

**SB273 Testimony.NAPNAP. D.Busch.pdf**

Uploaded by: Ward, Lindsay

Position: FAV



**National Association of  
Pediatric Nurse Practitioners<sup>SM</sup>**  
MD: CHESAPEAKE

**Support of SB273**

January 21, 2021

Maryland Senate  
Finance Committee Members  
11 Bladen Street  
Annapolis, MD 21401

Dear Senate Finance Committee Members,

On behalf of the pediatric nurse practitioners (PNPs) and fellow pediatric focused advanced practice registered nurses (APRNs) of the National Association of Pediatric Nurse Practitioners (NAPNAP) Chesapeake Chapter, I am writing to express our support of SB273 'Electronic Smoking Device Regulation Act of 2021'.

The Maryland Chesapeake Chapter of NAPNAP believe this piece of legislation will play a vital role in protecting youth from the toxic smoke/vapors expressed from electronic smoking devices. These vapors are harmful to developing lungs. Smoking devices can be used to smoke or 'vape' marijuana, herbs, waxes, and oils exposing not only the smoker but bystanders to harmful chemicals. These devices are manufactured to deliver high concentrations to the lungs and the brain (Dr. Volkow, MD, Director of National Institute of Drug Abuse at NIH). Most devices contain nicotine, which has known health affects including being highly addictive, toxic to developing fetuses, and a danger to pregnant women. Nicotine can accumulate to toxic levels in children through alternative and accidental exposures such as swallowing or absorption through skin and eyes. Besides nicotine, electronic smoking devices' aerosols can contain substances that harm the body. These include but are not limited to:

- Ultrafine particles that can be inhaled deep into the lungs
- Flavoring such as diacetyl- a chemical linked to a serious lung disease
- Volatile organic compounds
- Cancer-causing chemicals
- Heavy metals such as nickel, tin, and lead

Artificial flavors are added to smoking devices to enhance the taste and take away from a normally bitter astringency. Research has shown that sweet-tasting flavors are particularly enticing to youth and young adults (FDA, 2019). Research also show that these flavorings can react to e-liquid or e-juice to trigger irritation and inflammation when inhaled (Duke University Medical Center, 2018).

Finally, electronic smoking devices can cause unintended injuries. Defective device batteries have caused fires and explosions, resulting in serious injuries.

For these reasons, the Maryland Chesapeake Chapter of NAPNAP extends their support to SB273 'Electronic Smoking Device Regulation Act of 2021'.

The pediatric advanced practice nurses of your state are grateful to your for your attention to these crucial issues. The members of Chesapeake Chapter of the National Association of Pediatric Nurse Practitioners are committed to improving the health and advocating for Maryland's children. If we can be of further assistance, please do not hesitate to contact Deborah Busch, the Chesapeake Chapter president, at 410 614 6284.

Sincerely,

*Deborah W. Busch DNP, CPNP, FAANP* 1/22/2021

**Deborah W. Busch DNP, CPNP**

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# **Jacobs Vape Story - My Son's Vaping Nightmare for**

Uploaded by: Bartlett, Donna

Position: FWA

## My Son's Vaping Nightmare

I am a concerned mother and a parent volunteer with Parents Against Vaping and I thank you for the opportunity to testify today.

While the spirit of **SB 273** is a good one, given that it prohibits the sale of flavored sealed vape products and seeks to regulate vape shops to ensure that flavored products are kept out of the hands of our children, it does not go far enough. It leaves flavored open container products on the market and in so doing keeps the door open for kids to have access to these flavored products therefore I can only support this bill if it is addended to end the sale of all flavored tobacco products, including menthol.

Let me share with you my son's vaping nightmare...

A year ago my son, an honor roll student and a dual sport varsity athlete tried vaping flavored nicotine for the first time. He said it tasted great, cherry was his favorites. He liked the flavors not just for the taste but also because he could easily pass it off as candy.

The candy odor was a sign, like so many others. The flash drives, that were vape devices. The stripped USB cords, the empty pods, cartridges, and e-juice containers. Even as a self-proclaimed "Helicopter Mom" I did not see what was happening. It was not until months later, at which point my son had now been vaping for 3 months, every day, 4 to 5 times a day.

I could not believe Jacob had gotten caught up in this vaping epidemic. How did this happen when he knew the dangers? How did this happen when the age limit was now over 21? But it did and now he could not stop, he craved it every day all day.

His mood swings, panic attacks, failing grades, troubles in school, lack of motivation, depression, lies, desperation...it was all there.

There are events that neither Jacob nor I will soon forget...

Like the day he called me from a bathroom at school having a panic attack because he knew if he left the stall, he would vape with the others who vape every day all day.

Then there was the night I listened to my son crying uncontrollably and asking me through gut wrenching sobs “Mom, why is this happening to me? Why can’t I stop?”

This healthy strong high school boy with a 4.13 GPA and amazing athletic abilities was no longer the boy I knew as my son. Vaping was now ruling his life. The addiction took over and it had complete control of him.

Sadly, the physical effects of vaping were just as great. Jacob, a starter player and one who usually played the entire game no longer could because he could not breathe. No parent should have to watch their child gasp for breath like Jacob did on a field THAT he once dominated.

Jacob is working hard to overcome his addiction but the craving are strong and he struggles. Sadly, just a couple of weeks ago I found several empty menthol cartridges, his “New” favorite flavor. Yes, menthol is a flavor, and it is in fact one of the most popular flavors that is attracting our children.

I do not want any other child to have to deal with the addiction my son, Jacob is still dealing with. People need to understand the severe negative effects of vaping, both mentally and physically.

These flavors draw kids into vaping, the extremely high levels of nicotine addicts them and keeps them coming back for more. This epidemic is not going away if our kids are able to buy flavored nicotine products and that is exactly what is happening. The age restriction of 21 is not always enforced. The only way to end this is to remove ALL flavors. We can do this in Maryland NOW with the passage of SB 177 which is a total flavor ban on all flavored tobacco products and e-cigs.

It’s time to protect our children from this deadly habit.

# **SB273 Candice Gott Testimony.pdf**

Uploaded by: Gott, Candice

Position: FWA

## Support with amendments SB273

My name is Candice Gott, I am a small business owner in the community and a member of the Maryland Vapor Alliance.

I became addicted to cigarettes at the age of 15. In an attempt to fit in and look cool in front of my friends I develop a nasty habit. I cannot tell you what type of cigarettes I started using, because I used whatever was available to me. Beggars cannot be choosers and this statement rings true today. If you take flavors away from responsible adults to stop teens from experimenting, teens will continue to experiment with what is available to them.

Data from the FDA shows that vape shops in Maryland are doing their part and not selling to people who are underage. Maryland vape shops continue to pass compliance checks while convenience stores and other retail establishments that are not age-gated continue to fail compliance checks.

Also per data from the CDC, the item teens are experimenting with the most is big tobacco products such as Juul and Vuse. These products are sold in convenience stores and are sold in 5% nicotine. The typical nicotine content sold in a vape shop is 0.3% (less than a percent!). Flavors are NOT the problem. The really bad news is that if flavors are banned, vape shops would cease to exist. This means the only remaining products would be the high nicotine big tobacco products sold at convenience stores. There would be no option for lowering your nicotine content over time. Adults using a level of 0.3% nicotine would be forced to use 5% nicotine if they wanted to continue to vape. This would send some back to cigarettes, but many more to the black market or a different state to buy flavored products from a vape shop. This is absolutely why we support this bill with the proposed amendments. We believe age-gated dedicated vape shops will take extra care in making sure a valid ID is scanned and that a straw purchase is not happening.

T21 and a ban on flavored pods took effect last year. This dropped youth use significantly. SB273 with the proposed amendments helps to address the real problem at hand and offers a solution that still allows adults access to a lifesaving product. This bill with the proposed amendments will stop a black market from forming, and stop adults from going back to a product that kills 500K each year. If we do not protect flavors in vape shops the only option for consumers is high nicotine big tobacco products sold in convenience stores.

Vaping is the only thing that worked for me to quit smoking, and I tried it all, from gums, to pills and patches... I even tried being hypnotized. I knew if I could quit smoking cigarettes using this method, that anyone could. This is the reason I opened my vape shop. I wanted to help others quit smoking.

This legislation if passed with the approved amendments acknowledges that Maryland vape shops continue to show they consistently pass compliance checks and do not sell to underage people. The bill addresses many of the sensible and fair regulations that Maryland vape shop owners have been asking for since big tobacco entered our industry and made a very large mess. This bill with the proposed amendments helps small business in a time when many businesses are already suffering and addresses the problem with real and viable solutions.

There are more and more studies coming out every day that shows vaping is less harmful than traditional cigarettes and that flavors are the driving incentive to kick the habit.

I'm urging the Maryland lawmakers to work with responsible vape shop owners and the Maryland Vapor Alliance. My business is my livelihood and it helps people. I have nothing to hide. Please visit my vape shop or use me as a resource for questions. We want to work with advocates and lawmaker to understand our industry and help pass fair and sensible regulations/laws.

Very respectfully,

Candice Gott  
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# **SB0273\_SWA\_MedChi, MDAAP\_Electronic Smoking Device**

Uploaded by: Kasemeyer, Pam

Position: FWA



*The Maryland State Medical Society*

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TO: The Honorable Delores G. Kelley, Chair  
Members, Senate Finance Committee  
The Honorable Benjamin F. Kramer

FROM: Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman

DATE: January 28, 2021

RE: **SUPPORT ONLY IF AMENDED** – Senate Bill 273 – *Electronic Smoking Device Regulation Act of 2021*

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On behalf of the Maryland State Medical Society (MedChi) and the Maryland Chapter of the American Academy of Pediatrics (MDAAP), we **support** Senate Bill 273, **only if the legislation is amended.**

MedChi and MDAAP appreciate the efforts of the sponsor to further limit access to and the use of electronic smoking devices through the introduction of Senate Bill 273, which proposes a number of changes to the current law regarding those objectives. Unfortunately, in reviewing the provisions, it is not clear that without further strengthening prohibitions and restrictions that it will demonstrably change access. Further, some of the language is difficult to interpret and, therefore, could lead to unintended consequences that further undermines what appears to be the sponsor's intent. Both MedChi and MDAAP are willing to work with the sponsor and other stakeholders to address these concerns. However, without further amendment, they are unable to support the passage of the legislation as written.

**For more information call:**  
Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman  
410-244-7000



**MVA\_SB 273\_FWA.pdf**

Uploaded by: Meyer, Isaac

Position: FWA



# Maryland Vapor Alliance

## SB 273 – Electronic Smoking Device Regulation Act of 2021

January 27, 2021

Honorable Delores Kelley  
Chair  
Finance Committee  
3 East Miller Senate Office Building  
11 Bladen Street  
Annapolis, MD 21401

Chair Kelley, Vice-Chair Feldman, and Committee Members,

The Maryland Vapor Alliance represents approximately 200 brick-and-mortar vapor shops across Maryland. We are small businesses and defined in statute as vape shop vendors meaning 70% or more of our retail sales are derived from vapor products and accessories such as hardware and liquids.

We have helped thousands of Maryland tobacco users transition to vapor products through the use of “open systems” that allow the user to control the amount of nicotine intake. This allows the adult user to decrease their nicotine intake over time. Compared to other venues, we have a strong track record of **NOT** selling such products to individuals under 21. In fact, we stand so strongly by our track record of **NOT** selling such products to underage individuals that we are supporting an amendment that would require revocation of a vape shop vendor license – under a 3-strikes, you are out provision – which we have provided with our amendment requests.

We are proud of our work with the Maryland General Assembly to craft legislation over the years to responsibly regulate the sale of vaping products in the State. Over the past five years, the MVA proactively supported legislation establishing a regulatory structure for the vaping industry, supported “tobacco-21” legislation, supported numerous bills increasing the penalties and fines for the sale of vaping products to minors, and supported an increased tax on vape products.

We support Senate Bill 273 with amendments. First, we want to thank Senator Kramer for his interest in this policy area and preparing legislation that will curtail the abuse of vaping by underage individuals. Senate Bill 273 would permit only vape shop vendors to sell electronic smoking devices in Maryland. This would take high-nicotine, closed systems out of thousands of retailers across Maryland and permit them only to be sold in age-gated, licensed vape shop vendors that will be required to scan identification. This act alone will significantly reduce access to underage vaping. We have previously shared extensive enforcement data that has demonstrated nearly every sale of a vape product to an underage individual was a high-nicotine, closed system sold at a gas station or convenience store.

However, we recognize that should this legislation be passed, the General Assembly is placing an unmatched trust in the vape shop community to be responsible retailers. To that end, we are seeking an amendment to require the revocation of a vape shop vendor license should a retailer sell vape products to

a minor three times in two years. Our members are proud of our track record and we do not tolerate the sale of vape products to minors. The regulations must match that belief and we want bad actors that mar our industry to pay the steepest penalty possible. We do not believe there is a comparable standard across any other licensed purveyor of adult products.

We have offered additional amendments that are included in this letter. We respectfully ask for your consideration of our amendments as you evaluate this legislation. As always, please consider the Maryland Vapor Alliance as a resource. We share the State's mission and have consistently shown a willingness to work the Maryland General Assembly to pass legislation that allows our industry to continue to offer adult products to adults while working toward a statewide goal of eliminating underage smoking and vaping.

Sincerely,

Matt Milby  
Vice President, Maryland Vapor Alliance  
443-421-8669

*Amendments offered by the Maryland Vapor Alliance*

**Amendment No. 1**

On page 2, after line 36, insert:

16.7-209

(b) **(1)** Subject to the notice requirement under subsection (c) of this section, the Executive Director may revoke a license if a licensee willfully and persistently engages in an act or omission that is grounds for discipline under Section 16.7-207(a) of this subtitle.

**(2) THE EXECUTIVE DIRECTOR SHALL REVOKE A VAPE SHOP VENDOR LICENSE IF THE LICENSEE IS CITED FOR THE SALE OF AN ELECTRONIC SMOKING DEVICE TO AN INDIVIDUAL UNDER THE AGE OF 21 THAT DOES NOT HOLD A VALID MILITARY IDENTIFICATION THREE TIMES IN A TWO-YEAR PERIOD.**

**(3) IF A LICENSE IS REVOKED PURSUANT TO PARAGRAPH (2) OF THIS SUBSECTION, THE LICENSEE IS NOT ELIGIBLE FOR A COMPROMISE BY PAYMENT IN LIEU OF REVOCATION IN SUBSECTION (E) OF THIS SECTION.**

Explanation: The members of the Maryland Vapor Alliance (MVA) recognize the trust the Maryland General Assembly is placing with licensed vape shop vendors. To that end, the MVA is asking for the General Assembly to adopt an amendment that requires the executive director to revoke the license of a licensee if they are cited for selling to individuals under the age of 21 (that do not hold a valid military ID) three times in a two-year period. Additionally, we want to make it clear that revoked licensees for these specific citations are not eligible for recourse under subsection (e) of this section that allows for a compromise. Their license must be revoked. It should be noted that we have not found any other license category that would be held to such a high standard whether it is the sale of alcohol, cigarettes, or other tobacco products.

**Amendment No. 2**

On page 5, in line 23, strike “**EXCLUSIVELY**”

On page 5, in line 24, after “BUSINESS”, insert “**AND MAY NOT SELL PACKAGED FOOD OR DRINK, CIGARETTES, OR ANY OTHER TOBACCO PRODUCT**”

Explanation: Many vape shop vendors offer holistic products such as “food-grade” CBD containing less than .03% THC. These products are commonly sold in coffee shops, juice shops, chiropractors offices, etc. Additionally, this amendment would allow the vape shop vendors to sell branded merchandise such as logoed tee shirts and strictly prohibits them from selling cigarettes, other tobacco products, and packaged food.

### **Amendment No. 3**

On page 7, in line 22, after “IN”, strike the remainder of the line in its entirety and replace with “**AN AMOUNT NOT TO EXCEED \$100 ANNUALLY.**”

Explanation: Currently, OTP retailers pay no additional licensing fee. In addition to other licenses, cigarette retailers pay a one-time \$200 fee and a recurring annual fee of \$30. The annual payment of \$100 by vape shops is a greater fee than cigarette retailers pay for a far more harmful product.

### **Amendment No. 4**

On page 10, after “(D)”, strike lines 14 through 17 in their entirety and substitute:

**“A LICENSEE MAY ONLY SELL AN ELECTRONIC SMOKING DEVICE LIQUID IN THE STATE, IF THE ELECTRONIC SMOKING DEVICE LIQUID HAS BEEN SUBMITTED TO THE FOOD AND DRUG ADMINISTRATION FOR THE PRE-MARKET TOBACCO AUTHORIZATION.**

Explanation: The FDA and E-liquid Manufacturers are currently conducting extensive PMTA testing to determine if there are any harmful and potentially harmful constituents (HPHC) in E-Liquids. These tests are done in HPHC approved labs with standard scientific/medical standards. This amendment would permit the sale of electronic liquids as long as the liquid has been submitted to the FDA for PMTA approval.

