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Testimony from:

Stacey McKenna, Senior Fellow, Integrated Harm Reduction, R Street Institute

In SUPPORT of permitting the possession and use of drug checking equipment (CA AB 2136)

April 23, 2024

Assembly Committee on Public Safety

Chair McCarty and Members of the Committee,

My name is Stacey McKenna, and I am a senior fellow in Integrated Harm Reduction at the R Street Institute. R Street is a nonprofit, nonpartisan think tank focused on advancing free markets and limited but effective government in a variety of policy areas. We believe that the government should not stand in the way of people's ability to access evidence-based tools that help them stay safer and healthier.¹ Therefore, we support harm reduction, a practical approach that empowers individuals to mitigate those risks even if they continue to engage in risky behaviors such as substance use.²

Last year, more than 112,000 Americans died of a drug overdose, including almost 13,000 Californians.³ California's AB 2136 would help address these deaths by broadening its existing drug checking permissions. This change would enable individuals and harm reduction organizations to adapt quickly to novel contaminants in the drug supply, and reducing the need for legislators to repeatedly revisit the issue in response to an ever-evolving illicit market.

The United States' current overdose crisis is driven by illicit substances, for which safety and quality control mechanisms are lacking. Although California's drug supply is dominated by illicitly manufactured fentanyl – a potent synthetic opioid approximately 50 times as potent as heroin – experts are concerned that the state will soon see an influx of novel adulterants such as veterinary tranquilizer xylazine.⁴

These drugs can increase risk for fatal overdose, especially when individuals consume them unknowingly.⁵ Thus, drug checking is an important harm reduction intervention that provides people who use drugs with knowledge that empowers them to change their behaviors to reduce their overdose risk without posing any dangers to the community.⁶ In 2022, California took important steps to combat

the state's overdose crisis by allowing equipment to check for several a variety of potentially harmful substances.⁷

Unfortunately, the United States' illicit drug market is extremely volatile, and novel adulterants continue to emerge in the supply.⁸ Therefore, policy responses to the overdose crisis must allow for rapid real-time adaptation on the part of individuals and health and community organizations. By expanding the types of drug checking equipment that are excluded from California's definition of paraphernalia, and by authorizing the distribution and use of such equipment, AB 2136 would allow for a more comprehensive approach to this life-saving intervention without requiring a series of piecemeal authorizations by this body. Furthermore, this bill would allow relevant organizations to launch community-based drug checking programs, which may use various technologies to identify contaminants in the drug supply and alert people to their presence.⁹ Research demonstrates that this information, in turn, encourages people to take extra precautions to avoid an overdose.¹⁰

By removing drug checking equipment from California's definition of drug paraphernalia, AB 2136 would ensure the government does not impede access to important harm reduction tools, thereby bolstering California's fight against the overdose crisis and saving lives. As such, R Street urges passage of the bill.

Respectfully submitted,

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¹ Mazen Saleh and Chelsea Boyd, "R Street Integrated Harm Reduction Principles and Priorities," *R Street Explainer*, Dec. 14, 2021. <https://www.rstreet.org/research/r-street-integrated-harm-reduction-principles-and-priorities>.

² ² "Harm Reduction," Substance Abuse and Mental Health Administration, April 24, 2023. <https://www.samhsa.gov/find-help/harm-reduction>.

³ Brian Mann et al, "In 2023 fentanyl overdoses ravaged the U.S. and fueled a new culture war fight," *NPR*, Dec. 28, 2023. [https://www.npr.org/2023/12/28/1220881380/overdose-fentanyl-drugs-addiction#:~:text=In%202023%20the%20overdose%20death,for%20Disease%20Control%20and%20Prevention.&text=Biden%20administration%20officials%20say%20they%20have%20%22flattened%22%20the%20upward%20curve](https://www.npr.org/2023/12/28/1220881380/overdose-fentanyl-drugs-addiction#:~:text=In%202023%20the%20overdose%20death,for%20Disease%20Control%20and%20Prevention.&text=Biden%20administration%20officials%20say%20they%20have%20%22flattened%22%20the%20upward%20curve;); "Provisional Drug Overdose Death Counts," National Center for Health Statistics, Centers for Disease Control and Prevention, March 13, 2024. <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>.

⁴ National Institute on Drug Abuse, “Fentanyl DrugFacts,” National Institutes of Health, June 2021.

<https://nida.nih.gov/publications/drugfacts/fentanyl>; “Xylazine,” *Substance and Addiction Prevention Branch*, Jan. 2, 2024.

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⁵ Julie Latimer et al., “Risk of fentanyl overdose among clients of the Sydney Medically Supervised Injecting Centre,” *International Journal of Drug Policy*, 37, (November 2016), pp. 111-114.

<https://www.sciencedirect.com/science/article/abs/pii/S0955395916302699>; Phillip O. Coffin et al., “Modeling of overdose and naloxone distribution in the setting of fentanyl compared to heroin,” *Drug and Alcohol Dependence*, 236, (July 1, 2022). <https://www.sciencedirect.com/science/article/abs/pii/S0376871622002150>; Charles Ingoglia, “This Drug Has Made the Overdose Crisis More Severe,” National Council for Mental Wellbeing, 2024.

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⁶ Nicholas C. Peiper et al., “Fentanyl test strips as an opioid overdose prevention strategy: Findings from a syringe services program in the Southeastern United States,” *International Journal of Drug Policy* 63 (January 2019), pp. 122-128.

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⁷ Corey Davis, *Legality of Drug Checking Equipment in the United States*, The Network for Public Health Law, August 2023, <https://www.networkforphl.org/wp-content/uploads/2024/04/50-State-DCE-Fact-Sheet-2023.pdf>.

⁸ “What are nitazenes? Emerging group of synthetic opioids may be more potent than fentanyl, study warns,” *CBS News Philadelphia*, Aug. 29, 2023. <https://www.cbsnews.com/philadelphia/news/nitazenes-synthetic-opioids-more-potent-than-fentanyl-study-warns>; Christopher P. Holstege, “Nitazenes are a powerful class of street drugs emerging across the US,” *The Conversation*, Feb. 15, 2024. <https://theconversation.com/nitazenes-are-a-powerful-class-of-street-drugs-emerging-across-the-us-222244>.

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¹⁰ Sherman et al.