

Joint Committee on Insurance and Real Estate

Connecticut State Legislature

May 3, 2015

Raised S.B. No. 1023

An Act Concerning Revisions to the Health Insurance Statutes

Prepared Testimony By:

Reynolds American Inc. and its operating companies

Co-Chairmen and Members of the Committee:

Good afternoon. Thank you for the opportunity to testify on this important measure. On behalf of Reynolds American Inc. and its operating companies, we appreciate your service and leadership. Thank you for giving us a chance to explain why we oppose certain elements of this bill as currently drafted, and would respectfully suggest you consider the evidence showing why tobacco use surcharges are not in the public's best interests.

As background, Reynolds American Inc. (RAI) is the parent company of R.J. Reynolds Tobacco Company, the second-largest U.S. tobacco company. We are also the parent of R.J. Reynolds Vapor Company, which makes the VUSE Digital Vapor Cigarette, American Snuff Company, the second-largest manufacturer of smokeless tobacco products, Santa Fe Natural Tobacco Company, manufacturer of Natural American Spirit tobacco products, and Nicovum USA and Nicovum AB, which market innovative nicotine replacement therapy products in the U.S. and Sweden, respectively, under the ZONNIC brand name.

We are the only U.S. tobacco company that offers a full range of tobacco products to consumers ranging from the most risky form of the product, cigarettes, to an FDA-approved gum that serves as a nicotine replacement therapy product for smokers interested in cutting back or quitting cigarettes altogether.

One of the primary reasons we oppose this legislation—specifically Section 6(g)(4)(A)(iii)—is that we fear that the proposed surcharge may raise premiums to a level that would make policies unaffordable to some people. Those unable to pay for a policy would then lack coverage to pay for nicotine replacement therapies should they want to quit smoking.

In a July 2012 paper, Eli Lehrer, president of the R Street Institute and an expert on insurance policy, wrote that “[t]obacco users are less healthy than the population as a whole, die more quickly on average, and in many cases engage in a variety of personal behaviors shown to result in policy claims.

Thus it is financially advantageous for insurers to consider tobacco use as a rating factor and, in certain business models, refuse to underwrite certain types of policies for certain groups of tobacco users.”¹

However, Lehrer’s paper states that a better approach to using tobacco surcharges in insurance premiums would be for providers to consider the types of tobacco used because “[a] significant and growing body of peer-reviewed evidence supports the notion that conventional nicotine replacement therapies, e-cigarettes, and... smokeless tobacco ...pose lesser health risks than smoking. A similar though less complete body of evidence lends support to the notion that switching from cigarettes to these types of nicotine products produces health consequences similar to quitting smoking altogether.”²

For decades, the government has encouraged tobacco cessation. It is time for the government to consider additional methods to reduce the harm that tobacco presents to cigarette smokers and society. Approaches incorporating harm reduction are well accepted in several areas concerning public health and public safety, such as car design, drug abuse, and sexually transmitted diseases.³ Similar to these topics, different types of tobacco products present different levels of health risk, and it should follow that migration from cigarettes to lower risk products is associated with lower health care costs. So, although there is no such thing as a safe tobacco product, smokeless tobacco products such as moist snuff (dip), snus, and chewing tobacco present less risk to consumers and e-cigarettes may as well..

The overwhelming consensus of the scientific literature and major public-health organizations is that smokeless tobacco products present far less risk than cigarette smoking for virtually every major smoking-related disease.⁴ Studies using data from the American Cancer Society demonstrate that

¹ Lehrer, Eli, “How Should Insurers Treat Tobacco Use?: A Review of the Research,” R Street Institute, R Street Policy Study No. 2, July 2012, available at <http://www.rstreet.org/wp-content/uploads/2012/07/RSTREET-HEARTLAND-TOBACCO-PAPER.pdf>

² *Id.*

³ See generally IOM, Clearing the Smoke: Assessing the Science Base for Tobacco Harm Reduction 41-50 (2001).

