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Testimony from:  
Chelsea Boyd, Harm Reduction Fellow, R Street Institute

In OPPOSITION of A679, “AN ACT to amend the public health law, in relation to prohibiting the distribution without charge or sale of flavored nicotine pouches”

April 26, 2021

Assembly Health Committee

Chair Richard N. Gottfried and members of the committee:

Thank you for considering my testimony today. My name is Chelsea Boyd, and I am an epidemiologist and Harm Reduction fellow at the R Street Institute, a nonprofit, nonpartisan public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas, including integrated harm reduction. That is why A679 is of special interest to us.

While we do not oppose the majority of A679, we have concerns about the potential effect of section 1399-mm-4, prohibiting the sale of flavored nicotine pouches. The U.S. Food and Drug Administration (FDA) has acknowledged that tobacco products exist on a continuum of risk, with combustible products representing the highest risk and non-combustible products falling lower on the continuum.<sup>1</sup> Furthermore, the FDA has granted modified risk tobacco product (MRTP) orders to several flavored snus products, signaling that nicotine pouches pose a reduced risk compared to combustible products.<sup>2</sup>

Nicotine pouches, many of which do not contain tobacco, represent a significantly lower risk than combustible products. Nicotine pouches are similar to a snus, a Swedish oral tobacco product. Thanks in large part to the use of snus, smoking prevalence is very low in Sweden compared to the rest of the European Union (7 versus 26 percent) where their use is banned.<sup>3</sup> Further, a 2011 review of seven cross-sectional studies evaluated the association between snus use and smoking cessation in Norway.<sup>4</sup> Evidence from these demonstrates that daily snus use is associated with being a former smoker. These findings provide evidence that snus can—and does—contribute to smoking cessation. Additionally, the study noted that former smokers make up the largest proportion of snus users, followed by occasional smokers, then daily smokers. This suggests that snus may also help users to decrease cigarette consumption. Finally, the study concluded that never-smokers make up the smallest proportion of snus users. This suggests that snus is unlikely to attract people who have not used nicotine, and almost



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certainly does not attract enough never-smokers to offset the public health benefits of snus to smokers and former smokers.

Further, an updated analysis from Sweden's *Your Country Your Life* population survey shows that snus users who are never-smokers are much less likely to take up smoking than those who initiated on tobacco using a different product.<sup>5</sup> What is more, snus users who initiated after they had started smoking were more likely to quit smoking completely.<sup>6</sup> This evidence suggests that nicotine pouches may be a powerful harm reduction tool in the United States.

With regard to flavored products, we share the concerns about youth appeal. However, we also recognize that flavors may be a component of what appeals to adult users looking to switch from more harmful combustible products. We need more research to determine the role of flavors in adult switching behavior for nicotine pouches; however, evidence from e-cigarettes shows that the availability of non-tobacco flavors assists smokers with the transition from combustible cigarettes. *The International Journal of Environmental Research and Public Health* reports that limitations in flavor choices negatively impact user experience. About 40 percent of former and current adult smokers predict that removing their ability to choose flavors would make them less likely to remain abstinent or attempt to quit.<sup>7</sup> In fact, data suggests that current smokers are partial to the flavor of traditional tobacco, while former smokers prefer fruit and sweet flavors. Moreover, studies have recently demonstrated that e-cigarette users who use non-tobacco flavors, including menthol and non-menthol (fruit, sweet, dessert) flavors are more likely to switch from combustible cigarettes completely than those who choose tobacco flavors.<sup>8</sup>

We believe that it is vital to preserve the availability of reduced risk products for adult smokers. We hope that the committee will consider this information.

Thank you for your time,

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<sup>1</sup> U.S. Food and Drug Administration, “FDA announces comprehensive regulatory plan to shift trajectory of tobacco-related disease, death,” Department of Health and Human Services, July 27, 2017. <https://www.fda.gov/news-events/press-announcements/fda-announces-comprehensive-regulatory-plan-shift-trajectory-tobacco-related-disease-death>.

<sup>2</sup> U.S. Food and Drug Administration, “FDA grants first-ever modified risk orders to eight smokeless tobacco products,” Department of Health and Human Services, Oct. 22, 2019. <https://www.fda.gov/news-events/press-announcements/fda-grants-first-ever-modified-risk-orders-eight-smokeless-tobacco-products>.

<sup>3</sup> European Commission, “Attitudes of Europeans towards tobacco and electronic cigarettes,” *Special Eurobarometer 458* (May 2017). [https://www.drugsandalcohol.ie/27368/1/Eurobarometer Attitudes towards tobacco and electronic cigarettes .pdf](https://www.drugsandalcohol.ie/27368/1/Eurobarometer%20Attitudes%20towards%20tobacco%20and%20electronic%20cigarettes.pdf).

<sup>4</sup> Karl E. Lund et al., “The association between use of snus and quit rates for smoking: results from seven Norwegian cross-sectional studies,” *National Library of Medicine, Addiction* 106 (January 2011), pp. 162-67. <https://www.ncbi.nlm.nih.gov/pubmed/20883459>.

<sup>5</sup> Lars Ramström et al., “Patterns of Smoking and Snus Use in Sweden: Implications for Public Health,” *International Journal of Environmental Research and Public Health* 13:11 (2016), p. 1110. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5129320>.

<sup>6</sup> Ibid.

<sup>7</sup> Konstantinos E. Farsalinos et al., “Impact of Flavour Variability on Electronic Cigarette Use Experience: An Internet Survey.” *International Journal of Environmental Research and Public Health*, 10:12 (December 2013), pp. 7272-82. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3881166/>.

<sup>8</sup> Christopher Russell et al. “Changing patterns of first e-cigarette flavor used and current flavors used by 20,836 adult frequent e-cigarette users in the USA,” *Harm Reduction Journal*. 15:33 (2018). <https://harmreductionjournal.biomedcentral.com/articles/10.1186/s12954-018-0238-6>.