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Oct. 1, 2013

Sen. John F. Keenan, Senate Chair
Joint Committee on Public Health
General Court of the Commonwealth of Massachusetts
Boston, Massachusetts

Dear Chairman Keenan,

My name is Eli Lehrer and I am president of the R Street Institute, a public policy research organization located in Washington, D.C. R Street's motto is "Free markets. Real solutions." We consider ourselves free-market pragmatists, favoring such policies as a revenue-neutral carbon tax to address climate change, significant cutbacks in farm subsidies and reductions in the size and scope of the nation's defense budget.

Another topic that interests our team – including Dr. Joel Nitzkin, a former co-chair of the Tobacco Control Task Force of the American Association of Public Health Physicians – is how to most effectively and efficiently reduce the social and health costs of smoking. I have included, with this letter, a copy of a paper Dr. Nitzkin and I co-wrote: "Reducing Smoking: A Guide for State Policy Makers." Based on the research we have done, we would like to share some thoughts about H.B. 3639, which is currently before you. We have two major comments to make.

1. Efforts to bar the sale of e-cigarettes to those under 18 years of age are both wise and justified.
2. A sweeping ban on e-cigarette use is an unjustified restriction on personal liberty and is likely to have negative impacts on public health.

Rep. Jeffrey Sánchez should be commended for introducing legislation that would proscribe the sale of e-cigarettes to minors. E-cigarettes deliver nicotine and nicotine addiction is very hard to break. A ban the sale of e-cigarettes to youth would be justified for this reason alone.

While e-cigarettes have not been on the market long enough for scientists to gather sufficient data on the long-term health consequences of their use, nicotine itself is correlated with negative cardiovascular and reproductive health impacts, at minimum. In addition to proscribing sales, we also propose lawmakers should ban marketing of e-cigarettes in places with significant numbers of children and prohibit their use altogether in areas such as elementary schools and daycare centers.

However, a near total ban on the use of e-cigarettes, as contemplated by this legislation, is not sensible. There is no evidence that the dangers posed to non-users by exhaled water vapor constitute a public health risk. Dr. Michael Siegel of the Boston University School of Public Health put it very well in a Sept. 30, 2013 blog post (tobaccoanalysis.blogspot.com):

Cigarette smoke contains between 10,000 and 100,000 chemicals, including more than 60 known human carcinogens. Electronic cigarette vapor contains about 15 chemicals, of which only about five are of any significant health concern, and the levels of those five chemicals in electronic cigarettes are comparable to those in nicotine replacement products like the nicotine inhaler, nicotine gum, or nicotine patch.

In addition to constituting an unjustified restriction on the liberty of e-cigarette users, restricting adults from using e-cigarettes in appropriate places is likely to discourage some smokers from switching to the products from far more dangerous tobacco cigarettes.

It bears consideration that the long-term, laudable decrease in cigarette smoking that began in the late 1960s has largely leveled off in recent years: between 2004 and 2012, the percentage of American adults who smoke has bounced between 20 and 24 percent with no clear trend in either direction.

Likewise, most pharmaceutical methods of quitting smoking have very high failure rates. Writing in the journal *Tobacco Control's* Jan. 9, 2012 issue, Hillel Alpert and his colleagues find that people "who have quit smoking relapsed at equivalent rates, whether or not they used [Nicotine Replacement Therapy] to help them in their quit attempts."

In other words, lawmakers and public health officials need to try something new.

One such approach is to encourage individuals who now use tobacco cigarettes to switch to e-cigarettes. E-cigarettes may be a part of a strategy that allows adults who cannot quit smoking by other means to get nicotine. E-cigarettes are not completely safe, and for smokers to continue their use is not optimal. There also is no assurance that this approach will work, although some preliminary research is promising. But it would not do harm to public health. By contrast, a near

universal ban on e-cigarette use in public places might well result in some people who would otherwise quit continuing to smoke.

H.B. 3639 includes some good ideas to stop children from buying and using e-cigarettes. The bill's near-total ban on e-cigarette use in public places, however, is not a good idea and one that the legislature should look upon with extreme skepticism.

Yours truly,

Eli Lehrer
President
R Street Institute

Cc. Rep. Jeffrey Sánchez