

**SB 987 - FIN- MDH- LOS (2).pdf**

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Position: FAV



## DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 7, 2024

The Honorable Pamela Beidle  
Chair, Senate Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, MD 21401-1991

### **RE: Senate Bill 987 – Business Regulation - Electronic Smoking Devices Manufacturers - Certifications – Letter of Support**

Dear Chair Beidle and Committee members:

The Maryland Department of Health (the Department) respectfully submits this letter of support for Senate Bill (SB) 987 – Business Regulation - Electronic Smoking Devices Manufacturers - Certifications. SB 987 establishes new licenses and fees for electronic smoking device (ESD) manufacturers, wholesalers, and retailers in Maryland; it also authorizes the Executive Director of the Alcohol, Tobacco, and Cannabis Commission (ATCC) to conduct unannounced inspections of licensed vape shop vendors. Finally, SB 987 requires the Attorney General to create and maintain a common registry of ESD products that can be legally sold in Maryland.

SB 987 updates the licensing regulatory scheme for ESDs in Maryland and better aligns Maryland law with best practices in tobacco prevention and control. Under current law, cigarette and other tobacco product (OTP) manufacturers, wholesalers, and retailers are not required to obtain a separate license to make, distribute, or sell ESDs in Maryland. Creating separate licenses for ESD manufacturers, wholesalers, and retailers; increasing licensure fees; and prohibiting online or direct-to-consumer sales of ESDs align with recommendations from the 2020 Comptroller's e-Facts Task Force on ESDs as ways to limit youth access.<sup>1</sup> HB 1033 creates a standard licensing system for all tobacco products (i.e., cigarettes, OTP, and ESDs) in Maryland; this is a benefit for the Department to know which retailer establishments are selling ESD products, particularly when conducting retailer inspections.

SB 987 also requires the Attorney General to maintain a public directory of ESD products and accessories authorized to be sold in Maryland, and that all ESDs must receive a marketing authorization from the Food and Drug Administration (FDA) before ESD companies can register their devices for sale in the State. To date, the FDA has authorized 23 ESD products for sale in the United States.<sup>2</sup> Similar registries exist for cigarettes and OTP in Maryland.

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<sup>1</sup> <https://www.marylandtaxes.gov/forms/etaskforce/final-e-facts-report02172020.pdf>

<sup>2</sup> <https://www.fda.gov/tobacco-products/premarket-tobacco-product-applications/premarket-tobacco-product-marketing-granted-orders>

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at [sarah.case-herron@maryland.gov](mailto:sarah.case-herron@maryland.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "LH Scott", is enclosed in a faint, light-colored rectangular border.

Laura Herrera Scott, M.D., M.P.H.  
Secretary

**MDDCSAM SB 987 ESDs Certification.pdf**

Uploaded by: Joseph Adams, MD

Position: FAV



*MDDCSAM is the Maryland state chapter of the American Society of Addiction Medicine whose members are physicians and other health providers who treat people with substance use disorders.*

**Senate Bill 987** Business Regulation – Electronic Smoking Devices Manufacturers – Certifications

**FAVORABLE**

Senate Finance Committee      Hearing: March 7, 2024

Tobacco is associated with well-known morbidity and mortality. The WHO estimates that 8 million people die prematurely yearly from tobacco use. In addition, it contributes to cancer, heart disease, lung diseases, and diabetes. Although ongoing research into the effects of electronic smoking devices is currently underway, they contain often unknown ultrafine particles, heavy metals, and volatile organic compounds that are inhaled into the lungs. In addition, flavorants, such as diacetyl, are also often used and have been linked to serious lung disease.

We fully support this bill as it adds tight regulations with the aim of informing the public and keeping manufacturers and distributors accountable for relative safety of their products. In addition, we support that this should be funded by the entities manufacturing and distributing the products, rather than the general public.

Thank you for your support,

Joseph Greg Hobelmann, MD, MPH  
Board certified in psychiatry and addiction medicine  
Public Policy Committee

**2024-03-06\_TEU FWA testimony for SB987 (Finance).p**

Uploaded by: Anna MacCormack

Position: FWA

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**OFFICE OF THE ATTORNEY GENERAL**

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March 6, 2023

**TO:** The Honorable Pamela Beidle  
Chair, Finance Committee

**FROM:** Anna MacCormack  
Assistant Attorney General, Office of the Attorney General

**RE:** Senate Bill 987 – Business Regulation – Electronic Smoking Devices  
Manufacturers – Certifications

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The Office of Attorney General urges this Committee to report favorably on Senate Bill 987 – Business Regulation – Electronic Smoking Devices Manufactures – Certifications.

Senate Bill 987 brings much-needed improvements to Maryland's electronic smoking devices ("ESDs") law, Business Regulation Title 16.7. There have been many changes since Title 16.7 was enacted in 2017, including significant growth in the market and a changed federal landscape. Senate Bill 987 incorporates improvements recommended by the Comptroller's 2020 Task Force on Electronic Smoking Devices to Maryland's ESD market and strengthens the licensing and regulatory systems for ESDs in the State.

ESD use has grown, including youth ESD use, and products have flooded the market. From January 2020 to December 2022, total U.S. e-cigarette unit sales increased by 46.6%, from 15.5 million to 22.7 million units.<sup>1</sup> ESDs are the second largest nicotine product category after traditional combustible cigarettes for adult users, but for youth, ESD use is higher than cigarettes: the 2021 Maryland High School Survey reports that while 3.6% of high school students smoked

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<sup>1</sup> CDC, F.R. Ali et al. "E-cigarette Unit Sales by Product and Flavor Type, and Top-Selling Brands, United States, 2020–2022," *Morbidity & Mortality Weekly Report*, vol. 72 no. 25, 672–77 (June 23, 2023), <https://www.cdc.gov/mmwr/volumes/72/wr/pdfs/mm7225a1-H.pdf>.

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or [sbrantley@oag.state.md.us](mailto:sbrantley@oag.state.md.us).

cigarettes, 14.7% of high school students currently used ESDs—the equivalent of more than 4 students in a class of 30.<sup>2</sup> A 2022 national survey of students found that of the 2.55 million U.S. middle and high school students currently using e-cigarettes, most reported using flavored products, and, among those students, approximately 7 of 10 used fruit flavors.<sup>3</sup> Nicotine is highly addictive and can harm developing brains. Early nicotine exposure can prime the brain for addiction to other drugs, and nearly 90% of adults who smoke daily started smoking by age 18, and 98% by age 25.

As sales and use have risen, changes have also come to the legal landscape. In 2016, pursuant to the Family Smoking Prevention and Tobacco Control Act, 21 U.S.C. § 387 *et seq.* (“Tobacco Control Act”), the FDA adopted the “Deeming Rule,” which provided that ESDs would be treated as “tobacco products.” This meant that ESDs were subject to the Tobacco Control Act and regulated by FDA. Products that were on the market as of August 8, 2016, could remain on the market provided the manufacturer submitted a premarket tobacco product application to the FDA by September 9, 2020. In other words, to legally market a new tobacco product—which includes ESDs—a company must apply for and receive a written marketing order from FDA.

The window for ESD manufacturers to apply for a marketing order has now closed and the FDA has taken action on most of the approximately 26 million premarket tobacco product applications it received. Millions of products received denials, refuse to accept, or refuse to file letters from the FDA. An unknown number of ESDs still have pending premarket applications, and the FDA has now issued marketing orders for 23 tobacco-flavored e-cigarette and vapor products. This process has finally given such much-needed clarity regarding what ESDs are authorized for sale by federal law.

Senate Bill 987 would improve Maryland’s ESD industry in two main ways. First, Senate Bill 987 would bring the ESDs sold in Maryland into compliance with federal and state law. It does this by establishing an ESD directory, similar to the cigarette directory that Maryland has had for twenty years. To comply with federal and existing state law,<sup>4</sup> Senate Bill 987’s directory would include ESDs that are legal for sale because they have received FDA marketing orders. This would protect Maryland teens and other consumers from ESDs made by unknown manufacturers with unregulated and potentially dangerous product components.

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<sup>2</sup> Maryland Dep’t of Health, *Youth Risk Behavior Survey/Youth Tobacco Survey (YRBS/YTS) 2021-2022*, <https://health.maryland.gov/phpa/ccdpc/Reports/Pages/State-Level-Data,-2021-2022.aspx>.

<sup>3</sup> CDC, M. Cooper et al., “Notes from the Field: E-cigarette Use Among Middle and High School Students—United States, 2022,” *Morbidity & Mortality Weekly Report*, vol. 71 no. 40, 1283–85 (Oct. 7, 2022), <https://www.cdc.gov/mmwr/volumes/71/wr/pdfs/mm7140a3-H.pdf>.

<sup>4</sup> Md. Code. Bus. Reg. § 16.7-207(a)(5) (“Subject to the hearing provisions of § 16.7-208 of this subtitle, the Executive Director may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee...violates federal, State, or local law regarding the sale of electronic smoking devices....”).



In addition, by establishing a directory of legal products, Senate Bill 987 will enable law-abiding State licensees to avoid selling illegal and dangerous products unknowingly. Senate Bill 987 empowers the Office of the Attorney General, which would administer the ESD directory—as it currently does for the cigarette directory—to obtain information about the companies and their products before allowing ESDs to enter Maryland. Furthermore, applicants to the directory must either register to do business in the State or appoint an agent for service of process, enabling the State to find these manufacturers if there are any violations of the law.

An ESD directory is a commonsense solution to a market that has been flooded with noncompliant, illegal products, including disposable products and synthetic nicotine products. The Associated Press reports that according to sales data, the number of different ESDs sold in the United States since 2020 has tripled to more than 9,000, “driven almost entirely by a wave of unauthorized disposable vapes from China.”<sup>5</sup> With so many products entering and exiting the market, it is difficult for wholesalers, retailers, and vape shop vendors to know what ESDs are legal for sale, resulting in many illicit products remaining available to consumers.

Additionally, Senate Bill 987 grants the Alcohol, Tobacco, and Cannabis Commission (“ATCC”) authority to conduct unannounced inspections of retailers and vape shop vendors to ensure compliance with the Title and the requirement that ESDs may only be sold to individuals age 21 and older. The ATCC already conducts retail checks for cigarettes and Other Tobacco Products (“OTP”), including directory checks for those products. Giving the Commission similar authority to check ESD compliance is another way in which Senate Bill 987 seeks to treat ESDs similarly to traditional tobacco products.

The second way in which Senate Bill 987 improves Maryland’s ESD industry is by making important modifications to Maryland’s ESD licensure system. Right now, many entities selling ESDs do not have ESD licenses because they already have cigarette or OTP licenses, and the law exempts them from getting a separate ESD license. Senate Bill 987 requires that all businesses obtain a separate ESD license, enabling the State to know what businesses are buying and selling ESDs in Maryland. Senate Bill 987 also requires that all sales be made by and to businesses with Maryland ESD licenses, as is required for traditional tobacco products.

Senate Bill 987 would also close a significant loophole in the current law that allows ESD manufacturers to sell their products over the internet or by mail directly to consumers. Online sales are not allowed for cigarettes or OTP, and Senate Bill 987 removes this exception for ESDs so that ESDs are treated the same as cigarettes and OTP. Senate Bill 987 requires that all purchases by consumers be face-to-face sales, which are better able to prevent illegal, underage sales.

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<sup>5</sup> M. Perrone, “Thousands of unauthorized vapes are pouring into the US despite the FDA crackdown on fruity flavors,” *Associated Press* (June 26, 2023), <https://apnews.com/article/fda-vapes-vaping-elf-bar-juul-80b2680a874d89b8d651c5e909e39e8f>.

The provisions in Senate Bill 987 come from the State’s long experience with traditional tobacco products, as well as the recommendations of the Comptroller’s Task Force on Electronic Smoking Devices.<sup>6</sup> The Task Force, which was established in 2019, was made up of 40 appointed members from every region of the State, comprised of educators, ESD retailers, public health experts, concerned parents, and local and state elected officials. After holding four public meetings and soliciting feedback from both industry and the public, the Task Force’s 2020 Report made two recommendations found in Senate Bill 987: banning all direct-to-consumer internet and mail order sales of ESDs and requiring separate ESD licenses with higher fees. The Report also recommended obtaining more information from manufacturers to better “know precisely what e-liquids and ESD devices contain before these products ever reach consumers.” Senate Bill 987 improves that by requiring that ESDs sold in the State have marketing orders issued by the FDA.

