

**PGCEX\_FAV\_SB410**

Uploaded by: Alsobrooks, Angela

Position: FAV



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

## OFFICE OF THE COUNTY EXECUTIVE

**BILL:** Senate Bill 410 – Electronic Smoking Devices – Flavor Prohibition

**SPONSOR:** Senators Kramer, Rosapepe, and West

**HEARING DATE:** February 13, 2020

**COMMITTEE:** Finance

**CONTACT:** Intergovernmental Affairs Office, 301-780-8411

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**POSITION:** SUPPORT

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The Office of the Prince George's County Executive **SUPPORTS Senate Bill 410 – Electronic Smoking Devices – Flavor Prohibition**, which bans flavored vape products.

There has been significant reductions in youth smoking with the help of legislation like Maryland's Clean Indoor Air Act of 2007 and the Federal Family Smoking Prevention and Tobacco Control Act of 2009. However, today we have a new problem. Maryland's young people are using flavored vape and tobacco products at alarming rates. In Prince George's County, one in three high school students and one in four middle school students have tried an electronic vapor product.<sup>1</sup> Ninety percent of youth who have tried vaping used a product with flavoring other than tobacco.<sup>2</sup>

The brain is not fully developed until age 25.<sup>3</sup> Nicotine has a devastating effect on the adolescent brain and may result in slowed brain function, increased addiction, and emotional and psychiatric difficulties.<sup>4</sup> There is substantial evidence that youth vaping increases the risk of using traditional cigarettes.<sup>5</sup>

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<sup>1</sup> Information pulled from the October 2019 Prince George's County Health Department Vaping factsheet. Data source is the 2016 Maryland Youth Risk Behavior Survey (YRBS)

<sup>2</sup> Information pulled from the October 2019 Prince George's County Health Department Vaping factsheet. Data source is the 2016 Maryland Youth Risk Behavior Survey (YRBS)

<sup>3</sup> <https://www.yalemedicine.org/stories/vaping-nicotine-addiction/>

<sup>4</sup> Goriounova NA, Mansvellder HD. Nicotine exposure during adolescence alters the rules for prefrontal cortical synaptic plasticity during adulthood. *Front Synaptic Neurosci.* 2012;4:3. Published 2012 Aug 2. doi:10.3389/fnsyn.2012.00003

<sup>5</sup> American Lung Association, <https://www.lung.org/stop-smoking/smoking-facts/e-cigarettes-and-lung-health.html>

The impact of nicotine is well-documented, but vaping products also include chemicals like flavorings, propellants, solvents, and oils.<sup>6</sup> The long-term health impact of inhaling these chemicals is unknown. The Centers for Disease Control and Prevention (CDC) is currently investigating over 1,600 cases of people nationwide – as young as 13 years old – with severe vaping-related lung illnesses and injuries, dozens of patients have died.<sup>7</sup> Banning flavored vaping products will deter young people from trying vaping.

For the reasons stated above, the Office of the Prince George’s County Executive **SUPPORTS Senate Bill 410** and asks for a **FAVORABLE** report.

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<sup>6</sup> Pulled directly from the October 2019 Prince George’s County Health Department Vaping factsheet. Information source is the Centers for Disease Control and Prevention (CDC).

<sup>7</sup> Pulled directly from the October 2019 Prince George’s County Health Department Vaping factsheet. Information source is the Centers for Disease Control and Prevention (CDC).

# **BaltimoreCounty\_FAV\_SB0410**

Uploaded by: Byrne, Julia

Position: FAV



JOHN A. OLSZEWSKI, JR.  
*County Executive*

CHARLES R. CONNER III, ESQ.  
*Chief Legislative Officer*

KIMBERLY S. ROUTSON  
*Deputy Legislative Officer*

JOEL N. BELLER  
*Assistant Legislative Officer*

**BILL NO.:** SB 410

**TITLE:** Electronic Smoking Devices – Flavor Prohibition

**SPONSOR:** Senator Kramer

**COMMITTEE:** Finance

**POSITION:** **SUPPORT**

**DATE:** February 13, 2020

Baltimore County **SUPPORTS** Senate Bill 410 – Electronic Smoking Devices – Flavor Prohibition. This proposed legislation would prohibit the sale of an electronic smoking device (ESD) that contains a natural or artificial flavor other than tobacco. Violators would be charged with a misdemeanor and be subject to a \$1,000 fine, up to 30 days of imprisonment, or both.

Tobacco product among young people has skyrocketed in recent years, and ESDs are the most commonly used tobacco products among high school students. One of the reasons that ESDs have become so popular is the flavors made available – options like mint, berry, and crème. In addition to making the product taste better, the flavors obscure how dangerous the product is – more than 60% of teens believe that ESDs are not as dangerous as other tobacco products. In addition to addiction, nicotine causes permanent damage to the developing brain, and chemicals in ESDs can have a long-term impact on the lungs.

One of Baltimore County’s top policy objectives is to reduce the use of ESDs among young people. Removing the temptation of addictive flavors will limit the power of the tobacco market to attract young customers, and having a penalty in place for violations of the ban will reduce the likelihood of illegal sales.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 410. For more information, please contact Chuck Conner, Chief Legislative Officer, at 443-900-6582.

# **MDDCSAM\_FAV\_SB 410**

Uploaded by: Ciekot, Ann

Position: FAV

Testimony IN SUPPORT of SB 410 - Electronic Smoking Devices - Flavor Prohibition

Senate Finance Committee 2-13-2020

Nishant Shah, MD, MPH

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

I am writing to support SB 410 to prohibit the sale of flavored tobacco and vaping products in the State of Maryland. Maryland will be joining 8 other states that have already banned flavored e-cigarette, and will lead the nation in banning all flavored nicotine products, including menthol flavored cigarettes. Federal law banned the majority of flavored cigarettes in 2009, and many cities and counties have banned all flavored tobacco products, similar to the proposed legislation.

Flavored tobacco products have been historically used to entice youth and non-smokers to try tobacco products. Flavored vaping products have followed a similar form of enticement, especially for youth smokers. In the State of Maryland, 13% of high school students have used a vaping product<sup>1</sup>. Vaping products marketed as “juice pods” and in flavors titled “Pineapple Crush, Bubble Gum, and Mango” are products intentionally designed to target youth. In addition to flavored products, youth are targeted through promotional advertising in store windows, sports event sponsorship, and social media marketing campaigns.

In addition, vaping products deliver more concentrated amounts of nicotine to youth in higher volumes. As a result, youth are at higher risk of developing dependence on nicotine. Nicotine dependence with e-cigarettes is associated with a higher rate of cigarette smoking in the future<sup>2</sup>.

Youth smoking is the strongest predictor of adult smoking; nearly 90% of adult smokers started smoking before the age of 18<sup>3</sup>. It is therefore essential to limit youth exposure to nicotine products if we are going to reduce the number of adults smoking.

Finally, smoking is the leading cause of preventable death in the United States, contributing to increased rates of cancer, heart attacks, and strokes. Our goal to improve health outcomes for Marylanders is dependent on helping people quit smoking. This bill will limit access to the products that will create the next generation of Maryland smokers. As Health professionals tasked with addressing the needs of individuals with substance use disorders, the Maryland DC Society of Addiction Medicine supports the passage of SB 410.

<sup>1</sup> Source NYTS 2018. Accessed January 28, 2020. <https://www.tobaccofreekids.org/problem/toll-us/maryland>

<sup>2</sup> Barrington-Trimis JL et al. “E-cigarettes and future cigarette use.” *Pediatrics*, July 2016

<sup>3</sup> CDC. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. 2012 and CDC. E-Cigarette use among youth and young adults: A Report of the Surgeon General. 2016

# **NCADD\_FAV\_SB 410**

Uploaded by: Ciekot, Ann

Position: FAV



**Senate Finance Committee**

**February 13, 2020**

**Senate Bill 410**

**Electronic Smoking Devices - Flavor Prohibition**

**Support**

NCADD-Maryland supports Senate Bill 410. NCADD-Maryland has long supported policies that deter young people from smoking tobacco products. The tobacco industry has used sweet flavors and other marketing tools over the years to entice young people to try their products, knowing that the science is clear: The earlier in life one starts smoking, the more likely one will become addicted. Flavored vaping products are just the latest attempt to get kids hooked.

Flavored nicotine products were largely banned by the federal government in 2009 and the results included a marked decrease in the number of young people smoking. Current, it is estimated that in Maryland, 13% of high school students have used a vaping product. Vaping products deliver more concentrated amounts of nicotine in higher volumes, putting our youth at greater risk of developing dependence on nicotine.

When research shows that nearly 90% of adult smokers started smoking before the age of 18, it is an essential public health policy to limit youth exposure to nicotine products.

We urge your support of Senate Bill 410.

*The Maryland Affiliate of the National Council on Alcoholism and Drug Dependence (NCADD-Maryland) is a statewide organization that works to influence public and private policies on addiction, treatment, and recovery, reduce the stigma associated with the disease, and improve the understanding of addictions and the recovery process. We advocate for and with individuals and families who are affected by alcoholism and drug addiction.*

**National Council on Alcoholism & Drug Dependence – Maryland Chapter**  
**28 E. Ostend Street, Suite 303, Baltimore, MD 21230 · 410-625-6482 · fax 410-625-6484**  
**[www.ncaddmaryland.org](http://www.ncaddmaryland.org)**

**Frey\_FAV\_SB 410**

Uploaded by: Frey, Leslie

Position: FAV



# Montgomery County

## Office of Intergovernmental Relations

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ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

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**SB 410**

**DATE: February 13, 2020**

**SPONSOR: Senators Kramer, Rosapepe, and West**

**ASSIGNED TO: Finance**

**CONTACT PERSON: Leslie Frey (leslie.frey@montgomerycountymd.gov)**

**POSITION: SUPPORT (Department of Health and Human Services)**

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### **Electronic Smoking Devices – Flavor Prohibition**

This bill prohibits a person from selling an electronic smoking device (ESD) that contains a natural or artificial flavor other than tobacco. A violation is a misdemeanor subject to maximum penalties of a \$1,000 fine and/or 30 days imprisonment. A violator is also subject to disciplinary action by the Comptroller (effective June 1, 2020, the Alcohol and Tobacco Commission (ATC)), as under existing State law.

There is a Montgomery County local bill that has been introduced that would prohibit the sale of flavored ESDs within one mile of a school, library, park, playground, or recreational facility in the County. Senate Bill 410 would make a local law, such as the one proposed in Montgomery County, unnecessary because it would prohibit the sale of such products Statewide. From a public health policy perspective, this is ideal because more Marylanders would be protected from the harmful health effects of flavored tobacco products; from an enforcement perspective, a Statewide prohibition is also ideal because uniformity of which products are available in each jurisdiction reduces confusion and inefficiencies for license holders.

At the federal level, in 2009 Congress banned the sale of most flavored tobacco products with the notable exceptions of menthol flavored cigarettes and non-cigarette tobacco products such as electronic smoking devices and cigars due to the recognition that flavored tobacco products are more appealing to youth than their non-flavored counterparts.<sup>1</sup> Montgomery County Department of Health and Human Services urges the Committee to acknowledge that banning all flavored tobacco products across the State a necessary step towards curbing nicotine addiction in youth and minorities.

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<sup>1</sup> Huang L-L, Baker HM, Meernik C, Ranney LM, Richardson A, Goldstein AO. Impact of non-menthol flavours in tobacco products on perceptions and use among youth, young adults and adults: a systematic review. Tobacco control. 2016.

**MedChi\_MDCSCO\_MDAAP\_Richard Tabuteau\_FAV\_SB0410**

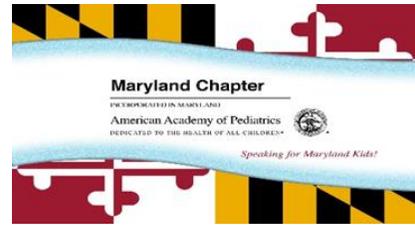
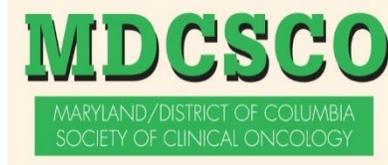
Uploaded by: Tabuteau, Richard

Position: FAV



The Maryland State Medical Society

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TO: The Honorable Delores G. Kelley, Chair  
Members, Senate Finance Committee  
The Honorable Clarence K. Lam  
The Honorable Brian E. Frosh  
The Honorable Benjamin F. Kramer

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

DATE: February 13, 2020

RE: **SUPPORT** – Senate Bill 54 – *Electronic Smoking Devices – Added Flavoring – Prohibition on Shipping, Import, or Sale*

**SUPPORT** – Senate Bill 233 – *Business Regulation – Flavored Tobacco Products – Prohibition*

**SUPPORT** – Senate Bill 410 – *Electronic Smoking Devices – Flavor Prohibition*

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On behalf of the Maryland State Medical Society, the Maryland/District of Columbia Society of Clinical Oncology, and the Maryland Chapter of the American Academy of Pediatrics, we **support** Senate Bill 54, Senate Bill 233, and Senate Bill 410.

Senate Bills 54, 233, and 410 generally prohibit the sale of flavored tobacco into or within the State. Smoking is the leading cause of preventable death in the United States, causing nearly half a million deaths each year, including more than 41,000 deaths caused by secondhand smoke.<sup>1</sup> More than 16 million people live with disease caused by smoking, such as cancer, heart disease, stroke, lung diseases, diabetes and chronic obstructive pulmonary disease.<sup>2</sup> Nicotine can slow brain development in youth, particularly in the areas of impulse control, attention span and the ability to learn. It can also prime the brain for further addiction to other drugs.

Prohibiting flavorings for all products is likely to reduce tobacco use, especially among young people. Candy and fruit flavored products are particularly attractive to young people because sweet or

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<sup>1</sup> Centers for Disease Control and Prevention, Smoking and Tobacco Use: Fast Facts, available at [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/fast\\_facts/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm)

<sup>2</sup> *Id.*

minty flavors are often perceived to be safer though they have the same or worse health effects as other tobacco products. According to findings from the American Society of Clinical Oncology (ASCO)'s third annual National Cancer Opinion Survey, nearly one in four young adults believes the products are harmless and not addictive. The ASCO survey also found that nearly three in 10 young adults think flavored e-cigarettes are less damaging to a person's health than non-flavored ones.

Recently, the Centers for Disease Control and Prevention reported that 27.5 percent of high school students, and 10.5 percent of middle school students report using e-cigarettes in the past month.<sup>3</sup> Among high school students use of mint or menthol flavored e-cigarettes is increasing, from 16 percent in 2016 to 57 percent in 2019.<sup>4</sup> Eighty-one percent of youths who have ever used combustible tobacco products started with a flavored product, and young people cite flavoring as a major reason for their current use of tobacco products.<sup>5</sup> Moreover, menthol cigarettes are disproportionately favored by youth cigarette users: 54 percent of smokers age 12-17 use menthol cigarettes compared with less than one-third of smokers ages 35 and older.<sup>6</sup> Among African American youth, menthol use is even higher: seven out of ten African American youth smokers use mentholated cigarettes.<sup>7</sup>

Passage of Senate Bill 54, Senate Bill 233, and Senate Bill 410 will help prevent young people from becoming smokers and reflects Maryland's historical commitment to reducing tobacco use and the associated health consequences. A favorable report is requested for all three bills.

**For more information call:**

Richard A. Tabuteau  
Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman  
410-244-7000

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<sup>3</sup> Teresa Wang, Andrea Gentzke, MeLisa Creamer, et al., Centers for Disease Control and Prevention, Tobacco Product Use and Associated Factors Among Middle and High School Students – United States, 2019, 68 MMWR Surveillance Summaries 12, 1-22 (Dec. 6, 2019).

<sup>4</sup> Karen Cullen, Andrea Gentzke, Michael Sawdey, et al., *e-Cigarette Use Among Youth in the United States, 2019*, 322 JAMA 21, 2095-2103 (Nov. 2019).

<sup>5</sup> Bridget Ambrose, Hannah Day, Brian Rostron, et al., *Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014*, 314 JAMA 17, 1871-73 (Nov. 2015).

<sup>6</sup> Andrea Villanti, et al., *Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014*, Tobacco Control (Oct. 2016).

<sup>7</sup> *Id.*

**Anthony\_FWA\_SB410**

Uploaded by: Hendrix, Melissa

Position: FWA

**Nick Anthony**  
**2027 Old Home Ave**  
**Pasadena, MD 21122**

Thank you to the chair and committee for letting us speak this afternoon. My name is Nick Anthony and I'm here to support the bill with amendment. As a father, uncle, and youth sports coach I share your concerns with kids using vapor products. However, as a former smoker whose life was saved by flavored vapor products the proposed legislation has me concerned.

If passed in its current form this bill would take away my ability to choose a safer alternative to tobacco.

I smoked two packs of cigarettes a day for 15 years. I had tried the patch, the gum, cold turkey and nothing worked. When I first tried vaping I tried a tobacco flavor and found that it simply reminded me of a cigarette. Once I tried a fruit flavor it became immensely easier to stop traditional cigarettes. Within a month I had completely transitioned to vapes. I've been tobacco free for over 6 years and I feel healthier than I have since I was a kid.

# **Davis\_FWA\_SB410**

Uploaded by: Hendrix, Melissa

Position: FWA

# MEAN STREET VAPOR, LLC

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8A CENTRAL AVE  
GLEN BURNIE, MD 21061  
MEANSTREETVAPOR@GMAIL.COM

FEBRUARY 5TH, 2020

Dear Chairman, and esteemed members of the committee,

My name is Trenton Davis. I am a 29 year old African American who is a former smoker, and current vaper, and I am writing in regards to proposed bill HB0003(SB0233) to humbly ask for an amendment, or opposition, to this bill. As a manager of a vape store for 6 years, I can tell you all about the dozens, if not hundreds, of people I've successfully helped quit cigarettes over the years. Instead, however, I'm writing this testimony from my perspective, and my journey to becoming smoke free.

It was about 10 years ago when I bought my first vape product. I had been smoking menthol cigarettes since I was 14, and knew I had to make a change as it was adversely affecting my health. The device I used was a disposable e-cig purchased from a kiosk in the mall with a pre-filled tobacco flavor. Naturally, the appeal lasted only a week as I felt that the flavor of it was close, but not quite as satisfying as a real Newport 100. After some time I figured I could try again while informing myself further on the topic of vaping, as well as learning about dedicated vape stores where a professional would advise me. As I sat in awe of the variety of choices available to me, the young professional recommended a flavor called Krunchberries, which was a cereal flavor. Originally, I rebuked the notion of the flavor, but when I tried it I found it infinitely more palatable than the mock menthol cigarette flavor I had purchased previously. Before I knew it a month flew by and to my delightful surprise - I had not smoked a single cigarette. Even now, 10 years later, I am living free of cigarettes and reaping the benefits of this lifestyle. I breathe better, I smell better, food tastes better, and I feel better. In addition, I decided to apply for a position at the very same store

where the young professional who had helped me worked, in the hopes of aiding more people the way I had been.

I got the job and, in time, became the manager of the company. I spend my entire professional life assisting people in quitting cigarettes for good, in the hopes they will feel the benefits that I have. This process, by and large, relies heavily on finding the flavor that works best for each customer, to keep them coming back and support the breaking of poor habits. Banning flavored vapor products will take away the ability of millions of Maryland adults from becoming smoke free, as I did, with the help of flavored vaping products. Thank you for your time.

Sincerely,

Trenton Davis  
District Manager  
Mean Street Vapor

# **Halik\_FWA\_SB410**

Uploaded by: Hendrix, Melissa

Position: FWA

To: Maryland Senate - Finance Committee

From: Sarah Halik (resident)  
Severn, MD - Anne Arundel County

Re: Written Testimony regarding:  
SB54 - Electronic Smoking Devices - Added Flavoring - Prohibition on shipping, import, or sale  
SB233 - Business Regulation - Flavored Tobacco Products - Prohibition SB410 - Electronic  
Smoking Devices - Flavor Prohibition

Chair and committee members,

My name is Sarah Halik. I am an Army combat veteran and government contractor residing in Anne Arundel county. I am here today to express my opposition to the bills that would ban flavored vape liquids and exorbitantly increase the taxation on the remaining products.

Contrary to popular belief, not every person who vapes is a former cigarette smoker.

Over the span of 10 years I have deployed five times. It seems that I have always been in the minority of individuals who do not smoke cigarettes while overseas. I would often join coworkers after work to shop at the bazaar or hang out at the hookah lounge. It became a social activity that I enjoyed specifically because of the wide variety of flavors. I eventually purchased my own hookah and continued to utilize it after returning stateside. Although it is not something I used every day, the amount of nicotine inhaled in a 1 to 2-hour hookah session is incredibly high - more than 2-3 packs of cigarettes. Because of this, I began to seek out a healthier alternative which is how I discovered vaping. It was the perfect option for me to be able to have complete control over the amount of nicotine I inhaled while still offering a wide variety of flavor options.

In the four years I have been vaping, I have not used a hookah.

I do not consider myself a smoker and a flavor ban will not suddenly force me into buying cigarettes. But what it will do is take away the option I have to a healthier alternative for an activity I enjoy. It is a freedom I've earned and an option I have as an adult to make choices for myself.

I believe there are better alternatives to a flavor ban that will still help prevent minors from consuming a product that was never meant for them:

Restricting the type of businesses allowed to sell vape products  
Require digital verification of government ID's prior to any purchase  
Enforce penalties for sales to minors

Any of these options would be preferred over the alternative. A flavor ban punishes the legitimate customers and vape shops but does not prevent a minor from acquiring a vape product. I can identify and agree with the concern for the safety of minors. But prohibition does not provide a solution, it only denies adults the freedom of options.

Thank you for your time and consideration.

# **Hendrix\_FWA\_SB410**

Uploaded by: Hendrix, Melissa

Position: FWA

Melissa Hendrix

114 Tennessee Road

Stevensville, MD 21666

Hello, my name is Melissa Hendrix, and thank you for allowing me to speak today. I smoked for about 22 years started when I was around 13 years old. I did not get in trouble for smoking cigarettes by my parents, but I did through school and the police. When I was in school, I smoked in the bathroom and got suspended on numerous occasions, but I did not get in trouble at home. Once I got pulled over and received a citation and had to pay 25\$ to go to a class that told me everything that I knew about cigarettes (cigarettes will kill you). So maybe if my parents punished me it would have been more effective, not sure, they never did.

Through the years I wanted to quit smoking because I didn't like the way I felt always had headaches, felt tired, out of breath running upstairs, and the way I smelled. Plus, I had children 2 of them and they both asked if I would quit smoking. So, I gave it try using a few different methods: Chantix, Wellbutrin, and nicotine patches. Those methods were not affective for me it wasn't until I stepped into my first vape shop. It was cool I could pick out whatever flavor I wanted, and they would make it up for me. I started out on 24mg/2.4% nicotine and slowly dropped down on my nicotine. Currently I use barely any nicotine in my vape and I can adjust as needed. As I dropped down on my nicotine, I had to change my flavor because it did have a different taste. Flavors are what helped me to stay away from cigarettes.

Since I have started vaping flavored nicotine, I have noticed a difference in my health I can run upstairs without running out of breath, I have more energy, I don't stink, I don't get headaches often, and I also have a better since of taste and smell. Trying to quit smoking was one of the most challenging things I have had to do in my life. Vaping has helped in many ways and I hope that you will consider keeping flavored nicotine in vape shops only. When the vaping industry started people were making it everywhere it didn't matter because there were no regulations. Now we have regulations with safer products, so let's continue to make sensible laws to help more 21 and older get off the cigarettes. However, if this bill is pushed through a black market for nicotine products will happen because I will not go back to cigarettes, I worked too hard for that.

# **Ross\_FWA\_SB410**

Uploaded by: Hendrix, Melissa

Position: FWA

Spencer Ross  
6909 Danford Drive.  
Clinton, MD 20735

My name is Spencer Ross and Blueberry and Mango flavored eliquid helped me quit smoking cigars.

At the age of 16 I started smoking Black and Mild's and Al Capones. I tried these products because I wanted to fit in with my friends. My doctor noticed my lungs were starting to act irregular and told me that I needed to stop smoking. I tried to quit smoking but was having a hard time accomplishing this.

I went to the vape shop, and got a set up with blueberry flavored eliquid. The vaporizer I use is larger and not a little tiny flash drive. It's what is sold at vape shops. I have not smoked anymore cigars since. I still vape today even though my nicotine is at a very low level. I started vaping with 18mg of nicotine and now I am down to 3mg of nicotine. I plan on fully quitting by next year. The different flavors offered have allowed me to stay interested, because when I get tired of one flavor, I try another one. This has successfully kept me from going back to cigars.

I've recently visited my doctor and have a clean bill of health and my lungs look better than ever.

The thought of smoking a cigar or vaping a tobacco flavor now makes me nauseous. If this bill goes into law, I will be forced to make my own juice because there is no way I am every going back to cigars. Not only will I make juice for myself I would be forced to help others in my community that want to stay off cigarettes and cigars too.

