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Written Testimony

To: Maryland Senate Finance Committee
From: Ronald A. Ward Jr.
Date: February 8, 2024
Re: Opposition to Maryland Senate Bill 244

I. Introduction

My name is Ronald Ward and I am a life-long resident of Maryland. I have been an Electronic Smoking Device (hereinafter “ESD”) user for over 14 years, a smoke free alternatives activist for over 12 years and have owned an ESD store in Baltimore County, MD for the past 10 years.

While I fully support reasonable regulation such as keeping these devices out of the hands of minors, this bill is contrary to the very intent of the Maryland Tobacco Control Act. I ask that you issue an unfavorable report for Senate Bill 244 as it is written.

II. What We Know So Far

Numerous studies point to ESDs being up to 99% less harmful than smoking traditional cigarettes. Even the FDA’s own study of obsolete vaping devices found no more particular carcinogens than other FDA-approved nicotine products.

There seems to be no issue with “second hand vape” as there is with cigarettes since 99% of nicotine is absorbed primarily by the user. Additionally, the vapor leaves no odor on your body, hair or clothes, and the smell does not linger in a room because it is not smoke.

The most recent studies and publications show ESDs to be over 95% safer than traditional cigarettes. Upon request, I would be more than happy to supply you with credible scientific evidence to support my argument. Also, independent research should uncover a plethora of positive studies and publications. But, according to the studies, they are far safer than traditional combustible cigarettes. Furthermore, unlike actual secondhand smoke, there is no evidence to suggest that secondhand vapor is harmful to others, especially not to the extent of actual smoke which prompted the passage of the Tobacco Control Act.

III. The Industry, Regulation and Maryland Legislative History

The State of Maryland first introduced legislation that would ban the indoor use of these products in 2010 and in 2014. The bill in 2010 died in committee and the bill in 2014 was voted down handily in committee.

(http://mgaleg.maryland.gov/2014RS/votes_comm/hb1291_ecm.pdf).

In 2010, the first bill attempting to ban the indoor use of ESDs was SB 989 (<http://mgaleg.maryland.gov/2010rs/bills/sb/sb0989f.pdf>). No action was taken on this bill as it never got past a first reading.

In the 2014 legislative session, one bill was proposed that directly affected e-cigarettes and two that dealt with smokeless tobacco. The Bill was HB 1291 (<http://mgaleg.maryland.gov/webmga/frmMain.aspx?id=hb1291&stab=01&pid=billpage&tab=subject3&ys=2014RS>) (<http://blog.casaa.org/2014/02/call-to-action-maryland-e-cigarette.html>) which would have redefined vaping as smoking for purposes of the Clean Indoor Air Act. This very committee handily rejected that bill, which is almost identical to the subject bill, by a vote of 15-3.

Yet, the sponsor of the bill reintroduced it again in 2015. That bill (HB 26) was just as flawed in its language and rationale as was HB 1291 and, again, this committee issued an unfavorable report.

<http://mgaleg.maryland.gov/webmga/frmMain.aspx?id=hb0026&stab=01&pid=billpage&tab=subject3&ys=2015RS>.

In 2017, HB 354 yet again attempted to reintroduce this legislation. Again, the bill never made it out of Committee.

In 2019, the legislation was reintroduced in the form of House Bill 27 and, yet again, died in Committee.

Of course, in most cases regarding the aforementioned House Bills, companion bills were filed in the Senate before this Committee.

As you can see, over 14 years of proposed indoor use bans of ESDs at the State level were handily rejected or tabled pending further research. The only jurisdictions to ban the indoor use of electronic cigarettes in MD without any hard evidence of second hand (or even first hand) harm, are Montgomery County, Prince George's County and Howard County. In 2014, Baltimore City came to a landmark compromise allowing the use of ESDs in places where adults congregate. These areas were exempt from the indoor use ban if they prominently displayed signs alerting their patrons that the use of electronic cigarettes is allowed in their establishments (Bill 14-0371) <http://legistar.baltimorecitycouncil.com/attachments/11532.pdf>.

But, despite no new evidence of the potential secondhand dangers of ESDs, here we are again. Actually, as stated previously, there is actually more evidence now to the contrary showing electronic cigarettes to be tremendously safer than smoking. Actually, as stated previously, there is actually more evidence now to the contrary showing electronic cigarettes to be tremendously safer than smoking. But this time, it is another attempt at this legislation targeting ESDs while lumping these devices in with cannabis products. For reasons stated in this testimony and, specifically, Section 5 of this testimony, these products are distinguishably different and should not be in the same Bill.

IV. Proposed legislation

I respectfully request that this Committee issue an unfavorable report for SB 244 because the bill treats ESDs as if they were traditional cigarettes or cannabis vaporizers. Furthermore, this bill is contrary to the legislative intent of the Clean Indoor Air Act itself (see sections 24-502 and 24-503 of the Act). They state “It is the intent of the General Assembly that the State protect the public and employees from involuntary exposure to environmental tobacco smoke” and “the purpose is to preserve and improve the health, comfort and environment of the people of the State by limiting exposure to environmental tobacco smoke”. ESDs do not emit any smoke.

The Clean Indoor Air Act was enacted to protect citizens of Maryland from the very real and scientifically proven dangers of secondhand smoke. This bill attempts to ban the use of electronic cigarettes based upon the mere possibility that they may be dangerous to bystanders while ignoring evidence to the contrary. Therefore, the evidence is woefully insufficient to justify a ban on the public usage of ESDs. That is the reason why this bill has failed over the past decade. The proponents of this bill are still no closer to producing the evidence necessary to prove the second-hand harm of electronic cigarettes.

V. ESDs Are Easily Distinguishable from Cannabis Vaporizers

This issue is complicated by the recent legalization of cannabis. I wholly agree that people should not vape cannabis in public places. That is why it is already unlawful to consume cannabis in public places.

There is also no confusing a nicotine vaporizer from a cannabis vaporizer. Cannabis vaporizers are in the form of a recognizable tank that is easily distinguishable from ESDs. There is no ESD product on the market that has the unique look of the cannabis liquid filled tank. It is hard to describe the distinct difference in words but I would be glad to discuss this matter with members of this Committee and provide images to illustrate this point.

VI. Conclusion

I recommend that the Senate Finance Committee issue an unfavorable report for Senate Bill 244. It makes absolutely no sense to pass legislation based upon the mere possibility of

harm despite very promising and positive research data to date regarding ESDs. Cigarettes were banned in public places based upon irrefutable scientific data that confirmed the dangers of secondhand smoke. No such data exists to begin to establish irrefutable proof that secondhand vapor is harmful to anyone. Actually, the evidence to date indicates that secondhand vapor poses little to no risk to bystanders. In the alternative, if this Committee were to decide to issue a favorable report, I would ask for exceptions to the law such as places where, primarily or exclusively, adults congregate like bars, restaurants, taverns and casinos. Again, I am not opposed to this Bill if it only bans the use of cannabis vaporizers.