

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR  
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

February 21, 2017

The Honorable Tom Price, M.D.  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Price:

Congratulations on your confirmation as Secretary of the U.S. Department of Health and Human Services. I look forward to working with you as Congress and the Trump Administration begin to unwind the previous Administration's executive overreach that has expanded the size, scope, and cost of government.

One prime example of the federal government's overreach is the U.S. Food and Drug Administration's (FDA) deeming regulation of e-cigarettes. The burdensome rule threatens to stifle an entire industry and may potentially hurt the public's health by making it more difficult for consumers to access products that are alternatives to smoking. The FDA's regulation, which went into effect in August 2016, requires e-cigarette manufacturers to complete costly and time-consuming applications to get federal approval to sell e-cigarette products.<sup>1</sup> According to some estimates, these applications could cost e-cigarette manufacturers more than \$1 million per product.<sup>2</sup> Many e-cigarette manufacturers, most of which are small businesses, cannot afford to complete this application process, and will be forced to shut down.<sup>3</sup>

In December 2016, Congressman Duncan Hunter and I wrote to Vice President Pence about this burdensome rule and urged the Trump Administration to consider repealing or suspending the FDA's e-cigarette rule. I write to you today to reiterate my request to reign in this regulation. With your leadership, I am hopeful that the Administration can undo the FDA's burdensome e-cigarette rule that threatens former smokers who have switched to vaping and job creators across the country.

---

<sup>1</sup> Michael Siegel, *The FDA's Vaporous Thinking About E-Cigs*, WALL ST. J. (May 5, 2016), <http://www.wsj.com/articles/the-fdas-vaporous-thinking-about-e-cigs-1462487690>.


<sup>2</sup> Sabrina Tavernise, *F.D.A. Imposes Rules for E-Cigarettes in a Landmark Move*, NY TIMES (May 5, 2016), [http://www.nytimes.com/2016/05/06/science/fda-rules-electronic-cigarettes.html?\\_r=0](http://www.nytimes.com/2016/05/06/science/fda-rules-electronic-cigarettes.html?_r=0).

<sup>3</sup> Michael Siegel, *The FDA's Vaporous Thinking About E-Cigs*, WALL ST. J. (May 5, 2016), <http://www.wsj.com/articles/the-fdas-vaporous-thinking-about-e-cigs-1462487690>.

The Honorable Tom Price  
February 21, 2017  
Page 2

Thank you for your attention to this important matter.

Sincerely,



Ron Johnson  
Chairman

cc: The Honorable Claire McCaskill  
Ranking Member