That brings me to a very important question. When the war on drugs was happening and a lot of minorities were locked up for marijuana, it makes me wonder if the war on flavored nicotine vaping will have the same effect and we will lock up a bunch of people who don't deserve to be locked up.

A flavor ban does one thing, sends people to the black market or to make their own ejuice because most people like me have no intention of ever going back to cigars or cigarettes. This could be very dangerous for people who do not know what they are doing. You will have people using essential oils from Walmart that are not inhalable or belong in vape juice.

In closing I'm asking the Maryland legislature to not pass a bill that will turn me into a criminal. Please allow me to continue to get the vape flavors that keep me off nasty cigars.

# **Wisniewski\_FWA\_SB410**

Uploaded by: Hendrix, Melissa

Position: FWA

Hi, my name is Samantha Wisniewski I'm 33 years old and I have been tobacco free for 6 years.

I started smoking cigarettes at the age of 15.

In middle school I was on the basketball team as well as the track and field team.

By high school I dropped all sports. I couldn't keep up because I was always out of breath due to smoking cigarettes.

In 2014 at my nieces 3<sup>rd</sup> birthday party I wanted to get a picture with her, and she looked at me and said "No Aunt Sam you stink".

That day I threw out my FULL pack of cigarettes that I had just purchased.

I tried to quit cold turkey, but that didn't work, so I went to my local vape shop to see if it was something that could help.

The people there asked me how much I normally smoked so they could suggest the best level of nicotine for me. They ended up suggesting a 12mg e-juice.

Because of them I found a coffee flavored juice and a strawberry menthol flavored juice that made me not even want cigarettes anymore.

I tried the tobacco flavors, but they were so much like a cigarette I knew it was not going to help me stay away from cigarettes.

I met my wife through a local vape shop and because of vaping we have both been able to quit smoking. My 56-year-old mother smoked for 30+ years and has also quit thanks to vaping. My wife loves fruity juices and my mom loves a Captain Crunch juice.

If this bill is to pass, I fear others like myself that refuse to go back to cigarettes would have no choice but to make their own juice or find someone who does. At that point, it would no longer be regulated and who knows whether or not it will actually be safe.

I do agree that kids should not have access to these products.

My opinion is that there needs to be consequences for underage individuals that are caught using or in possession of these products.

If caught, their "vape device" is simply taken with no consequences and 2 hours later, they are finding another way to get a new one.

Since that day in 2014, I have been able to decrease my level of nicotine to 3mg. I would rather smell like a bakery than an ashtray. Just as I would rather purchase my e-juice from a regulated distributor instead of having no choice but to buy it from a non-regulated source.

Thank you for allowing me to speak to you today.

Samantha Wisniewski  
1034 Side Saddle Trail  
Lusby, MD 20657

# **Gott\_FWA\_SB410**

Uploaded by: Meyer, Isaac

Position: FWA

My name is Candice Gott, I am a small business owner in the community and a member of the Maryland Vapor Alliance. Thank you for allowing me to be here today.

I would like to talk about the flavor that hooked me to cigarettes at the ripe young age of 15. The flavor was called: Whatever I could get my hands on. I wanted to fit in with my friends, and I was curious about them.

The data from the CDC aligns with my previous statement. Per the CDC data released December of 2019, teens are trying e-cigs for reasons OTHER than flavors 78% of the time. With the biggest reason being curiosity. Are we going to ban curiosity?

The CDC has confirmed that illicit marijuana cartridges laced with an oil called vitamin E acetate is to blame for the recent lung illnesses. Nicotine e-liquid cannot be the cause of this because Nicotine e-liquid is water soluble and does not contain ANY oil. This can easily be checked because all nicotine e-liquid had to register an ingredients list with the FDA.

After smoking for 15 years and trying every approved cessation product to quit, I finally stopped by a vape shop. I got a green apple e-liquid and I have not smoked since that day.

I knew if I could quit smoking cigarettes using this method, that anyone could. It's the reason I used every penny I had to open my vape shop. After almost 6 years of business I have no doubt that I have helped thousands quit combustible cigarettes because of flavored e-liquids.

I'd also like to point out that when an adult is trying to quit smoking, tobacco is what they want to move away from. Why would we condition ANYONE to tobacco flavors? We are essentially normalizing tobacco flavoring with this legislation... why would we do that?

The products that I sell are different from Juul or Big Tobacco. Juul is what is found in convenience stores, Maryland vape shops do not carry Juul. Per the National Youth Tobacco Survey, Juul is the product teens are using most. It is why recently the FDA decided to remove flavored pods from the market. The FDA followed the data to see that teens are not using the open systems that adults use and are sold in vape shops. This move by the FDA preserves open systems for the adult market. The same open systems that have helped millions of adults quit cigarettes.

A flavor ban will put hundreds of Maryland vape shops out of business, leaving only Juul and other big tobacco products on the market. It will bankrupt me and leave my 13 employees who depend on their income without a job.

The saddest part of this legislation is it punishes the good actors. Maryland vape shops have not had a failed compliance check in the last 2 years.

A flavor ban would also open a huge black market, as I'm sure you are aware on the black market there will be no quality control, ID Checks, or collected taxes.

I'm urging the Maryland lawmakers to pass this bill with the proposed amendments. We can work together to have the lowest smoking rate in the United States and the lowest youth vaping rate as well. If you pass this bill as is, Maryland will be looking for ways to back-pedal and undo insurmountable damage in the coming years, much like how other prohibitions have played out.

Very Respectfully,  
Candice Gott  
63 E Chesapeake Beach Rd.  
Owings MD 20736

**Jones\_FWA\_SB410**  
Uploaded by: Meyer, Isaac  
Position: FWA

John Jones

4842 Aberdeen Ave, Baltimore MD 21206

Hello,

My name is John Jones and I am the owner of Parkville Vape House. Parkville Vape House is a family owned vape shop located in Parkville, Maryland. This business was started to bring the community together and educate those on the vaping community. This shop has turned into more than a retail store, the employees and customers have become a family.

The tax and flavor ban being imposed will affect not only me, but my family and employees as well. I am a single dad to 3 amazing boys who depends on me for their education, food, housing, and much more. More than me, I have 2 employees that have families to provide for.

I began smoking cigarettes at the age of 16 years old. I have since, turned to vaping as a cheaper and healthier alternative, and I have personally been vaping for about 6 years. When I began the vaping journey, Parkville Vape House was started not long after. This shop became my mission to educate others and help them live longer, fuller lives.

The tobacco age was raised on October 1, 2019 to 21. On December 20, 2019 President Trump signed Federal tobacco guidelines that no longer allowed military exemptions. I purchased an ID scanner for my employees to use. We have always had the rule that if you do not have an ID you cannot buy products regardless if you're 26 or 62. However, since the beginning of T21, we have been more thorough. My Point of Sale system does not allow my employees to continue a purchase without scanning an ID. However, there are some stores such as Walgreens, 7/11, Royal Farms, Walmart, and many more than are not as strict or educated on the vaping laws. Convenience stores are far more likely to sell minor's products like Juul, Puff Bar, Vuse, and many more.

If a flavor ban or 86% sales tax is enacted, it will put my shop out of business. I will have to let go employees that rely on this shop for money to care for their families. Those adults that have turned to vaping as a better alternative, will subsequently go back to cigarettes. Minors will have an easier access to tobacco products. Vaping products should be restricted to regulated vape shops where employees are thorough with checking ID's and are educated about the products being sold.

Currently, Maryland Vaping Alliance is proposing if the flavor ban must be done, to exempt regulate vape shops from this ban. Regulated vape shops have employees that are educated on the subject and can truly ensure the safety of the product. They scan ID's so no sales to minors will happen.

In conclusion, pushing regulated vape businesses out will not end the vaping community, it will simply make it unsafe like the THC cartridges being bought on the streets that contain vitamin E acetate.

**Meyer\_FWA\_SB410**

Uploaded by: Meyer, Isaac

Position: FWA

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**Brian Heuer**

2114 Edwin Lane  
Crownsville, MD 21032  
(410) 299-8040  
brian@qikfixing.com

11th of February 2020

**Delegate Seth Howard**

159 House Office Building  
6 Bladen Street  
Annapolis, MD 21401

Dear Seth Howard,

I am writing testimony in opposition to HB3. When I was sixteen years old I first started smoking. It was easy to find a local gas station with an attendant that did not check ID. After stopping and starting over my teenage years I then went to a full time smoker at the age of twenty-one years old. That habit quickly grew to smoking a pack a day and often to two packs a day on the weekends. During these years I noticed a shortness and breath and chest pains that had not been present before.

After consulting with my doctor he asked me how much I smoked at the time and if I needed medical help quitting. We then went into a discussion of great length as the health harm that traditional tobacco products have. However when I brought up switching to a vaporizer he advised me to make an immediate switch. He then explained to me the lack of health concerns from any vaping product. Nicotine has little to no impact on the average healthy adult's physiology. He also explained which chemicals were used to carry the nicotine and how they were commonly used in medical inhalers. Often he said that they would get people to switch their addiction to nicotine gum which is not flavored as tobacco as you might well know. In order to mitigate the extreme health hazards associated with traditional tobacco products. The alternative flavors were key in ending my addiction to the cigarette. It not only allowed me to cease on the day I bought my first vaporizer but it has allowed me to not smoke a cigarette or any other traditional tobacco product since. Within one month my lung function had returned to healthy levels and the chest pains had gone away.

I recently was able to get my beloved Uncle who has smoked since he was eighteen years old until his early sixties the ability to finally give up cigarettes

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all together. The one thing that finally got him to give up his life long habit was the alternative flavored nicotine replacement products.

HB3 is nothing more than another push by big tobacco to draw clients back into its traditional tobacco products by reigniting the cognitive association with tobacco flavor to the chemicals found beyond nicotine in their products. To date not one of the independent “Vape” shops in Maryland has been fined or even suspected to be selling to underage minors. The problem lies within the prevalence of cigarettes being sold in every major national chain of gas and service stations that are on every corner of our states roadways. Where often children stop on their way to or from school. In which the cigarettes and associated products are front and center where every child can see them along with all of the candy and snacks that are under and around the counter. Yet not one argument is made to remove them from such easily accessible locations. Instead they try to blame the flavors or the marketing. HB3 is a bill squarely aimed at forcing people with an addiction to return to the more harmful method of delivery. While hiding behind the guise of child safety.

If cigarettes were removed from every street corner and moved into specialty shops where the due diligence is paramount to a small business’ survival it would accomplish far more than HB3 ever could. Yet not one lobby group would support it due to it limiting the companies they represent revenues despite it being the most effective means to reduce a teenagers ability to purchase nicotine based products. Yet to this day alcoholic beverages are not allowed to be sold outside of purposed and licensed stores.

Recently in national news we have seen what happens to citizens when they are forced to turn to the black market. Several deaths occurred by obtaining black market THC cartridges across states that have yet to legalize and regulate THC products. Passing HB3 would either force people like myself and my uncle to turn to these less safe alternatives or go back to tobacco based products.

In America we often say we are The Land of the Free. Yet here in 2020 the Maryland state legislature is considering a bill that would limit the freedom of its citizens to choose what they can and can not willingly put into their bodies. While shifting the blame from ease of access granted long ago to big tobacco and pushing it to alternative flavors in nicotine based products. With the backing of health advocates that will present conjecture and studies funded in part or largely by big tobacco in order to scare monger parents into thinking the problem lies within the market or the product instead of with their parenting. Which is counter to what local healthcare providers are advising their patients.

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I hope the Maryland legislature does the right thing and protects our local businesses that have complied with every regulation and law set before them and delivered a vital service to local Marylanders and strikes down HB3.

Sincerely,

**Brian Heuer**

To whom it may concern:

I'm writing to inform you as a Maryland tax payer, voter and small business owner, that I strongly oppose bill SB233. This would destroy my business that I invested my life savings into only 1 year ago. It will cause nearly all vape related small businesses like mine to shut down. I have several employees that will be jobless along with myself and my business partners. I also have a 12 year old daughter that depends on the income from my business. We are not big tobacco. We are not Juul. We are a Maryland small business that helps people quit smoking cigarettes: the cause of 480,000 deaths each year (which are sold in every corner store in the country).

I smoked cigarettes for over 20 years and was finally able to quit with cotton candy flavored e-liquid (after unsuccessfully trying Chantix, the patch and Nicorette gum). Adults need flavors to transition from deadly combustible cigarettes. Only allowing a menthol or tobacco flavor would severely damage the ability to not only quit smoking but to *stay* smoke-free. Fruit, dessert and candy flavors are necessary to make cigarettes taste awful in comparison. My health has drastically improved since converting to the *proven* less harmful alternative.

Please amend the bill to make it palatable for small businesses or vote against it. Or perhaps you can make vape shops exempt from a flavor ban. In recent years, there have been no vape shops in Maryland fined for selling to underage teens. In our shop, we have age verification. Perhaps making that mandatory would be a good option. And harsher punishments for selling to underage teenagers.

Please don't remove our freedom of choice. Prohibition should not even be an option.

Thank you,

Jessika Whitlock

Class 5 Vapors

White Marsh, MD (manager)

North East, MD (owner)

I am 25 years old currently employed at Northside Vape in Salisbury, Maryland which is owned by my fiancé, & further brother in law, which is also how we met.

We are all prior smokers, and turned to vaping as a healthier alternative to kick cigarettes many years ago. The business has been highly successful for four years, and I speak for all of us when I say the most rewarding part of job is helping people switch from cigarettes to vaping. Hearing things like, "Nothing else work" ... "I wish I knew about this sooner" ..

... "I experienced suicidal thoughts, and night terrors on Chantix I never thought I would be able to quit" .... "I am so happy my kids won't be affected by second hand smoke"... "I can actually breathe & taste my food again" ... the list goes on, all in which never get old when heard.

My fiancé & his brother are both vaping enthusiasts who spent every penny they hard to own open their own local business & to help people quit their cigarette addiction just as they did.

If this bill passes all 3 of us will be out of work, and they will surely lose their business they have worked so hard to maintain.

What hurts more is knowing that all the people we helped throughout the years are going to go back to smoking & their relationships as their health is going to deplete. As we have been warning people to advocate, and for what come the emotion we have seen from our customers is just so heartbreaking.

We are willing to comply & conform to any regulations, but please do not take away our jobs, our hobby, our healthier alternative for our nicotine addictions.

These products are strictly for adults over 21, and not to be meant for kids... please do not punish the millions of responsible adults because irresponsible parents, and children do not obey the laws like we do. Punish the bad apples- do not destroy the whole batch. Maryland is not on an island- we will just travel to other states to supply them with the taxes implemented.. it will be Prohibition over again & there will be Black Market E-juice causing legitimate issues. Multimillion dollar industry - millions of Americans who vape - do not shut down this industry.

We Vape We Vote- Please save the favors. Thank you

- Leah Wallace

Gina Disbrow  
905 Bayside Dr  
Stevensville MD 21666

I was a smoker for almost 15 years. I tried everything possible to quit and just couldn't kick the habit.

I was skeptical about vaping. Didn't think it would work for me and thought it was just another habit I'd have to kick.

I tried multiple oringal tobacco flavors and they made my cravings for a cigarette WORSE!  
Before totally giving up I decided to try some flavor liquids...AND IT WORKED!

I am four years cigarette free all from strawberry, watermelon and the occasional vanilla blend!  
I've never felt better! I was constantly tired, winded and sick of smelling like smoke.

I can honestly say I am a healthier person because of flavor liquids and I am a HAPPIER person because of flavor liquids.

I hope others can participate in my success by not banning flavored liquids

Isaiah M Windham  
1009 Big Baer Drive  
Glen Burnie MD 21061  
(443)-694-1347

My name is Isaiah Windham, I'm 24 years old and from Baltimore Maryland. From the age of 16 I started smoking cigarettes. I started doing it out of pure influence and being that I grew up with people who smoked, my habit and the amount that I smoked only increased with time. By the time I was 18 years old I was smoking about a pack a day and it was like second nature to me. Over time, I noticed that smoking was affecting me in negative ways, such affects grew worse and worse over time and eventually it had gotten to the point where I could barely walk around my own house without getting gassed. Smoking cigarettes had affected various aspects of my health such as my ability to breathe, my lack of breath when exerting myself in any physical manner and it had even begun to affect my teeth and my gums, my throat. About two years ago I had a major health scare. I was diagnosed with ARVD which is a rare heart disease and with that, my life changed drastically. I had been advised by all of my medical staff to quit smoking because the ingredients and affects from smoking did my body, specifically my heart, much more bad than good. Even after receiving this warning from my doctors, my family and my peers. I didn't quit. After about 3 months post-surgery I decided that I needed to quit. I tried everything possible to do so. I used the nicotine patch, I used nicotine chewing gum even invested my time and energy in hobbies or anything that would help get my mind off of wanting a cigarette. Nothing worked. One day i stumbled across a Vape shop called the "Vape Loft" where I met wonderful people and they educated me and guided me on what vaping was, it's affects and how it helped people quit cigarettes. I was so desperate to try anything that even while being on reserve about vaping, I tried it. I am now 24 years old and let me tell you it has CHANGED my life. I had heard so many bad things about vaping through commercials and the internet. Only to find out these companies that were attempting to scare people knew little to nothing about vaping and were either directly or indirectly affiliated with cigarette companies and it was all a push to further promote their products. Rather than truly educate anyone. I didn't my own research and realized that such information was not only often misleading, but majority of the time out right false. Not only had vaping helped me quit smoking cigarettes and remove my addiction to nicotine, I was even able to EASILY quit vaping as well. Vaping has changed my life and it changes the lives of many others in a constant basis. Had it not been for vaping I don't know where I'd be and I don't know where the state of my own health would have been. It's easy to say "just quit", it's easy to no understand the struggle one faces when trying to let go of something so addictive. But I can tell you that I needed the extra help. Vaping WAS that extra help and I will always be appreciative of what it did for me and does for countless others.

To whomever is listening to this I pray that you dig deep when deciding on whether or not you want to put forth any effort in preventing someone like myself the opportunity to kick their habit, improve their quality of life which then improves their mentality and desire to live!  
Vaping saves lives.

Jimmy Hendrix Jr.

114 Tennessee Road

Stevensville, MD 21666

Hello, my name is Jimmy Hendrix Jr. and I was a smoker for 23 years, a vapor for 5 years, and currently do not use tobacco or vape products. I started cigarettes at the age of 13 but didn't care about the flavor it was just because I was surrounded by it from friends and family. When I quit smoking, I was at a 2 pack a day smoker and my health was not going in the best direction. I do believe flavored vapor saved my life because I currently do not smoke or vape anymore. When I started vaping in 2013, I used fruity and candy flavors that consisted of watermelons, sour apple candy, and fruity life saver flavors. I enjoyed all the different flavors I didn't have one flavor that I was committed to like with cigarettes. When I started vaping, I knew that this was it I didn't question the process I just went with it and as I did the health benefits started to happen. My breathing started to get better, the coughing didn't keep me up at night, and got my taste and smell back.

When I started vaping, I started at the highest level because of how many cigarettes I smoked and slowly over 3 years dropped my nicotine level to nothing at all. Over the years my children always asked me to quit smoking and I did try other methods such as Chantix and patches but neither did the trick. Honestly before I tried vaping, I really didn't think it would work until I tried it for the first time. It was the best decision I have ever made. I realized that I was never really addicted to the cigarette or the vape it was just a fidgety habit and needed something to do so dropping down on the nicotine was actually very easy. Once I got to no nicotine at all I found myself slowly not reaching for the vape anymore.

The different flavors really helped to keep me from the cigarettes I am so glad that I had those options. When I started vaping the industry was not that big and we didn't have that many flavors but over the years more and more were made. As more flavors became available my options were endless so that made the thought of a cigarette even farther away. If it wasn't for flavored vaping I would have continued to smoke.

If you ban flavored vapes you will be hurting many people who are like me that find this process easy and are able to use it to completely get off everything. An addiction is not a process you just quit and for some yeah but not for everyone we need a little assistance, and this was it. Flavored vape saved my life and should remain available within adult only stores where children do not have access to them. Now my children are proud of me because I am a smoke free dad who can enjoy the fun times with them.

February 11, 2020

Joyce Disbrow

308 Tower Drive

Stevensville, MD 21666

My name is Joyce Disbrow, I live in Queen Anne's County and I'm 59 years old. I have been asked to write you this letter regarding the flavor ban that you would like to impose on the vaping community.

I have been smoking since I was 13 years old. Like most kids my age back then you really didn't care if it was menthol or non-menthol, you took whatever your parents or friends parents had. The first cigarette I ever had made me cough my brains out and tasted nasty but got me a buzz. You would have thought I would never pick up another cigarette again after that, but you see I have what they call an addictive personality. As I got older, I did choose the type of cigarette's I liked, menthol was my choice.

After watching my father pass away from lung cancer and feeling like crap all the time, I decided to try and quit. I first started out with the nicotine patches that made me sick to my stomach and made my arm hurt, then I tried the gum... that was nasty, then I tried being hypnotize, all I could think of while sitting in the comfy couch was, is this over so I can go have a cigarette, needless to say, that didn't work either, then I tried Chantix. Chantix may have worked if I could have gotten past being sick to my stomach and the bad dreams I had. I had begun to tell myself that I was never going to quit smoking. I was told by a few heroin addicts and alcoholics that quitting smoking was harder than getting off heroin and alcoholic. After I thought that I would never give up smoking, someone introduced me to vaping. I thought what the heck I have tried everything under the sun, let's give it a whirl.

When I first started vaping, I thought I should get a juice that was a menthol flavor it would be similar to what I smoked. It was ok, but it didn't have that same flavor as my menthol cigarette's. I tried many menthol flavors at many different shops, but it just wasn't the same as my cigarette's. Then someone said try a flavored juice. The first thing I thought was how would a flavor juice help me. Why would I want to vape something like Crème Brulee or Strawberry Shortcake how was this going to help? So, I took their advice and bought a vanilla flavored juice (I didn't want to go to crazy). Well lord and behold it worked. I started vaping that vanilla flavored juice and didn't go back to smoking. Over the years I have tried a lot of different flavors and have enjoyed them. I have had people tell me that whatever I was vaping at the time smelled really good, better then stinking old cigarettes. Honestly, if all I could vape was a menthol flavor, I don't think I would have stopped smoking.

I have to say, I'm sick and tired of hearing about how vaping has caused all these respiratory issue's in teenagers that have been vaping. First off, I have been vaping for 5 years and my doctor tells me my lungs sound fine from vaping, secondly, I have been told the teenagers that have gotten these respiratory issues are because they had gotten their juices from someone making it in their basement. They did not get their juice from a reputable Vape Shop, because a reputable vape shop will not allow anyone under the age of 21 to enter. The most ironic thing in the world is, you want to more or less get

rid of vaping, but you have no problem accepting Medical Marijuana shops. Aren't you concerned that those same teenagers that vape a flavor will now get their hands-on Medical Marijuana, heck from what I understand they don't even have to smoke it anymore they can eat the stuff? How about all the different flavored beers and alcohol's aren't you concerned that those same teenagers will start drinking and become alcoholics because of a beer called Apple Orchard or drink liquor because they make a vanilla vodka? Well, I guess the little darlings can sit in their parent's basement and drink beer called Apple Orchard and pop some Marijuana gummies, but lord don't let them vape Crème Brulee.

Kyle Vega  
953 Circle Drive  
Halethorpe MD 21227

Good Afternoon members of the committee,

My name is Kyle Vega. I am a 30-year-old small business owner in Maryland, with three vape stores. My stores have been open for a little over six years. Before opening, I was smoking combustible cigarettes, started at the age of 16. I tried everything to quit smoking, patches, gum, pills, etc. nothing worked. It wasn't until I discovered vaping, and more importantly, flavored e-liquid that I was able to give up combustible cigarettes.

Aside from that, today, I am here to ask you to accept the amendment that the Maryland Vapor Alliance (MVA) has proposed. This bill, as written, will surely close my three stores. 90% + of my e-liquid sales are flavored e-liquid. Grown adults are vaping flavors, and that is what they prefer. Closing my doors would mean my employees, who count on me, will be out of a job, with no income and bills still needing to be paid. I will be liable for the remaining lease balances for my 3 locations, on top of losing my own financial income.

If this bill stays as written, it will cause 1 of 3 things to happen, if not all at once.

1. The responsible business owners (vape stores) will be forced to close their doors.
2. A black market will emerge as consumers search for flavored e-liquid.
3. Many will go back to smoking combustible cigarettes, the top preventable cause of death in the U.S.

In my first point, I said responsible business owners when speaking about vape store owners. I say this because in Maryland, since August 8th, 2016, when the FDA announced it would begin regulation of the e-cigarette market. There has not been a single, strictly vape store that has been in violation of selling products to a minor. So, where are minors getting their products from? The answer, convenience stores, gas stations, generic tobacco stores, etc. In the same time frame, there have been 234 inspection violations from these types of stores, according to the FDA compliance website (U.S. Food & Drug, 2020). Banning e-liquid flavors will only force e-cigarette products to be sold in the more accessible c-stores, because the responsible businesses, vape stores, will be out of business. The same products that we know kids are using Juul will remain available at the places that we know, from data are selling to minors.

