



March 29, 2016

VIA HAND DELIVERY

Vermont House of Representatives
House Committee on Ways and Means
c/o Rep. Janet Ancel, Chair

Re: In opposition to proposed 92% tax on e-cigarettes (H.879)

Madam Chair, and through you to the Committee on Ways and Means,

CUMBERLAND FARMS URGES YOUR OPPOSITION TO ONEROUS TAXATION OF E-CIGARETTES, LIKE THAT PROPOSED IN H.879

My name is Ari Haseotes, and I am writing today on behalf of Cumberland Farms, Inc., where I serve as President and Chief Executive Officer. Thank you for this opportunity to offer testimony in strong opposition to provisions such as those in H.879, which would tax electronic nicotine devices (“e-cigarettes”) at the same 92% rate imposed upon other tobacco products (“OTP”). From our perspective as a retailer of both e-cigarettes and OTP, we would like to provide these brief comments summarizing the regulatory options we do—and do not—support. Specific to Vermont public health and fiscal policy, we respectfully urge that an extreme new tax equating e-cigarettes with OTP is the wrong approach.

WE ARE A PROFESSIONAL AND RESPONSIBLE RETAILER OF THE LEGAL PRODUCTS THAT OUR CUSTOMERS DEMAND.

Seventy-five years ago, my grandparents founded Cumberland Farms right here in New England. Today, we are one of the largest private companies in the country, operating hundreds of convenience stores along the East Coast—including two dozen locations in Vermont, where we employ 250 people, remit \$16 million in state taxes, and invest millions more in capital improvements each year. Although we have grown since our humble beginnings, we are still family-owned, family-operated, and dedicated to making every day easier for the communities

we serve. One reason for our continued success is our adherence to a simple philosophy: in an on-the-go world, we provide the products that our customers demand.

On any given day, thousands of Cumberland Farms employees expertly conduct more than half a million retail transactions. Many of those items sold—including beer and wine, tobacco products, motor fuels, and lottery games—are extensively regulated. Therefore, we take great care to comply with relevant laws, and to train employees accordingly. With respect to tobacco products, we are particularly proud of our exceptional record of FDA compliance checks. And, when our adult customers demand an emerging product like e-cigarettes, we are similarly well-positioned to sell them in a legal and responsible manner.

Nicotine is addictive, and tobacco use can pose a variety of health risks. Cumberland Farms believes that the decision to consume these products must be limited to adults. We support the statewide minimum purchase age for conventional tobacco, have voluntarily adhered to the same minimum purchase age for e-cigarettes even when not legally mandated, keep all such products safely behind the counter or securely in storage, source directly from manufacturers and reputable wholesalers to ensure supply chain integrity, participate in the ubiquitous “We Card” age verification program, and observe all manner of additional requirements unique to each jurisdiction. We also advocate for tough civil and criminal penalties against those who fail to sell these products in a similarly legal and responsible manner. Many of those measures are illustrative of the commonsense tobacco control policies already having quantifiable results here and across the country, which no conscientious retailer would oppose.

E-CIGARETTE TAX EQUALIZATION IS BAD PUBLIC POLICY THAT IGNORES KEY PRODUCT DIFFERENCES AND KNOWN CONSUMER BEHAVIORS.

However, while there is a clear role for appropriate regulation in these product categories, we do not agree that public policy should automatically equate e-cigarettes with other tobacco products. It may be easy to jump to conclusions and make unfounded negative associations between them, but these products are not the same and should not be taxed as though they are. Imposing punitive “equalized” tax rates across all products—like the new 92% tax on e-cigarettes proposed in H.879—may be tempting for budgetary reasons, but it is bad public policy. Doing so fails to recognize the different types and levels of risk associated with each product, and it neglects the simple realities of consumer behavior in a regulated economy.