Finally, the proposed amendments<sup>7</sup> would make additional improvements to Maryland’s ESD laws. These amendments would expand the ESDs permitted for sale in Maryland to include those that have timely applied for FDA authorization and are awaiting a ruling or that have a court order staying a final decision on the directory. Only licensed vape shops would be permitted to sell this larger group of ESDs with pending applications, keeping them out of convenience stores and restricting them to stores that cater to individuals over the age of 21.

The amendments would also establish a two-tiered fee system for Maryland’s ESD directory: manufacturers applying for ESDs with marketing orders will have a fee of \$1,000 per product, while ESDs with pending FDA applications will have a fee of \$5,000 per product, paid to the Attorney General to be used for administration and enforcement of this law. Similarly, a new subsection is included requiring that manufacturers post funds into an escrow account, the amount of which depends on what products they are certifying. These funds would be available to the ATCC for the costs of collection and disposing of any ESDs removed from the directory or which violate federal, state, or local law.

The amendments would also revise the penalties section, providing the State with tools to effectively enforce the Directory. Sales of off-directory products would also be deemed an unfair and deceptive trade practice in violation of the Consumer Protection Act. Lastly, the amendments would provide additional process when a product is removed from the directory.

For the foregoing reasons, the Office of the Attorney General urges a favorable report on Senate Bill 987.

cc: Committee Members

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<sup>6</sup> Comptroller’s Task Force on Electronic Smoking Devices, *Electronic Smoking Devices in Maryland: A Safer Path Forward* (2020), <https://mdlaw.ptfs.com/awweb/pdfopener?md=1&did=31028>.

<sup>7</sup> Attached are the proposed amendments for House Bill 1033, which is cross-filed with Senate Bill 987.



HB1033/433921/1

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

26 FEB 24  
17:00:55

BY: Delegate Mireku-North  
(To be offered in the Economic Matters Committee)

AMENDMENTS TO HOUSE BILL 1033  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 7, after “licensure” insert “and certain actions”; in line 13, after “manufacturers;” insert “requiring certain licensed electronic smoking devices manufacturers to place a certain amount of money into escrow in certain circumstances;”; in line 19, strike “through” and substitute a comma; in line 26, strike the second “and” and substitute a comma; and in the same line, after “16.7–201” insert “, and 16.7–203”.

On page 2, in line 3, strike “16.7–307” and substitute “16.7–308”.

AMENDMENT NO. 2

On page 5, in line 8, after “(b)” insert ““AUTHORIZED BY THE FDA” MEANS AN AUTHORIZATION GRANTED BY THE FDA UNDER 21 U.S.C. § 387J.

(c)”;

and in line 10, strike “(c)” and substitute:

“(D) “DIRECTORY” MEANS THE LIST PUBLISHED BY THE ATTORNEY GENERAL OF APPROVED ELECTRONIC SMOKING DEVICES MANUFACTURERS THAT HAVE SUBMITTED A CERTIFICATION IN ACCORDANCE WITH THIS TITLE AND THE BRAND FAMILIES AND BRAND STYLES OF THEIR ELECTRONIC SMOKING DEVICES THAT HAVE BEEN DETERMINED BY THE ATTORNEY GENERAL AS CONFORMING TO THE REQUIREMENTS OF § 16.7–302 OF THIS TITLE.

**(E)**”;

and in line 25, strike “(d)” and substitute “**(F)**”.

On page 6, in lines 11, 17, and 29, strike “(e)”, “(f)”, and “(g)”, respectively, and substitute “**(G)**”, “**(H)**”, and “**(I)**”, respectively.

On page 7, in lines 7, 20, 22, and 25, strike “(h)”, “(j)”, “(k)”, and “(l)”, respectively, and substitute “**(J)**”, “**(M)**”, “**(N)**”, and “**(O)**”, respectively; and in line 9, strike “(i)” and substitute “**(K)**” **“FDA” MEANS THE FEDERAL FOOD AND DRUG ADMINISTRATION.**

**(L)**”.

On page 10, in lines 4 and 5, strike “AND THE ATTORNEY GENERAL”; in lines 9 and 22, in each instance, after “devices” insert “**THAT ARE LISTED ON THE DIRECTORY**”; and in line 28, after “devices” insert “**THAT ARE LISTED ON THE DIRECTORY AND HAVE RECEIVED A FINAL MARKETING ORDER AUTHORIZED BY THE FDA**”.

On page 11, in line 12, after the first “devices” insert “**THAT ARE LISTED ON THE DIRECTORY**”; and in line 21, after “devices” insert “**THAT ARE LISTED ON THE DIRECTORY TO CONSUMERS**”.

On page 15, strike in their entirety lines 21 through 26, inclusive; in line 33, after “HAS” insert “:

**(I)**”;

in line 34, strike “U.S. FOOD AND DRUG ADMINISTRATION” and substitute “FDA”;  
in line 35, after “STATES” insert “; OR”

**(II) 1. MARKETED AN ELECTRONIC SMOKING DEVICE IN THE UNITED STATES AS OF AUGUST 8, 2016; AND**

**2. SUBMITTED A PREMARKET TOBACCO PRODUCT APPLICATION IN ACCORDANCE WITH 21 U.S.C. § 387J FOR AN ELECTRONIC SMOKING DEVICE BEFORE SEPTEMBER 9, 2020, AND THE APPLICATION REMAINS UNDER REVIEW BY THE FDA OR A FINAL DECISION ON THE APPLICATION IS NOT OTHERWISE IN EFFECT**”.

On page 16, in lines 10 and 19, in each instance, strike “FAMILY” and substitute “FAMILIES OR BRAND STYLES”; in line 13, after “FAMILY” insert “OR BRAND STYLE”; in line 14, strike “ARE” and substitute “IS”; in line 17, strike “OR CURRENT FISCAL YEAR” and substitute “3 CALENDAR YEARS”; in line 19, strike “INCLUDES” and substitute “INCLUDE”; in the same line, strike “THE JUICE,” and substitute “VAPING LIQUID, NICOTINE”; in line 21, strike “MARKET” and substitute “MARKETING”; in line 23, after “INCLUDE” insert “:

**(I)**”;

in lines 23 and 24, strike “U.S. FOOD AND DRUG ADMINISTRATION” and substitute “FDA TO SELL ELECTRONIC SMOKING DEVICES IN THE UNITED STATES; OR”

**(II) DOCUMENTS ISSUED BY THE FDA OR A COURT CONFIRMING THAT THE PREMARKET TOBACCO PRODUCT APPLICATION FILED IN ACCORDANCE WITH 21 U.S.C. § 387J WAS TIMELY SUBMITTED AND REMAINS PENDING OR OTHERWISE HAS NOT RESULTED IN A FINAL DECISION THAT IS IN EFFECT**”;

(Over)

and in line 27, after “FAMILIES” insert “AND BRAND STYLES”.

On page 18, in line 4, after “ANY” insert “MATERIAL CHANGES TO ITS CERTIFICATION, INCLUDING A FINAL DETERMINATION BY THE FDA, A CHANGE IN MANUFACTURING FACILITY, OR ANY”; in line 6, after “FAMILIES” insert “OR BRAND STYLES”; after line 8, insert:

“(G) (1) FOR EACH CERTIFICATION SUBMITTED UNDER THIS SECTION, THE ELECTRONIC SMOKING DEVICES MANUFACTURER SHALL PAY TO THE ATTORNEY GENERAL:

(I) A FEE OF \$1,000 FOR EACH ELECTRONIC SMOKING DEVICE THAT HAS BEEN AUTHORIZED BY THE FDA; OR

(II) A FEE OF \$5,000 FOR EACH ELECTRONIC SMOKING DEVICE FOR WHICH THE MANUFACTURER SUBMITTED A PREMARKET TOBACCO PRODUCT APPLICATION BEFORE SEPTEMBER 9, 2020, AND THE APPLICATION EITHER REMAINS UNDER REVIEW BY THE FDA OR A FINAL DECISION ON THE APPLICATION IS OTHERWISE NOT IN EFFECT.

(2) THE REVENUES GENERATED UNDER THIS SECTION SHALL BE DISTRIBUTED TO A SPECIAL FUND TO BE USED BY THE OFFICE OF THE ATTORNEY GENERAL FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS TITLE.”;

and in line 16, after “CERTIFICATIONS” insert “SUBMITTED UNDER THIS SUBTITLE”.

On page 19, in line 7, strike “AN INDIVIDUAL” and substitute “EXCEPT AS PROVIDED IN § 16.7-306(A)(3) OF THIS SUBTITLE, A PERSON”.

On page 20, in line 23, after “WHOLESALE” insert “DISTRIBUTOR”.

On pages 21 through 23, strike in their entirety the lines beginning with line 28 on page 21 through line 4 on page 23, inclusive, and substitute:

**“(A) PRIOR TO INCLUSION ON THE DIRECTORY, A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER SHALL DEPOSIT AND MAINTAIN IN AN ESCROW FUND ESTABLISHED AT A FEDERALLY OR STATE-CHARTERED FINANCIAL INSTITUTION AND GOVERNED BY A QUALIFIED ESCROW AGREEMENT THAT HAS BEEN REVIEWED AND APPROVED BY THE ATTORNEY GENERAL, THE FOLLOWING AMOUNTS, AS APPROPRIATE:**

**(1) \$25,000 FOR A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER THAT SUBMITS A CERTIFICATION UNDER THIS TITLE THAT INCLUDES ONLY ELECTRONIC SMOKING DEVICES THAT ARE AUTHORIZED BY THE FDA;**

**(2) \$75,000 FOR A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER THAT SUBMITS A CERTIFICATION UNDER THIS TITLE THAT INCLUDES BOTH ELECTRONIC SMOKING DEVICES THAT ARE AUTHORIZED BY THE FDA AND ELECTRONIC SMOKING DEVICES FOR WHICH THE ELECTRONIC SMOKING DEVICES MANUFACTURER SUBMITTED A PREMARKET TOBACCO PRODUCT APPLICATION UNDER 21 U.S.C. § 387J BEFORE SEPTEMBER 9, 2020, AND THE APPLICATION EITHER REMAINS UNDER REVIEW BY THE FDA OR A FINAL DECISION ON THE APPLICATION IS NOT OTHERWISE IN EFFECT; AND**

**(3) \$150,000 FOR A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER THAT SUBMITS A CERTIFICATION UNDER THIS TITLE THAT INCLUDES ONLY ELECTRONIC SMOKING DEVICES FOR WHICH THE MANUFACTURER SUBMITTED A PREMARKET TOBACCO PRODUCT APPLICATION**

(Over)

UNDER 21 U.S.C. § 387J BEFORE SEPTEMBER 9, 2020, AND THE APPLICATION EITHER REMAINS UNDER REVIEW BY THE FDA OR A FINAL DECISION ON THE APPLICATION IS NOT OTHERWISE IN EFFECT.

(B) (1) IF A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER THAT PLACES FUNDS INTO ESCROW UNDER SUBSECTION (A)(2) OF THIS SECTION CAN FULFILL THE REQUIREMENTS OF SUBSECTION (A)(1) OF THIS SECTION, THE ATTORNEY GENERAL MAY MODIFY THE REQUIRED ESCROW AMOUNT TO \$25,000.

(2) IF A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER THAT PLACES FUNDS INTO ESCROW UNDER SUBSECTION (A)(3) OF THIS SECTION CAN FULFILL THE REQUIREMENTS OF SUBSECTION (A)(1) OR (2) OF THIS SECTION, THE ATTORNEY GENERAL MAY MODIFY THE REQUIRED ESCROW AMOUNT ACCORDINGLY.

(C) (1) A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER THAT PLACES FUNDS INTO ESCROW IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL RECEIVE THE INTEREST OR OTHER APPRECIATION ON THE FUNDS AS EARNED.