In closing, I would like you to know what the members of the Maryland Vaper Alliance, the stores we represent, and myself stand for. We are ex-smokers, who started small businesses in or near the same areas we grew up in, with a passion for helping others find a healthier alternative to combustible cigarettes. We sell e-cigarette products exclusively. Our target market is not the youth, and we do not sell Juul or any other big tobacco product that you will find in a c-store. The proof is in the data, again 0 violations of selling products to minors by Maryland vape stores. We care about our customers because we have been in their position before. We want to help current combustible cigarette smokers live long enough to see their children, grandchildren, nieces, nephews, etc. grow by moving them away from combustible cigarettes. Please do not

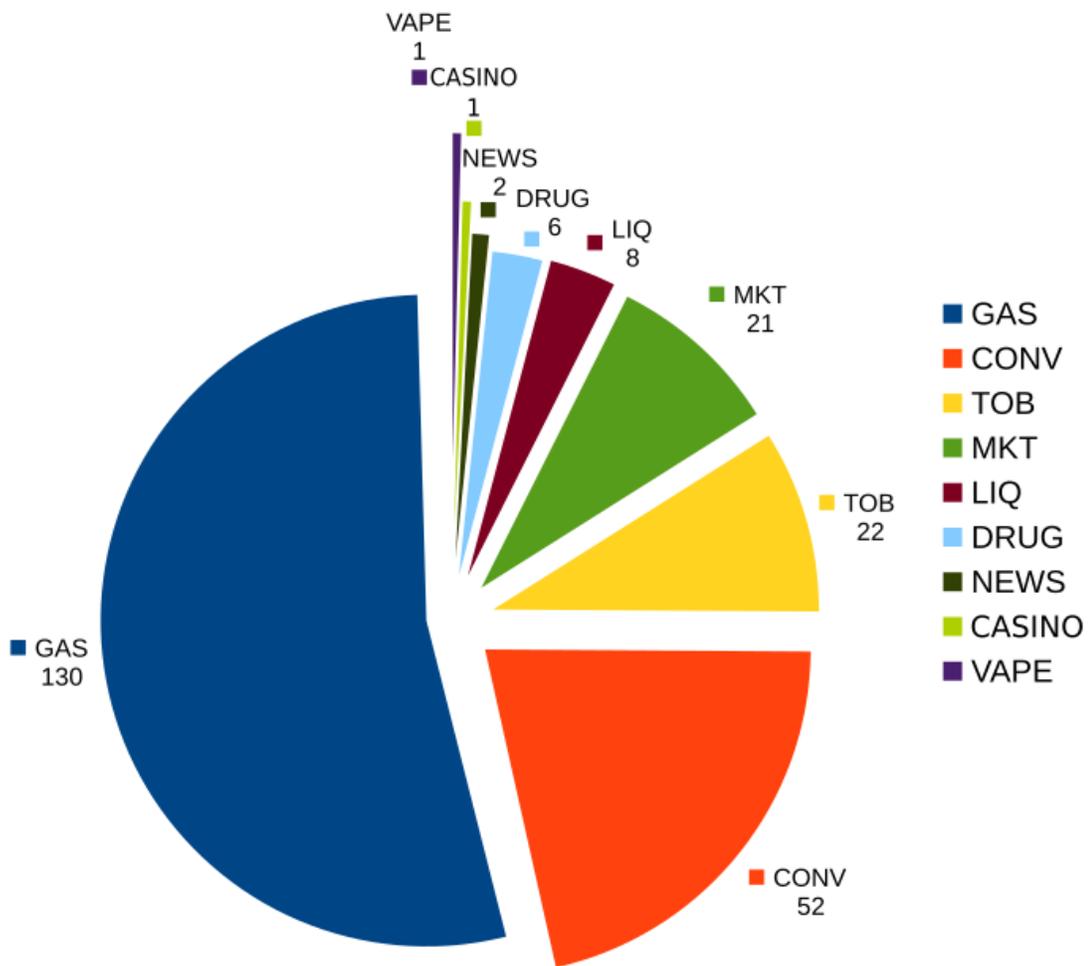
take away the rights of grown adults to have the products they want. Consider the amendment put in place by the Maryland Vapor Alliance. Thank you for your time.

References:

U.S. Food & Drug Administration. (Through 12/31/2019). Compliance Check Inspections of Tobacco Product Retailers. Retrieved from:

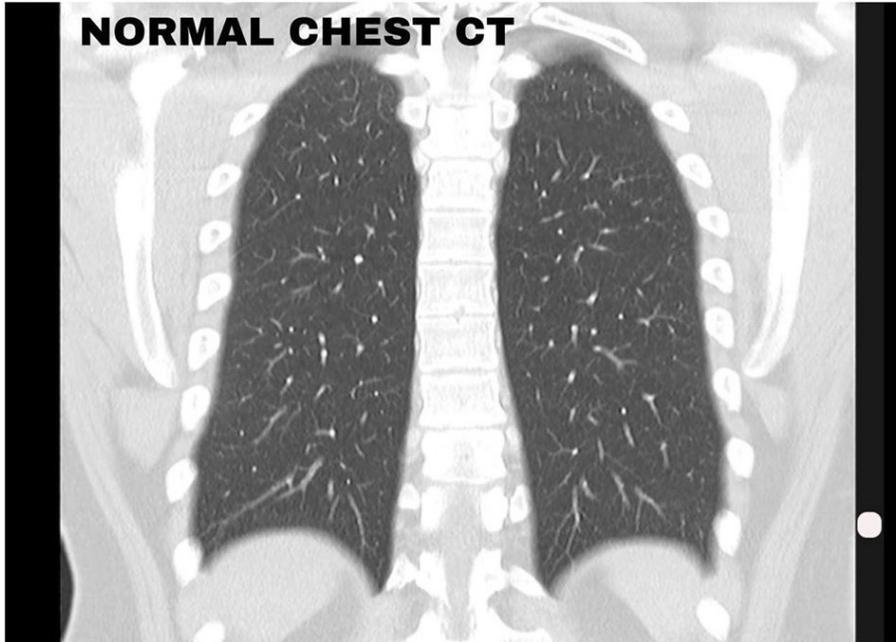
[https://www.accessdata.fda.gov/scripts/oc/inspections/oc\\_insp\\_searching.cfm](https://www.accessdata.fda.gov/scripts/oc/inspections/oc_insp_searching.cfm)

# FDA Citations for Sales To Minors of E-Cigarettes By Store Type - Maryland 2016-2019



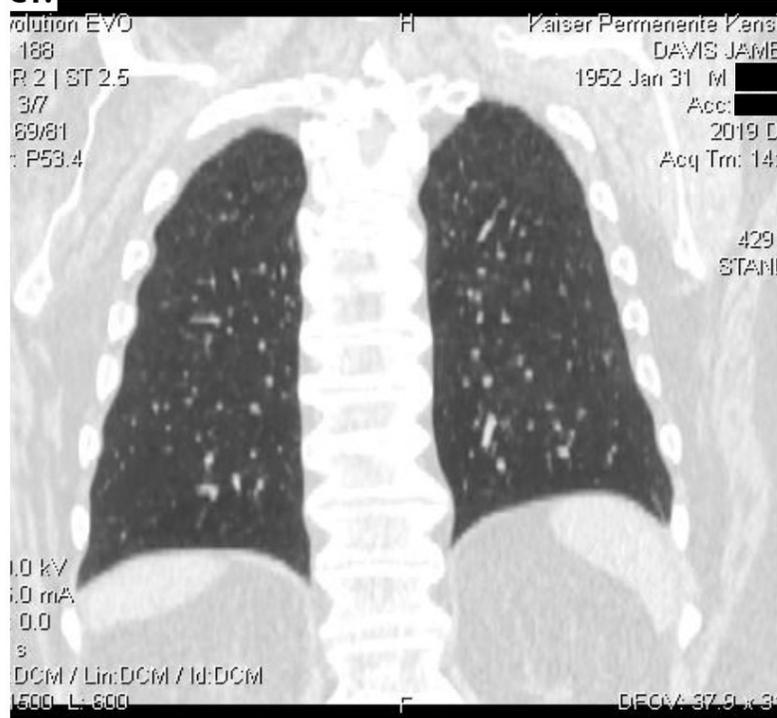
**My Testimony:** James Davis  
Silver Spring, MD 20904

**68 y.o. Male, 47 year smoker, 8 year flavored nicotine vaper**  
(NO THC, CBD, Vitamin E Acetate, EVER)



(Lung contrast)

**My CT:**



The ONLY holistic & un-biased science I trust with my health:  
NASEM, Public Health England, Royal College of Physicians, Cochrane Review

**Constraining, limiting, adult use of e-cigarettes will only shorten adult lives.**  
**Regressively taxing those seeking better health only creates more hardship.**

The will of God is my ultimate authority.

**I WILL remain healthy.**

**I will NOT abide by unjust government.**

*James Davis*

Dear legislative members,

My name is Stephen Sard, I am a voting resident of Easton, Maryland. I am writing to you today as a consumer to voice my opposition to SB233.

I am 42 years old and began smoking when I was 15 (election day Bill Clinton's first term) I smoked combustible cigarettes for over 22 years. My kids begged me to quit, my wife begged me to quit, and everyone I knew begged me to quit. I tried so hard to quit for them. I tried patches several times, gums, inhalers, hypnosis, and acupuncture. I refused medication, as did my doctor, due to the nasty side-effects they cause. I had given up and made peace with the fact that I would one day die of cancer and that my kids, my wife, my family would have to see me in such a state. It broke my heart. I had always derided vaping. I made fun of vapers, called them names, and told them to "be a man and smoke a real cigarette." I wish I could take those words back.

Finally I decided to try vaping, in secret, to see if it would help. I first used them at work, or out and about. I noticed that I wasn't having cravings like I did with other methods. So I decided for three days straight I would do nothing but vape. To my shock, it worked. I vaped for about 3 months until the store I got them from stopped carrying them (this was 2012). I went back to smoking. I did this off and on for a few years until in 2016 I walked into a vape shop that had just popped up. I walked out with a new device and some Pineapple Mango Dragon Fruit e-liquid. I never smoked again. I literally walked away and never turned back. Over the last few years I have reduced my nicotine levels at a pace that was just right for me. I have been very successful. I can taste the food I eat, I can breathe, I can enjoy life. I no longer have to pause movie night with my wife every hour so I can go outside to smoke, only to return and have her avoid me because I smell horrible. My mental health has improved so much. I no longer feel isolated, or afraid people will smell the smoke and not wish to talk. I am so much happier.

I have tried tobacco liquid in the past and I didn't care that much for it. Early on, it made me crave a cigarette. Had it not been for my Pineapple Mango, I would have easily gone back to smoking. That flavor allowed me to dissociate from tobacco. I didn't smell it or taste it, so I didn't crave it. Vaping has added so much to my life and now I have the desire to help others feel as amazing as I do because now there is a light at the end of the tunnel that actually works!

If you were to ban these life-saving flavors, it would force many of us back to smoking. Think about it. Would you give a non-alcoholic beer to a recovering alcoholic? Of course you wouldn't. The taste and smell could cause a relapse. Why would you do this to adult smokers? Smoking kills over 480k people in this country every year. In the time you have taken to read my comments, 3 people have died of a smoking related illness. This has to stop! Smokers, on our own and not big tobacco or pharma found a solution. You seek to destroy all these years of hard work by consumers and industry persons alike.

I urge you to consider my children when drafting nicotine vaping regulations. My kids deserve to have me around as long as possible. If you remove flavors, I could relapse because I am forced to use tobacco tasting flavors. I am so proud of my success. I have never vaped a Juul and it's crazy high nicotine levels. While some smokers may find such high levels needed to quit, it was not necessary. If I am forced to only use a Juul (they will be the only ones left because they

have the cash) because flavor prohibition closes the vape shops that have been so vital to my success, I will be forced from 1mg/ml of nicotine all the way to 35mg/ml of nicotine, which is the smallest strength Juul offers. No one can quit smoking AND vaping at those crazy levels. I can get smaller doses of nicotine from vape shops that are adult-only and card every person who walks in the door.

No one wants to see youth using a product that was created by smokers to help them quit. But a study published in January of this year, 2020 from Nicotine and Tobacco Research (A) found that the reality is, youth use is not as prevalent as tobacco control groups would have you believe. These numbers were used to cause alarm in the public over the deaths and illnesses they incorrectly attributed to nicotine vaping products. But as the CDC and FDA have discovered, these illnesses and deaths are attributed to illegal thc products that are cut with an oil (nicotine vaping is water soluble and uses no oil) called vitamin E acetate (B). This burden should not fall on legal vaping shops who, as a consumer, I use quite often. Add to this the recent move to tobacco 21, and youth use should no longer be a regulatory issue, but rather an enforcement and parenting issues, just like alcohol. Vape shops in Maryland did not receive one single citation for selling to underage persons during the latest operations. The majority of those citations were from convenience stores and not adult-only vape shops. Enforce age restriction laws! Encourage schools to report incidents of vaping in schools to parents and law-enforcement.

Do not punish adults for adolescent curiosity which according to the FDA is the main reason for youth use. Infact flavors ranked number three under curiosity and because the youth saw someone use the product. 77% of youth reported to the FDA via the recent tobacco survey, that flavors were not the reason they tried vaping products (22%).

As a consumer, not connected or affiliated in any way to the vaping industry, I urge you to oppose a prohibition on flavored vaping products for adults. I do support selling flavored products in adult only establishments that require identification in order to enter. This is a great way to curb youth use and brings accountability to the industry. I do not feel this can be achieved outside an adult establishment. It is a fair compromise to allow adult smokers access to live saving tobacco harm reduction products. Thank you for your time.

Stephen Sard  
Registered Independent Voter and consumer  
311 Choptank Ave.  
Easton, MD 21601  
410-463-2971  
stephensard@gmail.com

Travis Johnson  
509 Burning Tree Dr  
Arnold, MD 21012

My name is Travis Johnson, I am 34 years old, and I have been vaping flavored nicotine products for the past six years. I started vaping to help me quit smoking cigarettes, which I had been using for nearly 12 years; and almost instantly, I no longer craved a cigarette. Now, my representatives here at the Maryland General Assembly want to take my right to purchase such products away. It's a ridiculous notion to think that such measures will have any meaningful effect to reduce underage nicotine use. All that you will accomplish is that you will, without question, a black market for these products. Furthermore, since there are no penalties for underage possession of nicotine products, this law will especially not keep these products out of the hands of underage users. Time and time again, prohibition has been shown to not work. It does not prevent illicit drug use and it will not reduce nicotine use either. These products should only be available through dedicated 21 and over shops and there should be civil citations to penalize underage possession. Punishing legal consenting adults will not reduce underage use, especially when there are no negative repercussions for those whom acquire these products illegally. Ban non-wholesale online sales, allow dedicated 21 and over shops to retail flavor nicotine products to ADULTS only, and impose civil citations on those whom acquire these forms of products under the age.

# **Milby\_FWA\_SB410**

Uploaded by: Meyer, Isaac

Position: FWA

Matthew Milby

6814 Autumn View Dr.

Eldersburg, MD 21784

Good Afternoon Chairman and members of the committee,

I am here to ask you for the amendment that the MVA has proposed to this bill, an exemption for vape shops. I have been in front of this committee now for over 3 years and once again I'm here trying to fight for my livelihood. I am a disabled Veteran of the United States Army living with Multiple Sclerosis and I have 3 kids. The vapor industry gave me a second chance at a financial future while helping me to quit cigarettes using flavored vapor. We agree that kids should not be using these products. We are in favor in truly punitive repercussions for retailers that sell to minors. It's time to start taking away these people's ability to do business.

Speaking of taking away people's ability to do business a flavor ban does just that for vape shops. Vapor is the only product we sell, and we have had an excellent track record in **NOT** selling to minors proven by the compliance checks done by the state of Maryland and the FDA. A flavor ban only hurts small businesses and while we go out of business the people who are actively selling to minors will stay in business and proliferate. This bill hands the vapor industry in Maryland over to Big Tobacco, JUUL, black markets and the convenience stores, the Wal-Marts, the CVS's and the tobacco stores who are proven to be selling these products to minors and they will continue to do so.

I have been serving on the Comptrollers vapor taskforce. Last month I reported to the committee that disposable vapor products would be the new JUUL which we all know has been the #1 problem with our youth. Delivering extremely high volumes of nicotine in a very short time to our youth. We will continue to work with state legislators and the comptroller to identify these trends among our youth and help combat underage usage and availability. Our actions reaffirm our stance on underage usage because we believe these products are only for adults who want to transition away from cigarettes.

This bill will also force thousands of Marylanders back into smoking cigarettes or black markets which we know destroy families. You can read firsthand from the people you will send back into smoking by the postcards presented here today. If you read any of the thousands of postcards here today, you will hear stories about how flavors helped them quit cigarettes and that tobacco flavors are nasty and that's exactly what these adults are trying to stay away from.

We vigorously urge you to accept the amendment we have proposed and save small businesses and the families attached to them. I also want to urge you to start punishing retailers that sell to minors with more than just a fine, so we don't have to be back here next year fighting for our livelihood again.

**Anthony\_FWA\_SB410**

Uploaded by: Owens, CJ

Position: FWA

**Wyatt Anthony  
Age 10  
2027 Old Home Ave  
Pasadena, MD 21122**

**Thank you to the chair and committee for letting me speak today. My name is Wyatt Anthony, I am ten years old and in 5th grade at Monarch Academy Glen Burnie.**

**Banning flavored E-liquid would remove the best alternative to smoking for millions of people in the world. My dad used to be a heavy smoker, but ever since he started using vapes he has gone to the gym more frequently, started coaching my basketball team, and done outside activities with me more. Both of my parents have told me that they had tried to quit smoking multiple times and they never succeeded, but my mom recently quit vaping and after 3 days she wasn't even craving nicotine anymore.**

**Another thing that banning flavors would do is create a black market. Throughout history the government has banned many things from being sold and it didn't work. Such as, in 1920 when the 18th amendment got passed banning all intoxicating alcohol from being sold in the US. Due to this, people would start "bootlegging" beers such as moonshine and other liquors which created a black market. Not only were people still getting beer, but the alcohol usage in the united states only went up. In 1933 the US government would pass the 21st amendment making all alcohol legal again.**

**Currently to make your own e liquid you need a vape license from the Maryland government. If this bill gets passed and it creates a black market people without a license will create it illegally. The people without a license won't know the correct chemicals to use to make sure it is safe so the e liquids would only be more dangerous.**

**Passing this bill would get rid of the best smoking alternative and leave people no choice but to return to smoking, or start juuling which will end up killing them. It will also create a black market for flavored e liquid and most like make the nicotine usage go up. People will illegally make it and cause it to be more harmful.**

**Thank you for listening.**

**Gott\_FWA\_SB410**

Uploaded by: Owens, CJ

Position: FWA

Marlee Gott  
63 E Chesapeake Beach Rd.  
Owings MD 20736

My name is Marlee and I am 11 years old. Thank you for allowing me to be here today to share my thoughts.

Flavored vapes helped my parents quit smoking. I remember when my mom and dad would smoke cigarettes and how bad their breath, clothes, and hands would smell. They always smelled like an astray. I was very scared that they would not stop and would die. My Dad use to cough in the morning and would always say this is why you should never start smoking.

I didn't know what they were doing at first, but I did not see them smoking cigarettes anymore. They started to stink less. My mom doesn't smoke or vape anymore. My Dad still vapes, but he does not cough in the morning anymore.

My mom always tells my brother and me to be healthy and to good at sports. She also said that I should never smoke or vape, and I won't! Vapes are for adults who want to stop smoking and not for kids. I believed my Mom and Dad when they say vaping saved their lives and was the only thing to help them quit smoking.

I think a lot more adults can stop smoking cigarettes with the help of different flavored vapes because they don't smell as bad and their breath smells better. Like my Mom and Dad, other parents should teach their kids to not smoke or vape.

I was determined to write this testimony by myself so you can here a kid's point of view that has a parent who vapes. Please do not take the only thing away from my Mom and Dad that helped them to quit smoking.

**Owens\_FWA\_SB410**

Uploaded by: Owens, CJ

Position: FWA

My name is CJ and I am 13 years old.

I watched my Dad struggle with his addiction to cigarettes ever since I can remember.

Each time he tried the patch or gum he would always tell me that this time he was really going to do it, and when he'd go back to smoking I think it hurt him more that he knew I was disappointed.

My Dad promised me for Christmas one year that he would quit smoking. I know he tried so hard, but it didn't happen again.

One day my Dad came home with a vape. The vape my dad uses isn't like the Juul.

I think my life is just as important as every other kid here today. And that includes me having a healthy Dad who can now play sports with me, and even help coach my football team.

All the posters hung around my school about how bad vaping is, has made my friends curious. I am there to tell them the truth: Vaping is only for adults who need to quit smoking.

Since my Dad has told me about vapes and talks to me about them, I know that it is something I will never be interested in doing. Vaping is to help adults quit smoking. I am glad I have a Dad who talk to me about things like this.

My Dad no longer smells like cigarettes and I don't feel embarrassed anymore when my friends come over.

My Dad no longer wheezes and coughs and can now run and play with me.

My Dad is the best Dad because he finally found something that helped him quit cigarettes, and I know he did it for me.

It makes me very sad to listen to the people here today shame my Dad for using a vape to stop smoking. I am very proud of my Dad and I think it is the best thing he has ever done for himself and for me.

I've seen how worried and upset my Dad has been since he heard that he may no longer be able to get the vape juice that got him off of cigarettes and kept him off of cigarettes. He is very scared he may go back to smoking.

Today I am begging you to not pass a bill that will send my Dad back to smoking cigarettes. My life matters and so does his.

I have one final question: Why haven't you banned cigarettes?

Charles Owens  
5949 Deale Beach Rd.  
Deale MD 20751

**Veins\_FWA\_SB410**

Uploaded by: Owens, CJ

Position: FWA

Joseph Veins

Hi I'm Joey and almost 13 years old. Thank you for letting me speak today. Since this issue is so focused around kids like me, I feel as if you should hear my thoughts. The biggest concern from my understanding is flavors are attracting kids to vape. I don't think flavors are the issue here. I know kids my age could care less about the flavor. They try Juul to be cool or to fit in. They don't talk about what flavor it was, they just want people to know they have done something others haven't, just like with regular cigarettes. To be honest I see kids getting caught smoking cigarettes more than vaping in my school and when it is Juuling they definitely are not using the bigger vape like my Mom has.

My Mom quite smoking around 6 years ago, and vaping was the only thing that helped her do it. When we talk about it, my mom always tells me that adults need vaping to help them quit smoking and that kids should never use a vape. I am so glad my Mom feels better, we do a lot more stuff outside together, and her voice is less scratchy. Her car and clothes don't smell like cigarettes anymore. The smell of cigarettes is horrible, and I am so happy I do not have to smell that anymore.

My mom is now healthier, and she works out all the time. I am so proud of her. My mom is an upfront parent with me and talks to me about everything. She says she rather me be educated so I can make good decisions on my own. You may think taking flavors away will help, but you are wrong. The only thing that will do is hurt people like my Mom. My Mom was so addicted to cigarettes, if you force her to smoke a cigarette flavor, she will go back to cigarettes. How do you expect someone to stay away from cigarettes if that is the only flavor option you are giving them? I would hate to see my mom go back to smoking. So, if you plan on banning flavors just know you are taking away the one thing that has truly helped people quit smoking. You will only encourage cigarettes which is the biggest problem and not the solution.

# **Yeager\_FWA\_SB410**

Uploaded by: Owens, CJ

Position: FWA

Mary Yeager  
545 Higgins Dr  
Odenton MD 21113

Good Afternoon members of the committee,

My name is Mary Yeager I am a mother, and a grandmother. Thousands and thousands of Marylanders who are the mothers, fathers, grandmothers, grandfathers got off cigarettes and improved their health by switching to vaping. These are real people with real stories.

Vaping is 95% safer than Cigarettes and gets Adults off cigarettes. Why do I believe this:

- Over thirty-five thousand doctors of the Royal College Of Physicians reviewed the studies and agree
- These doctors are looking at the health of their entire population which includes adults
- My own health has drastically improved since I quit smoking and started vaping.

The following statement makes my head explode. "There have not been enough long-term studies to show that vaping is safe or is an effective cessation product".

In the late 1940's the first modern studies came out linking smoking to lung cancer.

1957 The American Medical Association said more research was needed.

In 1962 The Royal College of Physician came out with the first comprehensive report saying cigarettes cause cancer. Citing this report, the US Surgeon General established an advisory committee

In 1964 the Surgeon General's report came out stating that cigarettes cause cancer. The AMA refused to indorse this report because more research was needed.