### **Amendment No. 5**

On page 13, after line 25, insert:

**16.7–217.**

**(A) THIS SECTION APPLIES ONLY TO A PERSON WHO IS ENGAGED IN THE BUSINESS OF SELLING OR DISTRIBUTING ELECTRONIC SMOKING DEVICES.**

**(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON COVERED UNDER THIS SECTION MAY NOT:**

**(1) SELL OR SHIP ELECTRONIC SMOKING DEVICES, ORDERED OR PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC NETWORK, OR OTHER ELECTRONIC NETWORK, BY A CONSUMER OR OTHER**

**UNLICENSED RECIPIENT, DIRECTLY TO A CONSUMER OR OTHER UNLICENSED RECIPIENT IN THE STATE; OR**

**(II) CAUSE ELECTRONIC SMOKING DEVICES, ORDERED OR PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC NETWORK, OR OTHER ELECTRONIC NETWORK BY A CONSUMER OR OTHER UNLICENSED RECIPIENT, TO BE SHIPPED DIRECTLY TO A CONSUMER OR OTHER UNLICENSED RECIPIENT IN THE STATE.**

**(2) A LICENSED ELECTRONIC SMOKING DEVICES RETAILER MAY DELIVER NOT MORE THAN TWO ELECTRONIC SMOKING DEVICES DIRECTLY TO A CONSUMER IF THE DELIVERY IS MADE BY THE LICENSED ELECTRONIC SMOKING DEVICES RETAILER OR AN EMPLOYEE OF THE LICENSED ELECTRONIC SMOKING DEVICES RETAILER.**

**(C) (1) A LICENSEE WHO SELLS OR SHIPS ELECTRONIC SMOKING DEVICES IN VIOLATION OF THIS SECTION OR CAUSES ELECTRONIC SMOKING DEVICES TO BE SHIPPED IN VIOLATION OF THIS SECTION IS:**

**(I) SUBJECT TO DISCIPLINE BY THE EXECUTIVE DIRECTOR UNDER § 16.7-207 OF THIS ARTICLE; AND**

**(II) GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 30 DAYS OR BOTH.**

**(2) A PERSON OTHER THAN A LICENSEE WHO SELLS OR SHIPS ELECTRONIC SMOKING DEVICES IN VIOLATION OF THIS SECTION OR CAUSES ELECTRONIC SMOKING DEVICES TO BE SHIPPED IN VIOLATION OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$50 FOR EACH ELECTRONIC SMOKING DEVICE TRANSPORTED OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.**

Explanation: This amendment bans telephonic and computer network direct-to-consumer sales of vape products but allows a vape shop employee to deliver not more than two ESDs. This is consistent with the treatment of cigarette retailers (delivery of up two *cartons* of cigarettes) and other tobacco product licensees (up to two products). This language passed out of the House of Delegates in 2020.

#### **Amendment No. 6**

On page 13, in line 16, after “TEST”, insert “**IN A LAB CERTIFIED TO TEST FOR HARMFUL AND POTENTIALLY HARMFUL CONSTITUENTS**”

On page 13, in line 17 and 18, strike “STATEMENT FILED UNDER S. 16.7-204 OF THIS SUBTITLE” and replace with “**PRE-MARKET TOBACCO AUTHORIZATION.**”

On page 13, in line 19, after “(B)” insert **(1)**

On page 13, in line 20, strike, “PERMISSIBLE”, and replace with “**AND PUBLISH A LIST OF HARMFUL AND POTENTIALLY HARMFUL CHEMICALS.**”

On page 13, in line 21, after “**DEVICES**”, insert “**IF TESTING OCCURRED SUBJECT TO SUBSECTION A OF THIS SECTION AND PEER REVIEWED**”

On page 13, after line 21, insert:

**(2) THE LIST SHALL CLASSIFY HARMFUL AND POTENTIALLY HARMFUL CHEMICALS, INGREDIENTS AND COMPONENTS OF ELECTRONIC SMOKING DEVICES AS:**

- (I) CARCINOGEN,**
- (II) RESPIRATORY TOXICANT,**
- (III) CARDIOVASCULAR TOXICANT,**
- (IV) REPRODUCTIVE OR DEVELOPMENTAL TOXICANT; OR,**
- (V) ADDICTIVE**

Explanation: Currently, the Federal Food and Drug Administration publishes a list of harmful and potentially harmful constituents (HPHCs) in tobacco products and tobacco smoke as required by the Federal Food, Drug and Cosmetic Act. Vaping products have been proven to be less harmful than cigarettes, yet the healthier product would be held to a stricter standard. The Maryland Vapor Alliance proposes that the Department of Health and the Executive Director have the authority to test vaping products and generally classify the chemicals found as a carcinogen, respiratory toxicant, cardiovascular toxicant, reproductive or developmental toxicant, and addictive.

A link to the current list can be found: <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/harmful-and-potentially-harmful-constituents-tobacco-products-and-tobacco-smoke-established-list>

#### **Amendment No. 7**

On page 17, after line 17, insert:

**(6) A licensed vape shop vendor.**

Explanation: Vape shops operate in a similar manner to cigar shops. This amendment would exempt vape shop vendors from Clean Indoor Air Act consistent with the treatment of cigar shops.

**SB177&273.pdf**

Uploaded by: Andrews, Tim

Position: UNF



# AMERICANS *for* TAX REFORM

January 26, 2121

Maryland Senate Finance Committee  
Miller Senate Office Building,  
11 Bladen St., A  
Annapolis, Maryland,

Members of the Senate Political Subdivisions Committee,

I thank the Committee for the opportunity to present this testimony on behalf of Americans for Tax Reform (ATR), a non-governmental non-profit organization which advocates in the interests of taxpayers and consumers throughout the United States. ATR offers the following testimony in opposition to SB 177 & 273, which seek to restrict access to life-saving reduced risk tobacco alternatives such as electronic cigarettes. These include bans on flavors, restricting entry to vape stores without electronic ID verification, forbidding online/remote sales, and pre-empting the FDA's authority on component and ingredient disclosure. **If enacted, these bills would have a disastrous impact upon not only businesses, but public health throughout the State, and lead to a clear increase in tobacco-related mortality.** SB177 also institutes a ban on all flavored conventional tobacco products, such as menthol cigarettes, which would have a disastrous impact on the Maryland economy and state finances, lead to a boom in illicit smuggling operations, and cause significant harm to minority populations. Given the significant overlap between these two bills in regard to flavors of reduced risk tobacco products, this submission will address these bills in tandem.

The smoking of traditional combustible tobacco products remains one of the leading preventable causes of death in the State of Maryland. It is noted, however, that the negative health effects of smoking combustible tobacco come not from the nicotine, a relatively benign, yet highly addictive substance much like caffeine, but rather the chemicals produced during the combustion process – “people smoke for the nicotine but die from the tar”. For this reason, nicotine replacement therapies such as nicotine patches and gums have been used to help smokers quit for decades.

In more recent years, technology has developed to allow for the creation of more effective alternative nicotine delivery systems, colloquially known as e-cigarettes or personal vaporizers. Through delivering nicotine through water vapor, these mimic the habitual nature of smoking, however, the absence of “smoke” leads to the absence of the carcinogens created through the combustion of tobacco. **As a result, these have been overwhelmingly proven to be 95% safer than combustible cigarettes, while least twice as effective as more traditional nicotine replacement therapies. For this reason, over 30 of the world's leading public health organizations have endorsed nicotine vaping as safer than smoking and an effective way to help smokers quit.** This list includes Cancer Research UK; the British Medical Association; the British Lung Foundation; the New Zealand Minister of Health; the US National Academies of Sciences, Engineering, and Medicine; the American Association of Public Health Physicians; the Royal Australian College of Physicians; the French National Academy of Pharmacy; and the German Federal Institute for Risk Assessment.

**It is further noted that studies have repeatedly shown that flavors, which these bill seek to ban, are critical to helping adult smokers make the switch to vaping,** and that adults who used flavored e-cigarette products have been found to be more than twice as likely to quit smoking combustible cigarettes than adults using non-flavored vaping products. Multiple studies have shown that banning all flavors in e-cigarettes (except tobacco flavor) would result in a decline in

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the use of e-cigarettes and an increase in the smoking of deadly combustible cigarettes. This deadly shift would occur because flavors “contribute to both perceived pleasure and the effort to reduce cigarette consumption or quit smoking.” One such study found a simple ban on all flavors but tobacco in e-cigarettes would increase smoking by 8.3 percent. In addition, Public Health England canvassed a number of vaper surveys and found that “banning flavored liquids would deter them [vapers] from using vaping products to help them quit or reduce their smoking. It could also push current vapers towards illicit products.” Public Health England therefore concluded that, “[a ban on flavored liquids could have adverse effects and unintended consequences for smokers using vaping products to quit.](#)” Concerningly, one nationwide British survey from 2019 found that if a vaping flavor ban were enacted, then 25 percent of vapers would still try to get flavors through the black market. Nearly 10 percent who use flavored liquids said they would stop vaping, and 20 percent said that they would either smoke more tobacco or return to smoking tobacco entirely.

**While flavors in vaping products are critical in helping adults quit smoking, the evidence also demonstrates that they play no role in youth uptake of vaping.** A 2015 survey of nonsmoking teens aged 13-17 found interest levels in flavored e-cigarettes at 0.4 out of a possible score of 10. Additionally, fewer than a third of high school students self-report to care about flavors. Academic studies have found that teenage non-smokers’ “willingness to try plain versus flavored varieties did not differ” and a mere 5 percent of vapers aged 14-23 reported it was the different flavors that attracted them to e-cigarettes. It is also worth noting that, despite media reports to the contrary, data from the National Youth Tobacco Surveys demonstrates that youth dependence on nicotine in US high school students has [not increased since the](#) introduction of these products to the market.

We would also like to draw the committee’s attention to the fact that other aspects of SB 273, such as the prohibition on online or remote sales, and the requirement of certain products to be sold to certain stores would significantly reduce access to persons in rural and remote areas of the state. **Were these restrictions enacted, these persons, often in lower socioeconomic demographics and at the highest risk of smoking related mortality, would not have access to these reduced risk products, and would have no choice but to continue smoking combustible tobacco.**

The Food and Drug Administration already requires that every legal nicotine vapor product in the country undergo a lengthy pre-approval process by this May. Part of this review process requires an FDA determination that the continued availability of a vaping product is appropriate for the protection of public health. Without an FDA approval, the product cannot be sold to consumers. It is, as such, inappropriate for the State to attempt to pre-empt the FDA’s authority on component and ingredient disclosure.

Extrapolating from a large-scale analysis by the US’s leading cancer researchers and coordinated by Georgetown University Medical Centre, **if a majority of Maryland smokers made the switch to vaping, close to [150,000 lives would be saved.](#) In seeking to reduce access to these life-saving products, these bills place these lives in jeopardy.**

ATR further submits that in addition to the public health disaster that reducing access to reduced risk tobacco alternatives will unleash, these proposals would also have devastating consequences on businesses, at a time they can afford it least. At a time of great hardship due to the Covid-19 pandemic, a bill which would effectively outlaw sections of the Maryland economy costing jobs and business owners their livelihoods, would have a devastating impact in terms of its economic cost.

In addition to the flavor bans imposed by SB 273 and SB 177 on reduced risk tobacco alternatives, SB 177 extends flavor prohibition to menthol cigarettes and other conventional tobacco products. Similar to bans on flavors in reduced risk tobacco alternatives, these would also come with significant negative consequences for the state, with no evidence whatsoever that they have any effect in reducing smoking rates. To the contrary, real world evidence from Massachusetts demonstrates that such bans are counterproductive and come at significant cost.

Since Massachusetts implemented a ban on all flavored tobacco products in the middle of 2020, cross-border purchases and the creation of a booming black market have more than made up a decline in sales in the Commonwealth. In the first six months since the ban was enacted, Massachusetts retailers have sold 17.7 million fewer cigarette packets compared to the same six months in the prior year, while neighboring Rhode Island and New Hampshire have combined to sell 18.9 million more as Massachusetts residents stock up across state lines. **The loss to the state, already in the midst of a fiscal crisis brought on by the Covid-19 pandemic, has thus far been a staggering \$73,008,000.** Given fewer than \$5 million of the over \$500 million the state collects in tobacco excise is spent on smoking cessation programs, the remainder allocated to the general fund, this shortfall will likely lead to further tax increases, hurting struggling families and businesses even further, and there is little doubt a similar effect would occur in Maryland.

While the states of Rhode Island and New Hampshire have been some of the biggest beneficiaries of Massachusetts' ban, collecting close to \$50 million in additional revenue, criminal syndicates have also benefited. Contrary to popular belief that tobacco smuggling is a victimless crime consisting of someone purchasing a few extra cartons across state lines, in reality most tobacco smuggling is run by multi-million dollar organized crime syndicates. **These networks, who also engage in human trafficking & money laundering, have also been used to fund terrorist and the US State Department has explicitly called tobacco smuggling a "threat to national security".**

It is also worth noting that paradoxically these bans may therefore increase youth smoking in Maryland. By definition criminals and smugglers are unlikely to obey laws and would not follow rigorous age-verification requirements mandated at reputable outlets.

**In addition to lost revenue the financing of criminal activities, and potential increase in youth uptake, another adverse effect of these bans is the disproportionate harm it inflicts upon minority communities.** Approximately 80% of blacks and 35% of Latinos who choose to smoke prefer menthol cigarettes, and black adults are 60% of cigarillo and non-premium cigars smokers, with these products often flavored. For this reason, civil liberty organizations such as the ACLU and the Law Enforcement Action Partnership oppose flavor bans as they "disproportionately impact people and communities of color."

For the reasons outlined above, in the interests of public health, protecting the Maryland economy, and preventing the spread of smuggling cartels and the disproportionate targeting of minorities, we call upon the Committee to accept the science and vote against SB 177 & 273.

Sincerely,

Tim Andrews  
Director of Consumer Issues  
Americans for Tax Reform

# **Letter to Maryland Senate Finance Committee re Fla**

Uploaded by: Briant, Thomas

Position: UNF

## NATIONAL ASSOCIATION OF TOBACCO OUTLETS, INC.

January 26, 2021

**To:** Chairperson Delores Kelly and the Senate Finance Committee

**From:** Thomas Briant, NATO Executive Director

The National Association of Tobacco Outlets (NATO) is a national trade association that represents hundreds of retail store members across the State of Maryland. NATO and its Maryland member stores urge you to not support SB177, which would ban the sale of all flavored tobacco products, nor SB273, which would ban the sale of most flavored nicotine vapor products and remove them from convenience and other stores, allowing them to only be sold in vape-only stores. Our concerns are explained below:

- **Maryland Could Lose Hundreds of Millions in Cigarette/Tobacco Tax Revenue.** With the Maryland economy so negatively impacted from the COVID-19 pandemic, banning flavored tobacco and nicotine vapor products would substantially increase the shortfall in state excise tax and sales tax revenues by encouraging adult consumers to obtain products outside of Maryland to avoid the ban. According to the accompanying press release from the New England Convenience Store and Energy Marketers Association, the statewide flavored tobacco product ban enacted in Massachusetts has cost the state \$62 million in cigarette excise tax revenue alone during June-November of 2020. This \$62 million loss is far greater because it does not include lost excise tax revenue on other flavored tobacco products nor sales tax revenue losses on any products.
- **Economic Impact on Retailers Would Force Many Out of Business.** Several kinds of retailers sell tobacco, such as tobacco-only stores with virtually all their revenue from tobacco sales and convenience stores with approximately 36% of their revenue from tobacco sales. Flavored products are a significant part of this revenue. The loss of hundreds of flavored tobacco products would drive tobacco-only stores out of business and make the convenience store business model untenable likely causing many to close or lay off employees.
- **The State of Maryland Considers Convenience Stores “Essential.”** During the COVID-19 pandemic, convenience stores and gas stations are among those businesses deemed “essential” by all levels of government. Policies that would deprive them of the ability to sell hundreds of flavored tobacco and nicotine vapor products will put further financial pressure on these retailers. If these stores are forced to close, the state will lose these “essential” businesses that will not be there the next time an emergency arises.
- **Expansion of Cross Border and Internet Purchases and Illicit Market for Flavored Products:** With flavored products readily available on the Internet or in adjacent states, legal age adults will order products online or drive across the border to patronize retailers in a neighboring state. Flavor bans will exacerbate the illicit market in smuggled products where sellers are not licensed nor concerned with the law and will sell products to anyone of any age who has cash.
- **Allow FDA Electronic Nicotine Product Restrictions to Work.** In February of 2020, the FDA banned most flavored cartridge-based and pod-based electronic cigarettes. The agency took this action because these particular kinds of electronic cigarettes were appealing to underage youth. However, in the same action, the FDA permitted tobacco flavored and menthol flavored cartridge-based and pod-based electronic cigarettes to remain on the market because youth usage of these two flavors was the lowest versus all other flavors. In addition, the agency explained that menthol is unique since it is the only flavor available in cigarettes and menthol flavored electronic cigarettes may assist adults in transitioning away from smoking.



**FOR IMMEDIATE RELEASE**

January 5, 2021

Media contact:

Dave Wedge

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**MASSACHUSETTS HAS LOST NEARLY \$62 MILLION IN MENTHOL CIGARETTE TAX REVENUE THROUGH FIRST 6 MONTHS OF FLAVOR BAN**

*New Hampshire and Rhode Island continue to reap millions from failed Massachusetts ban*

**STOUGHTON, Mass. (January 5, 2021)** – Excise tax losses from menthol cigarettes continued to mount at a rate of over \$10 million per month during the first 6 months of the state’s ban on flavored tobacco while New Hampshire and Rhode Island businesses and state coffers reaped the benefits of the Commonwealth’s ill-conceived and now failed policy.

“With every month that passes, the state’s ban on flavored tobacco becomes increasingly absurd,” said Jonathan Shaer, Executive Director of the New England Convenience Store & Energy Marketers Association. “All anyone needs to do is look at the excise tax stamp numbers from June through November to understand how ineffective and ridiculous this ban is. Rhode Island and New Hampshire have combined to sell 18.9 million more stamps than they did over the same period in 2019 while Massachusetts has sold 17.7 million fewer. Indisputably, menthol cigarettes are purchased in neighboring states and then brought back into Massachusetts for personal consumption or illicit market sales.”

Updated data for June – November 2020 vs. same period prior year. These figures are for cigarettes only and do not include other forms of flavored tobacco including smokeless, pipe or cigar.

- Massachusetts
  - Cigarettes excise tax stamp sales down 17,656,000 or 23.9%
  - Cigarette excise tax loss: \$61,972,560
  - Estimated loss including sales tax: \$73,008,000
  
- Rhode Island
  - Cigarettes excise tax stamp sales up 2,847,000 or 18.2%
  - Cigarette excise tax gain: \$12,100,000
  - Estimated gain including sales tax: \$14,066,740
  
- New Hampshire
  - Cigarettes excise tax stamp sales up 16,053,000 or 29.7%
  - Cigarette excise tax gain: \$28,574,340

Actual retail sales information from NECSEMA members during these 6 months reveal further distressing results:

- Non-flavored cigarette sales in Massachusetts have increased 15%, and non-flavored smokeless sales have increased 350% vs. the same period in 2019.
- Total cigarette sales in New Hampshire have increased 46%, menthol cigarette sales are up 90% and mint/wintergreen smokeless sales are up 105% vs. the same period in 2019
- Total cigarette sales in Rhode Island have increased 20%, menthol cigarette sales are up 29% and mint/wintergreen smokeless sales are up 59% vs. the same period in 2019.
- Total in-store sales in Massachusetts are down 10% while they are up 93% in New Hampshire and 15% in Rhode Island.

