

March 8, 2024

Representative Jesse Sumner
Chair, House Labor and Commerce Committee
Alaska State Capitol
State Capitol Room 421
Juneau AK 99801

RE: Alaska Senate Bill 89

Dear Representative Sumner,

As a family-owned Wasilla, Alaska small business, Alaska Elixirs Vapes, LLC would like to bring our lawful business operations and current compliance obligations, our many local employees, and our commitment to our adult, largely former cigarette smoker customers, to your attention ahead of our upcoming meeting with you, and further action by the Alaska House of Representatives.

You may be unfamiliar with Alaska Elixirs Vape, LLC – this is because our business was not featured in testimony or submitted citizen accounts of unlawful vape sales, underage possession and use, or state enforcement actions. As a Wasilla small business with a loyal customer base of adults, most of whom have long-since moved on from the devastating harms of combustible tobacco use,¹ we take our commitments to our Alaska community and youth seriously. While we would not jeopardize our long-standing business by engaging in unlawful or risky vapor product sales, the looming threat of an additional layer of administrative burdens, duplicative state licensing, and punitive taxation proposed in Senate Bill 89 poses a very real threat to the continued existence of our business. Our business currently pays a 55% Matanuska-Susitna Borough wholesale tax on our vapor products,² we submit monthly reports to Matanuska-Susitna Borough,³ and we hold three (3) overlapping state and local licenses.⁴

In addition to the livelihood of our own family, Alaska Elixirs Vape, LLC proudly employees nine (9) residents of Wasilla. Each year we attempt to provide our staff with annual raises, we provide a 401k program, and we have been in the process of working to provide our team with a health insurance plan. Senate Bill 89 would destroy these incentives, and may very well shut our business down.

¹ See, e.g., Jamie Brown, et. al., *Real-World Effectiveness of E-Cigarettes When Used to Aid Smoking Cessation: A Cross-Sectional Population Study*, Addiction Vol 109, Issue 9 (September 2014), available at: <https://onlinelibrary.wiley.com/doi/full/10.1111/add.12623> (Last accessed March 6, 2024).

² MSB 3.30.030(A); Proposed AS 43.50.850.

³ MSB 3.30.125(A); Proposed AS 43.50.865.

⁴ AS 43.70.075; MSB 3.30.070(A); WMC 6.04.015; Proposed AS 43.50.860.

Combating Sales to Underaged Consumers

As an initial matter, we would like to point out that the first line of defense with anything that may be harmful to a child is with its parents and legal guardians. Currently, the proposed bill does not contain any punitive measures against parents or guardians who are the cause of their underage minors possessing vapor products. We strongly recommend that the proposed bill be further amended to include civil, criminal, or both types of sanctions against parents, legal guardians, and adults generally, who are found to have enabled the consumption of vapor products by underage consumers, through facilitating their purchase.

As a second, but no less important matter, we have thoroughly familiarized ourselves with the mounting evidence from the lower forty-eight (48) that misinformed taxation schemes, such as Senate Bill 89, are not the youth-use panacea legislators believe them to be, and we submit that it is the duty of Alaska's legislators to consider the unintended consequences of reactionary legislation.⁵

Our position has long been, and remains, that unlawful sales and youth access are an enforcement issue, largely owing to a handful of irresponsible retailers selling products targeted to youth - all of whom are subject to the same existing laws that our business dutifully abides by day-to-day. We strongly believe that enforcement of both illegal sales and illegal possession are real solutions to a legitimate problem identified by the legislature.

Amid the voluminous legislative record, we repeatedly hear that a mix of taxation and overlapping licensing schemes will somehow impact unlawful or inappropriate sales, including those lawful sales to adults who then transfer nicotine products to underage users. Yet, what we do not hear is any evidence to support these presumptive solutions.

