

Members of the House Labor and Commerce Committee,

My name is Alex McDonald and I own Ice Fog Vapor in Fairbanks, AK. I am writing today to oppose SB89. This bill is highly flawed and will lead to increased costs to the state, leaving less money for communities, while increasing smoking rates as well. Vapor products help Alaskans across the state quit smoking. I smoked for 19 years and tried a variety of approved traditional methods to quit, with vapor products being the only thing that worked for me. My whole family has been smoke free for 11 years now. A study published in the New England Journal of Medicine 2/14/19 clearly shows these products have been found to be twice as effective as traditional cessation products.

This bill would cost the state money we do not have. A State Budget Solutions publication in table 4 page 6, shows that in 2012 the State of Alaska brought in \$67 million in tobacco taxes and \$30 million in tobacco settlement payments. The cost to the state for Medicaid for smoking related illness was \$202 million or 108% of what the state received. Keep in mind these figures are before Medicaid was expanded so the savings to the state now would likely be far greater than the 2012 figure. Less people smoking means more savings to the state budget for years to come, leaving more in the budget for communities like ours.

A study from the National Bureau of Economic Research on the effect of vapor taxes in Minnesota, they stated that "Our study suggests that, as intended, e-cigarette taxes raise e-cigarette prices and reduce e-cigarette sales. However, an unintended effect is an increase in cigarette sales." They also state that "Therefore, a national e-cigarette tax will increase traditional cigarettes purchased by 6.2 extra packs for every one standard e-cigarette pod of 0.7 ml no longer purchased." The study also points out that "traditional cigarettes continue to kill nearly 480,000 Americans each year (Centers for Disease Control and Prevention 2019a), and several reviews support the conclusion that e-cigarettes contain fewer toxicants (National Academies of Sciences Engineering and Medicine 2018, Royal College of Physicians 2019) and are safer for non-pregnant adults (Royal College of Physicians 2019) than traditional cigarettes." Policies like the ones contained in SB89 have been shown to increase smoking rates instead of decreasing the smoking rates. Smoking is the number one cause of preventable death in this country. We should be putting policies in place that help lower preventable deaths in our state instead of increasing that number.

The American Consumer Institute Center for Citizen Research published a report titled "Are E-Cigarette Regulations Jeopardizing Public Health?" They bring up some very good points and dispel many of the myths regarding vapor products. As far as the products safety they report that "In 2015, Public Health England conducted a systematic review of the evidence and concluded that e-cigarettes are at least 95 percent less harmful than conventional cigarettes. Other health organizations, including the Royal College of Physicians, National Academies of Science, Engineering, and Medicine, and American Cancer Society, have also acknowledged that vaping is a safer alternative for adult cigarette smokers. One 2018 study written by a team of authors from the Georgetown University Medical Center estimated that 6.6 million lives could be saved in the U.S. over the next 10 years." They also point out the need for changes to the Premarket Tobacco Application that will need to be made by or these products will be possibly pulled from the market. "companies will still need to submit a "Premarket Tobacco Application" (PMTA) to the FDA... or else be forced to close shop, no easy task as suggested by the first company to submit the application." This application costs around \$1million per flavor of liquid, with no standard of approval, and no small business can afford that cost.

In January 2024, the fifth Circuit court ruled against the FDA and their marketing approval process. In the majority opinion Judge Oldham wrote, “months after receiving hundreds of thousands of applications predicated on its instructions, FDA turned around, pretended it never gave anyone any instructions about anything, imposed new testing requirements without any notice, and denied all one million flavored e-cigarette applications for failing to predict the agency's *volte face*. Worse, after telling manufacturers that their marketing plans were "critical" to their applications, FDA candidly admitted that it did not read a single word of the one million plans.”

The FDA has approved some vapor products over the past year for the protection of public health. These products range from 15mg – 60mg of nicotine. Capping the level of nicotine at 50mg make no sense when the FDA says 60mg products protect public health.