“I challenge anyone to demonstrate how this ban has been effective,” Shaer said. “New Hampshire and Rhode Island imports have replaced sales once made in Massachusetts by licensed retailers. In fact, the latest data shows an uptick in cigarette sales when you combine the increases for non-flavored cigarettes in Massachusetts with total cigarette sales gains in New Hampshire and Rhode Island. Massachusetts small businesses have lost, the Massachusetts budget has lost, public health has lost, and youth who this law was allegedly intended to protect have lost since prevention revenue has greatly diminished.”

NECSEMA opposed the flavored tobacco ban in 2019 when it was first presented, and continues to monitor sales data to demonstrate the failure of the law and the wrongful impact to its members. The association represents both chain and independent convenience store owners, including many in urban communities that are being disproportionately affected by this ban. According to the National Association of Convenience Stores (NACS), there are 3,360 convenience stores in Massachusetts with 54,000-plus employees accounting for \$17 billion in sales annually. With over 89% of legal cigarette sales occurring at convenience stores, this policy hits its industry particularly hard.

“The focus should have solely been to address youth access and use of flavored vape. Instead Massachusetts overstepped to include adult products and now stands alone as the only state with a comprehensive flavored tobacco ban,” Shaer said. “While any underage use of tobacco is concerning, a ban on what are clearly adult-preferred products isn’t appropriate.”

To speak with Jonathan Shaer, please contact Dave Wedge at [davidmwedge@gmail.com](mailto:davidmwedge@gmail.com) or 617-799-0537.

**ALA\_MD E-Cig Only Testimony - SB 273\_1-28-21.pdf**

Uploaded by: Casper, Aleks

Position: UNF



American Lung Association Testimony Senate Bill 273

Finance Committee

January 28, 2021

Oppose

Chairwoman Kelley and Members of the Committee:

Thank you for the opportunity to provide comments on Senate Bill 273, Electronic Smoking Device Regulation Act of 2021 sponsored by the Senator Kramer. The American Lung Association strongly opposes this bill as any policy to address flavored tobacco must be comprehensive and include all flavors and all products. We would encourage the committee to instead support Senate Bill 177, also before the committee which as written with no exemptions or amendments would remove all flavored tobacco products from the market in Maryland.

The American Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease, through research, education and advocacy. The work of the American Lung Association is focused on four strategic imperatives: to defeat lung cancer; to improve the air we breathe; to reduce the burden of lung disease on individuals and their families; and to eliminate tobacco use and tobacco-related diseases.

In new data from the 2020 National Tobacco Youth Survey, e-cigarette use among high school and middle school students continue to show epidemic levels. The data shows that 23.6% of high school users have used e-cigarettes in the last month and 6.7% of middle school students. This equals more than 4.47 million middle and high school students who now use e-cigarettes. The tobacco industry has continued to target youth users with marketing of flavored products which have made them appealing for youth users to initiate tobacco use, with many youth not realizing that these products contain nicotine and then struggling with a lifetime of addiction. The other alarming rate is 16.2% among students reported using any tobacco product and 8.2% of students are reporting using multiple tobacco products. The Lung Association is encouraging states to look at evidence-based policy measures to address this epidemic. It is critical that all flavored products are included in any legislation as if you leave one product on the market youth may just switch to that product. Any legislative measure must include all flavors and all products, which include but are not limited to e-cigarettes, menthol cigarettes, hookah, cigars and smokeless products.



While much attention has been focused on how e-cigarettes are now attracting and addicting Maryland residents, many other flavored tobacco products have been on the market for decades. The tobacco industry has a long history of targeting communities of color, LGBTQ communities and communities of low socioeconomic status with the sale of menthol cigarettes and flavored cigarillos.

Menthol is not only a flavoring, but a chemical with complex, drug-like properties that can impact smoking initiation, addiction and cessation. Menthol has cooling and anesthetic properties which reduce the harshness of cigarette smoke for new smokers. Menthol also reduces airway pain and irritation and can suppress coughing, which can mask the early warning symptoms of smoking-induced respiratory problems. Use of menthol cigarettes by youth also makes it more likely that youth will go on to become regular smokers. While overall cigarette sales have been declining, the proportion of smokers using menthol cigarettes has been increasing, and over half of kids who smoke cigarettes use menthol cigarettes.

Removing all flavored tobacco products would be a critical component to a comprehensive strategy to reduce tobacco use and prevent initiation and lifelong addiction. Ensuring that all flavored tobacco products are included in any policy measure will benefit Maryland communities of color, LGBTQ communities, and communities of lower socioeconomic status by reducing tobacco use and saving lives. Senate Bill 273 does not go far enough, and we urge you to make sure no communities are left behind and focus on comprehensive policy measures which must include all flavors and all products.

The Lung Association thanks the Maryland General Assembly for their continued commitment to the health and wellbeing of the residents of Maryland and the desire to protect Maryland youth from a lifelong tobacco and nicotine addiction. Unfortunately, Senate Bill 273 is not the solution and the Lung Association would encourage the committee to vote no and support a more comprehensive approach that includes all flavors and all products.

Sincerely,



Aleks Casper  
Director of Advocacy, Maryland  
202-719-2810  
[aleks.casper@lung.org](mailto:aleks.casper@lung.org)

**ACS CAN\_UNFAV\_SB273.pdf**

Uploaded by: Collins, Jocelyn

Position: UNF



January 28, 2021

**TO:**                   **The Honorable Delores G. Kelley, Chair**  
**The Honorable Brian J. Feldman, Vice Chair**  
**Members of the Senate Finance Committee**  
**3 East**  
**Miller Senate Office Building**  
**Annapolis, MD 21401**

**The Honorable Guy Guzzone, Chair**  
**The Honorable Jim Rosapepe, Vice Chair**  
**Members of the Senate Budget and Taxation Committee**  
**3 West**  
**Miller Senate Office Building**  
**Annapolis, MD 21401**

**FROM:**               **Jocelyn Collins, Maryland and Washington, D.C. Govt. Relations Director**  
**American Cancer Society Cancer Action Network**  
**555 11<sup>th</sup> St. NW, Suite 300**  
**Washington, DC 20004**  
**jocelyn.collins@cancer.org**  
**(301) 254-0072 (cell)**

**SUBJECT:**           **SB 273 Electronic Smoking Device Regulation Act of 2021**

**POSITION:**         **OPPOSE**

The American Cancer Society Cancer Action Network (ACS CAN) is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society. We support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. On behalf of our constituents, many of whom have been personally affected by cancer, we stand in opposition of **SB 273 Electronic Smoking Device Regulation Act of 2021**.

While we deeply appreciate the Sponsor’s commitment to resolve youth use of electronic smoking devices and to address the sale of flavored electronic smoking devices, the dangers of tobacco do not start and end with electronic smoking devices. As drafted, this legislation is extremely problematic as it encourages product switching by not ending the sale of all flavored tobacco products equally.

SB 273 tries to restrict the sale of flavored electronic smoking devices and regulate the sale of some electronic smoking devices by restricting the sale of disposable products but allowing the sale of “cartridges” and “pods” in some circumstances. Additionally, the wording used in the bill to clarify the restriction on flavored electronic smoking devices classifying these products as, “A NATURAL FLAVORING OR ARTIFICIAL FLAVOR, OTHER THAN TOBACCO,” does not suffice and does not end the sale of all

flavored electronic smoking devices or other flavored tobacco products. The legislation also does not sufficiently address issues with electronic smoking devices and the Clean Indoor Air Act.

We need to be taking a comprehensive approach to tobacco control in Maryland, based on evidence-based policies that are proven to work. Such policies include raising the tobacco tax. Increasing the price of cigarettes and all other tobacco products through regular and significant tobacco tax increases helps to keep kids from starting to use tobacco and helps adults quit.

The Maryland General Assembly has the opportunity this Session to override the Governor's veto of the tobacco tax (HB 732), in which, increases the State's cigarette tax by \$1.75 per pack with an increase in the tax on some other tobacco products, including taxing electronic smoking devices for the first time.

The legislation also includes line items for \$18.25 million of the revenue from the tobacco taxes to sustain evidence-based, statewide tobacco use prevention and cessation programs for the Maryland Health Departments. This legislation is projected to bring in \$95.76 million in State Revenue. Again, ACS CAN encourages the Legislature to overturn this veto.

To address flavored tobacco products, such as electronic smoking devices— we need to end the sale of menthol cigarettes, flavored cigars and all other flavored tobacco products. Legislation put forth this Session: SB 177/HB 134 would fully address this, not SB 273.

In Maryland, 27.4% of youth and 18.2% of adults use any tobacco product, including 12.7% who use cigarettes.<sup>1 2</sup> While 5.0% of Maryland high school students smoke cigarettes, 6.0% smoke cigars, 4.6% use smokeless tobacco, and 23% use electronic smoking devices.<sup>3</sup> We know that most current smokers were enticed to begin this deadly addiction as youth, and most report beginning with a flavor tobacco product.

As a result of targeted marketing, while the use of traditional cigarettes has declined, the sale of menthol cigarettes has steadily increased, especially among young people and new smokers. Menthol makes it easier to start smoking by masking the harshness of tobacco smoke. As a result, over half of youth who smoke use menthol cigarettes; among African American youth who smoke, seven out of ten use menthol cigarettes. In addition, there are now over 250 different cigar flavors, and cigars surpass cigarettes in popularity among high school boys nationwide.

In addition to youth, African American, LatinX, and LGBTQ communities have been heavily targeted with menthol cigarette marketing. Quitting menthol cigarettes is particularly difficult, so those who initiate with menthol are more likely to become addicted and less likely to quit. Leaving menthol cigarettes in our communities is a matter of social justice and leaves those already most impacted by health disparities vulnerable to the aggressive marketing of the tobacco industry.

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<sup>1</sup> <https://nccd.cdc.gov/Youthonline/App/Results.aspx?TT=A&OUT=0&SID=H5&QID=QQ&LID=XX&YID=2017&LID2=&YID2=&COL=5&ROW1=N&ROW2=N&HT=QQ&LCT=LL&FS=S1&FR=R1&FG=G1&FA=A1&FI=I1&FP=P1&FSL=S1&FRL=R1&FGL=G1&FAL=A1&FIL=I1&FPL=P1&PV=&TST=False&C1=&C2=&QP=G&DP=1&VA=C1&CS=Y&SYID=&EYID=&SC=DEFAULT&SO=ASC> [Accessed January 2021].

<sup>2</sup> Campaign for Tobacco Free Kids. The Toll of Tobacco in Maryland. Updated October 20, 2020. [http://www.tobaccofreekids.org/facts\\_issues/toll\\_us/maryland](http://www.tobaccofreekids.org/facts_issues/toll_us/maryland)

<sup>3</sup> Maryland Department of Health. YRBS/YTS 2019. Unpublished. Local Health Department Tobacco Control Meeting, November 21, 2019.

The 2020 Surgeon General *Smoking Cessation: A Report of the Surgeon General* released on January 23, 2020 noted that an “endgame” strategy that could further bolster tobacco cessation would be to end **the sale of flavored tobacco products, including menthol.**<sup>4</sup>

Cities across the country have already acted to end the sale of menthol cigarettes, flavored cigars and all other flavored tobacco products. Over 300 localities in California, Colorado, Minnesota, Massachusetts and New York, and the State of Massachusetts and California have done so. And many other communities and states are currently considering similar proposals. It’s now Maryland’s turn!

In 2021, it is estimated that approximately 34,590 Maryland residents will be diagnosed with cancer while 11,010 will die from the disease.<sup>5</sup> Moreover, 26.3% of cancer deaths in Maryland are attributable to smoking according to the American Cancer Society.<sup>6</sup>

Again, evidence-based legislation that properly addresses the enforcement and regulation of all tobacco products is always essential. SB 273 does not do that. ACS CAN respectfully asks the Committee for an **“unfavorable” report** of SB 273.

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<sup>4</sup> U.S. Department of Health and Human Services (HHS). *Smoking Cessation: A Report of the Surgeon General- Executive Summary*. Rockville, MD. U. S. Department of Health and Human Services, Public Health Service, Office of the Surgeon General; 2020. Available at <https://www.hhs.gov/sites/default/files/2020-cessation-sgr-executive-summary.pdf>.

<sup>5</sup> American Cancer Society. *Maryland Cancer Facts and Figures 2021*. Atlanta: American Cancer Society; 2021.

<sup>6</sup> Analysis by ACS, 2020.

**AHA Unfavorable 2021 SB 273 .pdf**

Uploaded by: Hale, Laura

Position: UNF



January 24, 2021

Testimony of Laura Hale  
American Heart Association

**Oppose SB 273 Electronic Smoking Device Regulation Act of 2021**

Dear Chair Kelley, Vice Chair Feldman, and Honorable Members of the Finance Committee,

Thank you for the opportunity to speak before you today. My name is Laura Hale and I am the Director of Government Relations for the American Heart Association. The American Heart Association asks for an unfavorable report on SB 273.

We have been a vocal proponent of flavored tobacco regulation for some time. Although we appreciate the intention of the bill and the dedication of its sponsor, SB 273 has too many key weaknesses for us to be able to support it. First, it invents categories for different flavored tobacco products. All tobacco is addictive, and all flavored tobacco is appealing to youth. It doesn't matter if the flavored tobacco is in a pod, a refillable product, or a cigarette, these products are addictive and targeted to kids. By removing only one product from the market, young flavored tobacco users will easily switch products. Youth will have no qualms about using one product instead of another. We're already seeing the dominance of Juul fading and other refillable products to becoming more popular.

Second, SB 273 uses imprecise language in key sections. It is unclear where ESDs could be consumed, and the legislative language could be interpreted to allow vaping bars. Inhaling a tobacco product is dangerous and we cannot have confusion about the Clean Indoor Air Act inserted into the state code.

The American Heart Association urges an unfavorable report on SB 273.

**SB273 WMDA Kirk.pdf**

Uploaded by: McCauley, Kirk

Position: UNF





WMDA/CAR Service Station  
and Automotive Repair Association

January 26, 2021

Chairman: Delores G. Kelley  
Members of Senate Finance Committee

RE: SB 273 Electronic Smoking Devises Regulations Act of 2021

Position: In Opposition

SB 273 picks winners and losers between retailers. While a Vape shop can mix up juice and put it in a pod, even with flavor, a convenience retailer would lose their license to sell a product that is considered an ESD .

The inequities of picking winners and losers.

While a vape shop can sell their liquid without a state recognized laboratory certifying ingredients are safe when aerosolized, they are required to file a list of components and ingredients to local health department and executive director. A convenience retailer cannot sell even when certified by a recognized laboratory. Is the state setting up a laboratory to certify ingredients when aerosolized?

I am not trying to make vape shops a villain. I am just pointing out that convenience retailers sell products that customers want, and they age verify at 21 or older. We have reliable Maryland wholesalers that sell ESD products. Our convenience retailers employ thousands of residents.

Black markets that illegally sell tobacco and ESD products are a problem now. Banning sealed devises will only enhance the illegal market where there is no age verification and drive Maryland retail customers to our neighboring states along with gas and store sales.

The inequities of picking winners and losers

Please give SB 273 an unfavorable Report

WMDA/CAR is a trade association that has represented service stations, convenience stores and independent repair shops since 1937. Any questions can be addressed to Kirk McCauley, 301-775-0221 or [kmccauley@wmda.net](mailto:kmccauley@wmda.net)

# **2021- MD Senate testimony - Final.pdf**

Uploaded by: Minton, Michelle

Position: UNF

1310 L Street, NW, 7th Floor  
Washington, DC 20005  
cei.org

202 331 1010 *main*  
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Testimony for: SB 273 (Electronic Smoking Device Regulation Act of 2021)

Committee: Senate Finance Committee

**Position: OPPOSED**

Contact: Michelle Minton, Senior Fellow

Competitive Enterprise Institute

1310 L St. NW, 7<sup>th</sup> Floor

Washington, DC 20005

202-331-2251

Michelle.Minton@cei.org

Chairman Kelley and Members of the Committee:

Thank you for giving the public an opportunity to provide input as you consider this proposal. I sincerely hope you listen to the testimony from consumers, business owners, and experts in the field, like me. My name is Michelle Minton. I am a Senior fellow with the non-partisan think tank the Competitive Enterprise Institute, where I have dedicated my career to the study of consumer risk regulation. As professional, a Maryland resident, and someone who cares about public health, I urge you not to repeat the mistakes of our past by creating yet another drug war on nicotine that will harm more people than it helps.

If there is one thing I've learned over my 13-year career it is this: Prohibitions don't work. They have never and will never work. Policies meant to save people from the perils of their own choices, whether through taxation, restrictions on sales, or outright bans do not make people better off. In fact, well-meaning as they may be, bans invariably backfire, causing people to engage in *riskier* behaviors. In this case, bans on flavored vapor products and online sales will cause those in the most vulnerable categories to be forced either to return to smoking or to seek what they want from the illicit market.

We have seen the failure of this type of policy over and over again, yet we never seem to learn. Alcohol prohibition did not save people from excessive alcohol consumption; it led to harder drinking, speakeasies, funneled billions of dollars to organized criminals, and caused many deaths from tainted liquor.

New York state hasn't banned cigarettes, but has made them prohibitively expensive through taxation. As it always does, the black market rose to meet the demand for cheaper cigarettes, and now more than 60 percent of cigarettes sold in the state are from illegal sources. Not only is law enforcement incapable of preventing tobacco bootlegging, attempts to stop it have only resulted

in tragedies, such as the death of Eric Garner, the Staten Island man choked to death by police who believed he was selling untaxed cigarettes.

Marijuana prohibition didn't stop people from using pot. Attempts to enforce the law caused incalculable harm, primarily to lower income communities and people of color, while doing nothing to stop the rise of drug cartels and the creation of an enormous global cannabis black market. It was this very black market that caused the outbreak of lung injuries we saw over the summer. Most of those injured lived in states without legal marijuana or were not of age to legally purchase it, so they relied on the black market, which has zero quality control and no incentive to verify customers' age. As a result, nearly 3,000 people were hospitalized by THC vaping products tainted with vitamin E acetate and 60 people are dead.<sup>1</sup>

Instead of recognizing this outbreak as a failure of prohibition, anti-tobacco activists used the outbreak, and public confusion around it, to urge state legislatures to ban nicotine e-cigarettes, which had nothing to do with it. And those states, like Massachusetts, which banned the sale of vapor products, succeeded only in driving customers to purchase products from New Hampshire or illegal dealers.<sup>2</sup>

Restrictions on nicotine e-cigarettes that ban certain devices, nicotine strengths, or flavors will do nothing to prevent another outbreak. It will also not address the other reason proponents assert for removing flavors from the market: the so-called "epidemic" of youth vaping.