My husband is 61 years old and smoked for over 35 Years, four years ago he got off cigarettes by vaping. This summer he ran around the yard chasing our grandbabies. If he had not given up cigarettes he would not be running after grandbabies he would probably on an oxygen tank or coughing up a lung because of his 3 pack a day habit.

We do not have 20 years to wait for "long term" Studies. Vaping Flavors is keeping us and thousands of adult Marylanders off cigarettes NOW. This is our choice.

I believe there are ways to keep kids from getting access to Adult products while still allowing mothers, father, grandmothers and grandfathers their choice to use a product that is 95% safer than cigarettes.

# **ACS CAN\_OPPOSE\_SB 410**

Uploaded by: Collins, Jocelyn

Position: UNF



February 13, 2020

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

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

**SUBJECT:** SB 410 Electronic Smoking Devices—Flavors Prohibition

**POSITION:** OPPOSE

The American Cancer Society Cancer Action Network (ACS CAN) is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society. We support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. On behalf of our constituents, many of whom have been personally affected by cancer, we stand in opposition of **SB 410 Electronic Smoking Devices—Flavors Prohibition**.

The dangers of flavored tobacco do not start and end with e-cigarettes. 95% of smokers begin before the age of 21. Right here in Maryland, 18.2% of adults use any tobacco product, including 12.5% who use cigarettes.<sup>1</sup> While 5.0% of Maryland high school students smoke cigarettes, 6.0% smoke cigars, 4.6% use smokeless tobacco, and 23% use electronic smoking devices.<sup>2</sup> We know that most current smokers were enticed to begin this deadly addiction as youth, and most report beginning with a flavor.

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

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<sup>1</sup> Maryland Department of Health. BRFS 2018. Unpublished. Local Health Department Tobacco Control Meeting, November 21, 2019.  
<sup>2</sup> Maryland Department of Health. YRBS/YTS 2019. Unpublished. Local Health Department Tobacco Control Meeting, November 21, 2019.

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

The 2020 Surgeon General *Smoking Cessation: A Report of the Surgeon General* released on January 23, 2020 noted that an “endgame” strategy that could further bolster tobacco cessation would be to **restrict the sale of flavored tobacco products, including menthol.**<sup>3</sup>

While we deeply appreciate the Sponsor’s commitment to resolve the growing epidemic of e-cigarette use among our youth, we need to be taking a comprehensive approach and end the sale of all flavored tobacco products, including flavored cigars, menthol cigarettes, hookah, and smokeless tobacco. Therefore, we ask the committee to give SB 410 an “unfavorable” committee report, and support *SB 233 Business Regulation-Flavored Tobacco Products-Prohibition*.

Cities across the country have already acted to restrict the sale of all flavored tobacco products. Over 80 localities in California, Colorado, Minnesota, Massachusetts and New York, and the State of Massachusetts have done so. And many other communities and states are currently considering similar proposals. It’s now Maryland’s turn!

Again, I strongly urge you to protect youth from all flavored tobacco products, including flavored cigars, menthol cigarettes, hookah, and smokeless tobacco. Vote “unfavorably” for SB 410, and “favorably” for SB 233.

Thank you.

Sincerely,

Jocelyn Collins  
Maryland and DC Government Relations Director  
American Cancer Society Cancer Action Network

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<sup>3</sup> U.S Department of Health and Human Services (HHS). *Smoking Cessation: A Report of the Surgeon General- Executive Summary*. Rockville, MD. U. S. Department of Health and Human Services, Public Health Service, Office of the Surgeon General; 2020. Available at <https://www.hhs.gov/sites/default/files/2020-cessation-sgr-executive-summary.pdf>.

## Support HB 3/SB 233

### The Only Comprehensive Legislation That Protects Kids and Communities of Color from Tobacco Addiction

	Includes <b>ALL</b> flavored tobacco products	Prohibits manufacture, shipment, import, and sale of flavored tobacco products	Holds retailers liable for selling or offering flavored tobacco products	Prevents new flavored tobacco products from entering the market
<b>HB 3/SB 233</b> <b>(Del. Davis &amp; AG Frosh)</b>	 Covers all flavored tobacco products, including but not limited to e-cigarettes, menthol cigarettes, flavored cigars, hookah, and flavored smokeless tobacco	 A violation is a misdemeanor punishable by maximum penalties of a \$1,000 fine and/or 30- day imprisonment. This includes online sales	 A violation is a misdemeanor punishable by maximum penalties of a \$1,000 fine and/or 30- day imprisonment	 Banning all flavored products will stop new products that circumvent current regulations from reaching Maryland kids
<b>SB 410</b> <b>(Sen. Kramer)</b>	 Covers only flavored electronic smoking devices (e-cigarettes) that come in “artificial or natural flavors”. Allows the sale of flavored tobacco products kids prefer, like menthol cigarettes *	 Prohibits the sale of certain flavored electronic smoking devices in the state. It does not address manufacture, shipment or import	 A violation is a misdemeanor punishable by maximum penalties of a \$1,000 fine and/or 30- day imprisonment	 Addresses only a portion of the flavors and products on the market (e-cigarettes). Would not prevent new products that target regulatory loopholes from reaching kids
<b>SB 54</b> <b>(Sen. Lam)</b>	 Covers only flavored e-cigarettes that come in ‘artificial or natural flavors’. Allows the sale of other flavored tobacco products that kids prefer, like menthol cigarettes *	 Prohibits the sale, manufacture, shipment, import, or sale of some flavored e-cigarette products	 Does not have a fine enforcement structure; leaves it to the comptroller’s discretion	 Addresses a portion of the flavors and products on the market (e-cigarettes). Would not prevent new products that target regulatory loopholes from reaching kids

\* More than half (54%) of all youth smokers ages 12-17 use menthol cigarettes

## **Jesse Kelley - UFV - MDSB0410**

Uploaded by: Kelley, Jesse

Position: UNF



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*Free Markets. Real Solutions.*  
[www.rstreet.org](http://www.rstreet.org)

Testimony from:

Jesse Kelley, Government Affairs Manager, Criminal Justice & Civil Liberties, R Street Institute  
Jonathan Haggerty, Resident Fellow, Criminal Justice & Civil Liberties, R Street Institute

In opposition to Senate Bill No. 410, “AN ACT concerning Electronic Smoking Devices – Flavor Prohibition.”

February 13, 2020

Senate Finance Committee

Chairman Kelley and Members of the Committee:

The federal government recently raised the legal age to purchase tobacco products from 18 to 21<sup>1</sup> and banned the sale of flavored, cartridge-based e-cigarettes with the exception of tobacco and menthol flavors.<sup>2</sup> R Street supports the decision to raise the legal age to keep products out of the hands of minors as well as the exception for menthol-flavored products, which aims to provide an off-ramp for current menthol smokers.

R Street is concerned, however, with SB 410, as it would remove menthol-flavored products from the legal market—taking away an appealing and safer alternative for menthol smokers—and would include severe penalties for selling unauthorized e-cigarettes, including a misdemeanor conviction and jail sentence of up to 30 days. We do not believe that e-cigarettes constitute a public health issue that warrants such a steep penalty. We also maintain that the negative public safety outcomes associated with jails and a criminal record far outweigh any deterrent value such consequences might provide.

As two researchers and advocates for criminal justice reform, we are most concerned with this bill’s provision allowing for a penalty of up to 30 days in jail and a misdemeanor conviction. R Street’s criminal justice program has long advocated against incarcerating individuals in jails for low-level, nonviolent offenses.<sup>3</sup> Jails often operate at the state and local levels and typically detain individuals before trial (known as “pretrial detention”) and those serving sentences less than one year. Prisons, on the other hand, are run by states or the federal government and detain individuals serving felony sentences of a

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<sup>1</sup> “Selling Tobacco Products in Retail Stores,” Food and Drug Administration (2019). <https://www.fda.gov/tobacco-products/retail-sales-tobacco-products/selling-tobacco-products-retail-stores>.

<sup>2</sup> “FDA finalizes enforcement policy on unauthorized flavored cartridge-based e-cigarettes that appeal to children, including fruit and mint,” FDA News Release, Jan. 2, 2020. <https://www.fda.gov/news-events/press-announcements/fda-finalizes-enforcement-policy-unauthorized-flavored-cartridge-based-e-cigarettes-appeal-children>.

<sup>3</sup> Arthur Rizer, “The Conservative Case for Jail Reform,” *National Affairs*, Fall 2017. <https://www.rstreet.org/2017/09/22/the-conservative-case-for-jail-reform/>.

year or more. While over 600,000 people go to prison annually, people go to jail 10.6 million times each year.<sup>4</sup>

The explosion of jail populations is in large part due to policies that house the accused and those convicted of low-level crimes in jails instead of exploring community or rehabilitative options. And while jails hold individuals for shorter periods of time than prisons, their negative effects on individuals and communities are numerous.

The dire conditions and lack of resources that typify most jails have exposed an empirical relationship between jail stays and damaging mental health outcomes.<sup>5</sup> Even brief jail sentences are associated with alarming rates of suicide that outpace prison suicide rates.<sup>6</sup> Multiple peer-reviewed studies have concluded that short stints in jails—as little as a few days—increase the likelihood that an individual will commit future crimes.<sup>7</sup> The likelihood of recidivism increases with the amount of time spent in jail.<sup>8</sup> The relationship between recidivism and incarceration is complicated, but many factors contribute—possible explanations include: loss of job, eviction, introduction to crime-prone individuals, strains on social ties and difficulty gaining employment post-release. Indeed, due to the widespread use of background checks and occupational licensing laws that target those with criminal records,<sup>9</sup> a misdemeanor conviction or merely an arrest can make it impossible to access and maintain stable employment and stay crime-free.<sup>10</sup>

Maryland acknowledges the problems associated with unnecessary incarceration and the damage a criminal record can inflict on individuals and communities. The state has been a leader in criminal justice reform, having passed reforms like the Justice Reinvestment Act that reduced counterproductively long sentences, emphasized treatment and rehabilitation over incarceration and made it more feasible for individuals who have served their time to clear their record and access employment post-release.<sup>11</sup> In the spirit of these smart reforms, we believe this bill's penalties for low-level offenders should be revised, particularly given the net-positive public health outcomes offered by e-cigarettes.

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<sup>4</sup> Wendy Sawyer and Peter Wagner, "Mass Incarceration: The Whole Pie 2019," Prison Policy Initiative, March 19, 2019. <https://www.prisonpolicy.org/reports/pie2019.html>.

<sup>5</sup> Naomi Sugie and Kristin Turney, "Beyond incarceration: criminal justice contact and mental health," *American Sociological Review* 82:4 (2017), pp. 719-43. <https://journals.sagepub.com/doi/abs/10.1177/0003122417713188>.

<sup>6</sup> Maurice Chammah and Tom Meagher, "Why Jails Have More Suicides than Prisons," *The Marshall Project*, Aug. 4, 2015. <https://www.themarshallproject.org/2015/08/04/why-jails-have-more-suicides-than-prisons>.

<sup>7</sup> Paul Heaton, Sandra Mayson and Megan Stevenson, "The Downstream Consequences of Misdemeanor Pretrial Detention," *Stanford Law Review* 69 (2017), p. 711. <https://review.law.stanford.edu/wp-content/uploads/sites/3/2017/02/69-Stan-L-Rev-711.pdf>.

<sup>8</sup> Christopher T. Lowenkamp, Marie VanNostrand and Alexander Holsinger, "Investigating the Impact of Pretrial Detention on Sentencing Outcomes," Laura and John Arnold Foundation, November 2013. [https://craftmediabucket.s3.amazonaws.com/uploads/PDFs/LJAF\\_Report\\_state-sentencing\\_FNL.pdf](https://craftmediabucket.s3.amazonaws.com/uploads/PDFs/LJAF_Report_state-sentencing_FNL.pdf).

<sup>9</sup> Jonathan Haggerty, "How occupational licensing laws harm public safety and the formerly incarcerated," *R Street Policy Study* No. 143, May 2018. <https://www.rstreet.org/2018/05/31/how-occupational-licensing-laws-harm-public-safety-and-the-formerly-incarcerated/>.

<sup>10</sup> Megan Denver, Garima Siwach and Shawn Bushway, "A New Look at the Employment and Recidivism Relationship through the Lens of a Criminal Background Check," *Criminology* 55:1 (2017), pp. 174-204. <https://onlinelibrary.wiley.com/doi/abs/10.1111/1745-9125.12130>.

<sup>11</sup> Michael Dresser, "Hogan signs bill to overhaul Maryland criminal justice system," *The Baltimore Sun*, May 19, 2016. <https://www.baltimoresun.com/politics/bs-md-justice-reinvestment-20160518-story.html>.

According to a well-respected British public health agency<sup>12</sup> as well as the National Academy of Sciences,<sup>13</sup> e-cigarettes are 95 percent safer than combustible cigarettes. One study found that e-cigarettes could save up to 6 million lives by 2100 if only 10 percent of current smokers switch to e-cigarettes over the next 10 years.<sup>14</sup> E-cigarettes have also been shown to help current smokers quit their deadly habit,<sup>15</sup> and recent research demonstrates that e-cigarette users who use non-tobacco flavors, including menthol, are more likely to switch from combustible cigarettes than those who do not.<sup>16</sup>

Although there is not good evidence that vaping acts as a gateway to regular smoking for youth,<sup>17</sup> we acknowledge it is best that minors do not form nicotine habits, and therefore we support mandating stronger point-of-sale age verification, increased compliance checks on retailers as well as swift and meaningful enforcement for retailers who violate minimum-age-to-purchase laws. Maryland already provides for suspension or revocation of licenses as well as civil penalties.<sup>18</sup>

Because of the many health and public safety problems associated with jail, R Street does not support the incarceration of an individual unless there is a compelling public interest. Given the relatively low public health problems associated with vaping and the ameliorative benefits of e-cigarettes—including those containing menthol—R Street opposes banning menthol-flavored e-cigarettes as well as any penalties stipulating incarceration and a criminal record.

Thank you for your consideration,

Jesse Kelley  
R Street Institute  
jkelly@rstreet.org

Jonathan Haggerty  
R Street Institute  
jhaggerty@rstreet.org

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<sup>12</sup> “Nicotine without smoke: tobacco harm reduction,” Royal College of Physicians Tobacco Advisory Group, 2016. <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>.

<sup>13</sup> “The Public Health Consequences of E-cigarettes,” National Academies of Science, Engineering and Medicine, January 2018. <http://nationalacademies.org/hmd/reports/2018/public-health-consequences-of-e-cigarettes.aspx>.

<sup>14</sup> David Levy et al., “Potential deaths averted in USA by replacing cigarettes with e-cigarettes,” *Tobacco Control* 27:1 (2018), pp. 18–25. <https://tobaccocontrol.bmj.com/content/27/1/18>.

<sup>15</sup> Peter Hajek et al., “A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy,” *The New England Journal of Medicine* 380 (2019), pp. 629-37.

<sup>16</sup> Christopher Russell et al. “Changing patterns of first e-cigarette flavor used and current flavors used by 20,836 adult frequent e-cigarette users in the USA,” *Harm Reduction Journal* 15:33 (2018).

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**CEI\_UNFAV\_SB233**

Uploaded by: Minton, Michelle

Position: UNF

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Testimony for: SB 233 (Flavored Tobacco Products – Prohibition)

Committee: Senate Finance Committee

**Position: OPPOSED**

Contact: Michelle Minton, Senior Fellow

Competitive Enterprise Institute

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Washington, DC 20005

202-331-2251

Michelle.Minton@cei.org

Chairman Kelley and members of the Committee:

Thank you for giving the public an opportunity to provide input as you consider this proposal. I sincerely hope you listen to the testimony you'll hear today from consumers, business owners, and experts in the field, like me. My name is Michelle Minton. I am a Senior fellow with the non-partisan think tank the Competitive Enterprise Institute where I have dedicated my career to the study of consumer risk regulation. As an expert on consumer policy, as a Maryland resident, and someone who cares about public health, I urge you not to repeat the mistakes of our past. I urge you not to enact a new prohibition on e-cigarette flavors.

If there is one thing I've learned over my 13-year career that I hope you'll take away from my testimony, it is this: prohibitions don't work. They have never and will never work. Policies meant to save people from the perils of their own choices, whether through taxation, restrictions on products, or outright bans do not make people better off. In fact, as well-meaning as they may be, bans invariably backfire, causing people to engage in riskier behaviors.

We have seen this over and over again, yet we never seem to learn. Alcohol prohibition did not save people from excessive alcohol consumption: it led to harder drinking, speakeasies, funneled billions of dollars to organized criminals, and left many dead from tainted bathtub liquor.

New York hasn't banned cigarettes, but has made them prohibitively expensive through taxation. As it always does, the black market rose to meet the demand for cheaper cigarettes and now more than 60 percent of cigarettes sold in the state are from illegal sources. Not only is law enforcement incapable of preventing tobacco bootlegging, attempts to stop it have only resulted in tragedies, such as the death of Eric Garner, the Staten Island man choked to death by police who believed he was selling untaxed cigarettes.

Marijuana prohibition didn't stop people from using pot. Attempts to enforce the law caused incalculable harm, primarily to lower income communities and people of color, while doing not to stop

the rise of drug cartels and the creation of an enormous global cannabis black market. It was this very black market that caused the outbreak of lung injuries we saw over the summer. Most of those injured lived in states without legal marijuana or were not of age to legally purchase it so they relied on the black market which has zero quality control and no incentive to verify customers' age. As a result, nearly 3,000 people were hospitalized by THC vaping products tainted with vitamin E acetate and 60 people are dead.

Instead of recognizing this outbreak as a failure of prohibition, activists used the outbreak and public confusion around it, to compel state legislatures to enact bans on nicotine e-cigarettes; products that had nothing to do with it.

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

First, there is no youth vaping epidemic. Despite the headlines, the vast majority of youth who report using e-cigarettes are not using them habitually. Analysis of the 2018 survey data shows that just 7 percent of students reported vaping five or more times in the last month. Of those who reported vaping more than five times a month, only 0.4 percent were never users of tobacco.<sup>1</sup>

By the CDC's definition, an "epidemic" refers to a usually sudden increase in the number of cases of a disease in a given population, above what is expected in that area.<sup>2</sup> E-cigarette *use* by youth, though concerning, is not a disease. In fact, there is not a single case in the U.S. of any person—adolescent or adult—developing a disease as the result of inhaling the vapor produced by electronic nicotine delivery devices.

This is not an epidemic.

Epidemic or not, we should seek out ways to discourage adolescents from initiating nicotine use through e-cigarettes. A flavor ban will also fail to achieve this goal because flavors are not the reason youth vape. According to the CDC, the number one reason youth say they vape is curiosity.<sup>3</sup> In the United Kingdom, where e-cigarettes are embraced as a means of reducing harm for adult smoker and available in every imaginable flavor, youth uptake of vaping is almost nonexistent. But, in the United States, it is clear why adolescents have become so curious about these devices with an endless flood of headlines and multimillion-dollar campaigns telling them one thing: vaping is for adults only and even though all your friends are doing it, you shouldn't. One doesn't need a degree in child psychology to see why this backfired.

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

This is no longer a controversial statement as the evidence is clear. Though we may not know the exact amount of risk e-cigarettes pose in the long-term, we know that this is far lower than with combustible tobacco. We also know that e-cigarettes are an effective smoking cessation option, with trials showing

they are at least twice as effective as nicotine replacement therapy.<sup>4</sup> And flavors are one of the main reasons they are so effective.

Despite absurd claims that adults don't like flavors, the vast majority of adult vapers use non-tobacco flavors. More importantly, adults who successively switch from smoking to exclusive vaping are more likely to use fruit, desert, and candy flavored e-cigarettes and research even shows that the number of flavors regularly used by a vaper is independently associated with smoking abstinence.<sup>5,6</sup> Flavors work because, in addition to making vaping pleasurable, they also help users disassociate the effects of nicotine from the taste of tobacco. As result, relapsing is less appealing, increasing users' intention and self-efficacy to stay smoke-free.<sup>7</sup>

Banning e-cigarette flavors won't stop youth vaping, but will put at risk the more than 250,000 Maryland adults who rely-on e-cigarettes to stay smoke free.<sup>8</sup> The ban will significantly reduce the effectiveness and appeal of e-cigarettes for adults, causing fewer to switch from smoking and many to relapse back to smoking or turn to non-legal substitutes.

Some will make their own liquid at home. Thanks to YouTube tutorials, it is fairly simple to figure out how to do this safely. However, more people making homemade e-liquid will mean more homes with liquid nicotine concentrate. No doubt, this will result in more cases of accidental poisoning as children get their hands-on uncapped nicotine concentrate. This is exactly what happened in 2014 when a one-year-old died after drinking the bottle of nicotine that his mother used to make her own e-cigarette liquid in their New York.<sup>9</sup>

Those less inclined toward DIY will turn to the black market where consumers will be presented with products of uncertain origin and quality. Some may not even be aware that what they are buying is counterfeit, as happened after Juul voluntarily removed some of its flavors from the market and knockoff versions—produced in China—made their way onto store shelves in America.<sup>10</sup> If all flavored e-cigarettes are banned, there will be a massive influx of illegal cartridges, more cases of illness, and more deaths related to tainted products.

I urge the members to seriously consider the consequences of this proposal. Smoking costs the state of Maryland nearly \$3 billion dollars a year in health care costs and claims the lives of 7,500 residents every year.<sup>11</sup> Our public health goal should not only be focused on the unknown risks e-cigarettes may pose to youth, but also on reducing the death and disease caused by smoking. Thankfully, smoking (among adults and youth) is lower now than it has ever been. But, if e-cigarettes can help reduce this rate by any amount, as the evidence indicates they can, we ought to do everything in our power not to squander that opportunity. Every new rule or law that makes e-cigarettes less attractive or less accessible means more deaths from smoking.

If you are serious about reducing tobacco-related harm for both adolescents and adults you should reject proposed laws that would deter smokers from switching to lower risk products and push consumers into black markets. Instead, we should employ the strategies that have worked for other adult products, such as gambling, alcohol, and marijuana: stricter age verification requirements, responsible advertising standards, treatment over criminalization, and enforcement of existing laws.



These approaches would address the youth vaping issue without producing the unintended consequences that always go hand-in-hand with prohibition.

I sincerely urge you to reject this proposal and find an approach that doesn't sacrifice the lives of adult Marylanders to the imagined threat e-cigarettes pose to youth.

Thank you for your time,

Michelle Minton  
Senior Fellow, Competitive Enterprise Institute  
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<sup>1</sup> Allison M. Glasser, Amanda L Johnson, Raymond S Niaura, et al., "Youth Vaping and Tobacco Use in Context in the United States: Results from the 2018 National Youth Tobacco Survey," *Nicotine & Tobacco Research*, January 13, 2020, <https://academic.oup.com/ntr/advance-article-abstract/doi/10.1093/ntr/ntaa010/5701081?redirectedFrom=fulltext>.

<sup>2</sup> Centers for Disease Control and Prevention, "Principles of Epidemiology in Public Health Practice, Third Edition An Introduction to Applied Epidemiology and Biostatistics," <https://www.cdc.gov/csels/dsepd/ss1978/lesson1/section11.html>.

<sup>3</sup> Tobacco Product Use and Associated Factors Among Middle and High School Students—United States, 2019. <https://www.cdc.gov/mmwr/volumes/68/ss/ss6812a1.htm>.

<sup>4</sup> Peter Hajek, Anna Phillips-Waller, Dunja Przulj, et al., "A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy," *The New England Journal of Medicine*, 2018. <https://athra.org.au/wp-content/uploads/2019/01/Hajek-P.-A-randomised-trial-of-e-cigarettes-versus-nicotine-replacement-therapy.-NEJM-2019.pdf>.

<sup>5</sup> Christopher Russell, Neil McKeganey, Tiffany Dickson, and Mitchell Nides, "Changing patterns of first e-cigarette flavor used and current flavors used by 20,836 adult frequent e-cigarette users in the USA," *Harm Reduction Journal*, Vol. 15, Article 33 (2018), <https://harmreductionjournal.biomedcentral.com/articles/10.1186/s12954-018-0238-6>.

<sup>6</sup> Konstantinos Farsalinos, Giorgio Romagna, Dimitris Tsiapras, Stamatis Kyrzopoulos, Alketa Spyrou, and Vassilis Voudris, "Impact of Flavour Variability on Electronic Cigarette Use Experience: An Internet Survey," *International Journal of Environmental Research and Public Health*, Vol. 10, No. 12, (December 2013), pp. 7272-7282, <https://europepmc.org/abstract/med/24351746>.

<sup>7</sup> Caitlin Notley, Emma Ward, Lynne Dawkins, Richard Holland, "The unique contribution of e-cigarettes for tobacco harm reduction in supporting smoking relapse prevention," *Harm Reduction Journal*, 2018, Vol. 15, Article 31, <https://harmreductionjournal.biomedcentral.com/articles/10.1186/s12954-018-0237-7>.