The report also addresses youth use and the myth that it is leading to hooking a new generation. They state, “Indeed, among teens who use e-cigarettes regularly, almost all are (or were) smokers, suggesting that vaping may be an effective substitute for smoking among adolescents. The 2015 National Youth Tobacco Survey, for example, revealed that only 0.3 percent of non-smoking adolescents regularly vaped. A paper in the American Journal of Preventive Medicine found that non-smoking high school students are highly unlikely to use e-cigarettes; only six percent of 12th graders who had never smoked had used e-cigarettes in the past 30 days, and less than one percent used e-cigarettes regularly.” Everyone I know does the best they can to keep products intended to help adults out of the hand of our youth. Brick and mortar stores are the first line of defense to card and ensure these products are sold to adults of age.

The report also finds taxing vapor products counter to public health interests and states, “More than a dozen states have implemented special taxes on e-cigarettes, typically in order to bring them in line with taxes on combustible tobacco products. But while tax parity might seem fair, proposals to jack up prices on e-cigarettes threaten to undermine policymakers’ broader goals of improving public health.” They also report “Imposing similar taxes on e-cigarettes runs counter to this logic, since the aggregate public health impact of e-cigarettes, compared to smoking, is positive. For example, a recent study found that, even under pessimistic assumptions, e-cigarettes will deliver significant public health benefits over the next half-century, extending the aggregate longevity of the U.S. population by 580,000 years.”

The issue of taxation of vapor products was brought up during the Walker Administration and rejected as bad policy. The legislature found it to be a highly regressive tax hitting lower income Alaskans the hardest. In the publication, Vaping, e-cigarettes and public policy toward alternatives, illustrates this in their finding that “2010 to 2011, smokers earning less than \$30,000 per year spent 14.2 percent of their household income on cigarettes, compared to 4.3 percent for smokers earning between \$30,000 and \$59,999 and 2 percent for smokers earning more than \$60,000.” The legislature also stated that the money would be better left for families to spend on their kids while others simply saw it as a money grab that would push people back to smoking.

A similar tax on vapor products was vetoed just two years ago by Governor Dunleavy stating that, “A tax increase on the people of Alaska is not something I can support.” In a 4/21/22 email, Senator Sullivan is on record against a federal vapor tax that was proposed by Sen. Durbin stating that “many Alaskans have shared stories with me of how e-cigarettes have

assisted their efforts to quit smoking. If taxes are raised on these products, I worry that it could exacerbate smoking issues by disincentivizing the use of these safer products.” He also noted the regressive nature of these taxes stating “The US Center for Disease Control and Prevention (CDC) notes that 72% of cigarette smokers in the United States live at or below the poverty level.” He then stated that taxing these products is “excessive and unfair, even if done to curb tobacco use.” In a separate email from the same date Senator Sullivan stated, “E-cigarettes, vaporizers, and electronic nicotine delivery systems have the potential to assist individuals quit their dependence on traditional tobacco products. I support the use of these products for this purpose and I applaud the many Alaskans who have shared their success stories with me.” A similar federal tax on vapor products was removed from the Build Back Better bill as well.

It was also found to be a job killer and would close small businesses across the state. The issue was brought up for the Fairbanks North Star Borough in 2020 and was rejected as well. Kodiak also voted against a similar tax measure as shops could not survive the added costs. Steam Trunk in Kodiak has closed and Arctic Vapor in Fairbanks closed its doors as well even without burdensome taxes in place. The city of Fairbanks raised their tobacco taxes rate to 20% of wholesale beginning 1/1/24. This added state tax would close small businesses and restrict consumer choice of safer alternatives to smoking traditional cigarettes further increasing the smoking rates for the state.

People have been fleeing states with burdensome taxes and overreaching regulations that impeded their freedom of choice to states with more freedoms and less tax burdens. Alaska should be a destination for people to come to not a place to leave as has been the case in recent years. Out migration has been an issue for the state and its work force, we should avoid things that could exacerbate this issue such as this overreaching flawed bill.

Thank you for your consideration of this matter. I hope we can all work together to make Alaska, and our community a better healthier place.

Alex McDonald

Fairbanks, AK