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**Testimony: SB 3**  
**Guy Bentley, director of consumer freedom**  
**Reason Foundation**  
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Chairman Guzzone and members of the committee,

Reason Foundation is a nonpartisan public policy think tank that promotes competition, and a dynamic market economy as the foundation for human dignity and progress.

**Risks of e-cigarette taxation**

The purpose of taxation is to provide revenue for government services. As such, tax policy should raise the required revenue while minimizing any economic damage caused by said taxation.

The question for policymakers when considering e-cigarette taxes is whether e-cigarettes present negative externalities requiring a special tax. These taxes are often referred to as ‘sin’ taxes. But smokers switching from cigarettes to e-cigarettes avoid the substantial health care costs associated with smoking-related diseases. Penalizing a smoker who switches from a lethal cigarette to an e-cigarette would be an inversion of a sin tax, it would be a virtue tax. It would also be highly regressive.

Half to three-quarters of American smokers are from low-income communities, so any price increase will necessarily present a more significant barrier to poorer smokers looking to switch to vaping than to those on higher incomes. The economic literature demonstrates just how harmful such taxes would be, with the price elasticity for rechargeable e-cigarettes being  $-1.9$ , so for every 10 percent increase in the price of e-cigarettes sales fall by 19 percent.<sup>1</sup> Cigarettes, by contrast, are highly inelastic, ranging from  $-0.3$  and  $-0.7$ .

A recent working paper published in the National Bureau of Economic Research (NBER) examined the effect of Minnesota’s e-cigarette tax, which is 95% of the wholesale price. The study’s authors conclude: “Our results suggest that in the sample period about 32,400 additional adult smokers would have quit smoking in Minnesota in the absence of the tax. If this tax were

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<sup>1</sup> Huang J, Tauras J, Chaloupka FJ. “The impact of price and tobacco control policies on the demand for electronic nicotine delivery systems.” *Tobacco Control* 2014;23:iii41-iii47.  
[https://tobaccocontrol.bmj.com/content/23/suppl\\_3/iii41](https://tobaccocontrol.bmj.com/content/23/suppl_3/iii41)

imposed on a national level about 1.8 million smokers would be deterred from quitting in a ten year period.”<sup>2</sup>

Independent e-cigarette businesses such as vape shops are also highly sensitive to significant tax increases, often operating on wafer-thin margins. In July 2016, the Pennsylvania General Assembly passed a 40 percent wholesale tax on e-cigarette products. By November 2017, 130 small vape shops closed.

### **Tobacco harm reduction**

When considering the taxation of e-cigarette products, it must be acknowledged that these products are 95<sup>3</sup> to 99<sup>4</sup> percent safer than combustible cigarettes and are the most popular tool used by Americans smokers to quit. Research published in the *New England Journal of Medicine* (NEJM) shows e-cigarettes to be almost twice as effective as nicotine replacement therapies (NRT) at helping smokers quit.<sup>5</sup> The study builds on years of empirical research showing similar results.<sup>6,7</sup> It is beyond question that smokers who switch exclusively to e-cigarettes dramatically reduce their risk of smoking-related diseases. According to modeling conducted by Georgetown University Medical Centre, the replacement of cigarette use by e-cigarette use over ten years would yield 6.6 million fewer premature deaths.<sup>9</sup>

It is important to distinguish commercially available nicotine e-cigarettes, from THC vaping products. The latter is responsible for an outbreak of lung injuries and deaths beginning last year. Earlier this month, the Centers for Disease Control and Prevention (CDC) removed

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<sup>2</sup> Saffer H, Dench D L., Grossman M, Dave D M. “E-Cigarettes and Adult Smoking: Evidence from Minnesota.” *National Bureau of Economic Research*. NBER Working Paper No. 26589. December 2019. <https://www.nber.org/papers/w26589>

<sup>3</sup> Royal College of Physicians. “Nicotine without the smoke: Tobacco harm reduction.” London RCP, 2016. <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>

<sup>4</sup> Stephens WE. “Comparing the cancer potencies of emissions from vapourised nicotine products including e-cigarettes with those of tobacco smoke.” *Tobacco Control* 2018;27:10-17. <https://tobaccocontrol.bmj.com/content/27/1/10>

<sup>5</sup> Hajek, Peter et al. “A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy.” *N Engl J Med* 2019; 380:629-637 <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>

<sup>6</sup> Zhuang Y, Cummins SE, Y Sun J, et al. “Long-term e-cigarette use and smoking cessation: a longitudinal study with US population.” *Tobacco Control* 2016;25:i90-i95. [https://tobaccocontrol.bmj.com/content/25/Suppl\\_1/i90.info](https://tobaccocontrol.bmj.com/content/25/Suppl_1/i90.info)

<sup>7</sup> Brown J, Beard E, Kotz D, Michie S & West R. “Real-world effectiveness of e-cigarettes when used to aid smoking cessation: a cross-sectional population study.” *Addiction*. May 2014. <http://onlinelibrary.wiley.com/doi/10.1111/add.12623/abstract>

<sup>8</sup> Bullen, Christopher et al. “Electronic cigarettes for smoking cessation: a randomised controlled trial.” *The Lancet*. Volume 382, Issue 9905, P1629-1637, November 16, 2013.

<sup>9</sup> Levy DT, Borland R, Lindblom EN, et al. “Potential deaths averted in USA by replacing cigarettes with e-cigarettes.” *Tobacco Control* 2018;27:18-25. <https://tobaccocontrol.bmj.com/content/27/1/18>

guidance from its website, asking people wishing to avoid these illnesses to consider stopping or not start using e-cigarettes. The CDC does, however, advise people to avoid vaping THC, especially when bought from illicit sources. This is because these THC liquids are often cut with vitamin E acetate, which can be extremely hazardous when vaporized and inhaled. No commercially available e-cigarette contains vitamin E acetate.

### **Preventing youth use**

No one disagrees that youth vaping must be reduced. That's why the age of purchase for tobacco products has been raised at the federal level to 21. All fruit and sweet flavored pod or cartridge-based e-cigarettes product, which are typically sold in convenience stores, are being removed due to Food and Drug Administration (FDA) guidance, meaning the products most used by youth are banned until they are approved for sale by the FDA approval. These policies should be allowed to work before imposing levels of taxation that would shutter Maryland's e-cigarette businesses and dissuade smokers from switching to a safer alternative. It is possible to both stem and reduce youth use while maximizing the harm reduction potential for adults.

Thank you for your time.

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