

For the record, my name is David Michael Anderson, Jr. I am a senior at Middlebury College and I am an intern in the Health and Welfare Committee under Senator Lyons.

What I would like to do now with the time that I have is synthesize the argumentation that I have heard throughout the month of January, so that the representatives on the committee may be able to weigh each of the propositions before adjudicating and ultimately deciding whether to vote up or down on S.288. I have heard testimony from many different anti-tobacco groups, members from the medical association, citizens of Vermonters, and smokers alike.

I would first like to address the tobacco industry by way of their representatives. I want to take, what I think, are the best arguments I have heard in favor of the tobacco industry. I believe that the most persuasive arguments that I have seen from the tobacco industry - thus far - have to do with either revenue or rights – so I would like to address both.

We know that, after Act 28 (H.47) passed and liquids and delivery devices were included in the scope of “other tobacco products”, vape products have been subjected to a 92% tax under the Tobacco Product Tax. According to data published by the US census bureau, as of FY 2020, tobacco products subjected to the excise tax brought in about 66M in government revenue, about twice that of alcohol revenue. We recognize that we have the second lowest population in the US and we know that our population is aging. It is true that tobacco sales account for a rather significant amount of our much-needed state revenue. However, if this committee can save the state money by way of reduced health care costs while also ensuring public health, the revenue is a lesser point. This body will not allow you to continue pushing products that are causing negative health outcomes and letting you get away with it using tactics like in-court or out-of-court settlements. This body is not receptive – in any way – to the notion that profits should come before people. As the party who stands to benefit the most from the sale of these products, you will have to engage with and reckon with the fact that your products have an adverse effect on people’s lives.

As for the rights-based rhetoric that I have heard, there is this presumption that it is somehow unconstitutional or even undemocratic for the government to go around sticking its nose in a person’s private affairs. “If I wanna smoke, lemme smoke – it’s a free country” that seems to be the general stance. My constitutional law professor would often say to the class, “my right to swing my fist ends where your nose is”, meaning yes, America is a free country, but liberty is not a license to do whatever it is you please. In fact, you lose your rights to do as you please when your actions infringe upon another person’s liberty. Beyond the physical effects on secondhand smoking, you know that the unfettered use of these products can have knock-on effects on other’s lives –

infringing on their liberty. I am reminded of the young black girl from Burlington High School who spoke about how she lost her father to lung cancer because he could not stop smoking menthol cigarettes. I can tell you, firsthand, that young girl was affected by her father's choice to smoke. A girl that age should have been in school, studying, gossiping with her friends, thinking about her life after high school. Instead, she had to think about her dead father and testify before the Senate – on a school day – about how *your* products left her family fractured and less than whole. How do you answer for that? What would you tell that young girl if she was sitting in this chair right now instead of me? The worst part about that is that it is only one person's experience. Throughout the month, I have yet to hear any substantive engagement with this question.

I would now like to address this committee.

This body, in particular, is charged with overseeing the health and welfare of the people of Vermont. Therefore, I understand that it has a vested interest to do what it must to protect the people of this state – especially those on marginal, frontline, and underrepresented communities. I believe that the state, in this case, views itself as *correcting* a negative externality in the market – which is the intended consequence of Bill S.288. We all agree that lung disease is bad, irrespective of who is suffering from the illness. We all also agree that lung disease is especially contemptable when it disproportionately impacts minors, young people of color, and the most indigent members of our community. That being said, what could potentially be some of the unintended impacts of this bill?

We know that our neighbor Massachusetts was the first state in the US to introduce the Tobacco Control Law, banning the sale of flavored e-cigarettes and discontinuing the sale of menthol cigarettes after June 1st of this year. Because of how recently this law was enacted, the sample size of the data set is an exceedingly limited. It is impossible to say, with absolute certainty, what the outcomes will be before anything transpires. Unfortunately, economics does not give us access to a crystal ball that can tell us the future. Rather it is one tool in our toolkit that allows us to model and forecast what we think *could* happen based on the evidence that we have. While an outright ban on flavored tobacco and menthol products would certainly reduce the supply, it is vitally important to understand the ways in which artificially reducing the supply of so-called “vape and e-cigarettes” can have an effect on demand. By definition, a prohibition will create a black market for these products. I am concerned about the way in which consumers in Vermont would respond to an inelastic good like tobacco being outlawed. Jeffery A. Miron of the Economist Health Association argues that a prohibition can either increase or decrease demand, based on the consumer's relative “respect for the law”. If consumers believe that the potential consequences are too great, they will not try to obtain the good. There may also be what Miron calls a “forbidden

fruit effect”, where marginal demand increases due to the product being outlawed. Behavioral economic principles suggest that people will quickly try to move to substitute goods, to the extent that they are available. Dr. Villanti spoke this morning about the potential for substitution when *either* flavors or menthol are banned. However, in the case where both goods are banned, what are the substitutes? In the broader context of this discussion, this can be alcohol, cannabis, prescription drugs, or other opiates.

While I am not necessarily arguing for maintaining the status quo exactly as it exists now, I do have concerns that this policy may be too sweeping and reactionary in nature. I recognize that the committee wants to do right by the most vulnerable in this state, which is a feeling that we certainly have in common. In order to achieve this, I would like to encourage the committee to explore alternatives to an outright ban – alternatives that change the vantage point and approach this issue from the perspective of prevention. Perhaps increasing the investment in education, developing the health curriculum so that the youth are made aware of the real, long-term risks associated with using these products. At a time where clips on Instagram, Snapchat, and Tik-Tok are determining what is “cool” for us youth, it is vital that our health curricula tracks with our societal and technological changes. Perhaps segmenting the market, such that different delivery products are available to different age groups – people over 21 get devices with access to nicotine, people under do not. Perhaps tougher regulations on the tobacco industry products, setting standards and regulation that ensure that end users are not inhaling formaldehydes and other noxious alloys. Certainly, there must be some mechanisms in the bill that does not criminalize the possession of the products. Prohibitions, bans, interdiction.. these are all mechanisms that have historically been used in the war on drugs – my community has been disproportionately impacted by these sorts of policies and I would like to avoid drifting back in that direction.

It is important to think about the ways in which this Massachusetts policy may not graft directly onto the Vermont case – as our state differs in terms of population, demographics, budgetary constraints, social infrastructure, etc. For that reason, perhaps it is better to introduce this law piecemeal rather than wholesale, at the point when it has been tailored such that it truly fits the needs of Vermont. I would implore this body to think about the ways in which this policy can directly engage with the consumer in order to organically reduce the demand for these products. This policy discussion is a good and timely one. I implore you to continue taking testimony on this topic so that we can move to a more autonomous and responsible use of these combustible products.

Lastly, I would like to thank the committee for affording me the opportunity to intern. It has been an incredible experience – a dream, even. Thank you.

I will take any questions that you have, if there are any.

Thank you.