<sup>8</sup>

[https://nccd.cdc.gov/STATESystem/rdPage.aspx?rdReport=OSH\\_State.CustomReports&rdAgReset=True&rdShowModes=showResults&rdShowWait=true&rdPaging=Interactive&islMeasure=174ECU](https://nccd.cdc.gov/STATESystem/rdPage.aspx?rdReport=OSH_State.CustomReports&rdAgReset=True&rdShowModes=showResults&rdShowWait=true&rdPaging=Interactive&islMeasure=174ECU)

<sup>9</sup> Keshia Clukey, "Case closed in Fort Plain liquid nicotine death," *Times Union*, April 12, 2015, <https://www.timesunion.com/news/article/Case-closed-in-Fort-Plain-liquid-nicotine-death-6195411.php>.

<sup>10</sup> Angelica LaVito, "Fake Juul pods line store shelves, worrying users and posing another threat to the embattled company," *CNBC*, August 26, 2019, <https://www.cnbc.com/2019/08/26/fake-juul-pods-fill-shelves-after-vaping-giant-pulled-fruity-flavors.html>.

<sup>11</sup> Campaign for Tobacco-Free Kids, *Broken Promises to Our Children: a State-by-State Look at the 1998 State Tobacco Settlement 20 Years Later FY2019*, 2018. <https://www.tobaccofreekids.org/what-we-do/us/statereport>.

# **LATE - TheresaMoyer\_UNF\_SB410**

Uploaded by: Moyer, Theresa

Position: UNF

February 10, 2020

Theresa Moyer  
546 Franklin St.  
Perryville, MD 21902

## MEMORANDUM FOR RECORD

### SUBJECT: MARYLAND FLAVOR BAN AGAINST VAPING

I am writing this memo in hopes that I can give you a better understanding of vaping, the position that we support as vapers and how vaping has benefitted myself and many others.

After being a smoker for 27 years, I developed a chronic cough, I wheezed at night when I laid down to sleep, I could not walk up a flight of stairs without stopping to catch my breath and couldn't keep up the pace to walk around the block with my grandchildren.

I was desperate to stop smoking. I tried the patch, I tried Nicorette gum, Chantix and I even tried hypnosis and none of those things worked for me. Then I discovered vaping. I did some research, talked to other individuals that vaped to get a better understanding of the product and then I bought a small device to try it out. It was difficult to get use to at first because it was different from smoking.

It wasn't very long after I started vaping, that I started a new job at the VA Hospital. This was a very stressful job and my daily duties revealed many disturbing things. Mostly patients with different types of cancer, mouth, throat and lung. Patients who could no longer talk or eat because of throat cancer. Patients who could not take a breath on their own, patients on respirators, numerous cases of COPD and ALMOST ALL CAUSED BY SMOKING. This was definitely a turning point for me, I realized that if I didn't make a change this could someday be me.

So in 2014 I decided to open a small vape shop. I needed to stop smoking and although I could not help those patients that were already very sick, perhaps this was my pathway to quit and a way for me to help others find a healthier alternative to smoking.

Let me say that again, vaping is a much healthier alternative to smoking.

The center of focus seems to be that vaping has become an epidemic and addicting our youths to nicotine. Well before vaping came along our youths were addicted to cigarettes. There are plenty of statistics that show that millions of people have died from cigarettes but yet that seems to be a topic that gets brushed aside. However we grasp onto the random accusations that vaping has killed people. Even after it was confirmed that none of the lung illnesses were linked to any commercially available nicotine products, but the public is still latching on to this false news.

I am trying to understand why the industry is under constant attack.

Let's review some facts: In 2015 there was rumor that vaping was causing popcorn lung. This was attributed to a chemical called diacetyl. The use of this product was evaluated and manufacturers eliminated this chemical from all e-liquids that contained this chemical. By the way Diacetyl is still in

used in many products that we come in contact with every day but it can no longer be associated with vaping.

Let's review some additional facts: In 2016 there was a rumor concerning small children and animals were able to open and consume the e-juice from the bottles. So, the FDA recommended a need for child protective caps, and we were given a suspense date to comply. The industry jumped on board and changed all of their packaging to include child protective caps and within the required timeline, and those protective caps are still presently in place.

Let's review another fact: In 2017 there were complaints that the labeling of e-juice is appealing to younger people and that the labels needed to be changed in a way that was less appealing to younger people. Once again the industry went back to the drawing board and changed the look of their products within the time allocated for the change by the FDA.

Additional Facts: In 2018 the FDA determined that e-juice is a dangerous product and that are product should be categorized the same as tobacco and every bottle, every box, every post, every advertisement, every marketing campaign anything that is seen by the public must display this warning label. Once again, the industry went back to the drawing board and reestablished their labeling according to the specific direction of the FDA.

The FDA had also provided a timeline in which all companies were required to submit their product ingredients for further review and approval and this process will be extremely costly and with no guarantees that your product can continue to be sold.

The industry has complied with everything that has been required.

Another fact: In 2019, there was an announcement put out by the National Youth Tobacco Survey (NYTS) that indicated vaping among young people rose from 21% in 2018 to 28% in 2019 however it was also mentioned that there was an accelerated decline in **youth smoking**. This statistic is important because it reveals that basically the amount of youths smoking has really not changed that much but the paradigm has shifted and some who were smoking are now vaping, and although that may not be the ideal statistic, they have chosen a less harmful alternative to smoking.

In 2019 the age restriction of 21 was implemented. We have educated our public, posted signs, checking ID's, whatever is required. So why are we under constant attack? Why are we being held accountable at this time for the actions of these youths?

In 2019 there were bogus reports that indicated vaping was causing lung damage and killing people. Even after many investigations were conducted and concluded that the culprit was THC cartridges laced with vitamin E oil and yet the public is still latching onto random accusations that these lung illnesses are associated with products sold commercially that contain nicotine.

The center of focus seems to be that vaping has become an epidemic and addicting our youths to nicotine. Well before vaping came along our youths were addicted to cigarettes. There are plenty of statistics that show that millions of people have died from cigarettes but yet that seems to be a topic that gets brushed aside.

I sat by and listened to comments last week regarding younger people vaping in school. Why are we not implementing stricter policies in the schools? Implement no tolerance for vaping and if you are caught you are expelled. Young people today and even young people back in my day, when you tell them not to do something, they are going to find a way to do it until there is a consequence. Make them accountable for their actions and I guarantee all you will need is to carry through on one incident, uphold one punishment, make an example of one individual and see what happens.

Chipping away at the vaping industry is not going to accomplish what you think. It is just going to create a whole mirage of different problems that will be more difficult to deal with. Transporting products from other states, products being produced and sold on the black market and this is just to name a few.

You are punishing the wrong party. Our intent is to provide smokers with a healthier alternative to smoking. To improve their quality of life and reverse the ailments that plagued each of us when we were smoking, and vaping has done that.

It's unbelievable how this whole process has reminded me of a short film clip released in 1938 called "Reefer Madness". Perhaps some of you have seen it. This was a form of propaganda displayed to scare America's youths away from smoking marijuana. It portrays how one puff can plunge our youths into a web of murder, sex, suicide and lunacy. They would have never imagined that after 80 years it would become legal and would actually help people of all ages deal with all sorts of ailments and conditions.

So why are we looking at vaping in this manner. Vaping has improved my overall health. I can breath again, I can take long walks again, I can taste food again and play with my grandchildren again and they don't complain that I smell bad. Vaping has benefitted many people and it can benefit many more.

You know, every time a customer comes into my shop and says they haven't smoked a cigarette in 30 or 60 days I get so excited because I have help others change to a healthier, positive lifestyle. We don't want to go back to smoking cigarettes.

We are small businesses and we have done everything that has been asked of us and eliminating our businesses could be a choice between life and death for some of us, so why would anyone even consider taking that choice away from us? Thank you for your time.

# **SB410\_UKVapingRegs\_MRA**

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ESSAY

## Why the U.K. Isn't Having Problems With Vaping

The lessons of Prohibition's failure in the U.S. haven't been lost on the British.



A woman vaping in London, Feb. 2019. PHOTO: ALAMY

*By Matt Ridley*

Oct. 24, 2019 10:53 am ET

The Volstead Act prohibiting intoxicating beverages became law on October 28, 1919—a century ago this week—and came into force a few months later. Most people now agree that Prohibition was a failure, driving the alcohol industry underground, where its products became unsafe, its profits lucrative and tax-free, and its methods violent. Most countries have since taken the view that it is better to legalize, regulate and tax drink than to ban it.

Today, there is a similar debate over vaping, a popular new practice prohibited or heavily restricted in many countries. Electronic cigarettes, which use heating elements to vaporize liquids usually containing nicotine, were invented in China in the early 2000s by Hon Lik, a chemist looking for a way to satisfy his nicotine addiction without dying of lung cancer as his father had. Nicotine itself is far less harmful to smokers than the other chemicals created during combustion. Heavyweight studies confirm that there are much lower levels of dangerous chemicals in e-cigarette vapor than in smoke and fewer biomarkers of harm in the bodies of vapers than smokers.

Some countries argue that vaping is an effective means of reducing smoking, while others want to see it stamped out altogether, fearing that it could give a new lease on life to the tobacco industry. As with drugs and prostitution, this debate pits prohibition against “harm reduction”: the idea that it is better to regulate harmful habits to make them safer than to ban them in the hope of enforcing abstinence, which results in criminals making them more dangerous.

In both the U.K. and the U.S. the rapid growth in vaping has coincided with rapid reductions in smoking rates, especially among young people. Yet there is a stark contrast between the two countries in how vaping has been treated by public health authorities and, as a result, in its safety for users.

In Britain, vaping is all about nicotine, not drugs. It is socially acceptable and is confined almost entirely to people who have smoked, even among the young. Less than 1% of vapers are people who have never smoked, and there is little sign of young people taking it up faster than they would have taken up smoking.



A barrel of beer is destroyed during Prohibition in the U.S. PHOTO: BETTMANN ARCHIVE/GETTY IMAGES

There are now 3.6 million vapers in the U.K. and 5.9 million smokers (some people are in both categories). Many British smokers have switched entirely to vaping, encouraged by the

government, whose official position is that vaping is 95% safer than smoking, an assertion now

backed by early studies of disease incidence. The organizations that have signed a statement saying that vaping is significantly less harmful than smoking include Public Health England, the Association of Directors of Public Health, the Royal College of Physicians and the Royal Society for Public Health.

There have been no deaths and few if any cases of lung illness directly attributed to vaping in the U.K. A recent study has concluded that vaping is now helping up to 70,000 people stop smoking every year by reaching those who failed to quit smoking by other means. "The British public have voted with their feet and are choosing to use e-cigarettes. This is a positive choice, and we should promote it," says Prof. Linda Bauld of Cancer Research U.K.

**In the U.S., vaping has killed at least 33 people and injured about 1,500.**

In the U.S., by contrast, vaping has killed at least 33 people, injured about

1,500 and earned the wrath of both the Centers for Disease Control and Prevention (CDC) and President Trump. "Big Vape is intentionally addicting our kids to nicotine, merging with Big Tobacco while disguised as antismoking crusaders, peddling known and unknown chemical harms to the adolescent brain ... providing a dangerous new delivery platform for potheads and spreading a deadly lung disease," writes Katy French Talento, until recently President Trump's health policy adviser.

Why the different experience? The CDC says that most cases of illness are linked to vaping products laced with THC oil, an ingredient of cannabis, "particularly those obtained off the street or from other informal sources (e.g., friends, family members, illicit dealers)." In addition, many American nicotine e-cigs are much stronger than those allowed in Britain, where there is a 2% limit on nicotine concentrations under the EU's Tobacco Products Directive. A typical Juul is nearly three times as strong.

In Britain, a manufacturer or importer of e-cigarettes must submit a notification to the authorities six months in advance of a product launch and is subject to strict product-safety regulations, including toxicological testing of the ingredients and emissions, as well as rules ensuring tamper-proof and leakproof packaging. Stimulants, colorings and vitamin additives are tightly regulated.

Few such regulations exist in the U.S. For many observers, this explains the higher injury rate: “What’s happening in the U.S. is not happening here [in Britain], nor is it happening in any other countries where vaping is common,” says John Britton, director of the U.K. Centre for Tobacco & Alcohol Studies at Nottingham University.

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The U.S. Food and Drug Administration has recently proposed rules for regulating e-cigarettes that would echo the British approach by “reviewing a tobacco product’s components, ingredients, additives, constituents, toxicological profile and health impact, as well as how the product is

manufactured, packaged and labeled.”

Some fear that this is too late and that politicians will react to the moral panic over vaping by preferring prohibition instead. Michelle Minton of the Competitive Enterprise Institute says: “A ban on flavors, devices or nicotine levels will have the same effect as every other prohibition. People will turn to illicit dealers or try to do it themselves. And, as we saw with the outbreak of tainted THC, this will result in overdoses, injury and death.”

Of course, neither country has gotten everything right. In Britain, the vaping industry argues that some restrictions prevent lifesaving interventions. Philip Morris International—which has developed heat-not-burn products to compete with the rise of vaping and now promises a “smoke-free future”—would like to insert slips into cigarette packs urging smokers to switch, but the ban on advertising e-cigarettes prevents this. And in both countries independent vaping firms argue that strict regulations act as barriers to entry that favor big firms. Mike Hogan, of the U.S. Smoke-Free Alternatives Trade Association, told Politico, “We may be putting the entire ‘harm reduction henhouse’ in the hands of the fox industry”—by which he means Big Tobacco.

The argument for harm reduction is not one that comes easily to some public-health advocates, because it means promoting behaviors that may still be harmful, just less so than the alternative. Vaping doesn’t have to prove entirely safe for it to save lives, given that it mostly replaces smoking.

**Vaping doesn’t have to prove entirely safe for it to save lives, given that it mostly replaces smoking.**

In  
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1980s the British government took the unpopular decision to encourage the distribution of free

needles to heroin addicts so that they would not contract H.I.V. by reusing dirty needles. This condoned a dangerous and illegal activity, but it worked: The incidence of H.I.V. among people who inject drugs is much lower in the U.K. than in other countries that initially rejected this approach, including much of the U.S.

By contrast, the U.S. is gradually accepting the harm reduction argument for cannabis, while Britain remains wedded officially to prohibition and has high death rates from drug use. The argument for legal cannabis holds that prohibition makes cannabis on the market stronger and more dangerous, rewards illegal gangs with bumper profits and spawns violence. As with alcohol, decriminalization allows quality control and crime reduction as well as tax revenue.

A century after the American experiment with Prohibition, neither the U.S. nor the U.K. has fully absorbed the lesson of its failure: that public health and safety are best served when governments treat our harmful habits as problems to regulate, not evils to ban.

*—Mr. Ridley is a member of the House of Lords and the author of many books, including most recently “The Evolution of Everything: How New Ideas Emerge.”*

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# **LATE - WalkerEnterprises\_UNF\_SB410**

Uploaded by: Walker, Penny

Position: UNF

## Walker Enterprises LLC

DBA/MaddCatt Vapors  
200 S. George Street  
Cumberland, MD 21502

February 13, 2020

Re: Opposition to Senate Bill 410

Dear Madam Chair and Fellow Committee Members:

My name is Penny Walker and I am a former smoker and current owner of two full-service awarding winning vape shops in Cumberland and Hagerstown, Maryland. I employ a total of twenty-five people, pay a living wage, and my company bears 80% of the cost of health insurance for all employees.

As a smoker since I was 14 years of age, I had tried everything to quit. I was unsuccessful with gums, patches, straws, Chantix, and a prescription nicotine delivery system. I was suffering from early fibrosis of my left lower lung, so my addition to cigarettes was becoming a matter of life or death. Finally, on December 6, 2011, I was able to successfully quit smoking by using an electronic cigarette and a raspberry flavor. Through the miracle of vaping, I was successful on my very first attempt. At the age of 41, I had finally quit, and have not gone back since.

I was so excited about this transformative technology that I opened a vape shop in 2012. Due to the large number of customers traveling from neighboring Washington County, I opened a second vape shop there in 2014. I applied my love of cooking to e-liquid, developing flavors/recipes that have helped countless others to quit smoking. Over the past seven years, I have built and run both vape shops while working full-time at Maryland Legal Aid, a non-profit public interest law firm.

Every single person who smokes wants to quit! Banning flavors will simply make people go back to smoking. I know this because this is what my customers tell me. At the same time, a flavor ban will destroy legitimate and tightly regulated small business vape shops for whom flavors represent up to 95% of their business. When these compliant vape shops close their doors, a black market is guaranteed to thrive. Between the black market and the folks who will resume smoking, such ill-conceived legislation is setting up a public health disaster.

I could recite numbers and studies, but I think a more practical and interesting approach is to simply share my observations, based on helping thousands of members of my community transfer their deadly smoking habit to a much safer alternative.

1. People do come in thinking they want a vape flavor to taste just like their favorite cigarette. But after they quit smoking, and usually within a week to ten days, their taste buds return, and they realize how bad the flavor actually is, and more often than not, they quickly switch to something more appealing, like a fruit or desert flavor. Very quickly, flavors become the main attraction, and it is the availability of these flavors that keeps them from going back to cigarettes and that awful tobacco taste. Flavors comprise over 90% of our e-liquid sales, and 100% of our sales are to adults.

2. People find it very difficult to quit smoking and we have been working on this since the 1970's. We all know someone who, despite being very ill, has smoked right up until the day they passed away or were hospitalized. Smoking is a serious addiction. If we had a treatment for opioids that was anywhere near as successful as vaping is for smokers, we would all celebrate wildly. Still, smoking kills far more people than opioids; just slower.
3. All adults like flavors. I like flavors. All of you like flavors. I have a 70-year old man who will never quit vaping, but because of vaping, he doesn't smoke anymore. His favorite flavor is root beer barrel. It reminds him of when he was a small child, and this association finally broke his 60-year addiction to combustible cigarettes when nothing else did. He started smoking when he was 9 years old. We have flavored alcohol and flavored energy drinks, which children have died from, so it seems more than a little crazy to the adult vaper that their elected representatives are trying to ban much less harmful flavored nicotine products from adults, products that have proven to help them deal with a deadly addiction. It is simply undeniable that flavors keep our customers interested and involved in the recovery journey away from their deadly smoking habit.
4. The vaping industry has managed to reduce smoking rates without spending one dollar of taxpayer money. This industry is self-taught, possesses specialized knowledge and technical skills to guide consumers through the difficult journey of transitioning to a harm reduction product. These experts also see customers week-to-week to advise and consult, which ensures far more successful transitions. How much taxpayer money has been dedicated to this goal over the last 20-30 years? Just think about that. Vaping is a disruptive technology that is more effective than any other solution ever invented. Again, if we had a solution this effective to the opioid addiction, or the alcohol problem in this country, just envision how huge a victory that would that be? And would we try to ban it? Perhaps the vaping industry should be getting a tax credit/subsidy instead of being threatened with industry crushing taxes. We are not big tobacco.
5. In my community, local pediatricians send young parents who smoke to a vape shop. While smoking is banned in many public places, adults are smoking in cars and homes. Children are suffering 2<sup>nd</sup> and even 3<sup>rd</sup> hand smoke. Many people who live in apartments with multiple units are exposing others to 2<sup>nd</sup> and 3<sup>rd</sup> hand smoke through duct systems. Every adult who quits smoking in a community with flavored e-liquids is a reduction in the exposures to 2<sup>nd</sup> and 3<sup>rd</sup> hand smoke to children and other people. We should all want that. I have had both of these situations in my business.

In closing, I would like to make this committee aware that we are registered with the FDA. My registration was over 20,000 pages and both of my stores are visited by the FDA. We do a bi-annual update with the FDA. Additionally, I would like to encourage every single one of you to visit the vape shops in your district. Speak to people when you are out in your community and ask them questions. Most people are really happy to share because they are thrilled to finally be free from combustible tobacco. We can protect our children and allow adults to access to these life-saving products at the same time.

Respectfully,

Penny Walker

# **LATE - RonaldWard\_UNF\_SB410**

Uploaded by: Ward, Ronald

Position: UNF

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### **Written Testimony**

**To:** Maryland Senate Finance Committee  
**From:** Ronald A. Ward Jr., Esq.  
**Date:** February 13, 2020  
**Re:** Opposition to Maryland Senate Bill 410

---

#### I. Introduction

My name is Ronald Ward and I am a Maryland resident and practicing attorney. I have been ESD user for over 10 years ( I am nearly 50 and started smoking when I was 12 years old at the VA Hospital), a smoke free alternatives activist for over 9 years ( Director of CASAA) and have owned a vape shop in Baltimore County, MD for the past 6 years.

Senate Bill 410, as written, would create a highly subjective, overly broad standard for all ESD liquid. That is, all ESD liquid meet the standard of SB 410 as all ESD liquid, including tobacco flavors, contains a “natural or artificial flavor other than tobacco”. The bill is also lacking the requisite language and details. For example, it creates a vague standard and applies criminal penalties. For these reasons, SB 410 will enact a vague product standard that will complicate compliance for retailers and might be ripe for enforcement mistakes and/or abuse. I respectfully urge this Committee to issue an **unfavorable** report for Senate Bill 410.

#### II. Proposed Legislation

Senate Bill 410 is lacking many key components. It fails to define what person or agency makes the decision as to whether ESD liquid contains flavoring other than tobacco. SB 410 fails to list particular flavorings but instead prohibits all flavorings. SB 410 makes the standard for a violating product the mere presence of any natural or artificial flavoring. The Bill also lacks an enforcement component.

Senate Bill 410 demonstrates a fundamental misunderstanding of the product it wishes to regulate. As stated previously, all ESD liquid contains “artificial or natural flavor”. Even conventional “unflavored” cigarettes contain many of the same flavorings but are labeled “additives”. Because ESD liquids are not burned, the flavor experience remarkably different from that of inhaling the products of combustion. I have not encountered, in my 10 years of using ESDs, a flavor that accurately mimics the taste of a cigarette. The vague language of SB

410 creates the very real possibility that enforcement will be inconsistent and, in the worst cases, predatory. This legislation lacks direction to enforcement officers regarding use of testing protocols to determine if an ESD product is compliant with the flavors prohibition.

### III. Importance of legitimate access to flavors for adult ESD users

Flavors are the reason why ESD liquids work to help adult smokers switch from the use of traditional cigarettes. Most vapers find tobacco flavors unappealing, specialized Vape Shops like my business rely heavily on the sale of flavored ESD liquid and, if Maryland consumers are unable to purchase flavored ESD liquid from reputable, licensed retail establishments, they will inevitably turn to the black market or attempt to manufacture their own liquid by buying the components online. This would only worsen the situation in that it would allow for more youth access, hamper the State's ability to enforce the law, deny the State of due taxes/ licensing fees, and may create even more ESD liquid safety concerns.

But, if this committee intends to move forward with a favorable report for Senate Bill 410, I urge you to amend the bill to include an exemption for adult-only specialty tobacco and vapor retailers. Vape shops, such as mine, act as the true "gatekeepers" against youth use. The proof is in the numbers. According to the FDA Compliance Check Inspection of Tobacco Product Retailers (through November 30, 2019), out of 222 violations, not a single vape shop was cited for selling vapor products to underage consumers. Vape shops only sell ESD products and provide expert instruction and technical support to people who are transitioning off of cigarettes. Due to these facts, vape shop owners take youth usage very seriously and are acting as a vital part of the solution. We must also consider whether the Recent Tobacco 21 laws are effective before we take these drastic measures that basically constitute prohibition.

It is also relevant that the House Economic Matters and Senate Finance Committees have contemplated banning the indoor use of ESDs since 2010 and has declined to issue any favorable reports. Now, in the current climate, this Committee is contemplating whether to destroy the entire industry. That is quite a leap.

### V. Conclusion

I recommend that the Senate Committee issue an unfavorable report for Senate Bill 410. In the alternative, I request that the State allow an exemption for licensed Vape Shops in Maryland that are only accessible to adults over the age of 21. Thank you for considering my comments and please contact me with any questions or concerns. I will contact your staff to bring your attention to my written testimony and express my desire to discuss this issue more at length.

Respectfully Submitted,

Ronald Ward, Esq.

# **LATE - ScottWebber\_UNF\_SB410**

Uploaded by: Webber, Scott

Position: UNF

# VAPING AWARENESS PUBLIC EDUCATION SOCIETY

SPEARHEADING THE FIGHT TO BREAK CIGARETTE ADDICTION



**WWW.VAPESOCIETY.ORG**

**Scott Webber**

**Scott@VAPESociety.org**

**Written Testimony Regarding**

**SENATE BILL 410**

**IN OPPOSITION**

WRITTEN ORAL TESTIMONY

SUPPORTING EXHIBITS

1. Deaths Attributed to Vaping in Maryland 2007-2017
2. Minnesota Study Showing 95% Vaping Tax Increased Smoking By 8.1%
3. Truth Initiative Fact Sheet – Minnesota
4. Truth Initiative Fact Sheet – Maryland
5. Public Health England Study, E-Cigarettes Are About 95% Safer Than Smoking

## **SB410 Vaping Flavor Ban Hearing Feb 13, 2020**

[Alternate Presentation]

Good Afternoon Chair Kelly and fellow members of the Senate Finance Committee.