On the contrary, several states and municipalities, from coast to coast who have implemented mirror-images of Senate Bill 89, have seen illicit markets flourish, the importation of substandard products through internet sales, and a return to cigarette use by former adult smokers.⁶ Minnesota legislators certainly believed they were doing the right thing when raising vapor product taxes, which led to an immediate increase in cigarette smoking.⁷

The long-understood impacts of similar endeavors across the country makes clear that such excise taxes punish law abiding and law-breaking businesses equally, and disproportionately

⁵ Proposed AS 43.50.850.

⁶ See, e.g., Chad Cotti, et. al., *The Effects of E-Cigarette Taxes on E-Cigarette Prices and Tobacco Product Sales: Evidence from Retail Panel Data*, *Journal of Health Economics*, Vol. 86 (December 2022).

⁷ Jagannathan, M. (2020), *Minnesota introduced an e-cigarette tax to deter people from vaping – and then smoking rates increased*, Market Watch: available at <https://www.marketwatch.com/story/heres-one-way-an-e-cigarette-tax-could-backfire-2020-01-03> (Last accessed March 6, 2024).

impact households with incomes below \$30,000.⁸ We might also point out the wave of small business closures in Massachusetts,⁹ California,¹⁰ Pennsylvania,¹¹ or New York¹² following the implementation of similar excise taxes, to highlight only a handful.

In addition to tax and licensing provisions, because Alaska is a largely rural state, we encourage the Alaska House of Representatives to consider the impacts of the shipping and transport restrictions provided under Senate Bill 89 on rural former smokers who rely on shipping to receive lawful products.¹³ Our business goes beyond simple age verification required under existing law, insisting on meeting new customers by video to verify their state issued identification for age verification purposes, prior to any remote sales.

Finally, concerns remain in relation to a so-called “retail tax” and the scope of the application of such a tax. Will items such as lighters and batteries be subject to this tax by virtue of being in a “retail” location, under this law? What will be the reach of this tax? Again, further amendments to the proposed law are needed to fully define the taxable items when sold at retail.

During our upcoming meeting, we encourage you to learn about our Wasilla small business and the ways we provide adults in the Wasilla community with a lawful alternative to combustible tobacco while also doing our part to prevent youth access by knowing our customers and enforcing strict age-verification under existing law. We may be reached at (907) 631-1197 for further discussion, or via email at alaskaelixirs@icloud.com. Thank you for your attention to this matter.

Sincerely,

Chris and Sarah Eaton
Owners, Alaska Elixirs Vape, LLC (Wasilla)

⁸ National Conference of State Legislatures, *Tax Policy Handbook for State Legislators* (3rd ed, 2010), available at: https://nebraskalegislature.gov/pdf/reports/committee/select_special/taxmod/2-13_lr155_2013.pdf (Last accessed March 6, 2024).

⁹ Solis, S. (2019). *E-cigarette sellers say Massachusetts’ proposed 75% vaping excise tax could kill their businesses*, Mass Live: available at <https://www.masslive.com/politics/2019/06/e-cigarette-sellers-say-massachusetts-proposed-75-vaping-excise-tax-could-kill-their-businesses.html> (Last accessed March 6, 2024).

¹⁰ Poulsen, C. (2019). *New laws, taxes putting Richland vape shop out of business*, KEPR Pasco News: available at <https://keprtv.com/news/local/up-in-smoke-new-laws-could-make-e-cigarettes-a-thing-of-the-past> (Last accessed March 6, 2024).

¹¹ McDaniel, J. (2017). *Vape tax brings in millions – and is said to close over 100 Pa. businesses*, The Philadelphia Inquirer: available at <https://www.inquirer.com/philly/news/pennsylvania/vape-tax-brings-in-millions-and-closes-over-100-pa-businesses-20170905.html> (Last accessed March 6, 2024).

¹² Griffin, E. (2019). *‘We’re done’: vape retailers slam new license fee & tax*, WWNYTV: available at <https://www.wwnytv.com/2019/11/19/were-done-vape-retailers-slam-new-license-fee-tax/> (Last accessed March 6, 2024).

¹³ i.e., Proposed AS 43.50.880.