(2) THE ATTORNEY GENERAL SHALL RELEASE THE FUNDS PLACED INTO ESCROW ONLY:

(I) TO THE EXECUTIVE DIRECTOR TO SATISFY ANY UNPAID COSTS ARISING OUT OF THE COLLECTION, SEIZURE, STORAGE, OR DISPOSAL OF ELECTRONIC SMOKING DEVICES, OR OF ANY OTHER ENFORCEMENT CAUSED BY A VIOLATION OF APPLICABLE FEDERAL, STATE, OR LOCAL LAW BY THE LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER; OR



(II) TO A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER IF THE ELECTRONIC SMOKING DEVICES MANUFACTURER:

1. ELECTS TO STOP SELLING ELECTRONIC SMOKING DEVICES IN THE STATE;

2. DEMONSTRATES TO THE SATISFACTION OF THE ATTORNEY GENERAL THAT THE LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER HAS REMOVED ALL BRAND FAMILIES AND BRAND STYLES REPRESENTED BY THE LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER FROM THE STATE; AND

3. APPLIES TO THE ATTORNEY GENERAL FOR A RELEASE OF FUNDS IN ESCROW.

(D) (1) EACH LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER THAT PLACES FUNDS INTO ESCROW IN ACCORDANCE WITH THIS SECTION SHALL ANNUALLY CERTIFY TO THE ATTORNEY GENERAL THAT IT IS IN COMPLIANCE WITH THIS SECTION.

(2) IF THE ATTORNEY GENERAL NOTIFIES A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER THAT THE AMOUNT IN ESCROW HAS FALLEN BELOW THE AMOUNT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER SHALL BRING THE AMOUNT IN ESCROW INTO COMPLIANCE WITHIN 15 DAYS AFTER NOTICE.

(3) (I) THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION ON BEHALF OF THE STATE AGAINST ANY LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER THAT FAILS TO PLACE INTO ESCROW THE FUNDS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

(II) IF A COURT FINDS THAT A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER KNOWINGLY VIOLATED SUBSECTION (A) OF THIS SECTION, THE COURT MAY IMPOSE A CIVIL PENALTY TO BE PAID TO THE GENERAL FUND OF THE STATE IN AN AMOUNT NOT TO EXCEED THE SUM OF:

1. 15% OF THE AMOUNT IMPROPERLY WITHHELD FROM ESCROW FOR EVERY DAY THE VIOLATION PERSISTS; AND

2. 300% OF THE INITIAL AMOUNT IMPROPERLY WITHHELD FROM ESCROW.

(4) IF A COURT FINDS THAT A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER HAS KNOWINGLY VIOLATED SUBSECTION (A) OF THIS SECTION FOR A SECOND TIME, THE COURT MAY PROHIBIT THE LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER FROM SELLING ELECTRONIC SMOKING DEVICES TO CONSUMERS IN THE STATE FOR A PERIOD NOT TO EXCEED 2 YEARS.

(5) EACH FAILURE BY A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER TO MAINTAIN THE AMOUNT IN ESCROW REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL CONSTITUTE A SEPARATE VIOLATION.”.

On page 23, after line 5, insert:

“(A) IN ADDITION TO OR INSTEAD OF ANY OTHER CIVIL OR CRIMINAL REMEDY PROVIDED BY LAW:

(1) SUBJECT TO THE PROVISIONS OF § 16.7–208 OF THIS TITLE, ON A DETERMINATION THAT A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER, LICENSED ELECTRONIC SMOKING DEVICES WHOLESALER DISTRIBUTOR, LICENSED ELECTRONIC SMOKING DEVICES WHOLESALER IMPORTER, LICENSED ELECTRONIC SMOKING DEVICES RETAILER, OR LICENSED VAPE SHOP VENDOR HAS VIOLATED § 16.7–303(D) OF THIS SUBTITLE OR A LICENSED ELECTRONIC SMOKING DEVICES WHOLESALER DISTRIBUTOR HAS VIOLATED § 16.7–305(A) OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE, THE EXECUTIVE DIRECTOR MAY IMPOSE A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED THE GREATER OF:

(I) 500% OF THE RETAIL VALUE OF THE ELECTRONIC SMOKING DEVICES THAT ARE THE SUBJECT OF THE VIOLATION; OR

(II) \$5,000; AND

(2) ON A DETERMINATION THAT A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER, LICENSED ELECTRONIC SMOKING DEVICES WHOLESALER DISTRIBUTOR, LICENSED ELECTRONIC SMOKING DEVICES WHOLESALER IMPORTER, LICENSED ELECTRONICS SMOKING DEVICES RETAILER, OR LICENSED VAPE SHOP VENDOR HAS COMMITTED A SUBSEQUENT VIOLATION OF § 16.7–303(D) OR § 16.7–305(A) OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS TITLE WITHIN 2 YEARS AFTER AN EARLIER VIOLATION, THE EXECUTIVE DIRECTOR MAY REVOKE OR SUSPEND THE LICENSE IN THE MANNER PROVIDED UNDER § 16.7–207 OR § 16.7–209 OF THIS TITLE.

(Over)

(B) EACH SALE AND EACH OFFER TO SELL ELECTRONIC SMOKING DEVICES IN VIOLATION OF § 16.7-303(D) OF THIS SUBTITLE SHALL CONSTITUTE A SEPARATE VIOLATION.

(C) IN ADDITION TO ANY PENALTIES OTHERWISE AVAILABLE, A VIOLATION OF § 16.7-303(D) OF THIS SUBTITLE SHALL BE CONSIDERED AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE AND SHALL BE SUBJECT TO THE PENALTY PROVISIONS UNDER TITLE 13 OF THE COMMERCIAL LAW ARTICLE.

(D) (1) ANY ELECTRONIC SMOKING DEVICES THAT HAVE BEEN SOLD, OFFERED FOR SALE, OR POSSESSED FOR SALE IN THE STATE OR IMPORTED INTO THE STATE FOR PERSONAL USE IN VIOLATION OF § 16.7-303(D) OF THIS SUBTITLE SHALL BE DEEMED CONTRABAND, SEIZED, AND FORFEITED IN ACCORDANCE WITH § 13-836, § 13-837, OR § 13-839 OF THE TAX - GENERAL ARTICLE.

(2) ELECTRONIC SMOKING DEVICES SEIZED AND FORFEITED UNDER THIS SUBSECTION MAY NOT BE RESOLD AND MAY BE DESTROYED.

(3) TO THE EXTENT THAT THE COSTS ARISING FROM ACTIONS TAKEN UNDER THIS SECTION ARE NOT SATISFIED BY THE AMOUNT IN ESCROW REQUIRED UNDER § 16.7-306 OF THIS SUBTITLE, ANY ADDITIONAL COSTS SHALL BE BORNE BY THE PERSON FROM WHOM THE CONTRABAND ELECTRONIC SMOKING DEVICES ARE SEIZED.

(E) THE ATTORNEY GENERAL, FOR ITSELF OR ON BEHALF OF THE EXECUTIVE DIRECTOR, MAY SEEK AN INJUNCTION TO RESTRAIN A THREATENED OR ACTUAL VIOLATION OF § 16.7-303(D) OR § 16.7-305(A) OF THIS SUBTITLE OR

ANY REGULATION ADOPTED UNDER THIS TITLE BY A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER, LICENSED ELECTRONIC SMOKING DEVICES WHOLESALER DISTRIBUTOR, LICENSED ELECTRONIC SMOKING DEVICES WHOLESALER IMPORTER, LICENSED ELECTRONIC SMOKING DEVICES RETAILER, OR LICENSED VAPE SHOP VENDOR TO COMPEL THE SUBJECT OF THE INJUNCTION TO COMPLY WITH THE RELEVANT LAW.

(F) (1) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO POSSESSES LESS THAN \$100 WORTH OF ELECTRONIC SMOKING DEVICES SOLELY FOR THE PURPOSE OF PERSONAL CONSUMPTION.

(2) A PERSON WHO SELLS, DISTRIBUTES, ACQUIRES, HOLDS, OWNS, POSSESSES, TRANSPORTS, IMPORTS, OR CAUSES TO BE IMPORTED ELECTRONIC SMOKING DEVICES FOR RESALE TO A CONSUMER THAT THE PERSON KNOWS OR SHOULD HAVE KNOWN ARE INTENDED FOR DISTRIBUTION OR SALE IN THE STATE IN VIOLATION OF § 16.7-303(D) OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(I) A FINE NOT EXCEEDING \$5,000;

(II) IMPRISONMENT NOT EXCEEDING 1 YEAR; OR

(III) BOTH.

16.7-308.”.

On page 23, in line 6, after “(A)” insert “(1)”; and after line 10, insert:

“(2) IF A LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER RECEIVES A FINAL DECISION FROM THE FDA OR A COURT

(Over)

ORDER REGARDING A PREMARKET TOBACCO APPLICATION, THE LICENSED ELECTRONIC SMOKING DEVICES MANUFACTURER SHALL PROVIDE A COPY OF THE DECISION OR ORDER TO THE ATTORNEY GENERAL WITHIN 15 DAYS AFTER ISSUANCE.

(3) (I) THE ATTORNEY GENERAL MAY NOT REMOVE A BRAND FAMILY, A BRAND STYLE, OR AN ELECTRONIC SMOKING DEVICES MANUFACTURER FROM THE DIRECTORY UNTIL AT LEAST 15 DAYS AFTER THE ELECTRONIC SMOKING DEVICES MANUFACTURER HAS BEEN GIVEN NOTICE OF THE INTENDED ACTION.

(II) NOTICE UNDER THIS PARAGRAPH SHALL BE SUFFICIENT AND SHALL BE DEEMED RECEIVED BY AN ELECTRONIC SMOKING DEVICES MANUFACTURER IF THE NOTICE IS SENT ELECTRONICALLY TO AN ELECTRONIC MAIL ADDRESS, TO THE ELECTRONIC SMOKING DEVICES MANUFACTURER'S ADDRESS FROM THE MOST RECENT CERTIFICATION FILED UNDER THIS TITLE, OR TO THE MANUFACTURER'S REGISTERED AGENT FOR SERVICE OF PROCESS IN THE STATE.

(4) (I) IF THE ATTORNEY GENERAL REMOVES A BRAND FAMILY, A BRAND STYLE, OR AN ELECTRONIC SMOKING DEVICE FROM THE DIRECTORY, EACH LICENSED RETAILER AND LICENSED VAPE SHOP VENDOR SHALL HAVE 15 DAYS TO REMOVE THE PRODUCT FROM ITS INVENTORY AND RETURN THE PRODUCT TO THE ELECTRONIC SMOKING DEVICES MANUFACTURER FOR DISPOSAL.

(II) AFTER 15 DAYS FOLLOWING THE REMOVAL OF A BRAND FAMILY, A BRAND STYLE, OR AN ELECTRONIC SMOKING DEVICE FROM THE DIRECTORY, THE PRODUCT:

1. SHALL BE IDENTIFIED AS CONTRABAND UNDER §§  
13-836, 13-837, AND 13-839 OF THE TAX – GENERAL ARTICLE;

2. MAY NOT BE PURCHASED OR SOLD IN THE STATE;  
AND

3. SHALL BE SUBJECT TO SEIZURE, FORFEITURE, AND  
DESTRUCTION.”.

**SB0987\_FWA\_MedChi, MDCSCO\_Bus. Reg. - Electronic S**

Uploaded by: Pam Kasemeyer

Position: FWA





*The Maryland State Medical Society*

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Baltimore, MD 21201-5516  
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MARYLAND/DISTRICT OF COLUMBIA  
SOCIETY OF CLINICAL ONCOLOGY

TO: The Honorable Pamela Beidle, Chair  
Members, Senate Finance Committee  
The Honorable Clarence K. Lam

FROM: Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman  
Andrew G. Vetter  
Christine K. Krone

DATE: March 7, 2024

RE: **SUPPORT WITH AMENDMENT** – Senate Bill 987 – *Business Regulation – Electronic Smoking Devices Manufacturers – Certifications*

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The Maryland State Medical Society (MedChi), and the Maryland/District of Columbia Society of Clinical Oncology (MDCSCO), **supports with amendment** Senate Bill 987.

Senate Bill 987 establishes the framework for licensure and regulation of electronic smoking device manufacturers whose products are sold in Maryland. It requires tobacco product manufacturers and electronic smoking device manufacturers to meet certification requirements and pay a certification fee. The revenues from the certification fee will be distributed to a special fund to be used by the Office of the Attorney General for enforcement of regulatory oversight.

