

May 16, 2017

Dear Member of Congress,

We, the undersigned public health experts and practitioners, ask you to support House Resolution 1136, introduced by Rep. Tom Cole (R-Okla.) and Rep. Sanford Bishop (D-Ga.). By updating the Food and Drug Administration's (FDA) "grandfather date" for newly-deemed nicotine-delivery products, this bill would rescue the e-cigarette industry from impending death-by-red-tape and protect public health by ensuring that smokers have access to lower-risk alternatives.

Retroactively regulating safer forms of nicotine consumption is poor public health policy. Electronic cigarettes, other vaping products and vaping oils themselves are often cited to be at least 95 percent safer than their combustible counterparts; part of this risk calculation includes the type and concentration of chemicals present in e-cigarettes and vaping oils. In other words, a person can reduce the risks of smoking to *just 5 percent* by switching to a safer form of nicotine. This is on par with other nicotine products such as nicotine gum and patches, which safeguards a user against nicotine withdrawal, rendering it a more attractive – and effective – alternative to quitting smoking altogether.

It is incumbent on those who are invested in protecting public health to provide every resource available to incentivize people to choose safer nicotine products. In his testimony to the Senate Committee on Health, Education, Labor and Pensions on April 5, 2017, then-prospective FDA commissioner, Dr. Scott Gottlieb, stated that “In areas where there’s an inherent, obvious, and seemingly unavoidable risk related to certain consumer products – whether it’s combustible tobacco or dangerously addictive opioid drugs – we have the opportunity to help consumers move to less risky alternatives.” He also pointed out the need for non-combustible nicotine products to be available in the marketplace.

Dr. Gottlieb’s testimony is consonant with the idea that vaping products should be treated as *instruments* in harm reduction strategy and thus should be accessible and even promoted. The “deeming rule” provision in the Family Smoking Prevention and Tobacco Control Act will, in effect, take safer products off the shelf, which will not only decrease small business competition and innovation, but also increase the incidence of diseases that are associated with smoking.

We are excited about the bi-partisan effort to modernize the Tobacco Control Act in a way that will improve public health. Saving 99 percent of businesses that would otherwise be wiped out from the burdensome Pre-Market Tobacco Application process is crucially important if we wish to keep safer forms of nicotine accessible to those who smoke combustible cigarettes.

Sincerely,

Carrie Wade, PhD, MPH  
Director of Harm Reduction Policy, R Street Institute

Benjamin Blumberg, PhD  
Director of Harm Reduction Outreach, Public Health United

Damon Jacobs, LMFT  
New York Licensed Marriage & Family Therapist, Associate Fellow, R Street Institute

Ryan Meyer  
National Coalition for LGBT Health