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Proponent Testimony—Senate Bill 54

House Health and Aging Committee

December 9th, 2015

Chairwoman Gonzales, Vice Chair Huffman, Ranking Member Antonio, and members of the House Health and Aging Committee, thank you for the opportunity to come before you today in support of Senate Bill 54. My name is Sarah Denny and I am a pediatrician at Nationwide Children’s Hospital in the Emergency Department and on the Board of Directors of the Ohio Chapter of the American Academy of Pediatrics. In addition to my clinical responsibilities, I am active in the field of injury and poison prevention. I sit on injury prevention committees at local, state and national levels, including the Ohio Chapter of the American Academy of Pediatrics and the Executive Committee for the Council on Injury, Violence and Poison Prevention for the American Academy of Pediatrics.

I am here to encourage you to support this life-saving bill, introduced by Senator Jones. This legislation is identical to House Bill 168, which was sponsored by Representative Huffman and passed by the House 97-1 earlier this year. Prior to passage, SB 54 was amended to address some of the concerns raised from the vaping industry. No opponents have testified on this legislation, and it has nearly unanimous support in both chambers. I want to thank those legislators who have cosponsored and supported this important, common sense bill.

As you know, the use of electronic cigarettes is rapidly increasing, and therefore, so is the use of liquid nicotine. There are two ways in which users can refill their e-cigarette. The most common is a prefilled cartridge that is loaded into the device; the consumer does not come into contact with the nicotine and the quantity is unlikely to be fatal to a child. The second is to manually refill the device using liquid nicotine stored in a small container or vial. These containers often have simple twist off caps and can contain quantities and concentrations of nicotine that are very dangerous and potentially fatal to children.

Half of the 2 million calls to poison control centers in 2011 were for exposures and ingestions among children ages 5 and under, with 9 out of 10 exposures occurring in the home.¹ From 2013 to 2014, poison control centers saw a 250% increase in adverse incidents from e-cigarette and liquid nicotine exposures. Children less than 5 are at significant risk for injury and death from poisoning. Part of this is because of their developmental stage; these young children are at a stage where they have a curiosity about the world around them - they are little investigators. Combining their need to explore, with their ever-increasing abilities to move, crawl, climb and reach, with their inability to recognize the potential dangers of ingestion, and you have the perfect storm. In the case of liquid nicotine, toxicity is based on weight, so a smaller child requires only a small amount of concentrated liquid nicotine to have severe side effects, and potentially, death. With small brightly colored bottles and enticing flavors, one teaspoon of highly concentrated liquid nicotine could kill a child.

The Poisoning Prevention Packaging Act, which was passed in 1972, states that “ ‘special packaging’ means packaging that is designed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time, and not difficult for normal adults to use properly.” The data on efficacy of this childproof packaging is obvious when you look at the number of deaths in children from poisoning in 1972 to those in recent years; this data is summarized in the chart below:

Poisoning Deaths of Children under Age 5²

1972	216
1973	149
1974	135
1975	114
1976	105
1977	94
1978	81
1979	78
1980	73
1981	55

1982	67
1983	55
1984	64
1985	56
1986	59
1987	31
1988	42
1989	55
1990	49
1991	62

1992	42
1993	50
1994	34
1995	29
1996	47
1997	22
1998	26
1999	29
2000	28

A study by the Consumer Product Safety Commission looking at the effectiveness of special packaging of aspirin estimated that special packaging reduced the aspirin-related mortality rate by 34 percent. This equates to about 90 fewer child deaths from aspirin during the 1973-1990 study periods. When combining the statistics for aspirin with those for prescription drugs, the CPSC estimates that special packaging saved the lives of more than 900 children since the requirements went into effect in the early 1970's.³

Opponents of this bill mention concerns for availability of appropriate packaging and its affects on small business. Many other states have already passed such legislation, and many retailers in Ohio already carry some childproof bottles. Most internet wholesalers and retailers offer a childproof option for liquid nicotine containers. Given these trends, and the fact that many other states and the U.S. Congress are considering similar legislation, the industry appears prepared for this. In fact, last year both the American Vaping Association and the Smoke-Free Alternatives Trade Association endorsed legislation before the U.S. Congress requiring liquid nicotine containers to have childproof caps.

SB 54 does include a federal preemption clause so that if and when the federal government adopts a childproofing requirement, the Ohio statute would be voided. We don't want to have duplicative regulations on the vaping industry. Earlier this year when SB 54, was introduced, several vapor shop owners from Columbus and Cincinnati were interviewed by various media outlets. Most of these individuals expressed support for a childproofing requirement. I also visited some of the vapor shops around town and many of the employees supported childproof packaging. Some already offered products in childproof packaging voluntarily.

Nationally we have seen a sharp increase in calls to poison control centers and emergency room visits due to liquid nicotine exposure; in December of last year, we had the first fatality in the United States when an 18 month old boy in New York got into a bottle and ingested liquid nicotine. He was taken to the hospital, where he was pronounced dead a short time later. This is not about limiting the rights of those who use e-cigarettes or their access to these products, but instead, protecting young children using proven methods of child resistant packing on a toxic substance. We have the opportunity to make a change now, and prevent this continued rise in ER visits, and potential loss of life.

Thank you for your time, and I would be happy to answer any questions that you may have.

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1. *Bronstein AC et al. 20011 Annual Report of the American Association of Poison control Center's National Poison Data System (NPDS): 29th Annual Report. Clin Toxicol (Phila). 2012;50(10):911-1164.*
 2. *National Center for Health Statistics (mortality files)*
 3. *Poison Prevention Packaging: A guide for Health Care professionals, The Consumer Product Safety Commission, revised 2005.*