The Consumer Advocates for Smoke-free Alternatives Association

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**March 20, 2018**

**Written Testimony of Alex Clark, CASAA Executive Director**
**CT, Joint Committee on Public Health**
**RE: SB 164**

Honorable members of the committee,

My name is Alex Clark. I am the Executive Director for The Consumer Advocates for Smoke-free Alternatives Association (CASAA).

CASAA a 501(c)(4) consumer advocacy organization with a national grassroots membership of more than 200,000 people. We are focused on promoting tobacco harm reduction (THR) strategies to reduce the disease and early death attributed to smoking. Nearly all of our members are former smokers who benefit from the availability of smoke-free alternatives and access to honest, up-to-date information about these products..

Thank you for the opportunity to write on behalf of our members in Connecticut regarding our opposition to SB 164, which would raise the minimum legal purchase age (MLPA) for all tobacco and vapor products from 18 to 21 years old.

We believe these policy proposals are needlessly coercive as they restrict access to and use of low-risk alternatives to smoking for adult consumers. Moreover, these policies miscommunicate the relative risks of these products to all consumers and may discourage smokers from switching to safer products.

**The benefits of "Tobacco 21" will not be realized for more than 50 years. In that time, the impact of electronic cigarettes as a low-risk alternative to smoking could be far greater.**

According to the Institutes of Medicine (IOM), if the MLPA for all tobacco products were raised from 18 to 21, today, universally across the country, the result would be 10.3% fewer smokers versus maintaining the status quo. The IOM goes on to clarify that this decline in smoking would take 44 - 45 years to be realized. The frequently advertised smoking prevalence reduction of 12% that would result from a nationwide Tobacco 21 policy would take **84 years** to achieve.

The IOM, in a presentation on its findings in 2015, admits that their analysis was conducted without considering the effect that access to vapor products might have on smoking prevalence (NASEM Health and Medicine Division, 2015. 34:47). CASAA estimates that, based on current trends, access to vapor products could help *more* than 3 million adult smokers switch to a low-risk, smoke-free product within the next 5 years (SRNT, 2015). However, we concede that this estimate is based on adoption of regulation tailored to the product category (unlike what has been proposed by FDA) which will preserve most of the wide variety of vapor products currently on the market.

In April, 2016, the Royal College of Physicians (RCP) -- whose groundbreaking 1962 report linking smoking to a host of diseases predated the U.S. Surgeon General's by two years -- released an extensive 200-page report on vapor products. The RCP concluded that vapor products should be promoted widely to smokers as a viable alternative to smoking. To date, the RCP report is the most comprehensive review of the the science, public policy, regulation, and ethics regarding vapor products. The RCP's conclusions include:

- **"E-cigarettes are not a gateway to smoking** – use of e-cigarettes is limited almost entirely to those who are already using, or have used, tobacco.
- **"E-cigarettes do not result in normalisation of smoking** – there is no evidence that either nicotine replacement therapy (NRT) or e-cigarette use has resulted in renormalisation of smoking. None of these products has to date attracted significant use among adult never-smokers, or demonstrated evidence of significant gateway progression into smoking among young people.
- **"E-cigarettes and quitting smoking** - among smokers, e-cigarette use is likely to lead to quit attempts that would not otherwise have happened, and in a proportion of these to successful cessation. In this way, e-cigarettes can act as a gateway from smoking.
- **"E-cigarettes and long-term harm** - the possibility of some harm from long-term e-cigarette use cannot be dismissed due to inhalation of the ingredients other than nicotine, but is likely to be very small, and substantially smaller than that arising from tobacco smoking. With appropriate product standards to minimise exposure to the other ingredients, it should be possible to reduce risks of physical health still further.

