

Massachusetts Vaping Witch Hunt Continues...

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The fight over the ban on vaping products in the Commonwealth of Massachusetts continues with as much passion and tenacity as the national dislike of the New England Patriots. Less than one week after the Court issued an order instructing the Commonwealth to comply with the law, the Commonwealth fumbles again. The Commonwealth's second emergency regulation, titled "Severe Lung Disease Associates with Vaping Products," 105 CMR 801.000 et seq., filed on October 28, 2019, basically mirrors the first emergency regulation and ignores the admonishments of Judge Wilkins.

The Governor's action sent the vaping and cannabis industries back to court challenging the lack of evidence in the order filed by the Commonwealth, which vaporizes small businesses, adult choices, and the ability of those suffering with chronic illnesses to reduce or alleviate their pain.

In support of its action, which the Commonwealth estimates will have an [economic impact](#) of more than \$8 million, the Commonwealth appears to be relying largely on newspaper articles regarding reported cases of illness linked to vaping products as well as information from the Massachusetts Department of Public Health (DPH), an institution that in its own words has limited resources and is unqualified and unable to perform a scientific analysis to determine the cause of the lung illnesses. The DPH relies on information supplied through questions presented to the individuals with the illness as to what they consumed leading up to their illness. However, the DPH does not have the ability to make the scientific determination as to what is the most likely cause of the illness, assuming there is any. Such unreliable data clearly bothered Judge Wilkins who said: "The record includes no verified or confirmed data about exclusive nicotine use. At a minimum, the credibility of the self-reports on that issue is seriously in question and may be unreliable for purposes of banning an entire industry."

Despite the cannabis regulations in Massachusetts, which are particularly stringent due to the requirement that every cannabis product is tested by a state-approved lab, the Commonwealth quickly abandoned the cannabis industry, which heavily relies on sales of vaping products, after boasting that its oversight promotes public safety (as well as provides the state with substantial tax revenue). Now, in keeping up with its past reputation for witch hunts, the Commonwealth is ignoring logic and the public good by passing a ban even where the scientific data does not show that legal vaping products are the cause of illness and where the legal cannabis products are tested diligently and approved by the state-certified specialty labs before being put on the market.

One has to question: If the Commonwealth is willing to shut down an entire industry and ignore the pain of those who rely on vaping products to relieve their suffering over concern for 46 potential cases of vaping illness overwhelmingly linked to illicit THC, why is the Commonwealth ignoring its much larger, ongoing epidemics in using the emergency regulation tool? If the Commonwealth applied consistent policy, we should for example expect an emergency regulation prohibiting the sale of alcohol in the Commonwealth. It is a well-documented fact that one of the largest of the “emergencies” facing both teens and adults in Massachusetts is alcohol.

According to the Centers for Disease Control and Prevention (CDC) [Youth Risk Behavior Surveillance System](#) (YRBSS), 31.4% of these teens currently drink alcohol and 15.9% reported binge drinking; 14.4% rode with a driver who had been drinking alcohol. Even the student newspaper at [Boston University](#) acknowledged Massachusetts’s poor ranking for drunk driving, which causes more deaths in Massachusetts annually than all combined “vaping” allegations. However, no executive orders or emergency regulations have been proposed or issued related to alcohol, which is statistically more harmful to both teens and adults in Massachusetts.

The Commonwealth is void of any focus on the more life-threatening issues facing Massachusetts, such as [2,168 drug overdose deaths annually](#). This should concern Governor Baker because 20.1% of Massachusetts teens were offered, sold or given an illegal drug on school property. Not to mention [injuries](#), which is the leading cause of death among Massachusetts residents aged 1?44 years. That means 10 people die from injuries per day in Massachusetts compared with the 46 cases of vaping-related illness reported since June. In fact, [mosquitoes](#) present a more pressing and serious health emergency than vaping. However, for some reason Governor Baker is determined that a vaping ban is a public emergency worthy of tax dollars and resources even after Judge Wilkins told the Commonwealth that ongoing epidemics were not emergencies.

Isn’t it time that the Commonwealth of Massachusetts stopped its witch hunt?

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