Over the years, strict use prohibitions and heavy taxes have contributed to the erosion of tobacco cigarette sales, creating social and economic pressures that discourage smoking. This has often lead existing smokers to look for alternative nicotine products. Many customers happily report that by switching to e-cigarettes, they are now able to consume a product they enjoy, while saving money and likely reducing the many negative consequences that they

associate with combustible tobacco cigarettes. Indeed, the FDA is currently hard at work crafting a national policy for e-cigarettes, and emerging research suggests that they may carry significantly lower health risks compared to tobacco cigarettes. For now—in the absence of any sound justification—the state should not impose such a burdensome new tax on an innovative product like e-cigarettes, which customers clearly demand and which could prove to be an effective reduced-harm substitute for traditional tobacco. They are a product category fundamentally distinct from conventional OTP, and should be recognized as such by applicable tax policy.

If Vermont were to adopt the tax “equalization” proposed in H.879, it would join Minnesota as the only states in the country to assess e-cigarettes in this manner—nearly doubling the retail price. We know already what impact this proposal would have on Vermont government, as well as businesses like ours. Far from advancing public health or revenue goals, this extreme tax hike will simply shift the point of sale beyond the reach and watchful eye of state authorities. As we have seen time and again with regulated products, customers will readily take their business across nearby borders, onto the internet, or even into the black market when given an incentive to do so. A new 92% tax is just such an incentive.

According to the Census Bureau, tens of thousands of people commute to or from Vermont each day from surrounding states, with many others passing through or nearby. Even non-commuting residents are just a short distance from neighboring jurisdictions. As a result, a countless variety of retail stores are available to on-the-go customers who live or work in Vermont, or just happen to be nearby. Among those customers are responsible adults who, if they cannot purchase e-cigarettes at a competitive price in Vermont, will merely shop elsewhere in the regular course of their daily routine. Within just a few miles of the state borders, our numerous brick-and-mortar competitors are eager to take their business.

To compound the problem, many e-cigarette products are also just a mouse-click away via internet shopping sources. As a local taxpayer and good corporate citizen, we are very concerned about any new policy that will send people shopping online, where excise tax laws and age verification policies are markedly more difficult to enforce. Similarly, if Vermont makes it so dramatically more expensive for adult consumers to obtain any regulated product locally, that policy may expand and exacerbate the serious black market problem already present with conventional tobacco. Smuggling and illicit trade invite utter disregard for the minimum purchase age, encourages the proliferation of unregulated counterfeit products, and enables the costly evasion of lawfully-imposed taxes.

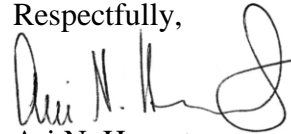
These are strange outcomes to invite in the name of the public good—particularly at the expense of honest retailers like Cumberland Farms. Yet we and other Vermont merchants would incur needless economic harm from the proposal before you, even beyond the lost revenues from

e-cigarette products themselves. By their nature, convenience stores strive to offer one-stop shopping, and must do so in a highly competitive marketplace. Therefore, if our adult customers go elsewhere to purchase e-cigarettes, we stand a very good chance of losing their business for milk, bread, eggs, and all manner of everyday staples. Each dollar lost in that process is a dollar that cannot be reinvested into our stores, our employees, our customers, or our communities. This negative outcome would hurt not only Cumberland Farms, but the state of Vermont as well.

THE COMMITTEE SHOULD REJECT TAX PROVISIONS LIKE THOSE OF H.879 IN FAVOR OF MORE APPROPRIATE REVENUE SOURCES.

Cumberland Farms is a good corporate citizen and remains, as always, a committed partner in responsibly retailing age-restricted items like e-cigarettes. We simply ask that Vermont pursue a tax regime grounded in sound public policy. For that reason, and in light of the above discussion, the House Committee on Ways and Means should reject counterproductive and unjustified e-cigarette taxes in favor of more appropriate sources of revenue. We very much appreciate your consideration of our position, and we look forward to continued participation in this ongoing debate.

Respectfully,

A handwritten signature in black ink, appearing to read "Ari N. Haseotes", with a large, stylized flourish at the end.

Ari N. Haseotes

President and Chief Executive Officer