First, there is no youth vaping epidemic. Despite the headlines, the vast majority of youth who report using e-cigarettes are not using them habitually. Analysis of the 2018 survey data shows that just 7 percent of students reported vaping five or more times in the last month. Of those who reported vaping more than five times a month, only 0.4 percent had never used tobacco.<sup>3</sup> Between 2019 and 2020, the number of youth reporting past-month vaping declined by around 30 percent.

As defined by the Centers for Disease Control and Prevention (CDC), an "epidemic" refers to a usually sudden increase in the number of cases of a disease in a given population, above what is expected in that area.<sup>4</sup> E-cigarette *use* by youth, though concerning, is not a disease. In fact, there is not a single case in the U.S. of any person—adolescent or adult—developing a disease as the result of inhaling the vapor produced by electronic nicotine delivery devices.

This is not an epidemic.

Concerns about youth initiation of nicotine products is valid and we should seek to discourage those who do not or would not smoke from starting to vape. But banning non-tobacco flavors for vaping products will not achieve that goal, because flavors are not the reason youth vape. According to the CDC, the number one reason youth say they vape is curiosity.<sup>5</sup> In the United Kingdom, where e-cigarettes are embraced as a means of reducing harm for adult smokers and are available in every imaginable flavor, youth uptake of vaping is almost nonexistent. But in the United States, it is clear why adolescents have become so curious about these devices: An endless flood of headlines and multimillion-dollar campaigns telling them that vaping is for

adults only and that, even though all your friends are doing it, you shouldn't. One doesn't need a degree in child psychology to see why this has backfired.

Nobody is suggesting that youth vaping should be ignored. It shouldn't be, but the rate of use among adolescents and the relatively low risk associated with e-cigarettes do not justify stripping adults of access to products that could save their lives. And e-cigarettes *can* save lives.

This is no longer a controversial statement, as the evidence makes clear. Though we may not know the exact amount of risk e-cigarettes pose in the long-term, we know that it is far lower than with combustible tobacco. We also know that e-cigarettes are an effective smoking cessation option, with trials showing they are at least twice as effective as nicotine replacement therapy.<sup>6</sup> And flavors are one of the main reasons they are so effective.

Despite absurd claims that adults don't like flavors, the vast majority of adult vapers use non-tobacco flavors. More importantly, adults who successively switch from smoking to exclusive vaping are more likely to use fruit, dessert, and candy flavored e-cigarettes, and research shows that using a wide variety of vapor flavors correlates with increased smoking abstinence.<sup>7,8</sup> Flavors work because, in addition to making vaping pleasurable, they also help users disassociate the effects of nicotine from the taste of tobacco. As result, relapsing is less appealing, increasing users' intention and ability to stay smoke-free.<sup>9</sup>

Banning e-cigarette flavors won't stop youth vaping, but it will put at risk the more than 250,000 Maryland adults who rely-on e-cigarettes to stay smoke-free.<sup>10</sup> The ban will significantly reduce the effectiveness and appeal of e-cigarettes for adults, causing fewer to switch from smoking and many to relapse back to smoking or turn to illegal substitutes.

The same outcome will occur if online delivery of these products is eliminated, particularly for residents with limited mobility, lack of transportation, and in rural communities. It would make obtaining the combustible cigarettes they are trying to quit much easier to acquire by comparison, reducing the likelihood that people in these groups will choose to switch to lower risk alternatives or stick with lower risk alternatives.

Some will make their own liquid at home. Thanks to YouTube tutorials and online forums, it is fairly simple to figure out how to do this safely. But more people making homemade e-liquid will mean more homes with liquid nicotine concentrate. No doubt, this will result in more cases of accidental poisoning as children get their hands on uncapped nicotine concentrate. This is exactly what happened in 2014 when a one-year-old died after drinking a bottle of nicotine that his mother used to make her own e-cigarette liquid in their New York home.<sup>11</sup>

Those less inclined toward DIY products will turn to the burgeoning illicit market, where consumers will be presented with products of uncertain origin and quality. Some may not even be aware that what they are buying is counterfeit, as happened after Juul voluntarily removed some of its flavors from the market and knockoff versions—produced in China—made their way onto store shelves in America.<sup>12</sup> If all flavored e-cigarettes are banned, there will be a massive influx of illegal cartridges, more cases of illness, and more deaths related to tainted products.

I urge the members to seriously consider the consequences of this proposal. Smoking costs the state of Maryland nearly \$3 billion dollars a year in health care costs and claims the lives of 7,500 residents every year.<sup>13</sup> Our public health goal should focus not only on the unknown risks that e-cigarettes may pose to youth, but also on reducing the death and disease caused by smoking. Thankfully, smoking (among adults and youth) is lower now than it has ever been. But if e-cigarettes can help reduce this rate by any amount, as the evidence indicates they can, we ought to do everything in our power not to squander that opportunity. Every new rule or law that makes e-cigarettes less attractive or less accessible means more deaths from smoking.

If you are serious about reducing tobacco-related harm for both adolescents and adults, you should reject proposed laws that would deter smokers from switching to lower risk products and push consumers into black markets. Instead, we should employ the strategies that have worked for other adult products, such as gambling, alcohol, and marijuana: stricter age verification requirements, responsible advertising standards, treatment over criminalization, and enforcement of existing laws. These approaches would address the youth vaping issue without producing the unintended consequences that always go hand-in-hand with prohibition.

I sincerely urge you to reject this proposal and find an approach that doesn't sacrifice adult lives and the freedom to make our own choices about health because of exaggerated claims that these products pose a risk to youth. We can protect youth and adults with temperate regulation, similar to how we regulate alcohol, not prohibition.

Thank you for your time,

Michelle Minton  
Senior Fellow, Competitive Enterprise Institute  
202-331-2251  
Michelle.minton@cei.org

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<sup>2</sup> Zeninor Enwemeka, "'Thank You, Gov. Baker': N.H. Vape Shops See Rush After Mass. Ban," *WBUR*, October 9, 2019, <https://www.wbur.org/bostonmix/2019/10/09/massachusetts-vaping-ban-new-hampshire-sales-boost>.

<sup>3</sup> Allison M. Glasser, Amanda L Johnson, Raymond S Niaura, et al., "Youth Vaping and Tobacco Use in Context in the United States: Results from the 2018 National Youth Tobacco Survey," *Nicotine & Tobacco Research*, January 13, 2020, <https://academic.oup.com/ntr/advance-article-abstract/doi/10.1093/ntr/ntaa010/5701081?redirectedFrom=fulltext>.

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- <sup>7</sup> Christopher Russell, Neil McKeganey, Tiffany Dickson, and Mitchell Nides, “Changing patterns of first e-cigarette flavor used and current flavors used by 20,836 adult frequent e-cigarette users in the USA,” *Harm Reduction Journal*, Vol. 15, Article 33 (2018), <https://harmreductionjournal.biomedcentral.com/articles/10.1186/s12954-018-0238-6>.
- <sup>8</sup> Konstantinos Farsalinos, Giorgio Romagna, Dimitris Tsiapras, Stamatis Kyrzopoulos, Alketa Spyrou, and Vassilis Voudris, “Impact of Flavour Variability on Electronic Cigarette Use Experience: An Internet Survey,” *International Journal of Environmental Research and Public Health*, Vol. 10, No. 12, (December 2013), pp. 7272-7282, <https://europepmc.org/abstract/med/24351746>.
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- <sup>10</sup> Centers for Disease Control and Prevention, State Tobacco Activities Tracking and Evaluation (STATE) System, [https://nccd.cdc.gov/STATESystem/rdPage.aspx?rdReport=OSH\\_State.CustomReports&rdAgReset=True&rdShowModes=showResults&rdShowWait=true&rdPaging=Interactive&isMeasure=174ECU](https://nccd.cdc.gov/STATESystem/rdPage.aspx?rdReport=OSH_State.CustomReports&rdAgReset=True&rdShowModes=showResults&rdShowWait=true&rdPaging=Interactive&isMeasure=174ECU).
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**SB177 and SB273.pdf**

Uploaded by: Phelps Jr, John

Position: UNF



Greetings,

My name is John Phelps Jr and I am with High's of Baltimore and Carroll Motor Fuels. Carroll Fuel has been in business since 1907 and High's since 1928 and we have hundreds of locations throughout Maryland and employ over 600 people in Maryland. I am writing today to ask you oppose the following:

**SB 177** Business Regulations – Flavored Tobacco Products – Prohibition

Bans the sale of all flavored tobacco products including menthol cigarettes and flavor vape products.

**SB 273** Electronic Smoking Device Regulations Act of 2021

Restricts the sale of vape products to only vape shops and bans the sale of most flavored vape products.

The banning of menthol cigarettes would have a severely negative impact on our business. Over the past few years we have worked hard to reduce our need to sell tobacco, but the reality is that these products help us keep our stores open and our co-workers employed. We continue to see the cost of doing regular business rise every year with yearly increases as the state works its way to a \$15 minimum wage. A significant portion of our sales come from the selling of menthol cigarettes and other tobacco products like cigars, dip, and snus. These sales are essential in helping us be able to continue to grow and increase our work force.

We fully complied with the state's decision to ban flavored e-cigarettes and no longer sell them. We have every store associate complete training on selling tobacco products to minors and have them frequently retake the course throughout the year. We have implemented a 3<sup>rd</sup> party company to do compliance checks to ensure we are executing these practices in the stores through unannounced checks. We have invested in upgrades and updates to our point of sale systems which allow for further checks and accuracy when selling age restricted items. I do not think only vape shops should be able to sell vapor and e-cigarette products as we have put in place numerous measures to prevent illegal transactions.

Thank you for considering our thoughts and if you have any questions, please feel free to reach out.

**SB273\_SB177\_Unfavorable\_MRA.pdf**

Uploaded by: Price, Sarah

Position: UNF



**SB273 Electronic Smoking Device Regulation Act of 2021  
SB177 Business Regulation – Flavored Tobacco Products - Prohibition  
Finance and Budget and Taxation Committees  
January 28, 2021**

**Position:** Unfavorable

**Background:** SB273 and SB177 would prohibit or otherwise restrict the sale of flavored tobacco products and electronic smoking products in Maryland.

**Comments:** The Maryland Retailers Association opposes the outright prohibition or increased restriction of the sale of flavored tobacco products and electronic smoking products or devices in Maryland. These actions would be harmful to small businesses and to individuals who are attempting to break their addiction to combustible nicotine products. Though proponents of this legislation would cite that electronic smoking devices are not an FDA-approved cessation device, they are widely accepted and utilized as a self-led cessation method within the tobacco-using community.

The MRA advocates for a regulated market that allows adults to have access to safe cessation products, and the enforcement of current counterfeit laws to cease the sale of illegal products. History has proven that the prohibition of undesired materials drives those items to an unregulated underground market. A lack of regulation and enforcement results in dangerous products, like the counterfeit vaping pods that caused mysterious lung illnesses in over 1,000 Americans.

This legislature took aggressive steps to curb youth sales in 2019, raising the legal age for buying tobacco products in Maryland to 21. The increased age for the purchase of tobacco products serves as an effective barrier against the sale of any such products to minors. In fact, many small businesses that focus on tobacco sales check ID upon entry in order to ensure that minors are not accessing these products while underage

Restricting or prohibiting the sale of products is the last thing we should be considering during a global pandemic that has resulted in economic shutdowns and travel restrictions. Not only would a prohibition undoubtedly result in an unregulated underground market, but it would surely drive individuals into neighboring jurisdictions to purchase the items they seek.

Thank you for your consideration, and we urge an unfavorable report on SB273 and SB177.

# **No Flavor Ban Written Testimony in opposition to S**

Uploaded by: Silva, Ryan

Position: UNF

## Written Testimony in opposition to SB177 and SB273

To Whom it May Concern,

These senate bills will restrict our ability to use lower-risk alternatives to smoking. I smoked cigarettes from when I was 16 until I was 35 years old. At 35, I was instructed by my doctor that if I did not cut out tobacco cigarettes, I would certainly shorten my lifespan by at least 20-30 years. At the young age of 35 years, I had already developed high blood pressure and difficulty breathing when climbing a standard set of stairs or walking a long distance. I was not able to run or compete in sports as well. This was due to the damage that cigarette smoke and tar did to my lungs.

Immediately following this dismal meeting with my doctor, I began exploring options to assist getting off of Nicotine and the addictive, and dangerous habit of Tobacco smoking. In my research, I tried patches which made me sick and burned my skin, and I also tried Nicorette Gum which also made me nauseous. After those failed Nicotine Replacement Therapies, I found a local vape shop who guided me towards a replacement that would help kick the habit. This vape shop, checked my ID at the door and put me onto a Strawberry flavor eliquid with a medium level of nicotine of 12mg. They also guided me with a plan to reduce my dependence on nicotine and within 4 years, I reduced my nicotine usage to 0mg. Meaning that I was no longer physically addicted to nicotine, I only had one part of the habit to quit which was the hand to mouth habit. I am now almost 40 and happy to say that I have not smoked in over 4 years and I have not vaped in about a month. Vaping saved my life. I can compete in sports again. Within a couple years of not smoking I was able to Jog again.

Cigarettes kill 1300 US citizens every day. In Europe, that mortality rate number was also very high due to tobacco related illness, but the Royal Physicians of England through science have convinced the government to create programs along with doctors to switch people from cigarettes to vape. It is truly a matter of life or death for many people. Banning flavors and limiting adult access to vapor products is bad for public health. What would be better is to enforce the current laws in place regarding Identifications at points of sale. Hold businesses accountable who sell to minors. Prohibition is never the answer especially with a recognized Tobacco Harm Reduction product.

The government should be promoting vaping as a valuable tool in the fight against cancer causing cigarettes.

Thanks

Ryan Silva

# **01-28-2021 Taxpayers Protection Alliance Testimony**

Uploaded by: Stroud, Lindsey

Position: UNF

**Testimony before the Maryland Senate Committee on Finance  
Regarding Prohibiting the Sale of Flavored Tobacco and Vapor Products  
Lindsey Stroud, Policy Analyst  
Taxpayers Protection Alliance  
January 28, 2021**

Chairwoman Kelley and Members of the Committee,

Thank you for your time today to discuss the issue of banning the sale of flavored tobacco and vapor products. My name is Lindsey Stroud and I am a Policy Analyst with the Taxpayers Protection Alliance (TPA). TPA is a non-profit, non-partisan organization dedicated to educating the public through the research, analysis and dissemination of information on the government's effects on the economy.

As lawmakers attempt to address youth use of age- restricted products, including electronic cigarettes and vapor products, some policymakers are seeking to ban sales of flavored tobacco and vapor products. Although addressing youth use is laudable, policymakers should refrain from policies that would restrict adult access to tobacco harm reduction products, as well as implementing policies that further subvert adult choices, such as is the case with the proposal to ban flavors in tobacco and vapor products.

**E-Cigarettes and Tobacco Harm Reduction**

The evidence of harm associated with combustible cigarettes has been understood since the 1964 U.S. Surgeon General's Report that determined that smoking causes cancer. Research overwhelmingly shows the smoke created by the burning of tobacco, rather than the nicotine, produces the harmful chemicals found in combustible cigarettes.<sup>1</sup> There are an estimated 600 ingredients in each tobacco cigarette, and "when burned, [they] create more than 7,000 chemicals."<sup>2</sup> As a result of these chemicals, cigarette smoking is directly linked to cardiovascular and respiratory diseases, numerous types of cancer, and increases in other health risks among the smoking population.<sup>3</sup>

For decades, policymakers and public health officials looking to reduce smoking rates have relied on strategies such as emphasizing the possibility of death related to tobacco use and implementing tobacco-related restrictions and taxes to motivate smokers to quit using cigarettes. However, there are much more effective ways to reduce tobacco use than relying on government mandates and "quit or die" approaches.

During the past 30 years, the tobacco harm reduction (THR) approach has successfully helped millions of smokers transition to less-harmful alternatives. THRs include effective nicotine delivery systems, such as smokeless tobacco, snus, electronic cigarettes (e-cigarettes), and vaping. E-cigarettes and vaping devices have emerged as especially powerful THR tools, helping nearly three million U.S. adults quit smoking from 2007 to 2015.

In fact, an estimated 10.8 million American adults were using electronic cigarettes and vapor products in 2016.<sup>4</sup> Of the 10.8 million, only 15 percent, or 1.6 million adults, were never-smokers, indicating that e-cigarettes are overwhelmingly used by current and/or former smokers.

### **E-Cigarettes and Vapor Products 101**

E-cigarettes were first introduced in the United States in 2007 by a company called Ruyan.<sup>5</sup> Soon after their introduction, Ruyan and other brands began to offer the first generation of e-cigarettes, called “cigalikes.” These devices provide users with an experience that simulates smoking traditional tobacco cigarettes. Cig-alikes are typically composed of three parts: a cartridge that contains an e-liquid, with or without nicotine; an atomizer to heat the e-liquid to vapor; and a battery.

In later years, manufacturers added second-generation tank systems to e-cigarette products, followed by larger third-generation personal vaporizers, which vape users commonly call “mods.”<sup>6</sup> These devices can either be closed or open systems.

Closed systems, often referred to as “pod systems,” contain a disposable cartridge that is discarded after consumption. Open systems contain a tank that users can refill with e-liquid. Both closed and open systems utilize the same three primary parts included in cigalikes—a liquid, an atomizer with a heating element, and a battery— as well as other electronic parts. Unlike cigalikes, “mods” allow users to manage flavorings and the amount of vapor produced by controlling the temperature that heats the e-liquid.

Mods also permit consumers to control nicotine levels. Current nicotine levels in e-liquids range from zero to greater than 50 milligrams per milliliter (mL).<sup>7</sup> Many users have reported reducing their nicotine concentration levels after using vaping devices for a prolonged period, indicating nicotine is not the only reason people choose to vape.

