

February 18, 2021

TESTIMONY OF KAREN K. GERLACH, PHD, MPH

**BEFORE THE TAXES COMMITTEE
OF THE MINNESOTA HOUSE OF REPRESENTATIVES**

REGARDING HF991

My name is Dr. Karen Gerlach, and today I am testifying in opposition to the portion of House File 991 that would increase Minnesota's already nation-leading tax on nicotine vapor products (also called electronic nicotine delivery systems or e-cigarettes). The proposed tax increase would make these products, which are substantially less harmful than cigarettes, more expensive than cigarettes. This would create a financial disincentive for smokers to switch from cigarettes to vapor products, which would hamper efforts to reduce the harms associated with smoking.

I offer my testimony today as a current consultant to Reynolds American, Inc., and I also bring 25 years of experience in the public health tobacco control field. I began my career as a Cancer Prevention Fellow at the National Cancer Institute and then worked as an epidemiologist in the Office on Smoking and Health at the Centers for Disease Control and Prevention. I spent nearly a decade at the Robert Wood Johnson Foundation, a large healthcare philanthropy, where I served as Senior Program Officer and Tobacco Team Leader, overseeing the design and implementation of a significant expansion of the organization's support of tobacco control research and policy funding.

My testimony on HF991 reflects my views only and is based on my wide experience in the field of tobacco control.

Our focus in tobacco control must be on reducing the use of the most harmful product—cigarettes. Just as important as discouraging tobacco initiation, we must also ensure that current cigarette smokers have reasonable access to lower risk products like electronic cigarettes and other vapor products. The proposed vapor tax would do just the opposite.

By far the most harmful tobacco product is one that is burned and then inhaled by the user. In the United States, these are predominantly cigarettes. The scientific community, including the U.S. Food and Drug Administration (FDA), has widely recognized the continuum of risk of tobacco- and nicotine-containing products, from cigarettes to moist snuff, to vapor products, alternative nicotine products, to nicotine replacement therapies. Cigarettes are the most harmful product. Despite some recent reports of severe lung disease associated with the use of vapor products, the CDC determined that products that were of concern contained Vitamin E

acetate, which is not an ingredient in major brand vapor products.¹ In fact, many scientists in several countries have assessed e-cigarettes to be 90 to 95 percent less harmful than cigarettes.

We need to do everything possible to help cigarette smokers stop smoking cigarettes. To that end, we must employ tools with scientific support for their effectiveness. Not every tool has the same impact on each smoker, so many tools are needed.

Two of the most effective tools are price and accessibility and acceptability of lower risk nicotine delivery products. With respect to price, the tobacco control community has long advocated increasing cigarette excise taxes as a way to increase the price of continuing to smoke, thereby leading to lower smoking rates. And with respect to availability of reduced-risk products, a recent randomized clinical trial, published in the *New England Journal of Medicine*, found that twice as many smokers who used e-cigarettes quit smoking cigarettes as compared to smokers who used pharmaceutical nicotine replacement therapies.²

You have the opportunity with HF991 to craft Minnesota's tobacco tax structure to make these two tools work in concert to motivate smokers to switch from cigarettes to significantly less harmful vapor products, and that will only occur if these lower risk products are more affordable and accessible than cigarettes.

As currently drafted, the vapor and cigarette tax structure proposed in HF991 does precisely the opposite.

Minnesota already has the nation's highest tax on e-cigarettes and other vapor products, at \$2.48 per pre-filled, sealed cartridge. HF991 more than doubles this tax to \$5.26 per cartridge. This tax increase would increase the average retail price of an e-cigarette cartridge from \$7.95 per cartridge to \$10.73.

Today, under the State's current tobacco tax structure, the average price for a pack of cigarettes is \$9.13, or about 15 percent more than an e-cigarette cartridge. Should the cigarette and vapor taxes proposed in HF991 become effective, the average price of a pack of cigarettes in Minnesota would be nearly 50 cents *lower* than that of an e-cigarette cartridge.

A 2020 study by researchers with the National Bureau of Economic Research found that for every e-cigarette cartridge not purchased as a result of an increase in the tax on e-cigarettes, more than *six packs* of cigarettes are purchased.³

HF991 would eliminate a financial incentive for Minnesota's cigarette smokers to switch from the highest risk tobacco product to a product that is significantly less harmful. In a worst case

¹ https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html#what-we-know;
<https://www.nejm.org/doi/full/10.1056/NEJMoa1916433>

² Hajek P, Phillips-Waller A, Przulj D, Pesola F, Myers Smith K, Bisal N, Li J, Parrott S, Sasieni P, Dawkins L, Ross L, Goniewicz M, Wu Q, McRobbie HJ. A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy. *N Engl J Med*. 2019 Feb 14;380(7):629-637. doi: 10.1056/NEJMoa1808779. Epub 2019 Jan 30. PMID: 30699054.

³ Cotti, et al., The Effects of E-Cigarette Taxes on E-Cigarette Prices and Tobacco Product Sales: Evidence from Retail Panel Data. NBER Working Paper Series, Working Paper 26724, <http://www.nber.org/papers/w26724>.

scenario, HF991 could encourage former smokers who have switched to e-cigarettes and other vapor products to return to cigarette smoking. This cannot be your intent.

You have the opportunity to reconsider this proposed tax structure in a way that would support smokers to reduce their health risks. Using your taxing power to encourage cigarette smokers to use these lower risk products instead of more expensive and more harmful products can drive a decrease in Minnesota's smoking rate and the associated healthcare and societal costs resulting from smoking-related illnesses.

To your concerns about youth use of tobacco products: Tobacco harm reduction is undoubtedly supported, as well, by discouraging tobacco product initiation among young people. We are making great strides in that arena. The United States currently has the lowest youth cigarette smoking rate ever measured, with the CDC reporting in early 2020 that just more than 900,000 young people reported *any* use of cigarettes in the past thirty days, including as little as one puff. And in December 2019, the federal government banned the sale of *all* tobacco products, including vapor products, to anyone under the age of 21. Minnesota followed suit six months ago, similarly banning the sale of all tobacco products to those under 21. The full impact of these recent federal and state law changes further restricting access to tobacco products by young people has not yet been quantified.

On the other hand, there are more than 34 million adult cigarette smokers in the United States and more than 650,000 in Minnesota. Those of us who are interested in and motivated by scientifically validated approaches to tobacco harm reduction must support them by making alternative tobacco products, such as vapor products, not only accessible but also more acceptable to them than cigarettes.

Youth use of tobacco products is an important issue, but it cannot be the only issue of importance when it comes to reducing the harms caused by smoking. This Committee should consider the complete public health context by including smokers in decision-making regarding the impact of Minnesota's taxation policies for tobacco products.

A tax schedule that makes e-cigarettes more expensive than cigarettes simply does not support either federal or state public policy to reduce the harms caused by tobacco use. I strongly encourage you to reconsider the effect that the proposed tax structure for these two products would have if HF991 is enacted as drafted.