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Written Testimony

To: Maryland Senate Budget and Taxation Committee
From: Ronald A. Ward Jr., Esq.
Date: January 29, 2020
Re: Opposition to Maryland Senate Bill 3

I. Introduction

My name is Ronald Ward and I am a life-long resident of Maryland. I have been an electronic cigarette or “e-cigarette” user for over 10 years, a smoke free alternatives activist for over 9 years and have owned an electronic cigarette store in Baltimore County, MD for the past 6 years.

Senate Bill 3, as written, would most certainly, cause myself and many other Vape Shop owners (if not all) to lose our businesses and sink into debt due to the extreme burden of this proposed tax on the wholesale cost of Electronic Smoking Devices (hereinafter “ESDs”). I humbly ask that this Committee issue an unfavorable report for Senate Bill 3.

II. Proposed legislation

Senate Bill 3 imposes an insurmountable tax on ESDs that would, in essence, equal a prohibition of the sale of these products in Vape Shops across the State. 86% of the wholesale price of these products basically eliminates profit margins and would put most Vape Shops out of business.

The repercussions of this tax would also seriously affect the ability of adult (over the age of 21) former smokers to acquire these products from known reputable sources within the State. More importantly, if the Vape Shops in Maryland close, consumers (and the State) will lose a valuable means of restricting youth access to these products. To date, not a single Vape Shop in Maryland has sold to underage persons in FDA compliance check inspections of tobacco product retailers (stings). The continued existence of Vape Shops would ensure that the State receives its taxes and that youth are denied access to the products through compliance checks with various State and Federal agencies.

If this prohibitive tax were imposed, residents of Maryland would either purchase these products in neighboring states, buy the products illegally online (domestically and/or internationally), or purchase the products from an untaxed black market. This would only serve to deny the State of its sought after tax and give youth the ability to purchase these products “under the radar”. The State agencies would be completely ineffective, with their current enforcement power, in dealing with these “bad actors”, and such a high tax rate at the retail level would only worsen the existing problem of youth use of ESDs, as they quickly transition to cheaper black market products.

Furthermore, on page 9, lines 1-27, the bill allows for consumers in Maryland to purchase ESDs from outside of the State and transport them into the State without taxation.

This bill also calls for a “floor tax” on existing ESD inventory at Vape Shops. Page 18, lines 13 to 16 states “all electronic smoking devices used, possessed, or held in the State on or after July 1, 2020, by any person for sale or use in the State shall be subject to the tax on electronic smoking devices as enacted under this Act”. This tax would force retailers of ESDs to pay the State 86% of the cost of their existing inventory. Remarkably, this section also states that CONSUMERS would also bear this tax (“by any person for sale or use”). Vape shops are small cottage businesses whose equity is significantly tied up in their inventory. Also, Vape Shops, unlike convenience stores, gas stations, etc., have no other products for sale but ESDs. Personally, this would cause my business to suffer an irreparable financial burden.

V. Conclusion

I recommend that the Senate Budget and Taxation Committee issue an unfavorable report for Senate Bill 3. This bill would cause an undue and unreasonable burden on Vape Shops across the State and open up a dangerous black market. I would like to speak more at length with the Members of this Committee on this issue. If any Senator has any questions or concerns, please feel free to contact me.

Thank you for your time and attention to this matter.