### **Health Effects of Electronic Cigarettes and Vapor Products**

Despite recent media reports, e-cigarettes are significantly less harmful than combustible cigarettes. Public health statements on the harms of e-cigarettes include:

**Public Health England:** In 2015, Public Health England, a leading health agency in the United Kingdom and similar to the FDA found “that using [e-cigarettes are] around 95% safer than smoking,” and that their use “could help reducing smoking related disease, death and health inequalities.”<sup>8</sup> In 2018, the agency reiterated their findings, finding vaping to be “at least 95% less harmful than smoking.”<sup>9</sup>

**The Royal College of Physicians:** In 2016, the Royal College of Physicians found the use of e-cigarettes and vaping devices “unlikely to exceed 5% of the risk of harm from smoking tobacco.”<sup>10</sup> The Royal College of Physicians (RCP) is another United Kingdom-



based public health organization, and the same public group the United States relied on for its 1964 Surgeon General’s report on smoking and health.

**The National Academies of Sciences, Engineering, and Medicine:** In January 2018, the academy noted “using current generation e-cigarettes is less harmful than smoking.”<sup>11</sup>

A 2017 study in *BMJ*’s peer-reviewed journal *Tobacco Control* examined health outcomes using “a strategy of switching cigarette smokers to e-cigarette use ... in the USA to accelerate tobacco control progress.”<sup>12</sup> The authors concluded that replacing e-cigarettes “for tobacco cigarettes would result in an estimated 6.6 million fewer deaths and more than 86 million fewer life-years lost.”

An October 2020 review in the *Cochrane Library Database of Systematic Reviews* analyzed 50 completed studies which had been published up until January 2020 and represented more than 12,400 participants.

The authors found that there was “moderate-certainty evidence, limited by imprecision, that quit rates were higher in people randomized to nicotine [e-cigarettes] than in those randomized to nicotine replacement therapy.” The authors found that e-cigarette use translated “to an additional four successful quitters per 100.” The authors also found higher quit rates in participants that had used e-cigarettes containing nicotine, compared to the participants that had not used nicotine.

Notably, the authors found that for “every 100 people using nicotine e-cigarettes to stop smoking, 10 might successfully stop, compared with only six of 100 people using nicotine replacement therapy or nicotine-free e-cigarettes.”

### **Tobacco and Vapor Product Use Among Maryland Youth**

According to the Centers for Disease Control and Prevention’s Youth Risk Behavior Survey (YRBS), in 2019, only 39.7 percent of Maryland high school students reported ever using an e-cigarette or vapor products.<sup>13</sup> This is far less than the national average for 2019 at 50.1 percent of high school students reported having ever tried an e-cigarette.<sup>14</sup> Further, in 2019, only 23 percent of Maryland high school students reported current use of e-cigarettes, or they had used an e-cigarette on at least one occasion in the 30 days prior to the survey. Only 3.7 percent of Maryland high schoolers reported daily e-cigarette use.

According to results from the 2018 YRBS, Maryland high school students reported using flavored vapor products, but flavors weren’t overwhelmingly cited by e-cigarette users as a reason for use.<sup>15</sup> When asked about the “main reason” Maryland high school users used flavors only 3.2 percent responded “flavors.” Conversely, 13 percent reported because “friend/family used them,” 11.7 percent reported “other,” and 3.8 percent reported using e-cigarettes because they were less harmful than other tobacco products. This is similar to other state analysis on youth e-cigarette use.

It is worthy to note that Maryland combustible cigarette use is at all-time lows. According to the YRBS in 2005, a paltry 16.5 percent of Maryland high school students reported using combustible cigarettes on at least one occasion in the 30 days prior to the survey.<sup>16</sup> Between 2005 and 2019, current cigarette use among Maryland high schoolers decreased by nearly 70 percent to 5 percent. Further, daily cigarette rates are nearly none existent and have decreased by 85 percent from 5.4 percent of Maryland high school students smoking cigarettes daily in 2005 to 0.8 percent in 2019.

### **Flavors and Youth E-Cigarette Use**

Despite media alarmism, many American high school students are not overwhelmingly using vapor products because of flavors. Indeed, in analyses of state youth tobacco use surveys, other factors including social sources are most often cited among youth for reasons to use e-cigarettes and vapor products.

For example, in 2017, of Connecticut high school students that had ever used an e-cigarette, 23.9 percent reported “flavors” as a reason for use. Conversely, 41.6 percent reported using vapor products because a “friend or family member used them,” and 33 percent cited “some other reason.”<sup>17</sup> In 2019, among all Connecticut high school students, 5.2 percent reported using e-cigarettes because of “flavors,” 18.2 percent cited “other,” and 12.9 percent reported using e-cigarettes because of friends and/or family.<sup>18</sup>

Similarly, in 2017, among Hawaiian high school students that had ever used e-cigarettes, 26.4 percent cited flavors as a reason for e-cigarette use, compared to 38.9 percent that reported “other.”<sup>19</sup>

In 2019, among all Montana high school students, only 7 percent reported using vapor products because of flavors, compared to 13.5 percent that reported using e-cigarettes because of “friend or family member used them.”<sup>20</sup> Further, 25.9 percent of Montana high school students reported using vapor products for “some other reason.”

In 2019, among all students, only 4.5 percent of Rhode Island high school students claimed to have used e-cigarettes because they were available in flavors, while 12.5 cited the influence of a friend and/or family member who used them and 15.9 percent reported using e-cigarettes “for some other reason.”<sup>21</sup>

In 2017, among current e-cigarette users, only 17 percent of Vermont high school students reported flavors as a reason to use e-cigarettes. Comparatively, 35 percent cited friends and/or family members and 33 percent cited “other.”<sup>22</sup>

In 2019, among high school students that were current e-cigarette users, only 10 percent of Vermont youth that used e-cigarettes cited flavors as a primary reason for using e-cigarettes, while 17 percent of Vermont high school students reported using e-cigarettes because their family and/or friends used them.<sup>23</sup>

Lastly, in 2017, among all Virginia high school students, only 6.2 percent reported using e-cigarettes because of flavors, while 11.3 percent used them because a friend and/or family member used them.<sup>24</sup> In 2019, among all Virginia high school students, only 3.9 percent reported using e-cigarettes because of flavors, 12.1 used for some other reason, and 9.6 used them because of friends and/or family members.<sup>25</sup>

### **Effects of Flavor Bans**

Flavor bans have had little effect on reducing youth e-cigarette use and may lead to increased combustible cigarette rates, as evidenced in San Francisco, California.<sup>26</sup>

In April 2018, a ban on the sale of flavored e-cigarettes and vapor products went into effect in San Francisco. And, in January 2020, the city implemented a full ban on any electronic vapor product. Unfortunately, these measures have failed to lower youth tobacco and vapor product use.

Data from an analysis of the 2019 Youth Risk Behavior Survey show that 16 percent of San Francisco high school students had used a vapor product on at least one occasion in 2019 – a 125 percent increase from 2017 when 7.1 percent of San Francisco high school students reported using an e-cigarette.<sup>27</sup> Daily use more than doubled, from 0.7 percent of high school students in 2017, to 1.9 percent of San Francisco high school students reporting using an e-cigarette or vapor product every day in 2019.

Worse, despite nearly a decade of significant declines, youth use of combustible cigarettes seems to be on the rise in Frisco. In 2009, 35.6 percent of San Francisco high school students reported ever trying combustible cigarettes. This figure continued to decline to 16.7 percent in 2017. In 2019, the declining trend reversed and 18.6 percent of high school students reported ever trying a combustible cigarette. Similarly, current cigarette use increased from 4.7 percent of San Francisco high school students in 2017 to 6.5 percent in 2019.

An April 2020 study in *Addictive Behavior Reports* examined the impact of San Francisco’s flavor ban on young adults by surveying a sample of San Francisco residents aged 18 to 34 years.<sup>28</sup> Although the ban did have an effect in decreasing vaping rates, the authors noted “a significant increase in cigarette smoking” among participants aged 18 to 24 years old.

Other municipal flavor bans have also had no effect on youth e-cigarette use.<sup>29</sup> For example, Santa Clara County, California, banned flavored tobacco products to age-restricted stores in 2014. Despite this, youth e-cigarette use *increased*. In the 2015-16 California Youth Tobacco Survey (CYTS), 7.5 percent of Santa Clara high school students reported current use of e-cigarettes. In the 2017-18 CYTS, this *increased* to 10.7 percent.

### **Menthol Bans Have Little Effect on Smoking Rates, Lead to Black Markets, Lost Revenue and Will Create Racial Tension**

Beyond e-cigarettes, policymakers' fears about the role of menthol and flavorings in cigarettes and cigars are overblown and banning these products will likely lead to black markets.

Data from the National Health Interview Survey (NHIS) finds nearly a third of all American adult smokers smoke menthol cigarettes. In a 2015 NHIS survey, “of the 36.5 million American adult smokers, about 10.7 million reported that they smoked menthol cigarettes,” and white menthol smokers “far outnumbered” the black and African American menthol smokers.<sup>30</sup>

Although lawmakers believe banning menthol cigarettes will deter persons from smoking those, such a ban will likely lead to black markets. A 2012 study featured in the journal *Addiction* found a quarter of menthol smokers surveyed indicated they would find a way to purchase, even illegally, menthol cigarettes should a menthol ban go into place.<sup>31</sup> Further, there is little evidence that smokers would actually quit under a menthol ban. A 2015 study in *Nicotine & Tobacco Research* found only 28 percent of menthol smokers would give up cigarettes if menthol cigarettes were banned.<sup>32</sup>

Moreover, there is no evidence to suggest that menthol cigarettes lead to youth tobacco use. Analysts at the Reason Foundation examined youth tobacco rates and menthol cigarette sales.<sup>33</sup> The authors of the 2020 report found that states “with more menthol cigarette consumption relative to all cigarettes have *lower* rates of child smoking.” Indeed, the only “predictive relationship” is between child and adult smoking rates, finding that “states with higher rates of adult use cause higher rates of youth use.”

With certainty, a ban on flavored tobacco and vapor products would lead to a loss of revenue without decreasing smoking rates as menthol smokers in Maryland are likely to travel to neighboring states to purchase menthol products. This has been demonstrated in Massachusetts, which banned the sale of flavored tobacco and vapor products, including menthol cigarettes and took effect June 1, 2020.

An analysis by the Tax Foundation found that “Massachusetts’ flavor ban has not limited use, just changed where Bay Staters purchase cigarettes.”<sup>34</sup> The analysis noted that sales of cigarette tax stamps in the Northeast “have stayed remarkably stable,” and that “Massachusetts sales plummeted, but only because those sales went elsewhere.”

The Tax Foundation’s analysis found that sales of cigarettes “skyrocketed” in New Hampshire and Rhode Island – growing 55.8 percent and 56 percent, respectively, between June 2019 and June 2020.

Lawmakers should take note that menthol sales bans will strain minority communities. Although white Americans smoke more menthol cigarettes than black or African Americans, “black smokers [are] 10-11 times more likely to smoke” menthol cigarettes than white smokers.<sup>35</sup>

Given African Americans' preference for menthol cigarettes, a ban on menthol cigarettes would force police to further scrutinize African Americans and likely lead to unintended consequences.

A 2015 analysis from the National Research Council examined characteristics in the illicit tobacco market.<sup>36</sup> The researchers found that although lower income persons were less likely to travel to purchase lower-taxed cigarettes, "having a higher share of non-white households was associated with a lower probability of finding a local tax stamp" and "neighborhoods with higher proportions of minorities are more likely to have formal or informal networks that allow circumvention of the cigarette taxes."

Lawmakers in Maryland should reexamine the case of Eric Garner, a man killed in 2014 while being arrested for selling single cigarettes in the city. In a 2019 letter to the New York City council, Garner's mother, as well as Trayvon Martin's mother, implored officials to "pay very close attention to the unintended consequences of a ban on menthol cigarettes and what it would mean for communities of color."<sup>37</sup> Both mothers noted that a menthol ban would "create a whole new market for loosies and re-introduce another version of stop and frisk in black, financially challenged communities."

### **Tobacco Economics 101: Maryland**

In 2019, 16.6 percent of adults in Maryland smoked tobacco cigarettes, amounting to 781,791 smokers in 2019.<sup>38</sup> When figuring a pack-per-day, over 5.7 billion cigarettes were smoked in 2019 by Marylanders, or about 15.6 million per day.<sup>39</sup>

In 2019, Maryland imposed a \$2.00 excise tax on a pack of cigarettes.<sup>40</sup> In 2019, Maryland collected \$570.7 million in cigarette excise taxes, when figuring for a pack-a-day habit. This amounts to \$730 per smoker per year.

Maryland spent \$10.5 million on tobacco control programs in 2019, or \$13.43 per smoker per year. This is only 33 percent of what the state received in excise taxes in 2019 from Maryland adult smokers, based off a pack-a-day habit. When figuring amount spent on youth in the state, Maryland spent \$7.87 per year for each resident under 18 years of age.

### **Vapor Economics 101: Maryland**

Electronic cigarettes and vapor products are not only a harm reduction tool for hundreds of thousands of smokers in the Old Line State, they're also an economic boon.

According to the Vapor Technology Association, in 2018, the industry created 1,243 direct vaping-related jobs, including manufacturing, retail, and wholesale jobs in Maryland, which generated \$54 million in wages alone.<sup>41</sup> Moreover, the industry has created hundreds of secondary jobs in the Old Line State, bringing the total economic impact in 2018 to \$389,390,600. In the same year, Maryland received more than \$31 million in state taxes

attributable to the vaping industry. The substitution of e-cigarettes for combustible cigarettes could also save the state in healthcare costs.

According to the Centers for Disease Control and Prevention (CDC), it is now well known that Medicaid recipients smoke at rates of twice the average of privately insured persons. In 2013, “smoking-related diseases cost Medicaid programs an average of \$833 million per state.”<sup>42</sup>

A 2015 policy analysis by State Budget Solutions examined electronic cigarettes’ effect on Medicaid spending. The author estimated Medicaid savings could have amounted to \$48 billion in 2012 if e-cigarettes had been adopted in place of combustible tobacco cigarettes by all Medicaid recipients who currently consume these products.<sup>43</sup>

A 2017 study by the R Street Institute examined the financial impact to Medicaid costs that would occur should a large number of current Medicaid recipients switch from combustible cigarettes to e-cigarettes or vaping devices. The author used a sample size of “1% of smokers [within] demographic groups permanently” switching. In this analysis, the author estimates Medicaid savings “will be approximately \$2.8 billion per 1 percent of enrollees,” over the next 25 years.<sup>44</sup>

### **Wasted Tobacco Dollars**

Deeply problematic with the proposed legislation is the fact that Maryland spends very little on tobacco control, including education and prevention.

Between 2000 and 2020, Maryland received an estimated \$3.018 billion in payments attributed to the Master Settlement Agreement (MSA).<sup>45</sup> During the same time period, the Old Line State allocated only \$286.5 million toward tobacco control programs – or about 9 percent of what the state received in MSA payments during the period.<sup>46</sup> These figures do not include the state’s excise tax on cigarettes – which, in fiscal year 2020, Maryland collected over \$319 million in cigarette tax stamps, “a 1.1% increase from fiscal year 2019.”<sup>47</sup> Indeed, Maryland tobacco control spending over 20 years is only 89.8 percent of what the state received in cigarette tax stamps in 2020.

### **Conclusion & Policy Recommendations:**

It is disingenuous that lawmakers would purport to protect public health yet restrict access to safer products. Rather than restricting access to tobacco harm reduction products and flavored tobacco products, lawmakers should encourage the use of e-cigarettes and work towards earmarking adequate funding for smoking education and prevention programs.

- To address youth use of age-restricted products, as well as adult use of deadly combustible cigarettes, Maryland must allocate additional funding from revenue generated from existing excise taxes and settlement payments. Maryland woefully underfunds such programs.



- Maryland’s education and health departments must work with tobacco and vapor product retailers to ensure there are no sales of age-restricted products to minors. Any solution to address such strategies must include all actors – not only proponents of draconian prohibitionist policies.
- Lawmakers’ must face the reality of a larger illicit market in the wake of a ban on flavored tobacco and vapor products – prohibition does not automatically translate into reduced use, just different markets.

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<sup>6</sup> WHO Framework Convention on Tobacco Control, “Electronic Nicotine Delivery Systems and Electronic Non-Nicotine Delivery Systems (ANDS/ ENNDS),” August 2016, [http://www.who.int/fctc/cop/cop7/FCTC\\_COP\\_7\\_11\\_EN.pdf](http://www.who.int/fctc/cop/cop7/FCTC_COP_7_11_EN.pdf).

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<sup>9</sup> A. McNeill et al., “Evidence review of e-cigarettes and heated tobacco products 2018,” Public Health England, February 2018, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/684963/Evidence\\_review\\_of\\_e-cigarettes\\_and\\_heated\\_tobacco\\_products\\_2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684963/Evidence_review_of_e-cigarettes_and_heated_tobacco_products_2018.pdf).

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<sup>11</sup> Committee on the Review of the Health Effects of Electronic Nicotine Delivery Systems, “Public Health Consequences of E-Cigarettes,” The National Academies of Science, Engineering, and Medicine, 2018, <https://www.nap.edu/catalog/24952/public-health-consequences-of-e-cigarettes>.