MedChi and MDCSCO are supportive of bill and its provisions but would like to include an amendment that would allocate a portion of the certification fee revenues to be used for working with a non-profit organization that is recognized by the Accreditation Council for Continuing Medical Education to provide harm reduction public health education. By staying informed about the latest research and best practices in harm reduction, healthcare professionals can incorporate evidence-based interventions into their clinical practice and public health efforts. With the adoption of this amendment, MedChi and MDCSCO support Senate Bill 987.

**For more information call:**  
410-244-7000

# **SB 987 Candice Gott Opposition.pdf**

Uploaded by: Candice Gott

Position: UNF

Candice Gott

Opposition to SB 987

Good evening, Chair and Committee. My name is Candice Gott, and I am a board member of the Maryland Vapor Alliance. Our group exists to promote fair regulation for vapor products, and to help protect small businesses.

This is a bill being lobbied by big tobacco in all states across America and for the most part, legislators have done an excellent job at seeing right past the same old tactics used by big tobacco and their lobbying teams.

This bill leaves twenty big tobacco products on the shelf and bans everything else. We are talking about the products from the corporations who created an issue with teen use, who marketed their products unethically. I have owned my business for 10 years and there was never any issues until big tobacco stepped in and sunk their claws into our industry.

If this bill passes as is, there will be no more open systems vapor products on the market. My customers using 3mg of nicotine will be forced to use products that are high in nicotine, 50mg+. That is, unless they decide to go back to smoking cigarettes, another great win for big tobacco, or get products on the black market. If they decide to get their products on the black market or another state, there will be no taxes collected for the state of Maryland. In fact, Maryland stands to lose ninety million dollars annually if this bill passes.

Next, small businesses vape shops and manufacturers sued the FDA for the shortcoming of the pre-market tobacco application (PMTA) process, and the FDA lost. First, the circuit court issued an injunction to the FDA to allow products to continue being sold, then the final decision was handed down a few weeks ago. This judge's decision included calling the FDA arbitrary and capricious towards small businesses in their handling of the Pre-market

tobacco applications, as well as saying the FDA sent these small businesses on a wild goose chase. Therefore, the circuit court shot down the PMTA process while Maryland is trying to make it the gold standard.

This bill is bad for business, and we are asking for an unfavorable report.

# **Unfavorable SB987.pdf**

Uploaded by: Melissa Hendrix

Position: UNF

Melissa Hendrix

114 Tennessee Road

Stevensville, MD 21666

Hello committee members, thank you for allowing me to speak today. I oppose bill SB987 as this bill would shut my business down. I have a vape shop named Vape Loft in Edgewater, MD and have been there since 2014. This bill only keeps big tobacco products and high nicotine devices on the shelf in all stores which doesn't leave many products left on the market. All my customers do not use big tobacco products so this would push my customers to either go back to smoking, find another state that sells their products, buy off the black market, or purchase online. This would leave me with little to no product to sell which would leave most of the products in places that all ages can enter.

The FDA has been trying to regulate ends products for a while and has not done a great job because the only products they have approved are big tobacco products. Within the industry some of the E-Liquid companies have gone to court to be able to fight to keep their products on the market and they were awarded a stay order. None of that matters if this bill passes because the only products left on the market are just big tobacco products.

I have customers that are down to 3mg and some even no nicotine at all. With the way this bill is written it would only allow high nicotine products such as 18mg all the way up to 60mg to stay on the market. Over the years I have worked really hard with customers whose only goal was to get completely off of everything and I have been able to help satisfy those goals. If this bill passes people will not be able to work their way off nicotine as they are stuck with some of the highest nicotine available.

I hope everyone takes into consideration how bad this bill is and how much money will be lost because of the number of shops that will have to shut down. This legislation doesn't help to keep small business vape shops open it forces us to close.

# **SB987\_MAPDA\_UNF**

Uploaded by: Mike O'Halloran

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: Mid-Atlantic Petroleum Distributors Association

DATE: March 7, 2024

RE: **SENATE BILL 987** – Business Regulation – Electronic Smoking Devices Manufacturers -  
Certifications

On behalf of Maryland’s convenience stores and energy distributors, MAPDA requests the committee issue an unfavorable report on SB987.

This legislation creates a directory of electronic smoking devices (ESDs) allowed for retail in Maryland.

An ESD directory can be an effective tool to stop illicit activity and prevent the sale of counterfeit products. It empowers the state to reinforce federal law and further empowers wholesalers and distributors to know which products are in compliance.

However, SB987 as introduced, will cause confusion in the marketplace by not allowing certain products already on the shelves to remain. These referenced products have pre-market authorization (PMTA) from the U.S. Food and Drug Administration and have met FDA application deadlines.

Instead, the committee may want to consider [HB1197](#) which would allow the aforementioned products to remain in the marketplace. It would also allow manufacturers, distributors, and retailers to know which products may be sold in the state, where today there is ambiguity.

For these reasons, MAPDA respectfully requests an unfavorable committee report on SB987.

**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.

**2024MDSB987written testimonyFINAL.pdf**

Uploaded by: Ronald Ward

Position: UNF

**Ronald A. Ward Jr., Esq.**  
**Owner**  
**The Vapers' Edge**  
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**443-725-5251**  
[thevapersedge@gmail.com](mailto:thevapersedge@gmail.com)

### **Written Testimony**

**To:** Maryland Senate Finance Committee  
**From:** Ronald A. Ward Jr.  
**Date:** March 7, 2024  
**Re:** Opposition to Maryland Senate Bill 987

#### **I. Introduction**

My name is Ronald Ward and I am a life-long resident of Maryland. I have been an Electronic Smoking Device (hereinafter “ESD”) user for over 14 years, an ESDs advocate for over 12 years and have owned an ESD store (vape shop) in Baltimore County, MD for the past 10 years.

This Bill would devastate Maryland Vape Shop businesses, eliminate nearly all ESDs from the legitimate market, create an ESD black market (in addition to the existing online black market) and force former smokers back to the deadly habit of smoking. It would also bolster the sales of cigarettes and other combustible tobacco that is almost primarily sold in convenience stores. These convenience stores make minimal income from and sell a very limited variety of ESDs while most of their tobacco profits result from the sale of combustible tobacco products. That is the reason why convenience stores and big tobacco companies are in favor of this Bill. Actually, the big tobacco companies are shopping this legislation in most of the country. This is nothing more than an attempt to destroy the existing ESD industry in Maryland in favor of a handful of big tobacco ESD products. Keep in mind that big tobacco companies derive a very small percentage of their profits from the sale of ESDs. Furthermore, the big tobacco companies have already admitted that ESDs are significantly cutting into their cigarette profits. Therefore, the utter elimination of ESDs would benefit their deadly cigarette businesses.

#### **II. Overview of Senate Bill 987**

SB 987 proposes an effective prohibition on virtually all vaping products currently on the market. It is the product of big tobacco companies looking to crush the ESD market, sell more cigarettes and make ESD products unappealing. This Committee will basically hand over the ESD industry in Maryland to big tobacco companies and organized crime if this Bill becomes Law.

As to its substantive issues, in Section 16.7-302, this Bill sets forth a regulatory and fiscal framework that is completely insurmountable not only for ESD businesses in Maryland but also for the State itself. For the sake of brevity, I am available for an in-depth discussion of the language referred to in the previous statement.

The Bill demonstrates a fundamental misunderstanding of the very industry and its consumers that it seeks to regulate.

This fact is clearly illustrated in the last 4 lines of Section 16.7-306 which read:

“The penalties in paragraph (1) of this subsection (which, BTW is a misdemeanor criminal charge) do not apply to a person who possesses less than \$100 worth of Electronic Smoking Devices solely for personal consumption and not for a resale to a consumer”. I have vaped for 14 years and regularly carry well more than one hundred dollars (\$100.00) worth of ESDs solely for personal consumption. Incidentally, as I draft this Bill, I am vaping an ESD that, with all its components plus liquid total approximately, two hundred dollars (\$200.00) not including tax. I also always carry a backup which, depending upon the device and additional liquid, usually total the same price. Also, how does an enforcement officer know the retail price of an ESD?

The bottom line is that SB 987 will eliminate over 95% of nicotine vaping products available at Maryland specialty retailers. This will disproportionately benefit large tobacco companies by decimating their competition.

### **III. Incomplete, Arbitrary and Caprecious FDA PMTA Process and Lawsuits**

The FDA PMTA process has been fraught with problems since its inception. Its disorganized, expensive and completely unfair handling of this process is inexcusable. Also, it is a process that, at this time, is far from complete. Furthermore, the FDA has arbitrarily denied marketing orders for nearly 1 million products and is failing to move forward with authorizing hundreds of thousands of other products.

The process is so flawed that a United States Court of Appeals recently ruled that the process, for many reasons, is “arbitrary and capricious”. Therefore, they remanded to the FDA in order for the agency to correct these serious problems with the PMTA process. There are also hundreds of thousands of applications that have not been reviewed. Of course, many companies have filed suit against the FDA and there are more to come in the future. Therefore, this proposed legislation is not ripe and this Committee should issue an unfavorable report for SB 987.

### **IV. Consequences for Public Health and Consumer Choice**

There is a reason why Altria, America’s largest cigarette company, is such a fervent advocate for registries or “certification”, as it is named in this Bill. Last October, they blamed ESDs for causing their cigarette sales to decline faster than anticipated. Altria's advocacy suggests a strategic interest in making quality vaping products less accessible, potentially driving adults back to smoking cigarettes.

## **V. No State Has Successfully Implemented a PMTA Registry**

To date, no state has successfully implemented a PMTA registry. Legal challenges and enforcement difficulties have plagued these efforts, underscoring the impracticality and inefficacy of such regulations. For instance, a county judge put enforcement of Louisiana's PMTA registry on hold last month.

Prior to the Louisiana law being enjoined, I learned of disturbing reports of vaping products being sold out of car trunks in the parking lots of tobacco shops. That is in addition to the easy availability of these products through social media channels like TikTok and Snapchat. Furthermore, ESDs are readily available to consumers online despite a Federal law (the PACT Act), which prohibits the shipping of ESDs from retailer to consumers in the United States. Instead of focusing their attention on law-abiding, tax-paying legitimate businesses, maybe the drafters should focus on the bad actors?

## **VI. Youth Vaping Has Plummeted as Adult Use Has Grown**

Contrary to the narrative of a vaping epidemic, the rate of youth vaping has plummeted by 60% since 2019, while usage of ESDs by adults has surged by over 25%. This growth is predominantly attributed to adults opting for ESDs, suggesting a significant shift from smoking to vaping.

## **VII. Conclusion**

Thank you for considering my testimony. For the reason set forth above, I recommend that the Senate Finance Committee issue an unfavorable report for Senate Bill 987. As stated previously, this Bill would absolutely destroy the mom-and-pop ESD businesses in favor of big tobacco companies, lone criminals, organized crime and illicit online sales. It would certainly force me to close the doors of my legitimate, law-abiding business that I worked a decade to build. If this Committee has any inquiries or requests for supporting documentation, please feel free to contact me and I will promptly provide said documents. I am also open to a verbal dialogue with any member of this Committee regarding SB 987.

**SB987\_MRA\_UNF.pdf**

Uploaded by: Sarah Price

Position: UNF

# MARYLAND RETAILERS ALLIANCE

*The Voice of Retailing in Maryland*



**SB987 Business Regulation - Electronic Smoking Devices Manufacturers –  
Certifications  
Finance Committee  
March 7<sup>th</sup>, 2024**

**Position:** Unfavorable

The Maryland Retailers Alliance (MRA) has serious concerns about the overall impact of a slate of proposals introduced this year regarding tobacco sales. It appears that the legislature intends to use regulation as a vehicle for removing tobacco from the state through a combination of policies including high tax rates and retail sale prohibitions. We have chosen to address several bills in one document as these bills are scheduled to be heard in separate committees and on separate dates, and we want to ensure that each body is considering the full scope of these proposals and the impact of these policies as a package rather than passing them in a vacuum.