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

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

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

Accordingly, I can comfortably say SB410 will have VERY bad outcomes for the State and its citizens, both from a public health perspective, and certainly from a fiscal perspective. It is based on extremely bad science, is facially dishonest, will likely result in the closing of many dozens of small businesses, actually reducing State revenues by the hundreds of millions of dollars, while simply moving vaping sales out-of-state, to the Internet, or most likely, to the black market.

This afternoon, I would like to impress upon you the absurdity of SB410.

Teen Vaping is a lot like Teen Sex

Teen Vaping is a lot like Teen Drinking

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

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

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

A third approach is to stick to logic, reason, statistics, and facts, because here, truth matters.

Let me share a few common-sense facts about vaping:

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

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

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

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

Banning all vaping 'flavors' for adults, because teens like flavors, makes as much sense as banning all 'flavors' of alcohol "because teens have been shown to enjoy flavors."

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

The same logic applies to teen sex. Teenage pregnancy, including death, and sexually transmitted diseases are a serious problem. Following the same SB410 logic, if the State harshly taxes, or simply bans all candy-colored condoms, and flavored lubricants, teens will simply stop having sex and the problems will disappear.

To anybody who actually understands vaping, SB410 is every bit as absurd. But if you REALLY understand vaping, you realize how dangerous and expensive legislation such as HB410 truly is.

I would lastly point out per the Fiscal Note attached to SB410 completely ignores and fails to address the actual costs associated with this legislation. However, the same flavor ban impact evaluated for SB233 shows that this ill-conceived flavor ban is projected to COST MD taxpayers between \$70 and \$184 MILLION PER YEAR in lost SALES TAX alone! Over the next decade, a flavor ban is likely to cost the State from \$700 Million to nearly \$2 BILLION.

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

SB410 is a VERY destructive piece of legislation that will NOT achieve its intended outcome, will create a very dangerous black market, and will cost the State of Maryland BILLIONS of dollars that could otherwise be spent on other priority budget items, such as funding for the Kirwan Commission Blueprint.

I strongly request that the Committee issue an **UNFAVORABLE** report on SB410.

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



But It Will Eliminate  
Adult Choice

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



But It Will Eliminate  
Adult Choice

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



But It Will Eliminate  
Adult Choice

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



But It Will Eliminate  
**Adult Choice**

## **SB410 Vaping Flavor Ban Hearing Feb 13, 2020**

Good Afternoon Chair Kelly and fellow members of the Senate Finance Committee.

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

As many of you may know from our annual visits to Annapolis, I am the Founder, along with my son, of the Vaping Awareness Public Education [V.A.P.E.] Society, a Non-Profit research and political advocacy organization formed to address the scourge of smoking, focused on the benefits - and risks - of vaping.

On the topic of vaping, I do consider myself an expert. I have been intensely researching the vaping universe since 2013. I have read hundreds of articles, reports, and studies on the topic, compiling multiple thousands of hours of combined time in this space. I likely know as much about vaping as anybody in the entire State. I tell you this, not to brag, but rather, to simply convey that I know what I am talking about because I have done my homework.

Accordingly, I can comfortably say SB410 will have VERY bad outcomes for the State and its citizens, both from a public health perspective, and certainly from a fiscal perspective. It is based on extremely bad science, is facially dishonest, will likely result in the closing of many dozens of small businesses, actually reducing State revenues by the hundreds of millions of dollars, while simply moving vaping sales out-of-state, to the Internet, or most likely, to the black market.

I have submitted supporting documentation in my testimony packet that highlights what happened in MN after they imposed a 95% vaping tax, that decimated their vaping industry; similar to the 86% tax in SB3 under consideration in your sister Budget & Taxation Committee. As the result of this ill-conceived and excessively punitive treatment of vaping, smoking rates ROSE more than 8%, and their youth vaping rate is 50% higher than in MD. Illogical flavor bans, like draconian taxes, have the affect of shutting down local vape shops, and migrating users back to smoking tobacco. This is both unfortunate, but predicable to anyone who understands vaping.

SB410 will create a situation, just like in MN, where legislators are intentionally destroying small business vape shops and forcing users to either go black market, or the internet. As a result, the State will lose the sales tax, employment tax, income tax, and real estate revenues, AND lose the ability to monitor, regulate, and enforce these laws because the Comptroller can't walk in on the internet to test compliance. There is NOTHING smart about this legislation, and everything destructive and counterproductive to the intended outcome.

As evidenced in my packet, Vaping has been found to be 95-99% less harmful than smoking, and to give the two parity, and regulate them equally, is nothing short of misguided Legislative malpractice.

I'm not ignoring there are risks, but the benefits SOOO outweigh the risks, that no intelligent, or compassionate, or reasonable person – who has done their research - can logically deny the overwhelming superiority of vaping over smoking.

I would like to help put together a better bill, but one based on honesty, science, responsibility, fairness, and reality. I am offering myself as a resource to you and your staff to that end, but first, we need to stop this misguided legislation from inadvertently killing thousands of Maryland citizens while costing us hundreds of millions of dollars.

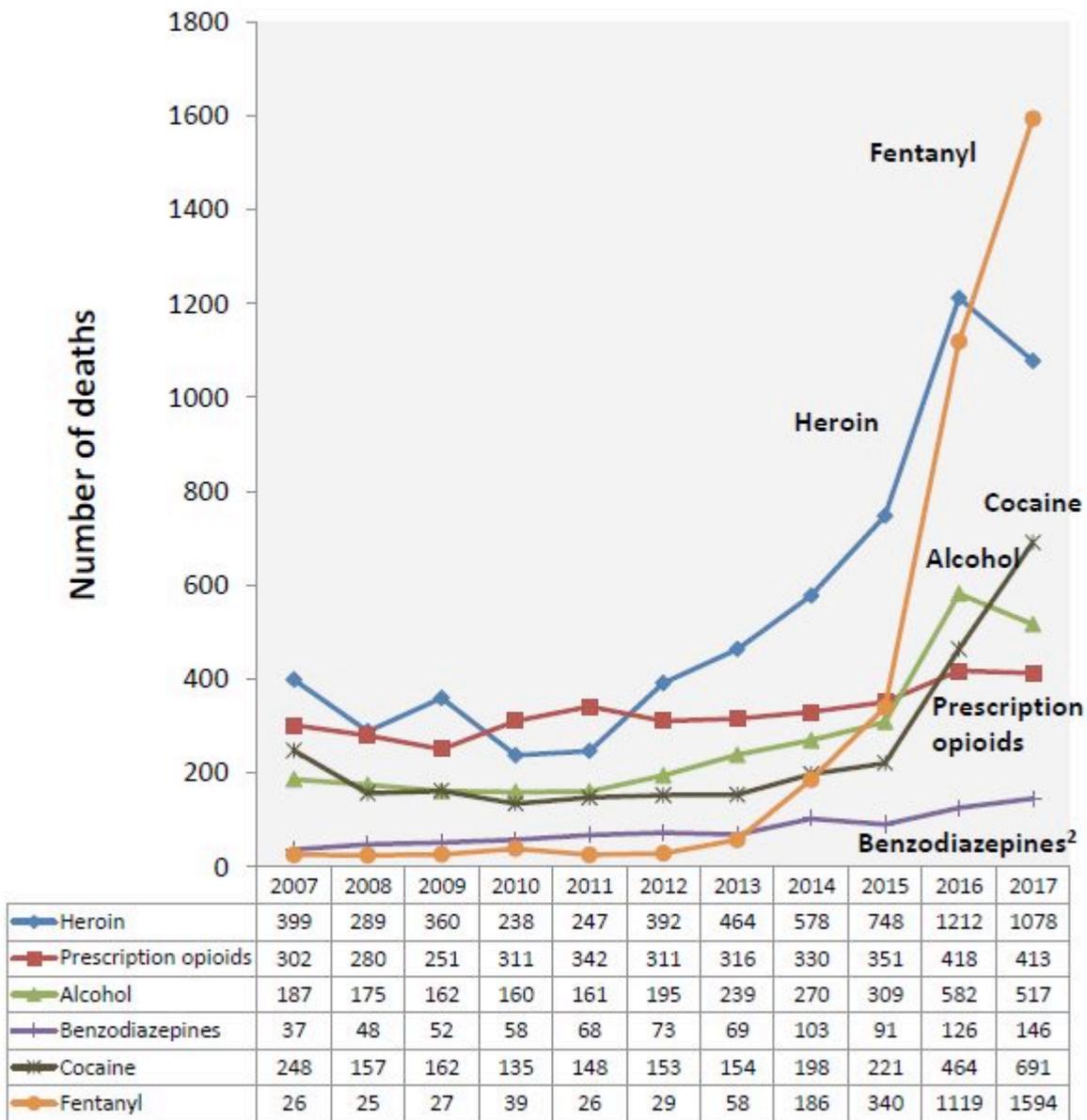
Thank you.

Scott Webber

# 1. Deaths Attributed to Vaping in Maryland 2007-2017

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

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



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

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

2. Minnesota Study Showing  
95% Vaping Tax Increased  
Smoking By 8.1%

NBER WORKING PAPER SERIES

E-CIGARETTES AND ADULT SMOKING:  
EVIDENCE FROM MINNESOTA

Henry Saffer  
Daniel L. Dench  
Michael Grossman  
Dhaval M. Dave

Working Paper 26589  
<http://www.nber.org/papers/w26589>

NATIONAL BUREAU OF ECONOMIC RESEARCH  
1050 Massachusetts Avenue  
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December 2019

This project was funded by grant number R01-DA039968 entitled “The Economics of Electronic Nicotine Delivery Systems: Advertising and Outcomes”, from the National Institute of Health to the National Bureau of Economic Research, Inc. This study employs data from the A.C. Nielsen Company, which was purchased from the Kilts Center of the University of the Chicago Booth School of Business. Results are calculated (or derived) based on data from The Nielsen Company (US), LLC and marketing databases provided by the Kilts Center for Marketing Data Center at The University of Chicago Booth School of Business. Information about the data and access are available at <http://research.chicagobooth.edu/nielsen/>. We are grateful to the A.C. Nielsen Company and the Kilts Center for providing the data and for instructions in its use. The conclusions drawn from the Nielsen data are those of the researchers and do not reflect the views of Nielsen. Nielsen is not responsible for, had no role in, and was not involved in analyzing and preparing the results reported herein. Copyright © 2017. The Nielsen Company (US), LLC. All Rights Reserved. The views expressed herein are those of the authors and do not necessarily reflect the views of the National Bureau of Economic Research.

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E-Cigarettes and Adult Smoking: Evidence from Minnesota  
Henry Saffer, Daniel L. Dench, Michael Grossman, and Dhaval M. Dave  
NBER Working Paper No. 26589  
December 2019  
JEL No. I12,I18

### ABSTRACT

E-cigarettes use a battery powered heater to turn a liquid containing nicotine into a vapor. The vapor is inhaled by the user and is generally considered to be less harmful than the smoke from combustible cigarettes because the vapor does not contain the toxins that are found in tobacco smoke. Because e-cigarettes provide an experience that is very similar to smoking, they may be effective in helping smokers to quit, and thus the availability of e-cigarettes could increase quit rates. Alternatively, e-cigarettes may provide smokers with a method of bypassing smoking restrictions and prolong the smoking habit. There is very little causal evidence to date on how e-cigarette use impacts smoking cessation among adults. Although there is no federal tax on e-cigarettes, a few states have recently imposed heavy taxes on them. We provide some of the first evidence on how e-cigarette taxes impact adult smokers, exploiting the large tax increase in Minnesota. That state was the first to impose a tax on e-cigarettes by extending the definition of tobacco products to include e-cigarettes. This tax, which is 95% of the wholesale price, provides a plausibly exogenous deterrent to e-cigarette use. We utilize data from the Current Population Survey Tobacco Use Supplements from 1992 to 2015, in conjunction with a synthetic control difference-in-differences approach. We assess how this large tax increase impacted smoking cessation among adult smokers. Estimates suggest that the e-cigarette tax increased adult smoking and reduced smoking cessation in Minnesota, relative to the control group, and imply a cross elasticity of current smoking participation with respect to e-cigarette prices of 0.13. Our results suggest that in the sample period about 32,400 additional adult smokers would have quit smoking in Minnesota in the absence of the tax. If this tax were imposed on a national level about 1.8 million smokers would be deterred from quitting in a ten year period. The taxation of e-cigarettes at the same rate as cigarettes could deter more than 2.75 million smokers nationally from quitting in the same period. The public health benefits of not taxing e-cigarettes, however, must be weighed against effects of this decision on efforts to reduce vaping by youth.

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## 1. Introduction

A number of battery-powered devices on the market today deliver nicotine to the user in an aerosol or vapor form and are referred to as electronic cigarettes (e-cigs). Use of e-cigs is often called vaping in contrast to smoking conventional combustible cigarettes.<sup>1</sup> Because e-cigs are a relatively new product, there is no research on the long-term health effects of use. Nevertheless, e-cigs are generally considered to be less harmful than combustible cigarettes because the vapor produced by them does not contain the toxins and nitrosamines that are found in tobacco smoke (Goniewicz et al. 2013; Czogala et al. 2014). The U.S. National Institute on Drug Abuse states that because e-cigs deliver nicotine without burning tobacco, they appear to be a safer, less toxic alternative to conventional cigarettes.<sup>2</sup> Public Health England, a public health agency within the U.K.'s Department of Health and Social Care, has taken a more definitive position and stated that e-cigs are significantly less harmful to health and are about 95 percent safer than smoking (McNeil et al. 2015).

The public health debate surrounding the regulation of e-cigs has centered on harms to non-smoking adolescents and harm reduction for adults who smoke. For adolescents the concern is that e-cig use may have negative effects on cognitive development, result in long term nicotine addiction, and may lead to conventional cigarette use. For those adolescents who wish to experiment with nicotine, e-cigs may be a safer option than cigarettes and may have contributed to the decline in adolescent smoking. E-cigs may be effective in helping adult smokers to quit the habit. Currently between 14-19 percent of adults continue to use cigarettes (2017, National Health Interview Survey, NHIS and National Survey of Drug Use and Health, NSDUH), and interest in quitting smoking remains high. Almost two-thirds of current smokers report that they want to quit smoking completely, and among those who expressed such an intent about 60 percent follow-up with an actual cessation attempt (NHIS 2015). However, most

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<sup>1</sup> All e-cigs have certain components in common, including a power source or battery that heats a liquid (usually propylene glycol) containing nicotine into an aerosol that is then inhaled by the user.

<sup>2</sup> See <https://www.drugabuse.gov/publications/drugfacts/electronic-cigarettes-e-cigs>.

attempts end in relapse, and less than one in ten smokers overall successfully quit in the past year (Babb et al. 2017).<sup>3</sup> E-cigs may be an effective substitute for smoking, particularly for smokers who have had a difficult time quitting in the past through other methods. Thus, the accessibility of e-cigs might enhance smoking cessation rates. On the other hand, it is also possible, as some contend, that e-cig use may adversely impact smoking cessation by undermining smoking restrictions and providing smokers with an alternative nicotine source for situations where smoking is not permitted.

This paper focuses on the potential for harm reduction for adults. There is very little causal evidence to date on how e-cig use impacts smoking cessation among adults. Acknowledging the potential for e-cigs to help smokers quit along with limited empirical evidence on this issue, the Food and Drug Administration (FDA) has thus far refrained from regulating their access for adults. For instance, unlike conventional cigarettes, e-cig manufacturers continue to be able to advertise in broadcast media, and the FDA has resisted banning or restricting such advertising. The FDA has also postponed for now the requirement that e-cig manufacturers submit marketing applications, a condition which would otherwise have effectively banned all e-cig products from the market until the FDA reviewed and approved the applications.<sup>4</sup>

In contrast to the FDA's relatively more accommodative stance at least with respect to adult access, a growing number of state and local governments have taken steps to more forcefully regulate the sale, marketing, and use of e-cigs. Attorneys General for 29 states signed a letter in 2014 urging the FDA to regulate the sale of e-cigs and restrict its advertising and marketing.<sup>5</sup> By the time the federal e-cig minimum legal sale age law of 18 went into effect in August of 2016, all states but two had a similar law in place. As of June 2019, 15 states

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<sup>3</sup> In general, less than one in four cessation attempts is successful. For the average smoker, the expected number of quit attempts before quitting smoking successfully has been estimated as ranging from 6 to 30 attempts (Chaiton et al. 2016).

<sup>4</sup> While the FDA continues to make e-cigs available and accessible in the market for adults, it has taken a more aggressive approach towards regulating access for youth and educating them about the dangers of e-cigs.

<sup>5</sup> See [https://ag.ny.gov/pdfs/FINAL\\_AG\\_FDA\\_Comment\\_Re\\_Deeming\\_Regulations.pdf](https://ag.ny.gov/pdfs/FINAL_AG_FDA_Comment_Re_Deeming_Regulations.pdf).

raised their e-cig minimum purchase age to 21. An increasing number of states are also requiring licenses for retail sales of e-cigs and are expanding their smoking bans and clean indoor air laws to include vaping. Several states have also banned sales of flavored e-cigs and Walmart has announced that it will end sales of all e-cigs.

There is no federal tax on e-cigs, unlike on cigarettes and other tobacco products. With e-cigs being relatively new, states have struggled to determine whether and how to tax them. As of the end of 2018, ten states (in addition to several cities and counties) had started to levy taxes on e-cigs or the liquid nicotine used with e-cigs. Nine additional states began to do so in 2019 and two more will follow suit in 2020 (Campaign for Tobacco-Free Kids 2019). Given that one aspect of tobacco taxes is to improve public health and reduce tobacco-related health expenditures, there exists a key knowledge gap in the literature to inform policymakers contemplating taxes on e-cigs. It remains unclear how e-cig taxes impact smoking cessation. If higher e-cig taxes dissuade adult smokers from shifting to vapor products and from quitting smoking in the process, the forgone harm reduction must be taken into account; this would provide justification for taxing e-cigs less than traditional tobacco products, if at all. Similarly, if e-cig taxes promote smoking cessation, by making it more difficult for smokers to circumvent smoking restrictions and by reducing the overall addictive stock of nicotine, then this would provide additional rationale for levying taxes on e-cigs at the federal and state levels.

Our study directly addresses this knowledge gap, and makes several contributions in the process. We provide some of the first rigorous evidence on how taxing e-cigs impacts smoking cessation among adults. The empirical analysis exploits the large e-cig tax hike in Minnesota (MN), the first state to tax e-cigs, in conjunction with a synthetic control difference-in-differences approach to identify plausibly causal effects of e-cig use on adult smoking. In addition to providing direct estimates of the cross-effects of e-cig taxation, we also add to the very limited evidence base on the substitution and complementarity between e-cigs and cigarettes. We find consistent evidence that higher e-cig taxes increase adult smoking rates and reduce quits, implying that e-cigs are a likely substitute for conventional cigarettes among current smokers.

The remainder of the paper proceeds as follows. The next section briefly provides some background on the previous literature. Section 3 details the data and the empirical methods that we apply to this question, following by a discussion of the results. The concluding section summarizes our findings and places them in context along with some policy implications.

## **2. Background**

Much of the literature that has considered the relationship between e-cig use and smoking among adults has relied on correlational evidence and not addressed the endogeneity between both behaviors.<sup>6</sup> The evidence from these sets of studies should be interpreted as descriptive and is fairly mixed. Several studies find that e-cig use is associated with reduced smoking. Zhu et al. (2017) analyze data from the Tobacco Use Supplements of the Current Population Surveys. They find that the population smoking cessation rate for 2014-2015 was significantly higher than for 2010-2011, coinciding with an increase in e-cig use. Exploiting information on e-cig use from the 2014-2015 wave, they also find that e-cig users were more likely than non-users to attempt to quit and more likely to succeed in quitting (defined as abstinence for 3 months or longer). Zhuang et al. (2016) conduct a two-year follow up of 2097 adult smokers, who were initially sampled using GfK's Knowledge Panel in 2012. Comparing short-term e-cig users (used in 2012 but not 2014) vs. long-term e-cig users (used e-cigs in both 2012 and 2014) vs. non-users, they find that long-term e-cig users had a higher quit attempt rate as well as a higher successful quit rate relative to both non-users and short-term e-cig users. A common pattern in tobacco consumption is dual cigarette and e-cig use, and there is some concern that prolonged dual use might impede or postpone the attempt to quit smoking. Zhuang et al. (2016) do not find, however, that dual use is associated with a lower smoking cessation rate.

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<sup>6</sup> In this case, the endogeneity can reflect both reverse causality with e-cig use affecting smoking and vice versa as well as selection on unobserved factors (for instance, a propensity for addictive behaviors, risk tolerance, time preference) that may affect participation in both behaviors.

Brown et al. (2014) assessed the effectiveness of e-cigs when used to aid smoking cessation, in comparison with nicotine replacement therapy (NRT) and with unaided quitting. They rely on a cross-sectional survey of the English population that includes 5863 adults who had smoked within the previous 12 months and made at least one quit attempt during that period with either e-cigs, NRT or no aid. Their results show that e-cig users were more likely to report smoking abstinence (defined as non-smoking status at time of survey) than either those who used NRT or no aid.

Grana, Benowitz, and Glantz (2014) contend that although e-cig use may reduce smoking, it also may inhibit complete smoking cessation. They note that while some smokers cite a desire to quit smoking through the use of e-cigs, other common reasons given by smokers who also vape are to circumvent smoke-free laws and to cut down on conventional cigarettes. This may reinforce dual use patterns and delay or deter quitting. Kalkhoran and Glantz (2016) provide a review of papers that attempt to assess the relationship between e-cig use and smoking cessation by adult smokers. The question they are interested in is whether cigarette smokers who report e-cig use have a higher or lower probability of quitting smoking. Summarizing evidence from 38 studies, and performing a meta-analysis of 20 studies with control groups (most of these are cross-sectional or cohort studies), they conclude that the odds of quitting cigarettes were about 28 percent lower among e-cig users compared with non-users. Weaver et al. (2018) conduct a prospective cohort study, recruiting 1284 U.S. adult smokers in mid-2015 and following up with them about one year later. The odds of quitting smoking were found to be significantly lower among smokers who used e-cigs at baseline compared to smokers who did not vape. Smokers who had used e-cigs at some point during the study period were also less likely to quit smoking (defined as abstinence for at least 30 days prior to follow-up) relative to non-users. These studies are correlational rather than causal and cannot account for unmeasured confounders.

Huang et al. (2014), Zheng et al. (2016, 2017), and Tuchman (2019) provide evidence of causal effects of e-cigarette use on cigarette smoking in a reduced form setting. They do so by

examining the impact of changes in the price of one good on the use of the other one. If, for example, the two goods are substitutes (a reduction in the price of one leads to a reduction in use of the other) that would suggest that an increase in e-cigarette use causes a reduction in smoking. All four studies employ Nielsen ScanTrack, which contains store scanner data at the point of sales, from 2009 or 2010 through 2012, 2013, or 2015 depending on the study. Except for Zheng et al. (2016), these studies find that the two goods are substitutes.

Several problems arise in this line of research. Price is computed by dividing sales revenue by sales in physical units. This introduces bias in the regression models because price and sales are not measured independently. Indeed, the own-price elasticity of demand for cigarettes in these studies usually is larger than one in absolute value, which is much larger than any of those in the previous literature reviewed by Cawley and Ruhm (2012). This problem aside, the demand functions may be subject to simultaneity bias due to the presence of an upward-sloping supply function in a competitive model or due to the behavior of firms in oligopolistic markets. Moreover, given that e-cigs are a new product, retailers may have incentives to begin to sell the product in areas where demand for it is expected to be substantial. Finally, e-cig sales in 2009, 2010, and 2011 were very limited. Consequently the price data for e-cigs in those years may be inaccurate.

Cotti, Nesson, and Teft (2018) overcome some of the issues just discussed by exploiting within-state variation in cigarette excise taxes to measure effects on e-cig and cigarette use from the Nielsen Homescan Panel, which contains actual purchases made by households, from 2011 through 2015. Cigarette taxes are not subject to measurement error and can reasonably be assumed to be exogenous in cigarette and e-cig demand functions. They find that higher cigarette taxes decrease both cigarette and e-cig purchases, suggesting that cigarettes and e-cigs are complements. Because e-cigs are a relatively new product, the sample period is short, which limits the identifying variation in cigarette taxes. This may have contributed to their finding of very large elasticity estimates (-1.9 to -2.6) of purchases of e-cig refills and starter kits with respect to the cigarette excise tax. Furthermore, because these are tax elasticities, the

implied elasticities with respect to cigarette price are higher in magnitude. This study does not directly consider effects of e-cig taxes.