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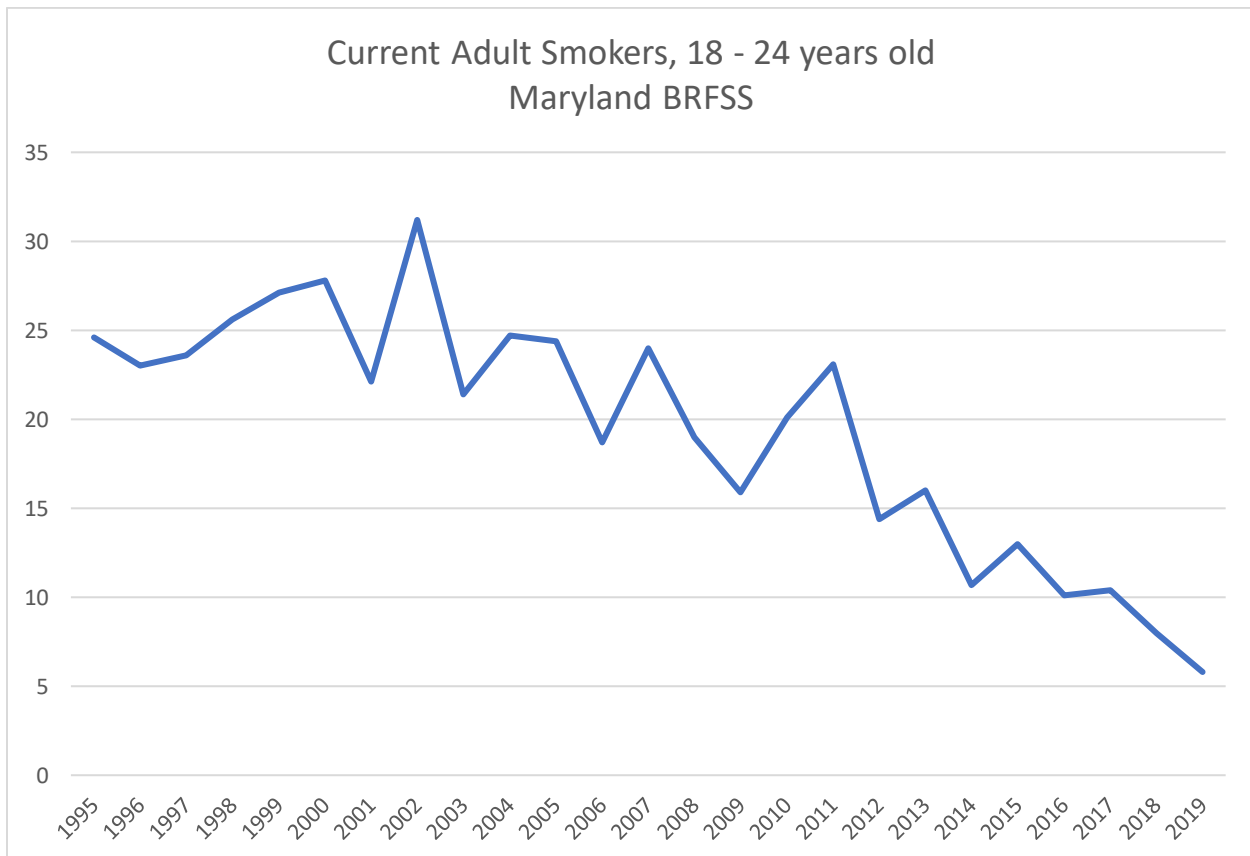
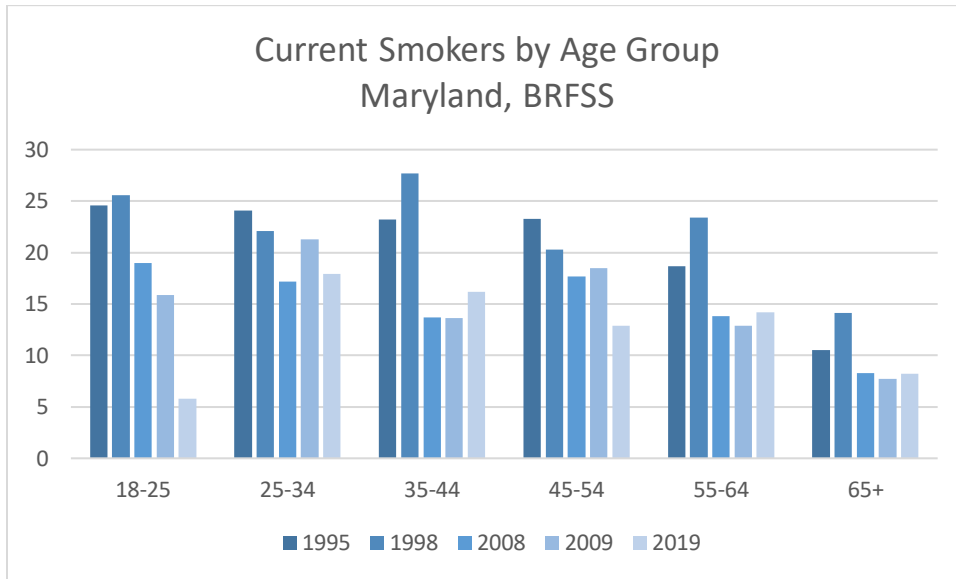
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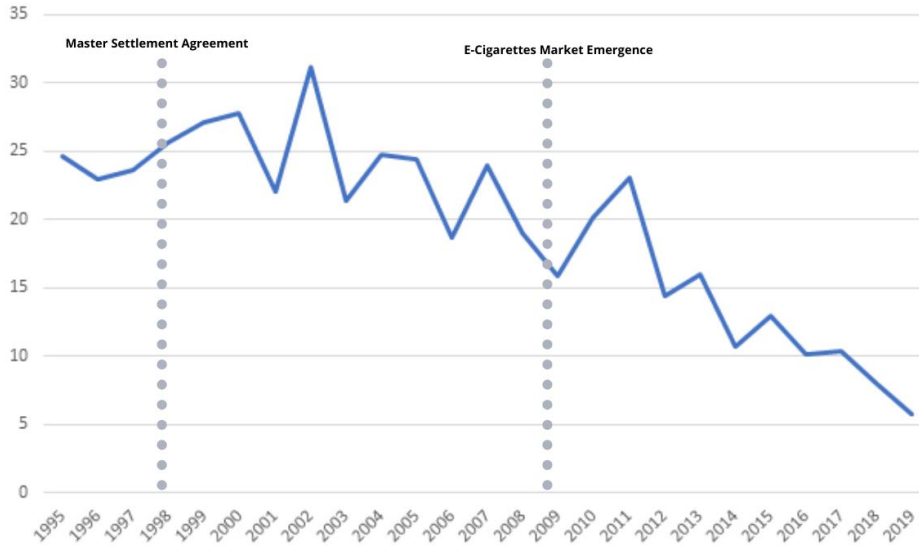
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**Supplemental Information**

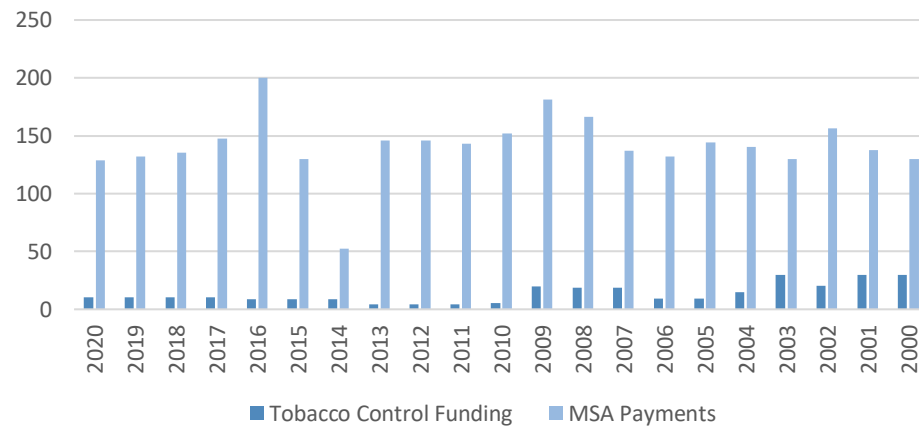
**Maryland Adult Cigarette Smokers**



Current Adult Smokers, 18 - 24 years old  
Maryland BRFSS

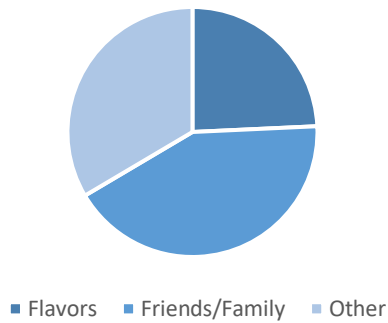


Maryland  
Tobacco Control Funding & MSA Payments

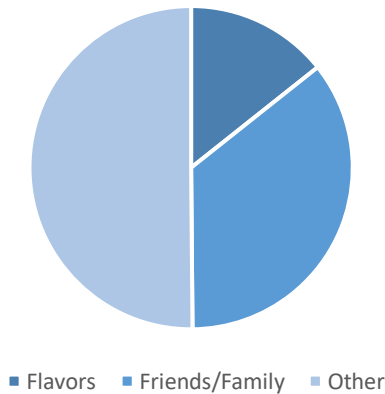


**Youth E-Cigarette Use, Youth Risk Behavior Surveys, 2017 – 2019**

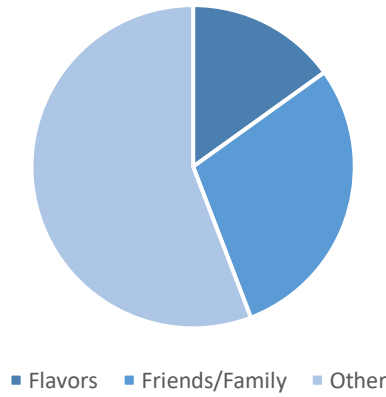
**Reasons for E-Cigarette Use  
Connecticut High School Students,  
Current E-Cigarette Users, 2017**



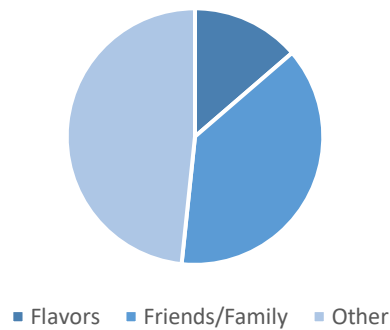
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Connecticut High School Students, 2019**



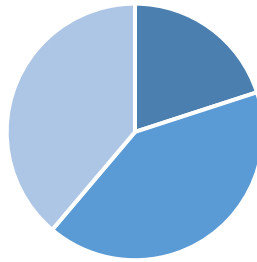
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Reasons for E-Cigarette Use  
Rhode Island High School Students,  
2019

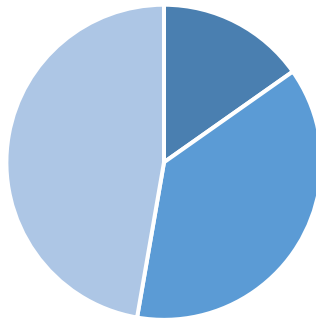


Reasons for E-Cigarette Use  
Vermont High School Students,  
Current E-Cigarette Users, 2017



■ Flavors ■ Friends/Family ■ Other

Reasons for E-Cigarette Use  
Virginia High School Students, 2019



■ Flavors ■ Friends/Family ■ Other

# **SB273 Unfavorable.pdf**

Uploaded by: Torton, Brooke

Position: UNF

**TESTIMONY IN OPPOSITION TO SENATE BILL 273**

This testimony is submitted in opposition to Senate Bill 273. I am the Deputy Director of the Legal Resource Center for Public Health Policy at the University of Maryland Carey School of Law, and am providing this testimony in my individual capacity. Although this Bill includes some important public health measures with which I generally agree, I submit this testimony to express concern with some of the provisions: (1) This Bill may have the unintended consequence of creating implied preemption for county and municipal governments, preventing local regulation of Electronic Smoking Devices (ESDs); (2) This Bill attempts to require vape shops to check the identification of those who purchase ESD products and to ban those under age 21 from entering vape shops, but uses language that does not accomplish either goal; and (3) The Clean Indoor Air Act as amended does not adequately address all ESD-like products.

***Unintended Implied State Preemption of ESD Regulation***

Without express anti-preemption language, this Bill poses a great risk to local authority in Maryland. Preemption is the constitutional doctrine that federal law is supreme over and in some circumstances will displace, state or local law. Likewise, state law can invalidate a local law in certain instances as well. There are two types of preemption, express and implied. A federal or state statute may explicitly prohibit local regulation; that is express preemption. Preemption may also be implied either by conflict (if the local law interferes with the objectives of a state or federal law) or field preemption (when state or federal government has heavily regulated a particular field, suggesting an intent to occupy the entire subject area). Local control is integral to addressing youth access and retailer restrictions. Local governments typically develop the strongest and most innovative laws tailored to their populations. There are grave concerns in the public health community that by passing this Bill without the anti-preemption amendment, a Court, relying on the precedent set in *Altadis U.S.A. v. Prince George's County*, 431 Md. 307 (2013), may find that the legislature has impliedly preempted any local legislation related to ESDs.

The *Altadis*<sup>1</sup> case concerned 2008 and 2009 Prince George's County ordinances requiring cigars to be sold in packages of at least five. The Court of Appeals ultimately held the state has occupied the field of regulating the packaging and sale of tobacco products due to the extensive laws surrounding state licensing, taxation, sales, use, and packaging restrictions. Although there are some legal concerns surrounding the Court's explanation of preemption, it is clear that the Court either believes that locals cannot regulate tobacco products OR locals may not regulate the

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<sup>1</sup> *Altadis U.S.A. v. Prince George's County*, 431 Md. 307 (2013).



packaging and sale of tobacco products. Without an express provision in this Bill stating that locals are not preempted from enacting laws regulating the sale, distribution, and packaging of ESDs, it is possible that a Court, relying on the reasoning in *Altadis*, may find that locals are also preempted from passing any ESDs related laws as a result of these new state provisions.

### ***Identification Check and Underage Vape Shop Premises Ban***

Beginning on page 10, line 26, the Bill states that a vape shop vendor must scan the customer's ID "to verify that the consumer may legally receive the electronic smoking device in compliance with §10-107 of the Criminal Law Article." Similar language is used in the next section, which refers to "an individual who may not legally receive an electronic smoking device." It appears that this is an attempt to require vape shop vendors to verify a customer's age, ensuring that they do not sell to a person under 21. It also seems that the Bill tries to prohibit a person under 21 from entering the premises. Unfortunately, the language does not accomplish either purported goal.

The law prohibiting the purchase, use, and possession of tobacco by minors, former Criminal Law §10-108, was repealed as part of the Tobacco 21 legislation that passed in 2019 (HB 1169). Therefore, any person may "legally receive" these products because no law penalizes the purchase, use, or possession. However, Section 10-107 of the Criminal Law Article prohibits a person from ***selling*** tobacco or ESD to a minor, creating a class of people who may not ***legally distribute*** tobacco or ESDs to anyone under 21. ***There is no consumer who may not legally receive an ESD in Maryland even though there are people who may not sell or distribute these products to those under 21.*** Therefore, any language reflecting "legally receive" does not accurately capture those under age 21 and is meaningless.

### ***Clean Indoor Air Act Amendment***

On page 16 beginning on line 2, the Bill adds vapor from electronic smoking devices to the Clean Indoor Air Act, describing it as "the complex mixture formed from the escaping vapor of an electronic smoking device or exhaled as electronic smoking device vapor." This definition fails to encompass heat-not-burn products, which differ from ESDs. Heat-not-burn products are electronic devices that heat processed tobacco instead of combusting it to deliver an aerosol. These use real tobacco, not liquid nicotine. The definition of an ESD, as defined in Business Regulation, §16.7-101 is "a device that can be used to deliver aerosolized or vaporized nicotine to an individual inhaling from the device." Since heat-not-burn products do not deliver aerosolized nicotine, they do not meet this definition and will not be covered by this amendment to the Clean Indoor Air Act.

There is little research on the health effects of exposure to these products. Philip Morris International's (PMI) newest product, the IQOS Tobacco Heating System, is a heat-not-burn product and has gained significant popularity in the U.S. In July 2020, the FDA issued an order

permitting PMI to market these products in the U.S., but did not authorize it to claim that it reduces the health risks associated with smoking. If the Clean Indoor Air Act is amended to include ESDs it should be carefully crafted to include language broad enough to encompass heat-not-burn products.

For these reasons, the Bill poses significant legal issues if enacted into law. As such, we ask that you issue an unfavorable report

**SB 273 - MAPDA - Oppose.pdf**

Uploaded by: Valentino, Ellen

Position: UNF



Mid-Atlantic Petroleum Distributors Association  
P.O. Box 711 ★ Annapolis, MD 21404  
410-693-2226 ★ [www.mapda.com](http://www.mapda.com)

To: Senate Finance Committee

From: Ellen Valentino  
On behalf of MAPDA

Date: January 28, 2021

RE: SB 273 Electronic Smoking Device Regulation Act of 2021  
Oppose

This bill is unfairly targets businesses by dictating the legal products they may sell. Restricting tobacco/vape products solely to specific shops negatively impacts thousands of convenience store owners, service station dealers, and other retailers that sell tobacco and vape products by stripping away their ability to sell certain tobacco vape products.

Don't pass this bill. Here's why.

1. This bill is too impactful and controversial to pass during a session that is extremely limited in public comment.
2. It is inherently unfair to take away the sales of certain tobacco/vape products from retailers who have always had the ability to obtain a license and sell those products, and to pave an exclusive right for VAPE SHOPS to profit and sell those same products.
3. COVID's impact on the retail community is unfolding...and devastating. For instance, sales in some convenience stores were down as much as 70% from pre-pandemic levels. This is an important context when deliberating over new retailer product prohibitions and mandates.

We can agree with proponents that underage sales and underage tobacco and vape use is a significant problem and needs to be curtailed. We believe we can work together on this issue.

**Feeding and fueling the economy through gas, coffee, food, heating oil and propane.**

MAPDA is an association of convenience stores and energy distributors in Maryland, Delaware & the District of Columbia.

**RonWardMDSB273WrittenTestimony01282021.pdf**

Uploaded by: Ward, Ronald

Position: UNF

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### **Written Testimony**

**To:** Maryland Senate Finance Committee  
**From:** Ronald A. Ward Jr., Esq.  
**Date:** January 28, 2021  
**Re:** Maryland Senate Bill 273

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#### I. Introduction

My name is Ronald Ward, and I am a life-long resident of Maryland. I have been a vaper for over 10 years, a smoke free alternatives activist for over a decade and have owned and operated a vape shop in Baltimore County, MD for the past 7 years.

#### II. Proposed Legislation

For over a decade, I have been opposing Maryland legislation that would completely destroy this industry that has given former adult smokers a viable and effective alternative to their deadly habit of inhaling burning tobacco. Almost 500,000 people a year die from smoking-related illnesses. That constitutes more annual deaths than COVID 19. Yet, for some reason, some members of the Maryland legislature wish to destroy this industry through overly cumbersome legislation. Senate Bill 273, in my humble opinion, is the most nuclear bill that I have seen in a decade. It would decimate the vaping industry in Maryland; destroying an entire sector of true small businesses.

