receive substantial economic benefits necessary to provide vital services to its citizens, while at the same time, taking all steps necessary to protect and promote the health and safety of the community. For these reasons, I strongly support House Bill 621, the “Ohio Business Fairness Act.”

A handwritten signature in black ink, appearing to read 'C. Johnston', with a long horizontal flourish extending to the right.

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