Pesko, Courtemanche and Maclean (2019) extend the previous study by examining the effects of e-cigarette taxes as well as those of cigarette taxes on smoking and vaping participation by adults. They employ a dichotomous variable for the adoption of any type of tax on e-cigs, which conflates very different tax schemes (ad valorem vs. excise; very small and relatively large taxes). These different approaches to state e-cig taxation policy have resulted in a trivial effect on price in some states and a large effect on price in other states. Pesko et al. (2019) use data from the Behavioral Risk Factor Surveillance System and the National Health Interview Surveys between 2011 and 2017 in conjunction with a difference-in-differences model. This sample period excludes Minnesota, which had the largest e-cig tax, from the within-state identifying variation because the state had a tax on e-cig in place for the entire sample period. Moreover, it ignores the extremely large e-cig excise tax hike that occurred in that state in 2013 (see the next section for details). The study adds two more years to the data used by Cotti, Nesson, and Teft (2018). Unlike Cotti, Nesson, and Teft (2018), Pesko et al. (2019) find that higher cigarette taxes increase adult e-cig use but find no effects of their-cig tax measure.

Abouk et al. (2019) use US birth records 2013 to 2017 to examine the effect of e-cig taxes on pre-pregnancy smoking and prenatal smoking. They find that e-cig taxes increase pre-pregnancy and prenatal smoking, implying that e-cigs and traditional cigarettes are substitutes among pregnant women. The e-cigarette tax measures are more refined than those in the one by Pesko et al. (2019). Abouk et al. (2019) do not, however, capitalize on the potential evidence contained in the quasi-natural experiment contained in the Minnesota experience and focus on a small segment of the population.<sup>7</sup>

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<sup>7</sup> Abouk et al. (2019) exclude Minnesota from most of their analysis because it enacted an e-cigarette tax prior to the beginning of their sample year. When they start the study period in 2011 and include Minnesota, the state provides no within-state variation in one of their two wholesale tax measures: the presence of a tax. They do account for the Minnesota tax hike in 2013 (see the next section for details) but assume that Minnesota can be treated in the same manner as the seven other places (the District of

A few studies have conducted randomized control trials (RCT) to test the effectiveness of e-cigs vs. other modes in promoting smoking cessation. Bullen et al. (2013) conducted an RCT that included 657 smokers who wanted to quit. They were randomized into groups which were given e-cigs, placebo e-cigs (without any nicotine), and NRT. The trial lasted for 12 weeks, and the participants were also given limited counseling. Abstinence rates, verified chemically at six months, were 7.3% for the e-cig arm, 4.1% for the placebo e-cig arm, and 5.8% for the NRT arm. Thus, e-cigs resulted in a greater likelihood of quitting, and were more effective than both placebo e-cigs and NRT, though the differences were not statistically significant. For those who failed to quit, the median time to relapse was twice as long for participants using e-cigs relative to both placebo e-cigs and NRT. Hajek et al. (2019) conducted an RCT with 886 participants who had sought assistance from the National Health Service in the U.K. to quit smoking. The 1-year abstinence rate was 18.0% for the e-cig group, as compared with 9.9% in the nicotine-replacement group. They concluded that e-cigs were more effective for smoking cessation than nicotine replacement therapy, when both products were accompanied with behavioral support. While RCTs can provide more definitive causal evidence, they are limited in their capability of assessing population-level effects under patterns of real-world use and conditions. Furthermore, they do not provide any information on the effects of policies such as e-cig taxation.

Our study provides some of the first evidence of the effects of e-cig taxes on smoking cessation among adults. We also provide the first estimate of the price elasticity of smoking participation with respect to the price of e-cigs implied by the impact of the first imposition of and subsequent large increase in an excise tax on e-cigs in the U.S. in the literature. This estimate is an important input towards evaluating the costs and benefits of e-cig taxation and the harm reduction debate. In the process, we add to the limited literature on how e-cig use is impacting

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Columbia; Montgomery County, Maryland; and five counties in Alaska) that imposed e-cigarette taxes as a percent of wholesale prices during their sample period. All of these places did so for the first time in 2015 or 2016, which was much later than Minnesota. Moreover, none of them is a state.

adult smokers, drawing on the Minnesota tax hike as a natural experiment to drive exogenous variation in e-cig use.

### 3. Approach

The objective of this study is to provide plausibly causal evidence of the effects of e-cig use on adult smoking. In the empirical work, e-cig taxes serve as a lever that affects e-cig use. E-cig prices are less suitable because of their potentially endogeneity with use. The policy chosen must also have sufficient statistical power to change e-cig use in order to be able to identify downstream effects on smoking. We therefore rely on the large e-cig tax imposed in Minnesota (MN). Nicotine taxes are arguably exogenous to use because they are typically employed by states to raise revenue from products that are seen as harmful and thus face less resistance than taxes on other consumer goods.

MN was the first state to impose a tax on e-cigs by expanding its definition of “tobacco products” to include electronic cigarettes. The taxation began on August 1<sup>st</sup> 2010 (Public Law Health Center) with a tax rate of 35 percent. This tax was raised by another 60 percentage points to a total tax rate of 95 percent of the wholesale price on July 1<sup>st</sup> 2013. This large tax hike on e-cigs had a substantial impact on prices. Based on retail sales from the Nielsen Scanner Data, e-cig retail prices of replacement pods in 2012 were \$3.25 in MN (Figure 1).<sup>8</sup> Dave and Saffer (2013) and studies they cite indicate that tobacco product retailers apply a markup of approximately 1.33 to the wholesale price in setting the retail price. That estimate implies a 2012 wholesale price inclusive of tax of a replacement pod of about \$2.44 inclusive of tax and exclusive of tax about \$1.80. The 95 percent tax on \$1.80 would equal a wholesale price of \$3.52 and a retail price of \$4.69. The actual retail price in MN in 2015 was \$4.76, which suggests that our estimate is a close first-order approximation.<sup>9</sup>

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<sup>8</sup> E-cig sales in 2010 and 2011 were very limited and consequently the price data for e-cigs in these years may be inaccurate.

<sup>9</sup> We assume that the retail market for e-cigarettes can be characterized by the pure version of the Cournot model of oligopoly (Tirole 1988; Scherer and Ross 1990). Hence the retail price of e-cigarettes

The timing of the MN e-cig tax is also important for our analysis. In 2010 e-cigs were virtually unknown and sales were still relatively low in 2013. A new product needs to be heavily advertised and moderately priced to attract potential consumers. Thus, the MN tax impacted e-cigs at a particularly vulnerable time and probably had a greater impact than a similar tax imposed on a mature product. The timing of the MN e-cig tax hike further permits a sufficient time window to be able to observe any changes in smoking rates. A period of two or more years following the tax increase may be necessary because the addictive nature of smoking can lead to dynamics in the consumer response to new incentives and new potential substitutes. In the presence of such lagged effects and given the delay in data availability on smoking, we are necessarily limited to analyzing tax changes that were enacted prior to 2016. The states that had levied taxes on e-cigs prior to 2016 are North Carolina (6/2015), Louisiana (7/2015) and Minnesota.<sup>10</sup> The taxes in North Carolina and Louisiana are only five cents per milliliter of e-liquid. To put these taxes into perspective, a replacement pod which supplies roughly the nicotine equivalent of a pack of cigarettes cost about \$3.47 in a state with no tax in 2015. The five cents per milliliter tax adds about four cents to the retail price which is trivial, leaving the North Carolina and Louisiana taxes under-powered to detect changes in smoking rates and thus empirically irrelevant. After the tax hike in MN in 2013, which raised its total tax rate to 95

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is given by  $P = [\varepsilon/(\varepsilon - h)]C$ , where  $\varepsilon$  is the market price elasticity of demand,  $h$  is the Herfindahl index,  $C$  is the sales-share weighted average of each retailer's average cost (assumed to be independent of pods sold) of selling e-cigarettes, and  $\varepsilon > h$ . Define  $m$  as  $\varepsilon/\varepsilon - h$ ; assume that  $\varepsilon$  and  $h$  are constant; and note that  $m > 1$ . Average cost is given by  $C = W^*(1 + r) + T$ , where  $W^*$  is wholesale price exclusive of tax,  $r$  is the wholesale tax rate and  $T$  denotes other costs incurred by the retailer per unit of sales. Hence  $P = m[W^*(1 + r) + T]$ . Given these assumptions, the tax pass-through (the increase in  $P$  due to an increase in  $r$  with  $W^*$  held constant) exceeds one:  $\partial P/\partial rW^* = m$ . Let  $W$  be the wholesale price inclusive of tax. Then  $P/W = k$ ,  $k = m[1 + (mT/W)]$ . We use a value of  $k$  of 1.33 in the computations above. We realize that  $T/W$  will change as  $W$  increases due to an increase in  $r$ , but assume that this effect is small enough to be ignored. Since our estimate of the retail price in Minnesota in 2015 differs from the actual price by only 7 cents, our assumption is very reasonable. Put differently, the tax pass-through to the retail price is approximately 1.33.

<sup>10</sup> See <https://www.publichealthlawcenter.org/sites/default/files/States-with-Laws-Taxing-ECigarettes-September152019.pdf>. More recently Pennsylvania and California have enacted large e-cig taxes, which can be evaluated as additional waves of data become available. D.C. imposed a tax on e-cigs in late 2015 after the 2015 CPS-TUS data were collected. We limit our data to waves prior to 2018 to draw a sharp contrast between the first state to enact an e-cig tax and all other states and to have a long-enough post period for potential effects to develop.

percent of the wholesale price, the MN tax remains the highest tax on e-cigs imposed by any U.S. state.

Our aim in this paper is to evaluate the effect of the imposition of a large excise tax on electronic cigarettes by the state of Minnesota on responses by adult smokers ages 18 years and older. We do so by examining its impacts on participation in electronic cigarettes and combustible cigarettes in that state and in a comparison group of states. Few people begin to smoke after that age, causing variations in smoking participation to be governed by decisions to start smoking e-cigarettes and to quit smoking combustible cigarettes. As pointed out above, the imposition of the e-cig excise tax raised the price of e-cigs by a substantial amount. Below, we show that the price of e-cigs relative to that of combustible cigarettes also rose in MN, while it fell in the comparison states. Therefore, to get insights into their impacts on smoking participation, we focus on price effects in equations determining the probability of starting to vape and stopping to smoke.

Decisions to start vaping by current vapers depends on a comparison between the money price of vaping and its reservation price. The latter is defined as the monetary value of the marginal utility of vaping, at the point at which no e-cigarettes are purchased. A smoker will not vape if the reservation price is less than the money price, while she will begin to vape if the reverse holds. An increase in the money price will cause some smokers to decide not to begin to vape. Given that consumers who are just at the margin of beginning to vape at the initial price incur fixed costs in the decision-making process, this negative effect can be quite large. These include the cost of the starter kit if a rechargeable device is employed. They also include the need to allocate resources to the acquisition of information about a new product that in part can be characterized as an experience good in the sense that smokers need to try it to decide whether or not they like it. Given the fixed cost, the entry decision also involves comparing the level of utility from two different baskets: one in which no e-cigs are vaped and the other at which a positive number are vaped. There will be one unique relative price at which these two baskets are on the same indifference curve. Hence, the relative price that induces entry must

be smaller than the one that induces entry in the absence of fixed costs. If there are a large number of consumers with the same utility function, the demand function for starting to vape will be infinitely elastic at the relative price at which this occurs.

Another point to note is that under reasonable assumption about the utility function, vaping is less likely if its effect on the marginal utility of smoking is negative rather than positive. Moreover, the larger in absolute value is this cross-utility effect, the more elastic is the demand function for vaping. Smokers who do not vape at the initial money price are more likely to have a negative cross-utility term than those who do vape. The upshot is that fixed costs combined with negative cross-utility terms are likely to cause a significant number of current smokers to begin to vape and to cause some of them to quit smoking altogether when the price of e-cigs falls. The reverse occurs when the price rises.

For current vapers (dual users of e-cigs and combustible cigs) an increase in its price generates an income effect as well as a substitution effect. The latter involves more smoking and less vaping provided that the two goods are net (utility-constant) substitutes while both smoking and vaping fall if the goods are net complements. The income effect causes the consumption of both to fall provided each one has a positive income elasticity. If they are gross (money income-constant) substitutes, smoking will rise and vaping will fall, while both will fall if they are gross complements.

In summary, this analysis suggests that an increase in the price of vaping will reduce starts and quits and raise smoking participation. This prediction becomes somewhat ambiguous if cigs and e-cigs are gross complements. Moreover, it is possible that the price increase induces some smokers who began to vape because they wanted to quit but were not successful to resort to another method that results in successful quits.

The primary data come from the Current Population Survey Tobacco Use Supplements (CPS-TUS), which are sponsored by the National Cancer Institute and administered periodically as part of the Census Bureau's CPS since 1992. The CPS-TUS offers several advantages for our analyses, including large samples and consistent information on smoking behaviors over

time, and measures of smoking on the intensive margin. We use eight available waves of the CPS-TUS, which were fielded in 1992-1993, 1995-1996, 1998-1999, 2001-2002, 2003, 2006-2007, 2010-2011 and 2014-2015. The CPS-TUS is nationally-representative and contains information on about 240,000 individuals within a given wave; it provides a key source of national, state, and sub-state level data regarding smoking and the use of other tobacco products among adults ages 18 and older. This yields a sample of approximately two million adults drawn from repeated cross-sections spanning 1992 to 2015. We rely on aggregate data at the state-level from each wave, and use smoking participation and cigarette consumption as outcome measures.<sup>11</sup>

The first e-cig tax (35 percent of wholesale price) went into effect in August 2010 in MN, and the subsequent tax hike (to 95 percent) went into effect in July 2013. We consider all waves up to 2010-2011 as the pre-treatment periods. Given that the prevalence of e-cig use in 2010 and 2011 remained quite low (less than 1 percent; see Dave et al. 2019) and given that it may take some time to change smoking habits, any effect of the e-cig tax in 2010 is unlikely to materialize until after 2010. In addition, the 2010-2011 TUS was conducted in May, 2010, August 2010, and January 2011. Data from the 2014-2015 wave of the CPS-TUS are considered the post-treatment period, allowing us to observe any potential effects on adult smokers that may have materialized 2-3 years post MN's e-cig tax.

We employ a difference-in-differences (DD) model to estimate how the e-cig tax hike in MN impacted adult smoking behaviors. The key assumption necessary for the DD estimate to signify an unbiased causal effect is that the control group of states represents a valid counterfactual for MN in the absence of the e-cig tax. Figure 4 plots the trend in the smoking rate in MN and the rest of the U.S. (excluding MA and IL as they substantially increased their cigarette excise in the post-treatment period). Smoking rates in MN and the rest of the U.S., while trending downward over the past two decades, do not appear to be doing so in a lockstep

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<sup>11</sup> More information on the CPS-TUS can be found at: <https://cancercontrol.cancer.gov/brp/tcrb/tus-cps/questionnaires.html>.

parallel manner. Particularly, the difference in the pre-treatment smoking rate between the two groups is widening over most of the 1990s, then narrows until about 2007, before widening again. Hence, the rest of the U.S. may not be a good counterfactual for what would have happened in MN in the absence of the e-cig tax. Since any downstream effects from e-cig taxes to e-cig use to smoking cessation may be small, they risk being confounded from even relatively small deviations from pre-treatment parallel trends.

We therefore undertake a synthetic control design, following Abadie, Diamond, and Hainmueller (2010), to ensure that the treatment (MN) and control states share common pre-treatment trends in adult smoking outcomes. The algorithm underlying this method assigns weights to each donor state so that any pre-treatment differences in outcomes between MN and the synthetically matched “state” (SMN) are minimized. Hence, by expressly forcing the e-cig tax counterfactuals to have more similar pre-treatment trends, a synthetic control DD design raises the likelihood of satisfying the “parallel trends” assumption.<sup>12</sup>

One challenge in this framework relates to the computation of the correct standard errors, given that there is only a single treatment group and a single control group. Donald and Lang (2007) show that standard significance tests cannot be applied in this case. They refer to Moulton (1990) who shows that in regression models with individual data, the failure to account for the presence of common group errors results in standard errors that are biased downward and consequently overstate significance levels. Clustering the standard errors is not an option with only two groups or clusters. We follow the approach in Donald and Lang (2007), who suggest first computing group means to eliminate the common group error and then computing the difference between the treatment and control group for each period. We then estimate a regression of these differences on an indicator for the post-tax period.

The standard errors may still need to be adjusted for serial correlation of the group difference over time, which can be done by taking adjacent period differences in the outcome

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<sup>12</sup> Lagged values of the dependent variable were used as matching variables.

difference between the treated and control groups for each period. This adjustment for serial correlation proposed by Donald and Lang (2007) assumes that the disturbance term follows a random walk. It also assumes time spacing between the data points, which is not the case with the CPS-TUS waves. One option is to drop the 2001-2002 wave, which creates a time series with two three-year gaps and four four-year gaps. In this case, the correlation in the error terms across three-year intervals and four-year intervals is assumed to be approximately similar. We refer to these data as *Wave Differences* in the presentation of the results and tables.

Changes in cigarette prices during the post-treatment period are relevant because they can affect smoking rates in the potential donor pool and in MN outside of any effects due to the e-cig tax. The post-treatment period spans 2011 through mid-2015 as the TUS in 2015 was last collected in May. Minnesota increased its cigarette excise tax by \$1.60 to \$2.83 in July 2013 and by another \$0.07 in January 2015. Massachusetts and Illinois both increased their cigarette excise tax by \$1.00 during the post-treatment period and were therefore dropped from the pool of potential donor states. They were the only states other than MN that enacted large cigarette tax hikes during this period. The range of small cigarette tax increases in the included states during the post-period is from \$0.10 in New Hampshire to \$0.40 in Connecticut.

To understand the effects of these tax changes on e-cig prices and cigarette prices, trends in both and in the relative price are presented in Figures 1-3 for MN and its synthetic control.<sup>13</sup> Price measures from the Nielsen Retail Scanner data indicate that the average price of a pack of cigarettes in MN in 2011 was \$5.41 and fairly similar at \$5.89 in the synthetic control group (SMN). By 2015 these prices had increase in MN to \$7.83 and \$6.07 in SMN (Figure 2). Figure 3 shows the relative price of e-cigs versus cigarettes in MN and SMN. In 2012, relative prices for both MN and the control group were virtually the same, 0.55 and 0.56 respectively. By 2015, following the tax increase, the relative price in MN had risen to 0.61 and

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<sup>13</sup> SMN is the synthetic control group formed by applying the synthetic weights generated from the smoking participation model. We do not generate new weights specifically for matching prices, since we want to analyze the tax pass-through and effects of the tax on prices based on the same control group for which we analyze smoking outcomes.

fallen in SMN to 0.52. That is, in MN the price of e-cigs rose by 17 percent relative to cigarettes, when compared to SMN.

As predicted by the theory, this increase in the relative price of vaping would lead to a decrease in participation and use of e-cigs. Given the lack of information on e-cig consumption in the pre-treatment period, we focus on what happens to smoking participation. Our focus on cigarette use is also salient in that it directly addresses the harm reduction debate surrounding adult smokers. The increase in the price of e-cigs, and in the relative price of e-cigs is predicted to increase smoking rates given that smoking and vaping are substitutes. This conclusion depends on the relationship between e-cigs and cigarettes and is ultimately an empirical question.

#### **4. Results**

As a point of comparison, we start by presenting standard DD estimates utilizing the rest of the U.S. (excluding MN, and MA and IL) as a control group, in Table 1. An alternate specification, following Donald and Lang (2007), is estimated to generate appropriate standard errors that adjust for within-group correlated errors when there is only a single treatment and control group. The model denoted DL1 is based on the difference in the aggregated outcome across the treated group (MN) and the control group, which adjust for within-group and year correlated errors. The model denoted DL2 further corrects for serial correlation (thus adjusting for any correlated errors over time) by further differencing the DL1 data across adjacent waves. These estimates do not indicate any significant effects of the large e-cig tax in MN on smoking rates. The effects however may be biased due to differential pre-treatment trends between MN and the rest of the U.S. (Figure 4), and we therefore rely on the synthetic control approach to generate a more suitable counterfactual for MN.

Tables 2-4 present estimates from synthetic control DD models for three smoking outcomes. In Table 2, we report estimates of the effects on current smoking prevalence, which is the percentage of adults who reported ever smoking at least 100 cigarettes and who currently

smoke every day or some days. The corresponding event study graph comparing MN with synthetic MN is in Figure 5. It is evident from the figure that the control group here matches MN virtually lockstep with respect to changes in the smoking rate in all of the pre-treatment periods, with a divergence observed only after the imposition of the large e-cig tax. Estimates in Table 2 confirm the graphical evidence that the e-cig tax in MN is associated with a significant increase in the prevalence of smoking among adults. Estimates from the first two specifications indicate an increase in smoking prevalence by almost one percentage point (0.8 to 0.9 percentage points), representing about a 5.4 percent increase relative to the immediate pre-treatment mean in MN. Ideally the time-differenced data used in the DL2 model should be based on the same spacing between adjacent periods. However, given the staggered nature of the CPS-TUS surveys, the spacing is somewhat uneven.<sup>14</sup>

We alternately tested for statistical significance based on a permutation of placebo tests, in the spirit of Abadie, Diamond and Hainmueller (2010) as modified by Bedard and Kuhn (2012) and Stearns (2015). This placebo test alternatively assumes that each state is the treatment state and finds a synthetic control group for that placebo. Then we estimate the DL2 specification for all placebo states. This provides a p-value for the treatment effect for each placebo state, generating a distribution of p-values. Finally, we compare the actual treatment state's (MN) position in this distribution of p-values in order to gauge whether the results could be generated due to chance. For example, if 49 states are used and MN has the highest p-value of all states, then the test statistic would be  $1/49 = 0.02$ . This would be interpreted as a 2 percent probability that the outcome for MN was due to chance. This placebo p-value is presented in the graphs for each outcome.

For the model for current smoking prevalence, the placebo test found that MN had the second smallest p-value out of 49 states, implying about a 4 percent probability of a Type 1 error. Figure 5 and the treatment effects in Table 2 show that smoking increased in MN relative

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<sup>14</sup> Note that a relatively large t-statistic is needed to achieve statistical significance due to the small sample sizes with group-period aggregated data.

to the control group following the e-cigarette tax. Because the relative price of e-cigs increased in MN compared to SMN (Figure 3), these results imply that cigarettes and e-cigs are substitutes among current smokers.

For adults, any changes in smoking prevalence are very unlikely to reflect the initiation margin (given that most current smokers have initiated by age 19 or 20). Changes in smoking prevalence then reflects mostly the cessation margin or possibly the relapse margin from former to current smoking. In Figure 6, with corresponding DD estimates in Table 3, we report effects on smoking cessation, by defining the ratio of the number of individuals who smoked but recently quit (former smokers) divided by the number of ever smokers. Trends in this outcome are virtually identical between MN and the control group. The placebo test indicated that MN had the third smallest p-value out of 49 iterative state tests, implying about a 6% probability of a Type I error. Estimates in Table 3 indicate that the e-cig tax in MN led to a decrease in quitting by about 1.14 percentage points, which is the same order of magnitude as in the models for smoking prevalence. This suggests that virtually all of the increase in current smoking prevalence in MN, associated with the e-cig tax, is driven by a decrease in successful quits.

Finally, we also consider whether the e-cig tax led to any changes in cigarette consumption at the intensive margin. That is, even if smokers in MN may not have quit, did they reduce their consumption of combustible cigarettes? Cigarettes per day may decline, for instance, as smokers may be trying to cut down as a progressive step toward cessation. Figure 7, and the corresponding estimates in Table 4, indicate that this is not the case. Cigarettes per day are not reported for 2003 and thus, for this variable, the 2002 data are used. We do not find any significant change in the number of cigarettes consumed among current everyday smokers in MN relative to the control group following the e-cig tax.

As a robustness check, we also tested data on current smoking prevalence from the Behavioral Risk Factor Surveillance System (BRFSS). The BRFSS is a cross-sectional telephone survey that state health departments conduct by phone with a standardized questionnaire and technical assistance from CDC. The BRFSS is based on between 355,000 to

506,000 interviews each year between 2006 and 2017. The sample period begins in 2006 because in that year the CDC introduced a new weighting method to insure a representative sample at the state level. Another issue with the BRFSS is that it changed its survey design in 2011, which is also the first period of the treatment. The 2011 BRFSS data reflects a change in weighting methodology and the addition of cell phone only respondents. This change is evident in figure 8 as a jump in the smoking rate in 2011. However, because this change affected all states it should not lead to any systematic differential between MN and the control states. Again, MA and IL are dropped from the control pool because of large increases in the cigarette tax in the post-period. Figure 8 presents the graph comparing MN and its synthetic control group from the BRFSS. While the smoking rates in the BRFSS are noisier than those in the TUS, pre-treatment trends are well-balanced between the treatment and the control. There is a small apparent effect in 2011 which was not seen in the TUS data. The reason for this is likely because the 2011 TUS data is for 2010-2011 and primarily reflects 2010. The BRFSS effect size gets larger with the exception of 2013, which might be due to a transitory effect of the 2013 cigarette tax increase in MN. The placebo test resulted in a value of  $p < .13$ .