The first major problem with SB 273 is that it imposes multiple additional and, nondescript licenses and fees upon any person manufacturing or selling Electronic Smoking Devices (hereinafter "ESDs") in the State of Maryland. Maryland ESD vendors are already subject to fees for our tobacco licenses. On page 6, lines 12-21, the Bill states that ESD vendors must obtain an additional license (additional to County license) to sell ESDs in Maryland but fails to even describe said license. Even worse, on page 7, lines 18-24, it states that Vape Shops must pay an additional fee set by the Maryland Department of Health without naming a dollar figure or even stating the intended use of the fee. The Bill basically allows the Department to set whatever fee they deem necessary in the future. On page 12, lines 18-20, it simply states that these fees shall be used to enforce provisions of the bill and to fund the Clean Indoor Air Act.

This bill also severely limits the products which a licensed Vape shop may sell. On page 9, line 31 to page 10, line 2, the Bill prohibits the sale of prefilled ESDS of any flavor (as there is NO pure “tobacco” flavor on the market- please refer to my SB 177 testimony on flavors for more information). On page 17, lines 28-29, it allows a Vape Shop vendor to ONLY sell ESDS. This would still allow OTP and tobacco retailers, including convenience stores, to sell anything they like, including more dangerous combustible tobacco products, while unfairly limiting the sales within Vape Shops. This makes no sense.

SB 273 goes even further with its unfair and unwarranted treatment of Vape Shop owners. On page 10, line 26 to page 11, line 1, SB 273 would require Vape Shop Vendors to purchase or lease expensive electronic ID scanners but also not allow anyone to enter the premises without said scan. Again, this makes no sense and would put a financial burden on Vape Shops due to the high cost of this equipment and manpower. Vape shops, such as mine, act as the true “gatekeepers” against youth use. The proof is in the numbers. According to the FDA Compliance Check Inspection of Tobacco Product Retailers (through November 30, 2019), out of 222 violations, not a single vape shop was cited for selling vapor products to underage consumers. Vape shops only sell ESD products and provide expert instruction and technical support to adults over the age of 21 who are transitioning from cigarettes. Due to these facts, vape shop owners take youth usage very seriously and are acting as a vital part of the solution.

This piece of legislation will also, as stated on page 13, lines 9-25, allow the Maryland Department of Health to conduct unannounced inspections, test the products and establish permissible ingredients and components. This would be a huge administrative and financial undertaking for both the State and the industry and is more appropriately within the jurisdiction of the Food and Drug Administration. Much like many of these provisions, this section alone would probably destroy the entire Vape Shop industry in Maryland.

But SB 273’s unfair attack on Vape Shops does not stop there. On page 10, lines 14-17, this Bill requires that anyone selling ESDs must file a statement with the State that lists all of the ingredients and component parts of ESDs for sale. These 4 lines are overly vague and would create an unrealistic and impossible task for small mom and pop Vape Shops. In my business, we do not manufacture the products and the components and ingredients of the products are, to a large extent, proprietary.

Finally, on page 16, lines 1-25, the drafters of this Bill subtly include an ESD indoor use ban by changing the definition of “smoke” in the Maryland Clean Indoor Air Act to include “vapor”. The Clean Indoor Air Act was passed into law to protect the public from the very real danger of tobacco smoke. Water vapor is not smoke and does not pose a secondhand risk. This Committee has contemplated banning the indoor use of ESDs since 2010 and has declined to issue any favorable reports. Senate Bill 273 would not only ban the indoor use of these life-saving products but it would completely destroy an industry comprised of true Maryland small businesses during a pandemic.

## V. Conclusion

I recommend that the Senate Finance Committee issue an unfavorable report for Senate Bill 273. I would offer amendments to the Bill, but it is so flawed that, in my humble opinion, it is beyond repair. I have chosen to not address additional and critical flaws in Senate Bill 273 for the sake of brevity. Nonetheless, I would be willing to address these issues if requested by the Committee. Thank you for considering my comments and please contact me with any questions or concerns. I will contact your staff to bring your attention to my written testimony and express my desire to discuss this issue more at length.



# **SB273 Written Testimony Scott Webber VAPE Society.**

Uploaded by: Webber, Scott

Position: UNF

# VAPING AWARENESS PUBLIC EDUCATION SOCIETY

SPEARHEADING THE FIGHT TO BREAK CIGARETTE ADDICTION



**WWW.VAPESOCIETY.ORG**

**Scott Webber**

**Scott@VAPESociety.org**

**Written Testimony Regarding**

**SENATE BILL 177**

**IN OPPOSITION**

WRITTEN ORAL TESTIMONY

SUPPORTING EXHIBITS

1. Adult Choice Options
2. Total Drug and Intoxication Deaths in Maryland Over Time [Zero from vaping]
3. Drug and Intoxication Deaths in Maryland by substance [Zero from vaping]
4. CDC Maryland Tobacco Fact Sheet [Zero negative elements from vaping]

# VAPING AWARENESS PUBLIC EDUCATION SOCIETY

SPEARHEADING THE FIGHT TO BREAK CIGARETTE ADDICTION



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**Scott Webber**

**[Scott@VAPESociety.org](mailto:Scott@VAPESociety.org)**

**Written Testimony Regarding**

**SENATE BILL 177**

**IN OPPOSITION**

WRITTEN ORAL TESTIMONY

Esteemed members of the Senate Finance Committee, and online guests...

My name is Scott Webber and I am the founder of the Vaping Awareness Public Education Society, a non-profit public health research organization dedicated to reducing cigarette smoking and the resultant cost in both dollars and lives.

I come before you today in vehement opposition to SB177 because I don't think you should pass bills that are going to lead to the death of thousands of Marylanders.

The VAPE Society asks you -- implores you -- to use science, data, facts, and reason in your legislation. When anti-vaping legislation -- such as SB177 -- makes less scientific sense than the former president's COVID science... we have a problem with that, because we believe in truth.

Let's start with some basics:

It is a simple truth that smoking remains that #1 cause of preventable death. Every year, almost a half a million people die in the US from smoking and smoking-related illness. In Maryland, that number is about 7500 deaths annually.

To put this into perspective, this is more than all COVID deaths, and 3 ½ times the number of deaths from opioids.

The number of deaths from vaping? The truth is not one single person – Statewide, Nationwide, or Worldwide has died from regular vaping – EVER.

It is also true that vaping is the most effective technology ever developed to get smokers to reduce or quit smoking.

It is also an undeniable truth that with the increase in vaping, there has been a dramatic DECREASE in smoking, for both adults, AND youth.

The absurd and illogical idea that flavor bans for adult vaping are necessary in order “To protect the kids” has no basis in truth, fact, or reality, and would be as wise and effective as flavor bans on alcohol. The logic and wisdom are the same. If the only alcohol adults could legally purchase at a bar was Everclear – pure UNflavored alcohol – then fewer kids would drink and fewer kids would die. Right? NO!! That’s crazy!

But a flavor ban is not only nonsensical, it would be deadly.

The number of vapers who use flavored vaping liquid is 90-99%.

The number of vape shops that sell flavored vaping liquid is 100%.

No vape shop in Maryland can survive selling only tobacco flavored liquid, so this bill will effectively shut down 100% of all vape shops in the State.

While this is the unspoken goal of many who support such legislation, the unintended consequences are serious.

When faced with total flavor bans, vapers end up either buying bootleg flavors... mixing their own recipes... or returning to smoking.

Bootleg, blackmarket, and mix-your-own products are risky at best, and deadly at worst. Smoking is the #1 cause of preventable death.

Passing SB177 will be credited for one of these outcomes, leading to thousands of deaths.

Alternatively, you could pass smart legislation that would successfully migrate 100% of smokers to vaping, and save thousands of lives.

Flavors are NOT the problem, and a BAN on flavors, is not the solution. I strongly request that the Committee issue an **UNFAVORABLE** report on SB177.

Most Sincerely,

~Scott Webber

## **SB177 Vaping Flavor Ban Hearing Jan 28, 2021**

Chair Kelly and fellow members of the Senate Finance Committee:

My name is Scott Webber, proud MD citizen since 1986, currently living in Bethesda, Mont. County.

I am the Founder, along with my son, of the Vaping Awareness Public Education [V.A.P.E.] Society, a Non-Profit health policy research and political advocacy organization formed to address the scourge of smoking, focused on the benefits - and risks - of vaping.

On the topic of vaping, I do consider myself an expert. I likely know as much about vaping as anybody in the entire State. I tell you this, not to brag, but rather, to simply convey that I know what I am talking about because I have done my homework.

Accordingly, I can comfortably say SB177 will have VERY bad outcomes for the State and its citizens, both from a public health perspective, and certainly from a fiscal perspective. It is based on extremely bad science, is facially dishonest, will result in the closing of many dozens of small businesses, actually reducing State revenues by the multiple tens of millions of dollars, while simply moving vaping sales out-of-state, to the Internet, or most likely, to the black market.

This afternoon, I would like to impress upon you the absurdity of SB177 from the perspective of NON-vaper, but concerned father, and public health advocate and realist.

Teen Vaping is a lot like Teen Sex

Teen Vaping is a lot like Teen Drinking

What do they have in common? Teens should NOT be engaging in such activity... but they are. ... anyone who denies this basic truth is simply denying reality.

One way to deal with risky teenage behavior is to simply ignore it – that's not responsible.

Another approach is to just make stuff up, lie, distort facts, and try to impart as much fear and confusion into the general public as possible, figuring the ends justify the means. This is the tactic of the likes of Stanton Glantz, Tobacco Free Kids, and similar entities that are willing to spout out and perpetuate any distortion or outright falsehood in their overzealous quest to wipe out vaping as an alternative to smoking.

A third approach is to stick to logic, reason, statistics, and facts, because here, truth matters. Let me share a few common-sense facts about vaping:

By the laws of fundamental physics, Vaping is NOT smoking. They are entirely separate and distinct products, and to treat them with parity – as equals – is both dishonest and just wrong.

Vaping is indeed 95-99% safer than smoking because there is no combustion.

There is NO such thing as a ‘naturally flavored’ vaping liquid. So called ‘Tobacco Flavored’ flavors are flavors with very sophisticated flavor profiles.

Adults like flavors just as much as teens, because they are both human beings with identical taste buds.

Banning all vaping ‘flavors’ for adults, because teens like flavors, makes as much sense as banning all ‘flavors’ of alcohol “because teens have been shown to likewise enjoy flavors.”

And the solution is just as logical -- Ban ALL flavored alcohol, and leave the entire alcoholic beverage field to EveryClear. Because teens have been proven to prefer flavored alcohol, the entire teen drinking problem will simply disappear in the absence of flavors... Right?

The same logic applies to teen sex. Teenage pregnancy, including death, and sexually transmitted diseases are a serious problem. Following the same SB177 logic, if the State harshly taxes, overregulates, or simply bans all candy-colored condoms, and flavored lubricants, teens will simply stop having sex and the problems will disappear.

To anybody who actually understands vaping, SB177 is every bit as absurd. But if you REALLY understand vaping, you realize how dangerous and expensive legislation such as SB177 truly is, to the point of being deadly.

I would lastly point out per the Fiscal Note attached to last year's mirror bill [the fiscal note is not yet available by submission closing time for this year], that this ill-conceived flavor ban was projected to COST MD taxpayers between \$70 and \$184 MILLION PER YEAR in lost SALES TAX alone! Over the next decade, a flavor ban is likely to cost the State from \$700 Million to nearly \$2 BILLION.

But the actual cost over the next decade is going to be MUCH greater, because a flavor ban will wipe out almost all of the independent vape shops, eliminating many hundreds of millions of dollars in income taxes, employment taxes, real estate revenues, and all other associated revenues for about 200 businesses that will be destroyed as the result of a flavor ban on vaping products.

SB177 is a VERY destructive piece of legislation that will NOT achieve its intended outcome, will create a very dangerous black market, and will cost the State of Maryland BILLIONS of dollars that could otherwise be spent on other priority budget items, such as funding for the Kirwan Commission Blueprint, and the resultant return to combustible cigarettes would unquestionably lead to thousands of unnecessary deaths that could have been avoided by wisely steering smokers into vaping, and yes, by virtue of finding a pleasing, alluring flavor that keeps them from ever wanting to go back to tobacco.

Flavors are NOT the problem, and a BAN on flavors, is not the solution.

I strongly request that the Committee issue an **UNFAVORABLE** report on SB177.

Most Sincerely,

~Scott Webber

# Banning Candy Colored Condoms will NOT Prevent Teens From Engaging In Teen Sex



But It Will Eliminate  
Adult Choice



# Banning Flavored Personal Lubricants will NOT Prevent Teens From Engaging In Teen Sex



But It Will Eliminate  
Adult Choice

# Banning Flavored Alcohol will NOT Prevent Teens From Engaging In Teen Drinking



But It Will Eliminate  
Adult Choice

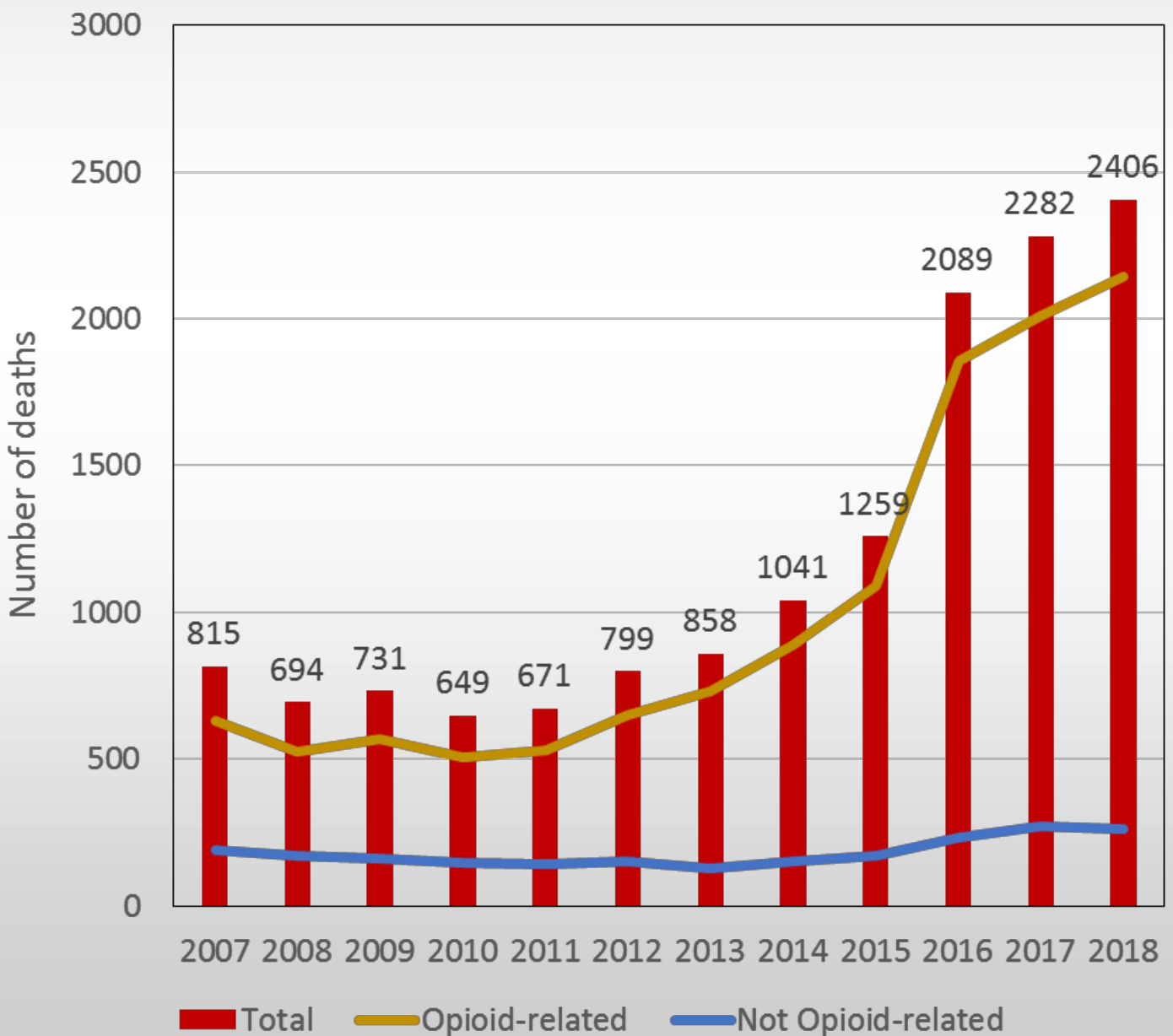
# Banning Flavored Vape Liquid will NOT Prevent Teens From Engaging In Teen Vaping



But It Will Eliminate  
**Adult Choice**



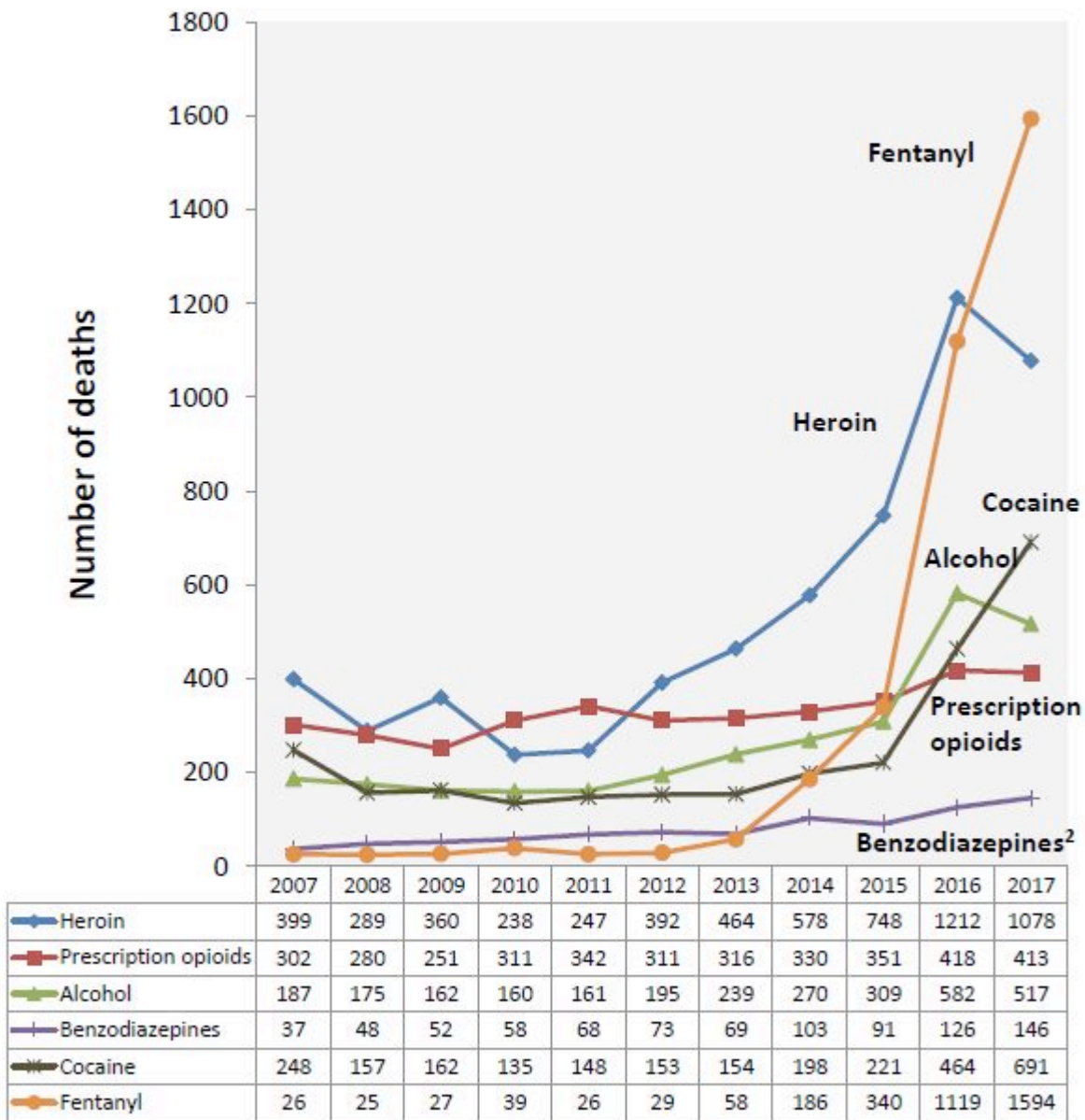
# Unintentional Drug- and Alcohol-Related Intoxication Deaths in Maryland, 2018





# Deaths Attributed To Vaping 2007-2017 = Zero [ 0 ]

**Figure 5. Total Number of Drug- and Alcohol-Related Intoxication Deaths by Selected Substances<sup>1</sup>, Maryland, 2007-2017.**



<sup>1</sup>Since an intoxication death may involve more than one substance, counts of deaths related to specific substances do not sum to the total number of deaths.