Our membership does not disagree with an intent to address minors' use of illegal products, but the manufacturing and sale of tobacco products is already a highly regulated industry. Age-restriction laws are in place to keep these items out of the hands of children, and consumers in Maryland face some of the highest taxes on tobacco in the country at \$3.75 per pack of 20 cigarettes – higher than all of our neighboring states: Virginia (\$0.60 per pack), West Virginia (\$1.20 per pack), Pennsylvania (\$2.60 per pack), Delaware (\$2.10 per pack), and even Ohio (\$1.60 per pack), North Carolina (\$0.45 per pack), and New Jersey (\$2.70 per pack).

Restricting or prohibiting the sale of products is often well-intentioned and seems like the simplest solution to curb tobacco use: ban or make it difficult for tobacco customers to buy their preferred products, and they will stop using them. We know from cases around the country where governments have passed local flavored tobacco bans that this is not the case. Customers who cannot conveniently purchase these products in Maryland will go to another state to buy the items that they are looking for. There are over 1,600 tobacco retailers within ten miles of Maryland's border in neighboring jurisdictions and no Marylander lives farther than 35 miles from a tobacco retailer across the state line. Users who face a barrier to travel will simply get their products online or illegally from the black market.

We support a regulated industry, and that includes making sure that the products that are available to customers are vetted items. Efforts to curb use that could result in increased black market activity may be detrimental to the health of adult consumers of tobacco products, and we would respectfully urge the Committees to strongly consider this when discussing these bills.

*SB987/HB1033 Business Regulation - Electronic Smoking Devices Manufacturers – Certifications*

SB987 would require the establishment of a directory of electronic smoking devices that have been approved for sale by the Food and Drug Administration (FDA), ostensibly in an effort to reduce the proliferation of illegal products in the market. We do not oppose the goal of this legislation but there are issues with the bill as proposed.

The directory created by SB987 would allow the sale of products that have already received approval for sale by the FDA but the bill does not include any statutory requirement to update the directory as new products are approved. This omission fails to address products that were submitted for federal consideration by the September 9, 2020 deadline but which have not yet received a final decision from the FDA.

A separate bill being considered this year, HB1197, proposes a similar directory but requires the Office of the Attorney General to update the directory as needed in order to correctly reflect approved products. Our members have expressed a preference for HB1197 over SB987 due to this difference.

We would urge an unfavorable report on SB987.

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*HB844/SB582 Business Regulation - Cigarette, Other Tobacco Product, and Electronic Smoking Device Retailers - Nicotine Replacement Therapy Products (Make Quitting Convenient Act)*

HB844 would require any retailer that sells tobacco products to also sell nicotine replacement therapy products and to post signage in stores. It is inappropriate for the legislature to mandate that retailers carry specific products and to even establish parameters around ordering and stocking timelines, which can vary widely between individual business practices.

In addition to this overreach, the signage requirements in HB844 would be burdensome for businesses. “Real estate” space for notices and signs in stores is a tight market, and customers are already overwhelmed with signs on a multitude of topics in aisles, at the entrance of stores, and at the point of sale, especially in stores like pharmacies, grocery stores, and convenience stores that sell a wide variety of items. A federal order already exists which mandates that businesses post signage about the dangers of smoking, and this should be sufficient to suggest changes to consumer behavior.

We would urge an unfavorable vote on HB844.



*HB1197 Business Regulation - Electronic Smoking Devices Manufacturers –  
Certifications*

HB1197 would require the establishment of a directory of electronic smoking devices that have been approved for sale by the Food and Drug Administration (FDA), ostensibly in an effort to reduce the proliferation of illegal products in the market. Unlike HB1033, HB1197 would require that the directory be updated to reflect products that have been newly approved for sale by the FDA, as many items were submitted for review by the federal deadline in 2020 but have yet to receive final determination. A similar bill was recently passed in Virginia and HB1197 would create a consistent market between Maryland and our close neighbor, decreasing the likelihood of consumers crossing the state line in search of specific legal products. Our members have expressed a preference of HB1197 over HB1033 for these reasons.

We would support a favorable report on HB1197.

*HB1180/SB1056 Cigarettes, Other Tobacco Products, and Electronic Smoking Devices -  
Revisions (Tobacco Retail Modernization Act of 2024)*

HB1180 would, among other things, prohibit retailers with a pharmacy permit from selling tobacco products. As a proponent of the free market, we strongly oppose this prohibition which would restrict access to legal, regulated products for purchase by consenting adults. This is of extremely serious concern to not only our retail chain drug stores but also grocery stores in Maryland that provide a pharmacy counter in their community. It is unclear in the bill whether this prohibition on sales in pharmacies would apply only to the pharmacy area in grocery stores, or if retailers would be restricted from selling any tobacco products anywhere in a store that also includes a pharmacy counter.

Marylanders are accustomed to being able to buy a variety of goods outside of the primary categories of food and medicine at both grocery stores and pharmacies, with retail pharmacies often meeting consumer needs by operating as a small general store in many communities. As noted in our introduction, restricting access to legal products may only drive consumers to shop in jurisdictions outside of Maryland or to purchase their desired items through illegal, unregulated channels. We strongly oppose this proposal and believe that it would harm the business community in Maryland without effectively reducing tobacco use in the state.

We would urge an unfavorable vote on HB1180.

*HB1073 Tobacco Tax - Cigarettes - Rate Alteration*

HB1073 would increase the sales tax rate on cigarettes from \$3.75 per pack of 20 cigarettes to \$4.50 per pack, and from 17.5 cents per cigarette in a larger pack to 22.5 cents per cigarette. As noted in our introduction, Marylanders already pay a higher tobacco tax than consumers in any of our immediately neighboring states and beyond, and can reach cigarette retailers in any of those states by driving less than 40 miles. This

regressive tax would primarily impact tobacco use for consumers who cannot travel even that simple distance, and could result in higher sales in the black market rather than any actual reduction in tobacco use. Increasing the tax on cigarettes by almost \$1.00 per pack would increase “border bleed” sales and harm businesses by greatly increasing the price of legal, regulated products for adult consumers.

We would urge an unfavorable report on HB1073.

*HB1414 Electronic Smoking Devices - Licensure, Indoor Use, and Taxation – Alterations*

HB1414 would, among other things, increase the sales tax rate on electronic smoking devices from 12% to 30%. As noted in our introduction, regressive tax increases such as this merely encourage consumers to cross Maryland’s very close borders to purchase their desired products. Increasing prices as a method to encourage a change in consumer behavior is inappropriate for these items, as is using the consumption of certain products as a method of increasing tax revenue. Increasing this tax would harm businesses and increase prices for legal items for use by adults in Maryland. Other bills have been introduced which would update the Clean Indoor Air Act to restrict the indoor use of electronic smoking devices, and which have not been opposed by MRA.

We would urge an unfavorable report on HB1414.

**OPP to SB0987 - Scott Webber - Written Testimony.p**

Uploaded by: Scott Webber

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 0987** **IN OPPOSITION**

Esteemed members of the 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 opposition to SB0987 because I don't think the MD legislature should pass bills that are going to contribute to the death of thousands of Marylanders, while costing Maryland taxpayers tens of millions of dollars to effect their demise.

### **Issues NOT Specific To SB0987 [ Obligatory Annual Reminder ]**

Again... 'vaping devices' are NOT 'Smoking Devices' because there is NO SMOKE! As is almost universally known, 'smoke' is the produce of combustion. Vaping devices do not produce combustion. Vaping devices do not produce smoke. Defining a 'vaping device' an 'Electronic Smoking Device' is as logical, and accurate as calling a Tesla a 'Gasoline Powered Electronic Vehicle'. Defining vaping 'clouds' as 'smoke', when there is NO SMOKE, is just pure false. Such mis-defining is the product of either extreme lack of knowledge [Teslas are NOT powered by gasoline] or deliberate deceit because the definer has a specific reason for wanting to define the Tesla as a 'gasoline powered' device, in complete defiance of observable and obvious 'truth' to the contrary. Neither is acceptable.

The Maryland legislature should strive to be both truthful and accurate in the formation of the laws of the land. Definitions should conform to the meanings and understandings of populace upon which they apply. If it is not 'tobacco', it should not be called 'tobacco'. If it is not 'smoke', it should not be called 'smoke'. Deliberately, or intentionally defining, or even inferring the meaning, of anything that is known to be demonstrably false, is simply bad public policy, bad governance, and bad law.

## Issues Specific To SB0987

SB0987 is unashamedly just another version of the 'copy/paste/adjust' of the same legislation coming from Big Tobacco and Big Pharma lobbyists with the clear and direct intent to eliminate small business competition, and renew their monopoly hold in the nicotine delivery business. Nearly identical copycat legislation has been filed in Florida, Nebraska, Indiana, Virginia, and others this year, in a coordinated campaign.

SB0987 appears to misapply the legality of FDA rulings. The FDA process does not automatically deny every product, unless 'approved'. Homeopathic medicines, vitamins, herbal medicines, and cosmetics are but a few examples. Rather, for certain categories of products, tobacco being one, it requires 'marketing approval' and sets up an 'approval' process. Applications for approval were submitted to the FDA [PMTA Pathway], and the FDA – after what is supposed to be an in-depth analysis, issues either an MGO [Marketing Granted Order] or an MDO [Marketing Denial Order] In between, products are allowed to remain on the market. This is vaguely similar to a 'patent pending' vs. having a registered patent on file with the Patent Office. One is not in violation of a patent, or denied the ability to sell a product, until such a violation is determined.

Denying the sale of a product that has not been denied marketing by the FDA would be contrary to, if not in violation of, the existing FDA approval process.

Furthermore, the entire FDA PMTA process that issued and MDO for ANY vaping product has been recently found by the United States Court Of Appeals [2024] to have been "arbitrary and capricious", putting the legality of any MDO into question. Basing any Maryland Legislation on unsettled Federal regulations is premature. Attempting to keep track of the literally tens of thousands of products with valid PMTA applications, that have not been issued an MDO, would be completely unfeasible.

Furthermore, some of the broad copycat concepts are likewise 'arbitrary and capricious'. Holding manufacturers responsible for the entire concept of 'Brand' based on anything "similar to another brand", based on a "recognizable pattern of colors", or "selling message" is so fabulously broad and vague, that it boards on irresponsible legislation. To wit, from Page 15 at Line 12:

*"ANY OTHER INDICIA OF PRODUCT IDENTIFICATION IDENTICAL OR SIMILAR TO, OR IDENTIFIABLE WITH, A PREVIOUSLY KNOWN BRAND OF ELECTRONIC SMOKING DEVICES, OTHER TOBACCO PRODUCTS, OR ELECTRONIC SMOKING DEVICE PRODUCTS"*

### **The Reality Of Any National Directory:**

It is fully known to the actual authors of the legislation, before it got to the present bill sponsor(s), that the actual implementation of this bill would completely obliterate any brick and mortar vape shop for the following simple reasons:

There is not a single vape product that has been approved by the FDA as a smoking cessation device, in spite of the fact that more people have ceased smoking as the result of vaping than any other product.

There are only 23 products that have had their lobbyists successfully manipulate the FDA into awarding them an MGO for retail sale, and these come from only 3 manufacturers. [See the attached sheet]. But of these 23, 9 of the devices are simply the power units for the electronic devices. There are only 14 products that contain the consumable components, and almost all of these are simply variations of the same product, just varied by nicotine strength or the shape of the container.



# E-Cigarettes Authorized by the FDA

As of Jan. 2024, these are the only e-cigarettes authorized to be sold in the U.S.



Manufacturer	Product Name	
Logic Technology Development LLC	Logic Regular Cartridge/Capsule Package	
	Logic Vapeleaf Cartridge/Capsule Package	
	Logic Vapeleaf Tobacco Vapor System	
	Logic Pro Tobacco e-Liquid Package	
	Logic Pro Capsule Tank System (1)	
	Logic Pro Capsule Tank System (2)	
	Logic Power Tobacco e-Liquid Package	
	Logic Power Rechargeable Kit	
	NJOY LLC	NJOY DAILY Rich Tobacco 4.5%
		NJOY DAILY EXTRA Rich Tobacco 6%
NJOY ACE Device		
NJOY ACE POD Classic Tobacco 2.4%		
NJOY ACE POD Classic Tobacco 5%		
NJOY ACE POD Rich Tobacco 5%		
R.J. Reynolds Vapor Company	Vuse Vibe Power Unit (1)	
	Vuse Vibe Tank Original 3.0%	
	Vuse Vibe Power Unit (2)	
	Vuse Ciro Power Unit (1)	
	Vuse Ciro Cartridge Original 1.5%	
	Vuse Ciro Power Unit (2)	
	Vuse Solo Power Unit	
	Vuse Replacement Cartridge Original 4.8% G1	
	Vuse Replacement Cartridge Original 4.8% G2	

For the most up-to-date list of authorized e-cigarettes, visit the [Premarket Tobacco Product Marketing Granted Orders webpage](#).

