National Tobacco Company, L.P. (“NTC”) is an innovative marketer, importer and supplier of manufactured tobacco and vapor products. NTC’s products include: disposable e-cigarettes, rechargeable, e-cigarettes and e-liquids and vaporizer units. NTC’s products are sold in the State of Oregon, and NTC employs salespeople in the State of Oregon.

House Bill 2546 has the potential to negatively affect NTC and other similarly situated national suppliers of tobacco and vapor products. Although NTC is not opposed in principle to many provisions of this bill, certain provisions would disproportionately impact those companies who sell in multiple states. NTC respectfully asks that you please consider the following in evaluating House Bill 2546:

1.) House Bill 2546 would prohibit the distribution or sale of an inhalant delivery system if the inhalant delivery system is not labeled in accordance with rules adopted by the authority.

    Different labeling regulations from one state to another would create chaos for companies selling in multiple states. Requiring a separate label for one state versus another creates both production and shipping nightmares for businesses. Different SKUs would have to be created for different states; a distributor would then have to keep straight which product went to which state; and retailers may be confused by similar but different products coming into their inventory. At the extreme, a company may choose to no longer do business in the State of Oregon should its labeling regulations be such that they would differ from that required in other states.

    NTC is not against labeling requirements; however, we would ask that the State of Oregon be patient and wait on the publication of the final regulations by the FDA, which would create jurisdiction of issues such as this. The FDA has stated in its Unified Agenda for 2015 that it intends to publish the final regulations by June 2015 (Please see: http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201410&RIN=0910-AG38). NTC respectfully submits that the State of Oregon defer to the judgment on the FDA to avoid the logistical problems discussed above.

    In the alternative, NTC would advocate for an approach in which the states adopt the proposed FDA warning: (“WARNING: This product contains nicotine derived

from tobacco. Nicotine is an addictive chemical.'') This warning appears in proposed 21 C.F.R. § 1143.3 (page 23,205 of the Federal Register notice at: http://www.gpo.gov/fdsys/pkg/FR-2014-04-25/pdf/2014-09491.pdf).

2.) House Bill 2546 would prohibit the distribution or sale of an inhalant delivery system if the inhalant delivery system is not packaged in a manner that is attractive to minors, as determined by the authority by rule.

NTC does not market its products to those under the legal smoking age; however, NTC is concerned by the uncertainty created by this provision. One person's definition of "attractive to minors" may differ dramatically from another person's definition. The FDA proposed regulations state that the agency intends to cover advertising and marketing restrictions related to these products. As discussed above, the FDA intends to act by June of this year. To avoid a state-by-state definition of what may be "attractive to minors," NTC again asks that the State of Oregon defer to the FDA's judgment on this matter.

3.) House Bill 2546 would prohibit the distribution or sale of an inhalant delivery system if the inhalant delivery system is not packaged child-resistant safety packaging, as required by the authority by rule.

NTC does not disagree with the need to require child-resistant caps on e-liquid products. In fact, the vast majority of product on the market already uses this type of packaging. NTC is again worried by the distinct likelihood that multiple states may craft different versions of this requirement. Production and shipping issues would surely result should states develop different child-resistant packaging standards. As such, NTC requests that the State of Oregon look to language similar to that being considered in other states, which adopts the federal guidelines for child-resistant packaging. This standard can be found at 16 CFR 1700.15(b)(1) and tested for effectiveness under the provisions of 1600 CFR 1700.20. Upon action by the FDA, these provisions may become null, void, and without force and effect should the FDA act to mandate its own child-resistant standard.

Thank you for your consideration of the above comments.

Sincerely,

Brittani Cushman

Director of External Affairs