<sup>2</sup>Includes deaths caused by benzodiazepines and related drugs with similar sedative effects.

# EXTINGUISHING THE TOBACCO EPIDEMIC *in* MARYLAND

## THE PROBLEM

Cigarette smoking remains the leading cause of preventable death and disability in the United States, despite a significant decline in the number of people who smoke. Over 16 million Americans have at least one disease caused by smoking. This amounts to \$170 billion in direct medical costs that could be saved every year if we could prevent youth from starting to smoke and help every person who smokes to quit.



## MARYLAND KEY FACTS

**\$1.2M**

Was received from CDC for tobacco prevention and control activities in FY 2019

In 2017, **21.6%** of Maryland high school **youth** reported currently using **any tobacco product**, including e-cigarettes. Among Maryland high school **youth**, **8.2%** reported currently smoking **cigarettes**.

**12.5%**

Of adults smoked cigarettes in 2018

**7,500**

Adults die from smoking-related illnesses each year

**\$2.7B**

Was spent on healthcare costs due to smoking in 2009

## PUBLIC HEALTH RESPONSE TO TOBACCO USE IN MARYLAND

Despite Maryland's success in lowering youth tobacco use rates, the state program found that many Maryland retailers were illegally selling tobacco to kids at increasing rates. In 2014, just 37% of Maryland youth reported being asked to provide photo ID to purchase cigarettes, and nearly 70% of youth smokers reported being able to purchase cigarettes directly or by proxy. In response, the program launched the Responsible Tobacco Retailer Initiative, which educated retailers, increased the enforcement of youth access laws, and improved partnerships between state, local, public and private entities, including retailers. This concerted effort proved to be successful – illegal tobacco sales to minors declined by 56% from 2014 to 2015. Due to this positive outcome, Maryland continues to implement the Responsible Tobacco Retailer Initiative, sustaining effective programs and partnerships. State compliance inspections from 2016 show the violation rate has declined even further – less than 11% of retailers are selling tobacco to minors, a 65% reduction from 2014.

PAGE LAST UPDATED: 2/14/2020



U.S. Department of  
Health and Human Services  
Centers for Disease  
Control and Prevention

[www.cdc.gov/tobacco](http://www.cdc.gov/tobacco)

Print Only

MARYLAND

## CDC's ROLE IN ADVANCING STATE TOBACCO CONTROL PROGRAMS

Maryland is one of 50 states plus DC that receives funding and technical support from the Centers for Disease Control and Prevention to support comprehensive tobacco control efforts and quitlines. The Office on Smoking and Health (OSH) is the lead federal agency for comprehensive tobacco prevention and control. For decades, OSH has led public health efforts to prevent young people from using tobacco and to help all tobacco users to quit.

### CDC's TIPS FROM FORMER SMOKERS® (Tips®) CAMPAIGN HELPS MARYLAND SMOKERS QUIT SMOKING



Despite significant progress, tobacco use remains the leading preventable cause of death and disease in the US. The good news is that 7 out of 10 smokers want to quit smoking. That is why since 2012 CDC has been educating the public about the consequences of smoking and exposure to secondhand smoke and encouraging smokers to quit through a federally funded, national tobacco education campaign, *Tips From Former Smokers®*. The campaign features former smokers suffering from the real consequences of smoking.

The *Tips®* campaign connects smokers with resources to help them quit, including a quitline number (1-800-QUIT-NOW) which routes callers to their state quitline. The Maryland quitline provides free cessation services, including counseling and medication. These services are effective in improving health outcomes and reducing healthcare costs.

*"I was thinking about relapsing today and the new commercials came on. It changed my mind real fast. You don't understand the power of these commercials until you have made the decision to quit. Terrie Hall makes me cry every time . . . that could easily be me."*

– Justin: January 2016

Incoming calls to the Maryland state quitline increased by an average **50%** during the 2019 *Tips®* campaign. The Maryland state quitline received a total of **13,546** calls from April 23<sup>rd</sup> – October 8<sup>th</sup> during the 2019 *Tips®* campaign.

### MARYLAND TOBACCO PREVENTION & CONTROL PROGRAMS REDUCE HEALTHCARE COSTS

Tobacco prevention and control activities are a public health "best buy." Evidence-based, statewide tobacco control programs that are comprehensive, sustained, and accountable have been shown to reduce the number of people who smoke, as well as tobacco-related diseases and deaths. For every dollar spent on tobacco prevention, states can reduce tobacco-related health care expenditures and hospitalizations by up to \$55. The longer and more states invest, the larger the reductions in youth and adult smoking. A comprehensive statewide tobacco control program includes efforts to:



**1** Prevent initiation of tobacco use especially among youth and young adults



**2** Promote cessation and assist tobacco users to quit



**3** Protect people from secondhand smoke

For more information on tobacco prevention and control, visit [cdc.gov/tobacco](http://cdc.gov/tobacco).

PAGE LAST UPDATED: 2/14/2020



U.S. Department of Health and Human Services  
Centers for Disease Control and Prevention

[www.cdc.gov/tobacco](http://www.cdc.gov/tobacco)

Print Only

MARYLAND

**4-FIN-SB 273- MDH- LOI- ESD Regulation Act.pdf**

Uploaded by: Bennardi, Maryland Department of Health /Office of Governmen

Position: INFO





Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Acting Secretary

January 28, 2021

The Honorable Delores G. Kelley  
Chair, Senate Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, MD 21401-1991

**RE: Senate Bill 273 – “Electronic Smoking Device Regulation Act of 2021” – Letter of Information**

Dear Chair Kelley and Committee members:

The Maryland Department of Health (MDH) submits this letter of information for Senate Bill 273 (SB 273) titled: “Electronic Smoking Device Regulation Act of 2021.” SB 273 changes the licensing requirements and fees for electronic smoking device (ESD) retailers and manufacturers by limiting ESD sales to “vape shop vendors,” businesses that exclusively sell ESDs and accessories. The bill also requires such vendors to register and pay a fee at the local level in addition to license fees paid to the county clerk, requires vape shop vendors to scan a government issued ID at the time of purchase, and bans the sale of flavored disposable ESDs. Finally, SB 273 amends the Clean Indoor Air Act (CIAA) by prohibiting use of ESDs in indoor public areas and changes the definition of environmental tobacco smoke to include ESD “vapor.” The bill authorizes the Department to set standards for permissible ingredients and components for ESDs and to test product samples for compliance.

Limiting ESD sales to vape shops could decrease the number of retailers who are able to sell ESDs in Maryland. In 2018, the U.S. Surgeon General declared youth vaping an epidemic.<sup>1</sup> Research indicates that youth are more likely to try flavored ESDs and that youth are unaware that nearly all ESDs contain nicotine.<sup>2,3</sup> Additionally, ESDs were the sole cause of the 2019-2020 E-cigarette or Vaping Associated Lung Injury (EVALI) outbreak, with over 2,700 hospitalizations nationally and nearly 60 reported cases in Maryland alone.

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<sup>1</sup> <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>.

<sup>2</sup> Willett JG, Bennett M, Hair EC, *et al* Recognition, use and perceptions of JUUL among youth and young adults *Tobacco Control* 2019;28:115-116. <https://tobaccocontrol.bmj.com/content/28/1/115.info>.

<sup>3</sup> Kristy L. Marynak, Doris G. Gammon, Todd Rogers, Ellen M. Coats, Tushar Singh, and Brian A. King, 2017: [Sales of Nicotine-Containing Electronic Cigarette Products: United States, 2015](https://doi.org/10.2105/AJPH.2017.303660) *Am J Public Health* 107, 702\_705, <https://doi.org/10.2105/AJPH.2017.303660>.

Prohibiting ESD use in indoor public areas under the CIAA has the potential to reduce public exposure to cancer-causing chemical aerosols found in ESD vapor.<sup>4,5</sup> If MDH was required to set permissible standards for ESD ingredients and components by law, there would be a significant fiscal and operational impact. MDH relies on the federal level expertise at the FDA for these types of standards. It is difficult to predict what specific costs would be associated with this change with the language currently provided in the bill. MDH would also be tasked with setting the cost of an additional license application fee in “the amount necessary for MDH to carry out its duties under this title,” with no allocation of the generated revenue to MDH. The assigned fees that are collected by local health departments are directed for the enforcement of vape shop vendors and proposed changes to the CIAA.

This bill would have a fiscal and operational impact, requiring one-time expenditures in state fiscal year 2022 totaling \$182,600 to develop materials and provide outreach notifying all retailers, business owners, and the public about changes in the laws that would impact how they operate.

I hope this information is useful. If you would like to discuss this further, please contact me or Emily Berg, Assistant Director, Office of Governmental Affairs at (410) 260-3190 or [webster.ye@maryland.gov](mailto:webster.ye@maryland.gov), [Emily.berg@maryland.gov](mailto:Emily.berg@maryland.gov).

Sincerely,



Webster Ye  
Assistant Secretary, Health Policy

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<sup>4</sup> Higham, A., Rattray, N. J. W., Dewhurst, J. A., Trivedi, D. K., Fowler, S. J., Goodacre, R., & Singh, D. (2016). Electronic cigarette exposure triggers neutrophil inflammatory responses. *Respiratory Research*, 17(56), 1–11. <https://doi.org/10.1186/s12931-016-0368-x>

<sup>5</sup> Fetterman, J. L., Weisbrod, R. M., Feng, B., Bastin, R., Tuttle, S. T., Holbrook, M., Baker, G., Robertson, R. M., Conklin, D. J., Bhatnagar, A., & Hamburg, N. M. (2018). Flavorings in Tobacco Products Induce Endothelial Cell Dysfunction. *Arteriosclerosis, Thrombosis, and Vascular Biology*, 38(7), 1607–1615. <https://doi.org/10.1161/atvbaha.118.311156>

**MD\_SB0273 Testimony.pdf**

Uploaded by: Pociask, Steve

Position: INFO



**General Assembly of Maryland, Senate Finance Committee  
Regarding Electronic Smoking Device Regulation Act of 2021 (SB273)  
(Hearing Date January 28, 2021)**

Chairperson and Members of the Committee:

Thank you for the opportunity to submit testimony regarding the Electronic Smoking Device Reduction Act of 2021 (SB273). The American Consumer Institute is a non-profit, non-partisan research and educational institute with the mission to identify, analyze, and project the interests of consumers in selected legislative and rulemaking proceedings in matters that affect the consumers.

It is our assessment that SB273, if enacted, would significantly harm consumer welfare, lead to avoidable negative health outcomes, and cause unnecessary hardship on Maryland small businesses. The bill essentially forces retailers in the state to limit the visibility of electronic cigarettes, while leaving traditional combustible products on full display. This would cause profound and irreparable harm to the health of Marylanders, as it would prevent those looking to quit smoking from fully knowing what alternative products are currently in the market.

SB273 does not distinguish between e-cigarettes and traditional tobacco products, placing both under the same category as “smoking” products, even though e-cigarettes are much safer than the combustible alternative. E-cigarettes not only are a safer alternative, but a large array of academic and medical research shows that they are an effective tobacco harm reduction tool:

- E-cigarettes are at least 95% safer than traditional cigarettes;<sup>1</sup>
- Switching to e-cigarettes could save the lives of 6.6 million American smokers;<sup>2</sup>
- E-cigarettes are two times more effective in helping people quit than traditional nicotine-replacement therapies;<sup>3</sup>
- Each year, 7,500 Marylanders die from smoking-related illnesses. This number would be reduced significantly if electronic cigarettes were available to adult consumers.<sup>4</sup>

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<sup>1</sup> “E-cigarettes: An Evidence Update,” Public Health England, August 28, 2015, <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>.

<sup>2</sup> “Tobacco Smokers Could Gain 86 million Years of Life if They Switch to Vaping, Study Finds,” Georgetown University Medical Center, October 2, 2017, <https://gumc.georgetown.edu/news-release/tobacco-smokers-could-gain-86-million-years-of-life-if-they-switch-to-vaping-study-finds/>.

<sup>3</sup> Hartmann-Boyce et al., “Can Electronic Cigarettes Help People Stop Smoking, and Do They Have Unwanted Effects When Used for This Purpose?” Cochrane, October 14, 2020, [https://www.cochrane.org/CD010216/TOBACCO\\_can-electronic-cigarettes-help-people-stop-smoking-and-do-they-have-any-unwanted-effects-when-used#:~:text=For%20every%20100%20people%20using,support%20or%20behavioural%20support%20only](https://www.cochrane.org/CD010216/TOBACCO_can-electronic-cigarettes-help-people-stop-smoking-and-do-they-have-any-unwanted-effects-when-used#:~:text=For%20every%20100%20people%20using,support%20or%20behavioural%20support%20only).

<sup>4</sup> “Center for Tobacco Prevention and Control Program Final Evaluation Report,” University of Baltimore Shaefer Center for Public Policy, June 30, 2020, <https://phpa.health.maryland.gov/ohpetup/Documents/CTPCFinalEvaluationReport.FINAL.06-30-2020.pdf>.

Another anti-consumer component of SB273 is that it would prohibit Marylanders importing e-cigarettes into the state unless they hold the appropriate licenses. This component of the bill would cause the most harm to individuals living in Maryland communities, requiring them to travel further than would otherwise be necessary to obtain a product at lower prices.

SB273 has the potential to significantly change the way e-cigarettes are distributed and sold in the state of Maryland. If enacted, vendors and distributors would be required to acquire specific licenses (which would need to be renewed yearly) and pay fees to both the county and state. Retailers and distributors would also be required to submit regular reports to the state Executive Director of Alcohol and Tobacco. Finally, vape shops would effectively be banned from selling their products online, limiting sales to “consumers on the premises of the licensee’s place of business.”

Restrictions imposed by SB273 would not only raise the cost of operations for small businesses across the state who support thousands of jobs, but they would also threaten the survival of these small businesses. Most importantly, however, these restrictions would lead to higher prices for consumers, sending consumers back to the pack and harming the health of the state’s citizens. This is particularly true as Maryland’s economy seeks to recover from the COVID pandemic that has created an unprecedented risk to the health of consumers.

SB273 is both an unnecessary and an unreasonable bill. For instance, Maryland’s legislature and other state agencies have already taken steps to ensure electronic cigarettes remain out of the hands of minors.<sup>5</sup> These rules and age requirements must be strictly enforced.

All-in-all, SB273 would make e-cigarettes harder to obtain, which would not stop people from smoking, but it would send them back to the cigarette pack. The long-term consequences would be devastating as both deaths from smoking-related diseases and healthcare costs would increase.

Given the above reasons, it is our assessment that this bill is NOT in the interest nor the benefit of Maryland’s consumers as it would give smokers fewer choices when they make the important decision to quit smoking.

Respectfully,

Steve Pociask, President  
Krisztina Pusok, Ph.D., Director of Policy and Research  
Edward J. Longe M.A., Policy Research Associate  
Derek Hosford, Policy Analyst

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<sup>5</sup> “Maryland Becomes 13<sup>th</sup> State to Raise Minimum Legal Sales Age for Tobacco Products to 21,” Maryland Department of Health, May 16, 2019, [https://health.maryland.gov/newsroom/Pages/Release-Maryland-becomes-13th-state-to-raise-minimum-legal-sales-age-for-tobacco-products-to-21.aspx#:~:text=Baltimore%2C%20MD%20%E2%80%94%20The%20Maryland%20Department,electronic%20smoking%20devices%20\(ESDs\).](https://health.maryland.gov/newsroom/Pages/Release-Maryland-becomes-13th-state-to-raise-minimum-legal-sales-age-for-tobacco-products-to-21.aspx#:~:text=Baltimore%2C%20MD%20%E2%80%94%20The%20Maryland%20Department,electronic%20smoking%20devices%20(ESDs).)