While these products are authorized to be sold in the U.S., it does not mean these products are safe nor are they "FDA approved." All tobacco products are harmful and potentially addictive. Those who do not use tobacco products shouldn't start.





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# LITERATURE REVIEW

February 15, 2021

## The Impact Of Vaping On Combustible Cigarette Smoking Cessation

The following literature review is a random assortment of scientific and medical articles and position papers pertaining to the use of the disruptive technology called ‘Vaping’ used by tens of millions of people worldwide to reduce or eliminate cigarette smoking. The articles come from a broad spectrum of sources including the New England Journal of Medicine, the Journal of the American Medical Association, British Medical Journal, BMC Medicine, the International Journal of Environmental Research & Public Health, the Journal of Nicotine & Tobacco Research, Addiction, the National Academies, and others. The research goes back to early in the last decade, up to current. Policy papers are included from the right-wing leaning and libertarian Heartland Institute, and the left-wing leaning Progressive Policy Institute – with both sides of the political spectrum strongly supporting the principles of ‘Harm Reduction’ to achieve the greatest economic, and public health benefits, with vaping at the center of the discussion due to its unparalleled success and clear benefits.

Ironically, while vaping has proven to be the single most effective means to get smokers to completely quit or greatly reduce their cigarette consumption, the vaping industry is forbidden - by law - to claim, or mention, or even suggest, that vaping can be an effective ‘cessation’ solution. Accordingly, you will find very little industry documentation. Nonetheless, the evidence, the data, the facts, the science, and the scientists back up the incontrovertible fact that vaping has worked as a cessation solution in the most important arena of empirical evidence: the literally tens of millions of vapers who have ceased using combustible cigarettes.

The following list contains informal references with live links to article copies with their respective copyrights, listed authors, and additional formal references and links. The compilation represents many hundreds of pages of mostly highly scientific writings, worthy of reading if one really cares about truth, and knowledge, and understanding. However, selective quotes have been pulled from the articles to give the reader a quick gist, as well as a short VAPESociety ‘VAPEStake’ about the writing.

**Title:** 1. Tobacco Smokers Could Gain 86 Million Years of Life if they Switch to Vaping

**Source:** Georgetown University Medical Center

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9i0yfrkt0Yu3yxZ1I?e=8BQqyZ>

**Quoted:** *“In all, cigarette smokers who switch to e-cigarettes could live 86.7 million more years [over a 10-year period] with policies that encourage cigarette smokers to switch completely to e-cigarettes. In addition, there would be tremendous health benefits including reduced disease disability to smokers, reduced pain and suffering, and reduced exposure to second hand smoke.”*

*“Even the gloomiest analysis shows a significant gain in years of life if nicotine is obtained from vaping instead of much more deadly amount of toxicants inhaled with cigarette smoke.”*

**VAPEStake:** Vaping is not entirely ‘safe’, but it is many magnitudes ‘SAFER’ than smoking. Smoking is seriously estimated to be at least 2000% more harmful. Smoking kills nearly a half million Americans EVERY year, while legal nicotine vaping has not resulted in a single death<sup>1</sup> – worldwide – since it was invented and made commercially available in 2006.

<sup>1</sup> No directly associated deaths. Does not take into account indirect events such as auto accidents, or the EVALI deaths caused by illegal THC street drugs inappropriately used in counterfeit cartridges, and falsely attributed to ‘vaping’.



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**Title:** 2. E-cigarettes are estimated to have helped 16,000-22,000 smokers in England to quit

**Source:** Medical XPress

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9iyThrouVMiDunVp8?e=ygO2gG>

**Quoted:** *“Previous research has found that when used in this way, e-cigarettes increase the chances of success by around 50% compared with using no support or one of the traditional nicotine products such as gum or skin patch.”*

*“E-cigarettes appear to be helping a significant number of smokers to stop who would not have done otherwise - not as many as some e-cigarette enthusiasts claim, but a substantial number nonetheless.”*

**VAPESTake:** This is a 2016 study looking at 2014 data, so the raw numbers are significantly higher now, but the fundamental understanding that vaping has helped a staggering number of people to reduce or quit smoking entirely remains true. The effectiveness of vaping has been observed for a very long time, and the body of evidence is only growing.

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**Title:** 3. Electronic Cigarettes Have a Potential for Huge Public Health Benefit

**Source:** BMC Medicine

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9izkepp1iN0hefyK0?e=1Gpb5G>

**Quoted:** *“There is now a sufficient body of evidence available on several aspects and effects of [Electronic Cigarettes] for recent reviews to conclude that health care professionals and public health bodies should encourage smokers who cannot stop smoking using available treatments, or do not want to do so, to switch to [Electronic Cigarettes]”*

*“[Electronic Cigarettes] have a potential to generate substantial public health benefits and that discouraging smokers from using them and regulating [Electronic Cigarettes] as severely as cigarettes, or even more severely, is detrimental to public health.”*

*“Nicotine use, of course, can have negative consequences even if it does not affect physical health. A proportion of users become dependent. However, compared with disease and death caused by combustible non-nicotine chemicals in tobacco smoke, this is a minor consideration. Worries about nicotine use stripped of the health risks of smoking are on par with worries about drinking coffee.”*

**VAPESTake:** This is a powerful article looking at not only the science of vaping, but equally – if not more importantly - the public policy and political elements of the debate, pointing out that the resistance to vaping is clearly centered on ideological and moralistic elements, and not on individual or public health considerations, which overwhelmingly support vaping.

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**Title:** 4. Daily E-Cigarette Users Had Highest Rates of Quitting Smoking

**Source:** Columbia University Mailman School of Public Health

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9i0N0cMk1uw1w8Loo?e=zb1hbe>

**Quoted:** *“Among U.S. adults who were established smokers in the past five years, those who use e-cigarettes daily were significantly more likely to have quit cigarettes compared to those who have never tried e-cigarettes.”*

**VAPESTake:** Vapers were almost twice as successful as non-vapers in their efforts to quit smoking. The superior success of vaping as the cessation solution of choice is consistent across numerous studies, as is the success of vapers to not relapse \*IF\* they keep vaping. This puts nicotine vaping more in line with other medical treatments – diabetes, cholesterol, blood pressure, etc – that have proven successful in adding many high-quality years to a person’s life.

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**Title:** 5. Tobacco Harm Reduction 101

**Source:** Heartland Institute

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9i0bErCLHN-CP7uFa?e=vy14kS>

**Quoted:** *Research overwhelmingly shows the smoke created by the burning of tobacco, rather than the nicotine, produces the harmful chemicals found in combustible cigarettes.”*

*“There is no significant scientific evidence connecting major health problems with the use of nicotine alone. However, because nicotine enters the body along with many harmful chemicals while smoking combustible cigarettes, many erroneously believe that it is the nicotine in cigarettes that causes hazardous health conditions such as cancer.”*

*“Because e-cigarettes and vaping devices do not contain many of the harmful ingredients included in tobacco products, their widespread use as a replacement for tobacco would provide substantial public health benefits and reduce state and federal health care spending.” [\$48 billion in 2012]*

*“The Yale [University Study] also found the greater the access to e-cigarettes, the greater the drop in the state’s smoking rate.”*

**VAPESTake:** A ‘should read’, balanced, and more comprehensive analysis of THR [Tobacco Harm Reduction] and several of its various elements: concept; science; statistics; economics; policy. Assembled explicitly for ‘Policymakers’ with a focus on the public policy benefits of vaping, the publication frames many of the arguments and directly addresses many common vaping ‘myths’.

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**Title:** 6. The Impact of Electronic Cigarettes on Cigarette Smoking

**Source:** Progressive Policy Institute

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9i1IWQxBWRh79BsU5?e=nA1HFo>

**Quoted:** *“Most of the empirical evidence appears to support the view that e-cigarette use reduces the incidence of regular cigarette smoking.”*

*“Statistical analysis of the changes in smoking rates and e-cigarette use by age, gender, race and ethnicity suggests that about 70 percent of the increased decline in cigarette smoking from 2013 to 2017 was associated with the rising use of e-cigarettes.”*

*“Among adolescents, the association between declining smoking rates and rising e-cigarette use was even stronger than among adults.”*

*“Statistical analysis and numerous studies establish that e-cigarettes are an effective tool to help people stop smoking or avoid starting to smoke cigarettes.”*

*“Across both age cohorts, the net health-associated lifetime gains from starting to use e-cigarettes in 2017 instead of smoking cigarettes exceed \$2.5 trillion.”*

*“Over the ten years from 2017 to 2027, therefore, we estimate that the use of e-cigarettes from 2017 to 2027 by these 3,844,841 people who otherwise would have been cigarette smokers will increase their collective productivity by \$43.96 billion.”*

**VAPESTake:** As with the Heartland Institute publication, this Progressive Policy Institute publication is targeted toward policymakers, looking at not only public health implications, but public economics as well. An interesting twist to their analysis is that the health care costs actually increase for vapers... because they live so much longer! However, their productivity and quality of life over these extended years more than makes up for this cost.

**Title:** 7. Public Health Consequences of E-Cigarettes

**Source:** National Academies

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9iyPEwQg4NCTWMkOI?e=7QhfwP>

**Quoted:** *Although e-cigarettes are not without risk, compared to combustible tobacco cigarettes they contain fewer toxicants; can deliver nicotine in a similar manner; show significantly less biological activity in most, but not all, in vitro, animal, and human systems; and might be useful as a cessation aid in smokers who use e-cigarettes exclusively.*

**VAPESTake:** The full version of this document is 750 pages long. Nonetheless, as a ‘review of the literature’, it reveals major flaws in the existing literature. One notable example is the ‘substantial evidence’ finding that e-cigarette use increases the use of combustible cigarettes, which is in direct conflict with just about every study out [see immediately preceding] that reveals vaping use to have skyrocketed, especially among youth, but also finds combustible tobacco use continuing to decline; a statistical impossibility.

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**Title:** 8. Electronic Cigarette Use and Cigarette Abstinence Over 2 Years

**Source:** Nicotine & Tobacco Research - Oxford Academic

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9i03uyRcgw5ShEAMR?e=nMwL2G>

**Quoted:** *“In this nationally representative longitudinal cohort study of US adult cigarette smokers, daily e-cigarette use, compared to no e-cigarette use, was associated with a 77% increased odds of prolonged cigarette smoking abstinence over the subsequent 2 years. Regular use of e-cigarettes may help some smokers to stop smoking combustible cigarettes.*

**VAPESTake:** Unlike many other studies that study much shorter periods, this one followed smokers for a full 2 years, finding that vaping not only helped them break the cigarette habit, but continued daily vaping kept them from going back to cigarettes.

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**Title:** 9. Adults Who Vape Are More Likely To Quit Cigarettes

**Source:** CNN

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9iz5jyMW6LTc8eYrq?e=tYz3ks>

**Quoted:** *The study, published in the medical journal JAMA Internal Medicine, tracked more than 5,000 daily smokers for an average of two years in France. It found that smokers who vaped used fewer cigarettes per day and were more than one and a half times as likely to quit completely.*

**VAPESTake:** This long-term study found a higher incidence of relapse with former smokers using electronic cigarettes than those who did not, but noticed lower relapse rates with newer more modern vaping equipment, as opposed to earlier generation equipment.