⁴ See, e.g., Levy, D. T., Mumford, E.A., Cummings, K.M., Gilpin, E.A., Giovino, G.A., Hyland, A., Sweanor, D., Warner, K.E., & Compton, C. (2006) The potential impact of a low-nitrosamine smokeless tobacco product on cigarette smoking in the United States: Estimates of a panel of experts, *Addictive Behaviors* 31: 1190-1200, available at <http://toxicology.usu.edu/endnote/1726ce0e87f19a7a16c3efdcf6453866.pdf>

smokers who switch from cigarettes to smokeless tobacco products significantly reduce their risk of tobacco-related disease.⁵

Besides these studies, numerous other studies and reports by public-health organizations show that non-combustible [smokeless] tobacco products present substantially lower risks to health than conventional cigarettes. For example:

- In 2002, Britain's Royal College of Physicians, one of the world's most respected medical societies, concluded that "[a]s a way of using nicotine, the consumption of non-combustible [smokeless] tobacco is on the order of 10-1,000 times less hazardous than smoking, depending on the product."⁶
- A 2011 report by the American Council on Science and Health stated "[t]here is scientific consensus that smokeless tobacco use is vastly safer than smoking, but this is virtually unknown among the general public, and even among health professionals."⁷
- Data from the American Cancer Society's Cancer Prevention Study II (CPS-II) show there is not a single disease where the mortality risk for smokeless users is higher than for smokers.
- In a 2014 letter to the World Health Organization, 53 global experts on nicotine science and public health policy stated that "[t]he potential for tobacco harm reduction products to reduce the burden of smoking related disease is very large, and these products could be among the most significant health innovation of the 21st Century—perhaps saving hundreds of millions of lives."⁸

Similarly, although vapor products have only been widely available on the U.S. market since about 2007, early research shows these products may present less risk to consumers than traditional cigarettes.

⁵ See, e.g., Thun, MJ, et al. (2000), "Smoking vs other risk factors as the cause of smoking-attributable deaths," *Journal of the American Medical Association* 284, 706-712, available at <http://jama.jamanetwork.com/article.aspx?articleid=192965>; Henley, SJ, et al. (2007), "Tobacco-related disease mortality among men who switched from cigarettes to spit tobacco," *Tobacco Control* 16, 22-28, available at <http://tobaccocontrol.bmj.com/content/16/1/22.full>; Henley, SJ, et al. (2005), "Two large prospective studies of mortality among men who use snuff or chewing tobacco" (United States), *Cancer Causes and Control* 16, 347-358, available at <http://www.ncbi.nlm.nih.gov/pubmed/15953977>

⁶ Royal College of Physicians, "Harm reduction in nicotine addiction: helping people who can't quit. A report by the Tobacco Advisory Group of the Royal College of Physicians," London, United Kingdom; 2007, available at <http://www.rcplondon.ac.uk/publications/harm-reduction-nicotine-addiction>

⁷ American Council on Science and Health, "Helping Smokers Quit: The Science Behind Tobacco Harm Reduction," December 2011, available at <http://acsh.org/2012/02/helping-smokers-quit-the-science-behind-tobacco-harm-reduction/>

⁸ Letter to Margaret Chan, WHO Director, from 53 nicotine policy experts, May 26, 2014, available at <http://nicotinepolicy.net/documents/letters/MargaretChan.pdf>

Vapor products are a new and emerging category within the tobacco sector. These products contain no tobacco leaf, but rather primarily contain propylene glycol (PG), glycerin, flavorings, water, and nicotine derived from tobacco. The nicotine in R.J. Reynolds Vapor Company's VUSE Digital Vapor Cigarette is the same nicotine used in FDA-approved nicotine replacement therapy products like gums, patches, and lozenges.

A 2013 scientific study found these products contain, at most, levels of toxic chemicals that are "9-450 times lower than in cigarette smoke and were, in many cases, comparable with trace amounts found in the reference product."⁹

These products produce vapor, not smoke. They do not burn tobacco. Rather, they heat liquid containing nicotine derived from tobacco. Therefore, these products give off no secondhand smoke or burning odor. These products do not produce side-stream smoke from the lit end of a cigarette, which is one of the primary sources of risk for bystanders from exposure to smoking.

Indeed, in 2013 the European Society of Cardiology found that vapor products were not linked to heart disease, and an American study published in October that same year in the peer-reviewed *Inhalation Toxicology* journal found that "the risks of secondhand vapor from electronic cigarette use are very small in comparison to those associated with secondhand tobacco smoke."