> Although it is not possible to estimate the long-term health risks associated with e-cigarettes precisely, the available data suggest that they are unlikely to exceed 5% of those associated with smoked tobacco products, and may well be substantially lower than this figure." (RCP, 2016)

**Including electronic cigarettes and smokeless tobacco products in Tobacco 21 laws misinforms the public about the risks of smoke-free alternatives to cigarettes.**

By the IOM's own estimates, this law would only have a minimal impact on the state's goal of preventing those under the age of 21 from acquiring cigarettes. Even more concerning, is that such restrictions may lead to increases in smoking among groups that have adopted alternative nicotine delivery products like e-cigarettes and snus. A study conducted by Weill Cornell Medicine investigators found an 11.7% increase in youth smoking in states which had established the same legal purchase age for e-cigarettes as exists for cigarettes and other tobacco products (Weill Cornell Medical College, 2016). Although this study focused on teen smoking rates, it is logical to apply the conclusions to adult smokers that will find their access to reduced risk products denied once the minimum purchase age is raised to 21. In other words, implementing a tobacco 21 policy will effectively leave thousands of adult smokers and vapers in Rhode Island out in the cold.

There is no serious dispute that vapor products are dramatically less harmful than smoking. Yet aggressive anti-tobacco harm reduction campaigns have, in just a couple of years, managed to convince 35% of the public that e-cigarettes are equally as harmful as smoking. The situation has grown out of control to the extent that Attorney General Tom Miller (D-IA), a longtime opponent of the tobacco industry, felt compelled to weigh in. AG Miller released a statement in December of 2015 in which he referenced a report from Public Health England (PHE) which stated that vapor products are estimated to be at least "95% less harmful than smoking." AG Miller goes on to highlight the consequences of misleading the public by pointing out that "...as many as 13 million adult smokers believe [vapor products] to be equally harmful, and are very unlikely to switch when switching may save their lives."(Miller, 2015)

**Raising the age to purchase tobacco and vapor products will do very little to support adults 18 - 21 who might like to quit smoking and, in fact, will work against those who choose harm reduction as a path away from smoking.**

The success of Tobacco 21 policies is dependent on preventing young people from initiating smoking. This law will do nothing to support smokers who might attempt to quit. In fact, this law will deny smokers access to alternatives to smoking and demand that they use products which have an established dismal success rate. Although studies show that nicotine replacement therapy (NRT) or prescription medications in combination with professional support and counseling can improve success, it is fair to note that such resources are typically employed by only the heaviest smokers. These types of resources are also not necessarily accessible to lower income smokers who make up a disproportionately higher percentage of the smoking population.

Meanwhile, traditional cigarettes remain the most visible and popular way to consume nicotine. Although retailers would face serious penalties for selling to anyone under the age of 21, social and family sources cannot be effectively policed.

Rather than adopt an "all or nothing" approach, CASAA urges the committee to explore a more productive and rational minimum legal purchase age policy that acknowledges the varying degrees of risk posed by different nicotine-containing products. Lynn Kozlowski, Professor of Community Health and Health Behavior, University at Buffalo, SUNY writes that "Setting the legal age of purchase is an important decision that sends a message about risk to all consumers. It is a powerful message, but it has never been completely effective in preventing underage use of products. Despite efforts to educate and restrict, adolescence is a time for recruitment to risky activities: unprotected sexual activity, smoking, drinking, and other recreational drug use. . . Differential access to tobacco products offers the potential of influencing choices by this 'hard to reach' (but in a very different sense) group that might deflect them from smoking during the crucial rash years of adolescence." (Kozlowski, Winter 2016)

In a recently published National Bureau of Economic Research Working Paper titled "*The Effects of E-cigarette Minimum Legal Sale Age Laws on Youth Substance Use*" (Dave, et al, 2017), research supported by the National Institutes of Health concluded that laws banning sales of e-cigarettes to young adults actually pushes youth toward traditional cigarettes. Strict enforcement of these laws is linked to an increase in youth smoking participation of 0.7 to 1.4 percentage points. The study goes on to conclude that the unintended consequences of these laws is concerning and may have a negative impact on public health.

## Recommendations

Personal liberty arguments aside, CASAA believes that regulation should be proportionate to risk. To wit, the MLPA for low-risk products like e-cigarettes and smokeless tobacco should remain at 18. There is certainly an opportunity to explore the possibility of changing the MLPA for other tobacco products like little cigars and other combusted products, but the greater differential should be set between the most harmful (traditional combustible cigarettes) and the least risky products (vapor products, smokeless tobacco).

Thank you for considering our comments on this issue,
Alex Clark
CEO, CASAA

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