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**Title:** 10. Electronic Cigarette Use and Cigarette Abstinence Over 2 Years

**Source:** Nicotine & Tobacco Research

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9i1twCyOwmCgCx5ci?e=NjVsXc>

**Quoted:** *“In this nationally representative longitudinal cohort study of US adult cigarette smokers, daily e-cigarette use, compared to no e-cigarette use, was associated with a 77% increased odds of prolonged cigarette smoking abstinence over the subsequent 2 years. Regular use of e-cigarettes may help some smokers to stop smoking combustible cigarettes.”*

*“Although e-cigarettes expose users to nicotine, they do not burn tobacco. Consequently, they expose users to fewer and lower levels of the many other chemicals found in tobacco smoke. It is these combustion products, rather than nicotine, that are the primary source of smoking-related morbidity and mortality. National evidence reviews from England and the United States have concluded that although e-cigarette use is not harmless, cigarette smokers who switch to e-cigarettes will likely reduce their smoking-attributable health risks.”*

*“E-cigarettes therefore have the potential for substantial public health benefit if cigarette smokers, especially those who are unwilling or unable to quit using current treatments, switch to e-cigarettes and stop smoking combustible cigarettes.”*

**VAPESTake:** This high-quality, multi-year Wave 3 PATH analysis from Mass General & Harvard Medical School, found a clear and unambiguous association between frequent [daily] vaping, and users successfully abstaining from cigarettes.

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**Title:** 11. Adult Smoking Cessation – The Use of E-Cigarettes

**Source:** U.S. Surgeon General

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9izy9RGIPFSZob6a3?e=8VwTgk>

*Quoted:* “Research is uncertain on whether e-cigarettes, in general, increase smoking cessation.”

*“Some research suggests that using e-cigarettes containing nicotine is associated with greater smoking cessation than using e-cigarettes that don’t contain nicotine, and more frequent use of e-cigarettes is associated with greater smoking cessation than less frequent use.”*

*“The FDA has not approved e-cigarettes as a quit smoking aid, and more research is needed on whether e-cigarettes are effective for quitting smoking and to better understand the health effects of e-cigarettes.”*

**VAPESTake:** An interesting, yet consistent double-standard position from the U.S. Government. Despite hundreds of studies indicating a clear association between vaping and successful smoking abstinence, [cessation] even using verified government data [ie: multi-wave PATH data analyzed in the Mass Gen/Harvard study above], and the undeniable empirical evidence of tens of millions of vapers who have either quit completely, or have significantly reduced their cigarette consumption, [the acknowledged ‘explosion’ of vaping], Government reports such as this one from the Surgeon General repeat the need for ‘more research’, and focus on the ‘uncertainty’ of vaping as a cessation tool, while the FDA and other bodies are actively trying to severely limit vaping options and availability, reducing or completely eliminating the opportunity to conduct the very ‘research’ they say is needed. At the same time, while cautioning against the use of vaping - that has not been linked to a single death worldwide since being introduced more than 14 year ago<sup>2</sup> – because it is not yet approved by the FDA, they continue to actively promote the use of dangerous drugs such as Chantix – that has been ‘approved’ by the FDA – even while being linked to thousands of suicides and hundreds of deaths. Ironically, risk and harm to the public health is not a criteria for approval...

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**Title:** 12. Relationship of E-Cigarette Use to Cigarette Quit Attempts and Cessation

**Source:** Journal of Nicotine & Tobacco Research

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9izCT52kEwJdnNO-x?e=osB42W>

**Quoted:** *“Previous studies have obtained mixed results regarding the relationship of e-cigarette use to cigarette smoking cessation. This study provides a more precise methodology for considering the relationship of e-cigarette use to quit attempts and to quit success, and finds that quit attempts and quit success increase with the number of days use in the past month.”*

**VAPESTake:** Yet another study demonstrating that consistent vaping is among the most reliable indicators of smoking quit success.

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<sup>2</sup> No directly associated deaths. Does not take into account indirect events such as auto accidents, or the EVALI deaths caused by illegal THC street drugs inappropriately used in counterfeit cartridges, and falsely attributed to ‘vaping’.

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**Title:** 13. Association of prevalence of electronic cigarette use with smoking cessation  
**Source:** Journal of Addiction  
**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9izVw6zvtgEEem9Tq?e=NpOfKm>  
**Quoted:** *“The increase in prevalence of e-cigarette use by smokers in England has been positively associated with an increase in success rates of quit attempts and overall quit rates”*  
**VAPESTake:** Yet another study demonstrating that consistent vaping is among the most reliable indicators of smoking quit success.

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**Title:** 14. A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy  
**Source:** New England Journal Of Medicine  
**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9iynmtD2XC--PPh1s?e=zLrAAb>  
**Quoted:** *E-cigarettes were more effective for smoking cessation than nicotine-replacement therapy, when both products were accompanied by behavioral support.*  
**VAPESTake:** Consistent with so many other similar studies, the e-cigarette group sustained 1-year cigarette abstinence at a rate almost twice the success of other NRTs [Nicotine Replacement Therapies] 18.0% v 9.9%.

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**Title:** 15. Characteristics, Perceived Side Effects and Benefits of Electronic Cigarette Use  
**Source:** International Journal of Environmental Research and Public Health  
**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9i2DukxCCrWzLs7u8?e=CyDXQr>  
**Quoted:** *“The results of this worldwide survey of dedicated users indicate that ECs are mostly used to avoid the harm associated with smoking. They can be effective even in highly-dependent smokers and are used as long-term substitutes for smoking.”*  
*“Complete substitution of smoking was reported by 81.0% of participants (former smokers) while current smokers had reduced smoking consumption from 20 to 4 cigarettes per day.”*  
*“The most important reasons for initiating EC use for both subgroups [complete cessation and reduction] was to reduce the harm associated with smoking and to reduce exposure of family members to second-hand smoking.”*  
**VAPESTake:** One of the largest surveys of vapers ever studied, involving 19,414 participants. All but 0.5% were FORMER smokers who were now vaping instead of smoking. It is notable that beyond the raw numbers [81% had achieved complete smoking cessation] the primary motivation was harm reduction, not only to self, but to family members. [‘Second-hand vapor’ carries less than 1% of the danger of second-hand smoke.]

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**Title:** 16. Effectiveness of the Electronic Cigarette  
**Source:** International Journal of Environmental Research and Public Health  
**URL:** [https://1drv.ms/b/s!AtF91jqW2Ne9i2HNx0qqa\\_gEz3qU?e=vQ7k7Y](https://1drv.ms/b/s!AtF91jqW2Ne9i2HNx0qqa_gEz3qU?e=vQ7k7Y)  
**Quoted:** *“In a series of controlled lab sessions with e-cig naïve tobacco smokers, second generation e-cigs were shown to be immediately and highly effective in reducing abstinence induced cigarette craving and withdrawal symptoms, while not resulting in increases in eCO. Remarkable (>50 pc) eight-month reductions in, or complete abstinence from tobacco smoking was achieved with the e-cig in almost half (44%) of the participants.”*

**VAPESTake:** This tightly controlled RTC study was looking not only at cessation results, but at cravings and withdrawal effects of the participants. The participants were from a pool of smokers who were not willing – or able – to stop smoking using other cessation techniques. The results revealed an overall reduction in cigarettes of 60% and a total abstinence rate of 21%. Cigarette cravings were sharply reduced or completely eliminated, and withdrawal symptoms were minimal.

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**Title:** 17. E-cigarettes Comparing the Possible Risks of Increasing Smoking Initiation with the Potential Benefits of Increasing Smoking Cessation

**Source:** Nicotine & Tobacco Research

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9iz2mWFA1STVRYkXn?e=lrOIxB>

**Quoted:** *“Our analysis strongly suggests that the upside health benefit associated with e-cigarettes, in terms of their potential to increase adult smoking cessation, exceeds their downside risk to health as a result of their possibly increasing the number of youthful smoking initiators. Public messaging and policy should continue to strive to reduce young people’s exposure to all nicotine and tobacco products. But, they should not do so at the expense of limiting such products’ potential to help adult smokers to quit.”*

**VAPESTake:** This is yet another long-term cost-benefit analysis at the population level that recognizes the risk of youth initiation, but finds the benefits to society of adult smoking cessation are significantly greater.

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**Title:** 18. E-Cigarettes More Effective Than Counseling Alone for Smoking Cessation

**Source:** American College of Cardiology

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9izij9Ac4f6Q6gJ4d?e=PfoXZh>

**Quoted:** *“Smokers who received smoking cessation counseling and used electronic cigarettes (e-cigarettes) containing nicotine were more than twice as likely to successfully quit smoking compared to those who received counseling but did not use e-cigarettes”*

**VAPESTake:** This study is consistent with just about every smoking cessation [any addiction] program, finding significant – if not dramatic - benefits are derived when combined with counseling. While not in this study, it should be noted that vape shops provide a remarkable level of ‘counseling’<sup>3</sup> at a level that is difficult, if not impossible to obtain anywhere else. This is because most specialized vape shop employees are not only highly knowledgeable about their product, and therefore, can best assure the product is appropriate and understood, but the vast majority are also FORMER smokers who have successfully transitioned to the demonstrably safer disruptive technology they are offering – they are trusted peers.

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**Title:** 19. Prevalence of population smoking cessation by electronic cigarette

**Source:** Journal Of Addictive Behaviors

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9iyoEe11aThK-Nkc8?e=f1t8Xa>

**Quoted:** *“Over half of daily e-cig users in the sample quit smoking in the last 5 years.”*

*“Daily e-cig users were 3 times more likely to be quit than never e-cig users.”*

**VAPESTake:** This is yet another study of ‘former smokers’ [people who successfully quit] and an analysis of how they achieved abstinence. The results found that daily vaping was the highest correlate.

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<sup>3</sup> There is no professional designation as ‘vaping counselor’, and all such communication is informal and considered ‘opinion’, rather than professional advice. However, peer counseling / support is universally known to be highly trusted and valuable, especially in the area of addiction, hence the success of Alcoholics Anonymous, Narcotics Anonymous, etc.

**Title:** 20. Quit and Smoking Reduction Rates in Vape Shop Consumers  
**Source:** International Journal of Environmental Research and Public Health  
**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9iytPNXwYwmeMyn1S?e=5cc1Mr>  
**Quoted:** *“We have found that smokers purchasing e-cigarettes from vape shops with professional advice and support can achieve high success rates.”*  
**VAPESTake:** This is yet another study looking at the role of vape shops – and their employees – in the successful reduction or complete cessation of combustible cigarettes by customers. Although vape shop employees are frequently highly trained ‘professionals’, there is no standard in the industry. [see footnote #3] Nonetheless, the study found a ‘quit rate’ in excess of 40% by users who took advantage of the expertise found in specialized vape shops.

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**Title:** 21. Effectiveness of Electronic Aids for Smoking Cessation  
**Source:** Current Cardiovascular Risk Reports  
**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9iyVZBsG0G02cQ4sI?e=HPdinz>  
**Quoted:** *“Preliminary evidence suggests that e-cigarettes are likely much safer than regular cigarettes and are helpful to some smokers as a means of reducing or quitting smoking.”*  
**VAPESTake:** This study points out that electronic cigarettes [and mobile health intervention] should be [correctly] looked at as ‘alternative’ or ‘additional’ approaches to reducing tobacco-related morbidity and mortality, that have the [proven] potential to reach smokers who have not – or would not – utilize ‘traditional’ solutions or services, or for those for whom such ‘solutions’ failed to work. In the field of tobacco harm reduction, there is no one ‘right’ way, other than the solution that is successful.

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**Title:** 22. E-cigarette use and associated changes in population smoking cessation  
**Source:** British Medical Journal  
**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9izRXJXZFI2BJF4f9?e=ow4zH0>  
**Quoted:** *“The substantial increase in e-cigarette use among US adult smokers was associated with a statistically significant increase in the smoking cessation rate at the population level.”*  
*“E-cigarettes appear to have helped to increase smoking cessation at the population level”*  
**VAPESTake:** This is yet another study – this one in the U.S. -- that finds with very high confidence [and consistent with almost every other similar study] that there is a statistically significant correlation between the increase in the number of smokers who try vaping to help them quit, and their success. More vapers results in fewer smokers. This is about as simple as it gets.

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**Title:** 23. Association Between Electronic Cigarette Use and Smoking Reduction in France  
**Source:** Journal of the American Medical Association – Internal Medicine  
**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9izbuQSDjzGfrJzQ3?e=7Gk08U>  
**Quoted:** *“This study’s findings suggest that among adult smokers, EC use appears to be associated with a decrease in smoking level and an increase in smoking cessation attempts”*  
**VAPESTake:** This is yet another study – this one in France – that demonstrated the use of vaping as a smoking cessation tool was associated with a significant decrease in the number of cigarettes smoked, and a higher smoking cessation outcome, than was realized by participants that did not use vaping. More vaping equals less smoking. This is about as simple as it gets.