Even Mitch Zeller, director of the FDA's Center for Tobacco Products, has recognized that vapor products may present less risk than cigarettes. In an interview last year, he conceded that "[i]f a current smoker, otherwise unable or unwilling to quit, completely substituted all of the combusting cigarettes that they smoked with an electronic cigarette at the individual level, that person would probably be significantly reducing their risk."¹⁰

One of the leading voices on vapor products, Dr. Michael Siegel, a respected professor in the Department of Community Health Sciences at the Boston University School of Public Health, has written

⁹ Goniewicz, M.L., et al. (2013), "Levels of selected carcinogens and toxicants in vapour from electronic cigarettes," *Tobacco Control*, available at <http://tobaccocontrol.bmj.com/content/early/2013/03/05/tobaccocontrol-2012-050859.full>

¹⁰ <http://thedianerehmsow.org/shows/2014-01-21/new-health-risks-cigarette-smoking/transcript>

extensively about these products on his blog, *The Rest of the Story: Tobacco and Alcohol News Analysis and Commentary*. Siegel has stated that “[t]here is strong evidence that electronic cigarettes are much safer than tobacco cigarettes. These products contain no tobacco and do not involve combustion. Multiple studies have confirmed that there are only a few chemicals present beyond the nicotine, and so far, only trace or low levels of potentially concerning constituents have been detected—levels which are much lower than in real cigarettes. Users of these products generally report an immediate and dramatic reduction in respiratory symptoms. Moreover, there is strong evidence that electronic cigarettes can be effective in smoking cessation and that they may actually be more effective than traditional nicotine replacement products such as nicotine patches, gum, or lozenges.”

Unfortunately, as currently drafted, S.B. No. 1023 does not differentiate between these different types of tobacco use. And in any event, charging tobacco surcharges on insurance is unfair to consumers and might pose a barrier to entry for some people looking for insurance coverage.

Should you delete this language, you will join several other states that have rejected the surcharge, including Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, as well as the District of Columbia. Further, while California, Colorado, and Kentucky have surcharges, they are less than the federal allowable limit.

In an analysis my company paid for, about 40 percent of U.S. smokers live in a place where it is possible to avoid the tobacco use surcharge. Most of the remaining 60 percent of smokers have an option that would keep the surcharge at or under half the federal allowable limit. These smokers will likely only pay somewhere between a 10 to 20 percent surcharge.

I would respectfully submit that no tobacco surcharge is an appropriate approach for the state to take, but—if a surcharge is to be used—we would encourage you, based on the information we have presented here today, to take a Tobacco Harm Reduction (THR) approach to determining tobacco surcharges for insurance. Use of less risky tobacco products should yield a lower insurance premium than use of higher risk tobacco products, comparable to how auto insurance rates are set for automobiles with different risk profiles. No automobile is perfectly safe, and all automobiles present risk of injury and

damages in the event of an accident. Nonetheless, insurance companies take into account vehicle characteristics and safety features when setting insurance premiums. For instance, a vehicle (such as a minivan or large sedan) with safety features, such as side airbags, an antilock brake system, or traction control, has a lower risk of causing injuries in an accident than, for example, a convertible without these safety features, and this safety difference will factor in to the premium that is set for both vehicles.

Similarly, some life insurance companies take into account the risk associated with the use of particular tobacco products when setting rates, and do not subject pipe and cigar smokers to the higher premiums paid by conventional cigarette smokers. Given the science referenced earlier, I submit that you should carefully consider extending this concept and differentiating between combustible tobacco products and non-combustible tobacco products for purposes of setting insurance rates.

This approach would call for a tiered system that would charge cigarette smokers a surcharge for consuming the most risky form of tobacco. Surcharges should not be placed on tobacco consumers who use non-combustible products like those mentioned earlier, but if the state should choose to implement surcharges for consumers of these tobacco product categories, those rates should be considerably lower than the rates imposed on cigarette smokers.

This approach would not cost the state or insurers much to implement and could have the effect of driving down the number of people who smoke cigarettes by encouraging them to switch to a lower-risk product. A reduction in the number of smokers would be a significant public health gain and could pay off in health care savings to the state and to insurers.

The main public policy argument in support of a surcharge is to encourage healthier behaviors, since healthier individuals generally have lower health care costs. Our suggested approach is intended to help ensure that public policy reflects the benefits borne through the use of less risky tobacco products, like non-combustible tobacco products, because individuals who use them would have lower insurance premiums than those who use riskier products, like conventional cigarettes. Differentiating between combustible and non-combustible tobacco products—and tiering the amount based on combustible versus

non-combustible use, as well as frequency of combustible tobacco use—accomplishes this goal. And this approach would certainly complement Connecticut’s current tobacco control efforts.

Once again, we respectfully oppose this legislation as currently drafted and would welcome the opportunity to talk more with legislators and policymakers about Tobacco Harm Reduction and the relative risk of various tobacco products.

Thank you for your leadership, your time, and your attention.