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**Title:** 24. Adherence among Pregnant Women - Trial of E-Cigarettes for Smoking Cessation  
**Source:** International Journal of Environmental Research and Public Health  
**URL:** [https://1drv.ms/b/s!AtF91jqW2Ne9iy\\_LpvNItE3HN-S?e=HEv67l](https://1drv.ms/b/s!AtF91jqW2Ne9iy_LpvNItE3HN-S?e=HEv67l)  
**Quoted:** *“Pregnant smokers provided with e- cigarettes, and with generally high levels of vaping, had positive beliefs about the necessity of vaping for smoking cessation which outweighed concerns about vaping.”*  
**VAPESTake:** This study demonstrates that concerns for the safety of and health benefits for others [fetus internally and family/existing children affected by second-hand smoke] were strong motivating factors for women toward giving up or reducing cigarette smoking while pregnant, believing [quite correctly] that vaping is magnitudes safer than smoking at every metric. The significance of this goes far beyond this study. Minimizing -- or worse yet, falsifying – the actual benefits of vaping has the dangerous affect of reducing trust – and use – of safer solutions. The end result for many – if not most – smokers who might have considered vaping, is that they continue to smoke, which is unequivocally the worst possible outcome.

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**Title:** 25. Changing Perceptions of Harm of e-Cigarette vs Cigarette  
**Source:** Journal of the American Medical Association - Network  
**URL:** [https://1drv.ms/b/s!AtF91jqW2Ne9izoKzLc\\_TLXLnl77?e=3LYwtl](https://1drv.ms/b/s!AtF91jqW2Ne9izoKzLc_TLXLnl77?e=3LYwtl)  
**Quoted:** *“The proportion of US adults who perceived e-cigarettes to be as harmful as or more harmful than cigarettes increased substantially from 2012 to 2017. The findings of this study underscore the urgent need to accurately communicate the risks of e-cigarettes to the public, which should clearly differentiate the absolute from the relative harms of e-cigarettes.”*  
**VAPESTake:** This study highlights a dangerous – and deadly – trend in the U.S. to ignore, minimize, or falsely refute the scientifically proven benefits of vaping, while simultaneously, and intentionally, spreading misinformation and fear, concerning the ‘risks’ of vaping, and exaggerating the dangers. Examples include statements that vaping may actually be more dangerous than smoking combustible cigarettes, that smokers would be better off continuing to smoke until more is known about vaping, and even suggesting that vaping will cause worms to crawl under the skin, and parasites to eat out the brains of teenagers. <https://www.youtube.com/watch?v=zYuyS1Oq8gY>  
Grossly untruthful scare tactics used to misinform the public are never good – or acceptable – but such efforts are being deployed and coordinated at the highest levels of government, and with increasing success, resulting in perceptions that are significantly out of line with the science and facts – but on fear.

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**Title:** 26. The Renormalization of Smoking - E-Cigarettes and the Tobacco Endgame  
**Source:** New England Journal of Medicine  
**URL:** [https://1drv.ms/b/s!AtF91jqW2Ne9iybylui6h\\_-OP9R6?e=tBqFzw](https://1drv.ms/b/s!AtF91jqW2Ne9iybylui6h_-OP9R6?e=tBqFzw)  
**Quoted:** *“Some studies suggest that the majority of e-cigarette users treat them as cessation aides and report that they’ve been key to quitting smoking.”*  
*“The most vocal supporters of e-cigarettes, other than those with commercial interests in them, have been public health professionals who’ve embraced the strategy of harm reduction — an approach to risky behavior that prioritizes minimizing damage rather than eliminating the behavior.”*  
*“We may not be able to rid the public sphere of “vaping,” but given the magnitude of tobacco-related deaths — some 6 million globally every year and 400,000 in the United States, disproportionately among people at the lower end of the socioeconomic spectrum — an unwillingness to consider e-cigarette use until all risks or uncertainties are eliminated strays dangerously close to dogmatism.”*



**VAPESTake:** This well-thought-out perspective piece from no other than the preeminent New England Journal Of Medicine, frames the current debate well. If the ‘Endgame’ of the tobacco-control advocates is nothing short of total, puritanical, abstinence - if not outright abolition - of nicotine, then vaping represents an existential threat to their movement, because nearly all the real ‘dangers’ from nicotine addiction that come from combustible cigarettes – that are the legitimate fear generators - have been eliminated. Vaping is so much safer – by magnitudes [scientifically estimated to represent less than 1/20th of the harm of combustible cigarettes, down to as little as 1/100th or less] that tobacco abolitionists fear it will simply replace smoking. Ironically, this is exactly what ‘Harm Reduction’ public health advocates are fighting for; you quickly eliminate 95%-99% of the ‘harm’ from smoking, so you can then focus time and resources on the underlying issues of the underlying addiction. As the article rightfully points out, all we have to do is look back to the prohibitionist ‘War on Alcohol’ and the ‘War on Drugs’ for guidance related to their effectiveness and outcomes.

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**Title:** 27. Online Vape Shop Customers Who Use E-Cigarettes Report Abstinence from Smoking

**Source:** International Journal of Environmental Research and Public Health

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9iy4aUJCgUMvWWhIA?e=jdwu4e>

**Quoted:** *“Nevertheless, the recurrently reported earlier unsuccessful smoking cessation attempts, using different aids such as NRT, and the overall agreement that vaping helps with quitting or reducing smoking in substantial proportions of respondents suffice to make the case that e-cig-based tobacco harm reduction (THR)—encouraging the substitution of low-risk alternatives—may provide a viable alternative for (at least some) smokers who cannot or do not want to cease all tobacco and/or nicotine consumption.”*

**VAPESTake:** In what should now be a recognizable recurring theme, vaping is a remarkably successful smoking cessation solution for a substantial pool of smokers [tens of millions] who have been either unable or unwilling to quit using other solutions, but have found success with vaping. Harm Reduction advocates are universal in their unwavering position that doing something that is ‘less harmful’ than an alternative, [vaping nicotine instead of smoking it] is a wise choice that should not only be allowed, but encouraged, not only at the individual level, but at the highest levels of public health policy.

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**Title:** 28. What Are The Reasons That Smokers Reject ENDS?

**Source:** Journal of Drug and Alcohol Dependence

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9i0EaEQjykJEnjVDhr?e=scbx9J>

**Quoted:** *“Whereas smokers who had formerly used ENDS cited inadequate craving reduction or incomparability to smoking for their discontinuation, the larger segment of smokers who have never used ENDS cited "safety," "effectiveness," and "costs" as reasons for non-use.”*

**VAPESTake:** While every major health organization [WHO, CDC, FDA, American Lung, American Heart, American Cancer, etc] has come to the [sometimes reluctant] conclusion that vaping is less harmful, less dangerous, and less deadly than cigarette smoking, the relentless media focus solely on the ‘dangers’ of vaping, and the ‘risk’ to youth are drowning out the clear, factual, scientific, and evidence-based position that vaping is a vastly superior ‘bad habit’ that would save millions of lives, and trillions of dollar, if only pursued with the same vigor and passion and resources as the efforts to destroy this positive message are getting.

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**Title:** 29. Vape Shops As Cessation Counselors

**Source:** International Journal of Environmental Research and Public Health

**URL:** <https://1drv.ms/b/s!AtF91jqW2Ne9iyeTUpOGtX7SQYej?e=XlKn4f>

**Quoted:** *“Specialist electronic cigarette (e-cigarette) shops, known as vape shops, provide access to a less harmful alternative to smoking. This study aimed to understand customers’ experiences of vaping and vape shops, and the extent to which smoking cessation advice is and should be provided in these shops.”*

*“I Felt Welcomed in Like They’re a Little Family in There, I Felt Like I Was Joining a Team or Something”*

*“Vape shops have the potential to play an important role in tobacco harm reduction, which could be increased if their service model were to extend to help smokers to quit.”*

**VAPESTake:** ‘Success’ should be measured by its level of success. Specialty vape shops were predominantly opened by former smokers who successfully transitioned from smoking cigarettes, to vaping. Specialty vape shops almost exclusively hire vapers who understand and can recount their own successful journey from cigarettes to vaping. The undeniably simple truth that tens of millions of smokers have successfully reduced or completely stopped smoking through vaping, is in itself a success story that should be celebrated, but this success was only made possible as the result of thousands of successful, small business, neighborhood corner, friendly Mom-N-Pop, family-owned, smoking-cessation centers... that are not even allowed to claim they help people quit smoking because Big Government – and Big Tobacco – and Big Pharma – are terrified of their success.

Shutting down and destroying the most successful smoking cessation system ever designed, would not be a ‘success’ under any definition.

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### **Closing Remarks From The Vaping Awareness Public Education Society**

The human consumption of nicotine from the tobacco plant dates back to 5000 BC, and is not likely to be abolished this year... or decade... or century.

Notwithstanding, smoking tobacco cigarettes remains the most deadly, debilitating, and costly habit known to mankind; nothing even comes close.

ANYTHING that can be done to reduce or break cigarette smoking habit represents an unparalleled and irrefutable benefit to society.

ANY efforts to discourage or restrict a healthier, safer alternative to smoking [anything!!] is poor – irresponsible – public health policy.

Legislation should be crafted to minimize youth adoption, but NOT at the expense of harming the prospects for existing smokers to break the cigarette smoking habit.

Accelerated adoption and open encouragement of vaping as a proven reduced-harm alternative to smoking would almost certainly save millions of lives, and billions of dollars every year, based on facts, data, and empirical evidence already before any open-minded person willing to do nothing more than look at the data.

Fear-based abolitionist and prohibitionist policies, in contrast - especially if such efforts successfully destroy the vaping industry, as is openly advocated for by many - will result in the needless death of tens of millions of people, and with a net cost to society of multiple trillions of dollars. This too, is supported by empirical facts.

Vaping Saves Lives

Legislate wisely based on FACT – NOT FEAR!

*If Daddy is an alcoholic, the victory is getting Daddy sober, not letting Daddy die, so the prohibitionist orphanage can celebrate the arrival of their newest child teetotaler...*

# **MVA SB987 Opposition.pdf**

Uploaded by: Tyler Bennett

Position: UNF

## Maryland Vapor Alliance

### Opposition to SB987

On behalf of the Maryland Vapor Alliance (MVA), who represents small business vape shops across the state of Maryland, we oppose SB987.

Per the CDC's most recent research report, Maryland has the second lowest cigarette use in the United States. This is a result of safer harm reduction options available and the vape shops that help keep these customers off combustible cigarettes. This bill completely turns the clock back and plays right into the big tobacco initiatives.

If this bill is passed in its current form, just twenty closed-system big tobacco products will remain on the shelf, and all other products will be illegal. These products are high nicotine items, only available in tobacco and menthol flavors.

Customers who use open system vape products and are on lower milligrams of nicotine such as 3mg or 6mg would have the following options:

- They can convert to one of the big tobacco conglomerate's high nicotine products at 50mg+
- They can go back to smoking cigarettes.
- They can find their products on the black market or go to another state.

This bill is a win for big tobacco, who have their lobbyists pushing this bill across multiple states.

Data continues to show that small business vape shops in Maryland have a clean record in terms of underage compliance checks. This legislation would ensure that those responsible retailers would close their doors, leaving only high nicotine products sold by big tobacco companies on shelves elsewhere.

Recently in January, the U.S. 5<sup>th</sup> Circuit Court ruled against the FDA regarding their pre-market tobacco application (PMTA) process. Small business vape shops and manufacturers filed this suit after having their PMTA denied by the FDA and were awarded an injunction before the ruling came out a few weeks ago. The circuit court found the PMTA process to be "fatally flawed," "arbitrary and capricious," and "sent manufactures of flavored e-cigarettes on a wild goose chase." The FDA will now potentially have to revamp its entire process and re-review the

thousands of applications that they unfairly denied. This followed another ruling against the FDA from the U.S. 11<sup>th</sup> Circuit Court along similar circumstances. Additionally, there are a number of other cases currently making their way through the federal court system, and ultimately the issue may end up in the U.S. Supreme Court.

In conclusion, this legislation stands to only benefit the three Big Tobacco companies whose high nicotine products would remain on the shelves in Maryland.

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