The DL1 results in table 5 suggest that smoking prevalence increased in MN following the e-cig tax relative to the control group. Effect magnitude for the entire post period is similar to the effect estimated from the TUS and suggests an increase in smoking prevalence of about 1 percentage point. The serial correlation adjustment used in DL2 is not useful with the BRFSS data because it measures only the effect in the first post period rather than the average effect over the entire post period (see the second regression in table 5). As an alternative we specify a model with lagged effects of the e-cig tax for each post-policy period, which is a post period event history study. All the post dummies are equal to 0 in 2006-2010. Then,  $post_0 = 1$  in 2011 and equals 0 in all other post years.  $post_1 = 0$  in 2011, equals 1 in 2012 and 0 in all other post years, etc. This is a model in level form. We then define the time difference specification to account for serial correlation. This regression provides the correct standard errors and 95 percent confidence intervals for each of the 7 post-year differences. These data are presented

in figure 9. The average effect over the seven years is 1.0084 with a standard error = 0.5488 and p-value < 0.14. This average value is slightly smaller than the value of 1.0404 in the level model (DL1). Also, the confidence intervals for all post periods includes the numeric value 1. Confidence in the conclusions are enhanced because both the BRFSS models and the TUS models predict about a 1 percentage point increase in smoking participation due to the tax.

## **5. Conclusions**

The results presented in this study provide some of the first evidence on whether, and the extent to which, e-cig taxation affect adult smoking behaviors. We exploit the natural experiment provided by MN, the first state to impose a tax on e-cigs. Because the cross effects of a tax on e-cigs on smoking outcomes may be small, a large tax change is necessary to reliably detect such effects in population surveys. Also, because quitting smoking takes time, MN's early adoption of the large e-cig tax makes it possible to study effects on cessation that may take time to materialize. We find consistent and robust evidence that the e-cig tax in MN increased adult smoking relative to what it would have been in the absence of this tax. MN included e-cigs with other non-cigarette tobacco products when increasing the tax on these goods. This inclusion was based on the assumption that e-cigs are a hazard and not a cessation aid such as nicotine replacement products, which are not similarly taxed. It is not known at this time whether these results are generalizable to other states. Higher e-cig taxes are predicted to reduce e-cig consumption, and if the results from MN carry over to other states that have imposed taxes very recently, then they suggest that these taxes will also reduce quit rates in these states among adult smokers.

The results from the TUS and the BRFSS allow us to estimate the cross-price elasticity of current smoking participation with respect to e-cig prices. The e-cig price data prior to 2012 is based on a limited sample of observations, which may introduce bias. Thus, we estimate the changes in price using data from 2012 onward. As shown in figure 1, the price of e-cigs in MN and SMN were about the same in 2012. The e-cig tax increase of 60 percent (change from 35

percent to 95 percent) of the wholesale price in 2013 led to about a 50 percent increase in the price of e-cigs in MN in 2015 relative to the synthetic control. Given the large percentage increase in price, we estimate the arc price elasticity, which allows for the possibility that the elasticity may not be constant over the entire range of the smoking participation equation. The DD estimates indicate that this change is associated with about a 0.8 percentage point increase in current smoking prevalence, which is about a 5.4 percent increase in MN relative to its control. Division of the increase in price of \$1.61 by the average of the SMN and MN price in 2015 of \$3.96 yields a 40.7 percent increase in price and an arc cross-price elasticity of 0.13.

This estimate is a lower bound because the simultaneous increase in cigarette prices would have decreased smoking.<sup>15</sup> It is notable that the much more modest 17 percent increase in the relative price of e-cigarettes was accompanied by an approximate 5 percent increase in smoking participation. That suggests that if states raise cigarette and e-cigarette taxes by substantial amounts at the same time, smoking will rise if the relative price of e-cigarettes rises.

In 2014 there were about 600,000 adult smokers in Minnesota. Our estimates indicate that the e-cig tax deterred about 32,400 adult smokers from quitting. Currently there are approximately 34 million adult smokers. If the Minnesota tax had been a national one, we estimate that it would have deterred around 1.83 million smokers from quitting.<sup>16</sup> Some have suggested that e-cigs should be taxed at the same rate as cigarettes. Implementation of that policy would raise the price of e-cigs by approximately 62 percent, increase smoking participation by 8.1 percent, and deter approximately 2.75 million smokers from quitting.<sup>17</sup>

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<sup>15</sup> The simultaneous increase in other non-cigarette tobacco prices would probably have had a small positive effect on cigarette smoking offsetting some of the effects of higher cigarette taxes.

<sup>16</sup> This figure is obtained by multiplying 600,000 by the percentage increase in smoking participation divided by 100 ( $600,000 \times 0.054 = 32,400$ ). If MN data apply to the entire US,  $0.054 \times 34 \text{ million} = 1.83 \text{ million}$ .

<sup>17</sup> A JUUL pod contains the nicotine equivalent of a pack of cigarettes and costs about \$4.00. The combined federal cigarette tax and state average cigarette tax is \$2.73 per pack. A tax of \$2.73 with a pass-through of 1.33 (see note 8) would raise the price by of e-cigs by \$3.63, which is an increase of 62 percent relative to an average of the initial and the final price. Divide that figure by 100 and then multiply the result by the arc cross-price elasticity of 0.13 to get an increase in smoking participation of 0.081 or 8.1 percent. Multiplication of the former number by 34 million gives 2.75 million.

While these increases may appear to be large, they are likely to be realized over a period as long as a decade. That is the short-run impact of the price hikes are likely to be much smaller than the long-run impacts. To put this in a somewhat different perspective, a projection of current trends in the number of smokers who quit over the next decade suggests that around 11 million smokers will quit by the end of that decade.<sup>18</sup> Our computations imply a reduction in that number by around 25 percent.

Our study addresses how e-cig use impacts adult smoking, which represents one side of the policy debate surrounding e-cigs. For adolescents, nicotine addiction, the potential progression from vaping to smoking, and the growing percentage of using e-cigs are also important considerations in this policy debate. E-cigs are considered to be harmful to youth due to the effect of nicotine on the developing brain and due to the potential for vaping to lead to nicotine addiction (regardless of whether or not the youth transitions to smoking). While the results from this study indicate that e-cigs may help adult smokers to quit smoking and thus lead to a decrease in smoking-related harms, this needs to be balanced against the goal of reducing vaping and nicotine use among youth. Deterrents to adolescent use include raising the national minimum purchase age to 21, allocating resources to enforcing that law, enacting stiff fines for violating it, and banning flavors and marketing targeted at youth. The public health benefits of not taxing e-cigarettes must be weighed against effects of this decision on efforts to reduce vaping by youth.

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<sup>18</sup> Currently, approximately 1.3 million smokers quit each year, which implies a quit rate of 0.038 (3.8 percent). If there are no starters or relapsers, there would be  $(0.962)^{10} \times 34$  million = 23 million remaining smokers ten years hence and 11 million quitters over that period. If the net percentage reduction in the number of smokers is less than 3.8 percent, we overestimate the number quitters.

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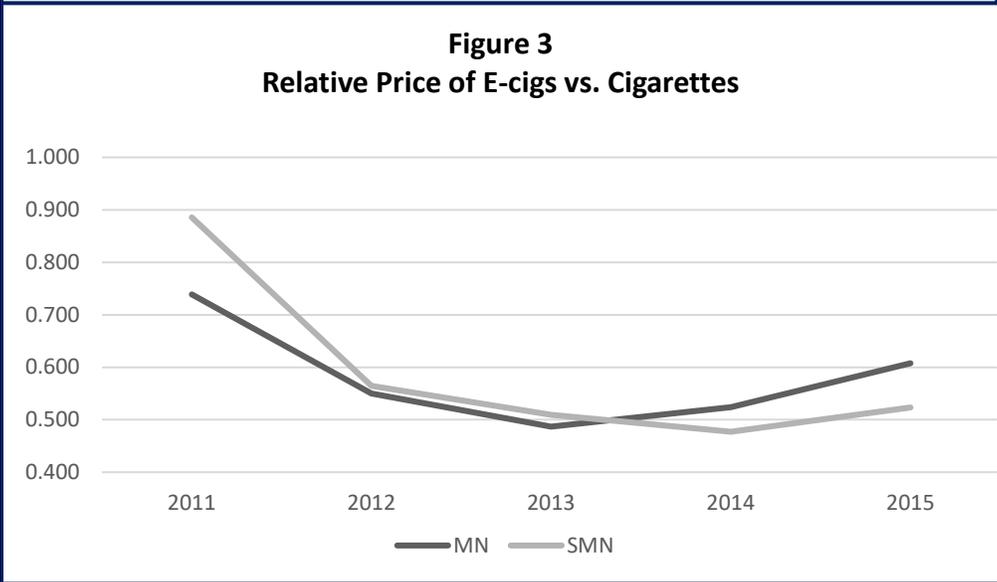
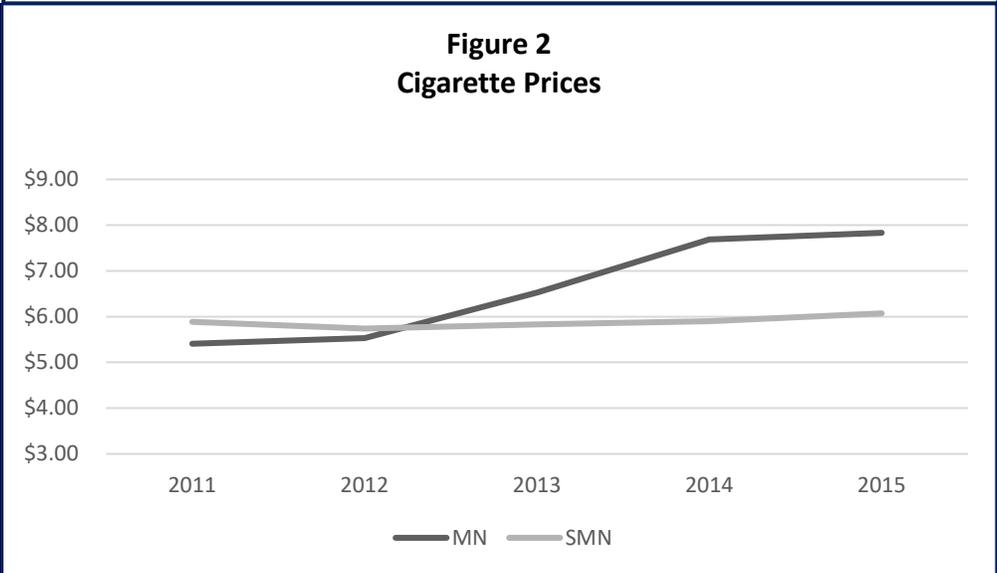
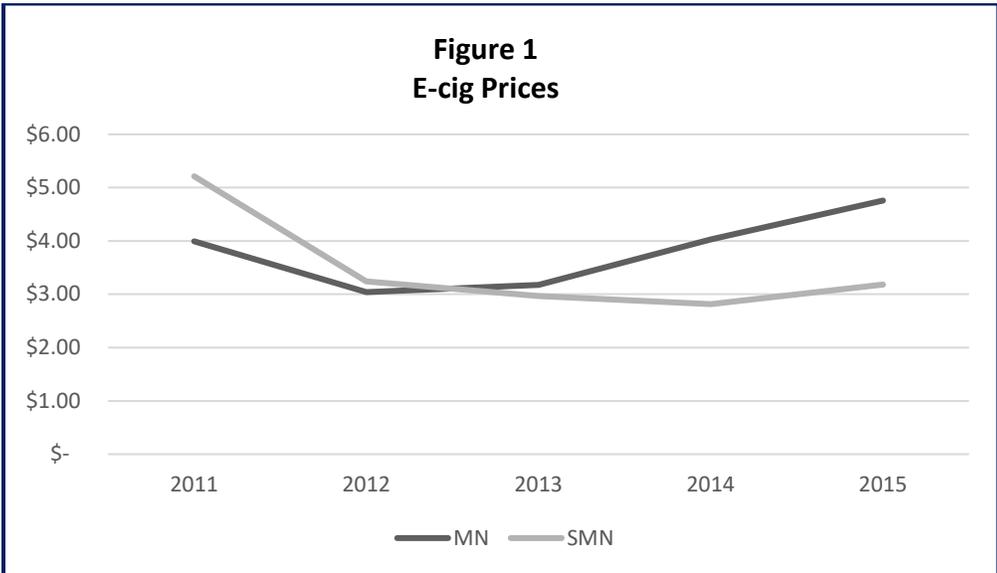
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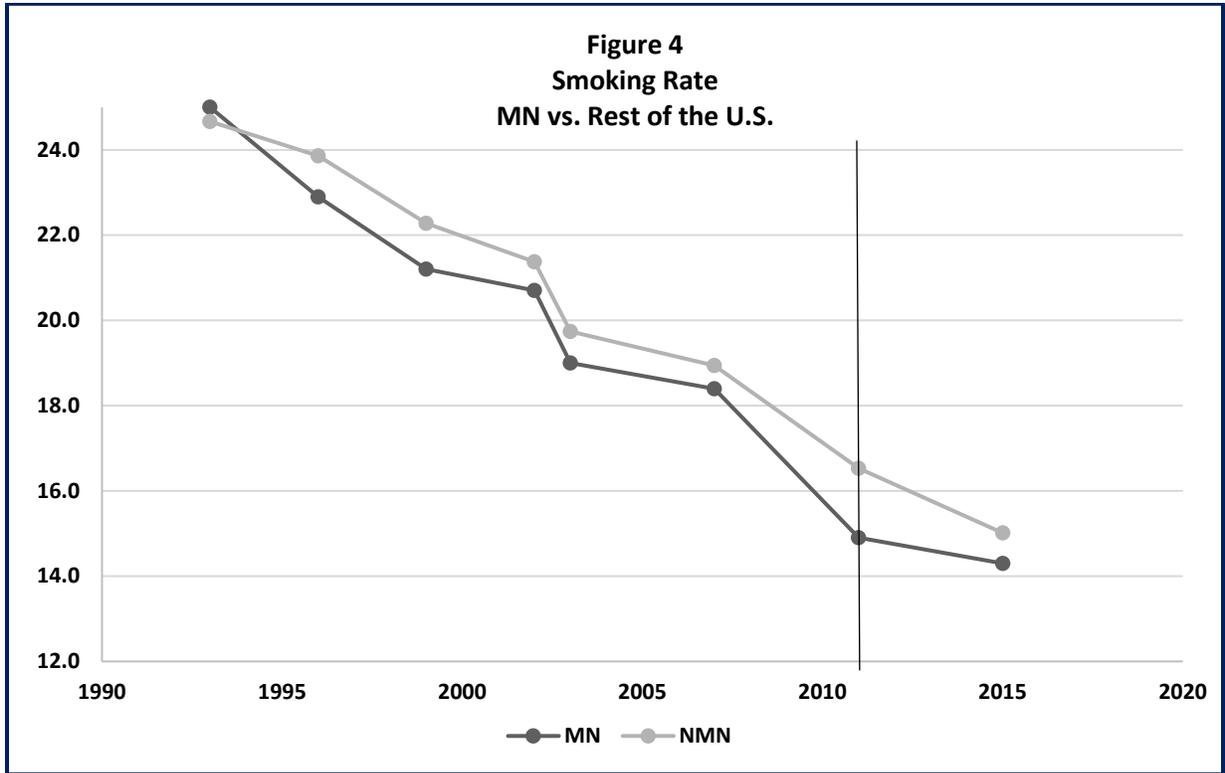
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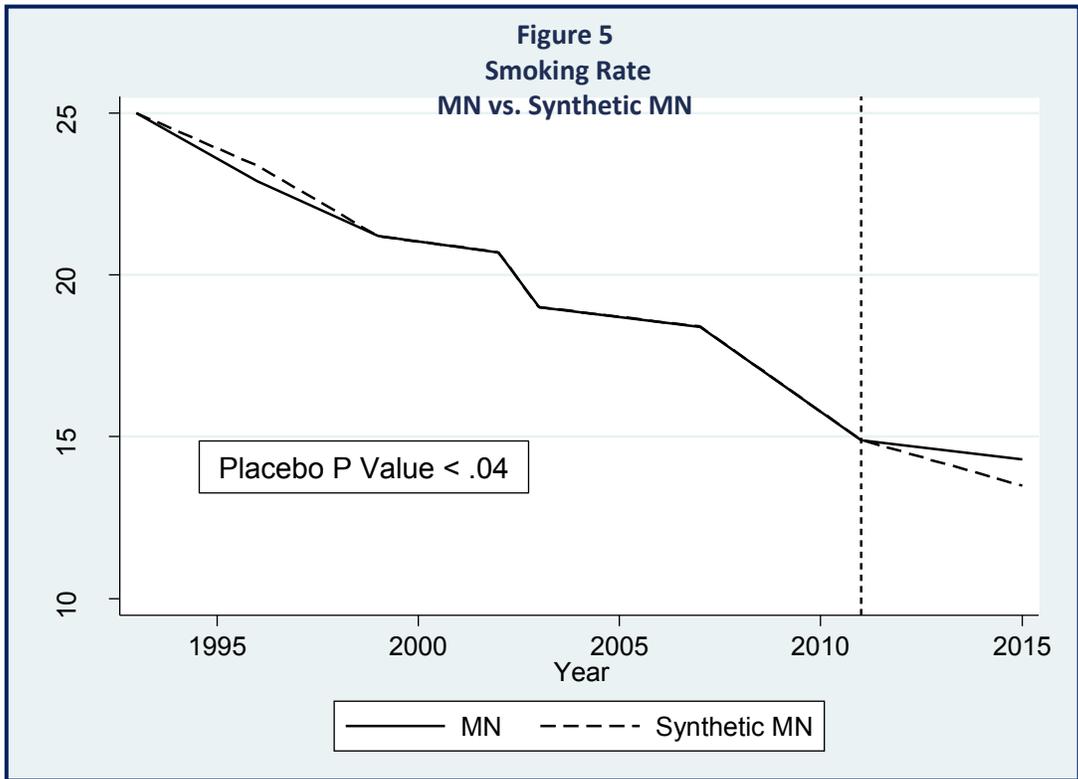


Note: Price computations are based on the Nielsen Scanner Data for MN and synthetic MN.



Note: NMN is the population-weighted average smoking rate for the rest of the U.S. excluding MN. IL and MA are excluded from the rest of the U.S. (see text).

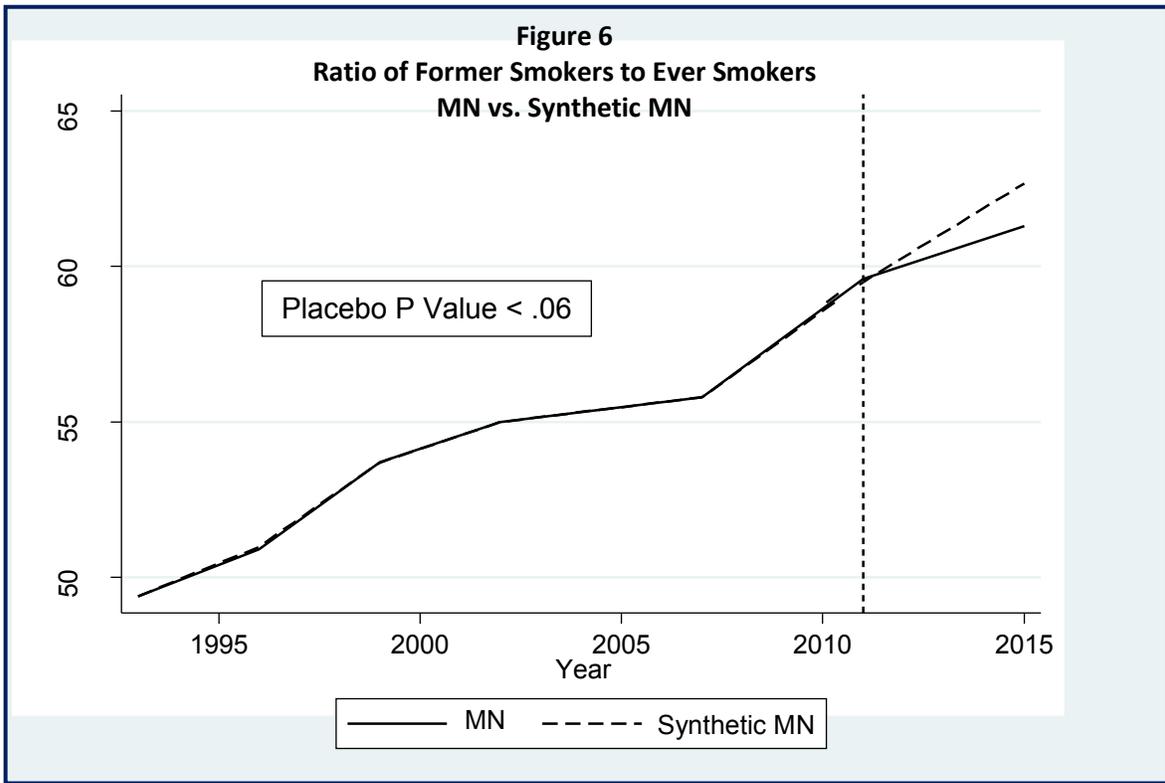
Model type	Data	Treatment Effect	Standard Error	t-value	P-value
DL1	Levels	-0.0289	0.6416	-0.04	0.966
DL2	Wave Differences	0.9200	0.6320	1.46	0.196



**Table 2**  
**Effect of the MN E-cigarette Tax on Smoking**  
**DD: MN vs. Synthetic MN**

Model type	Data	Coefficient of the treatment variable	Standard Error	t-value	P-value
DL1	Levels	0.9264***	0.2094	4.42	0.004
DL2	Wave Differences	0.8449**	0.3250	2.60	0.048

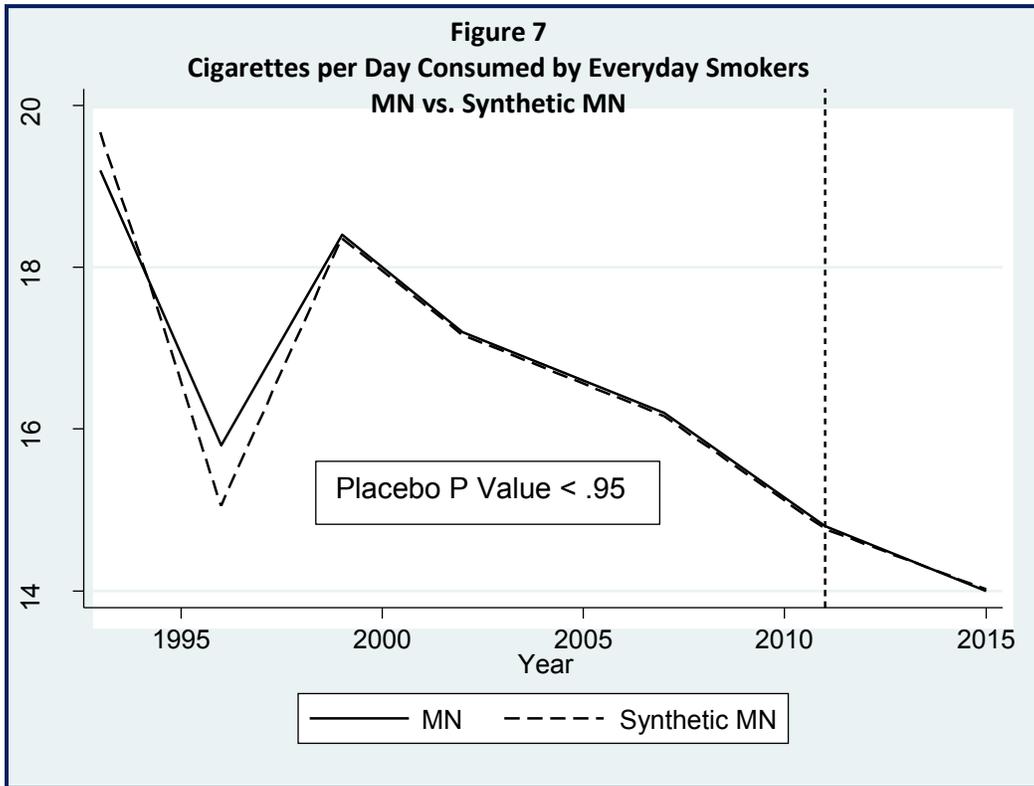
Note: 2002 data are not used in the model for Wave Differences. Asterisks denote significance as follows: \*\*\* p-value  $\leq$  0.01, \*\* 0.01 < p-value  $\leq$  0.05, \* 0.05 < p-value  $\leq$  0.10.



**Table 3**  
**Effect of the MN E-cigarette Tax on Ratio of Former Smokers**  
**DD: MN vs. Synthetic MN**

Model type	Data	Coefficient of the treatment variable	Standard Error	t-value	P-value
DL1	Levels	-0.9526***	0.1870	5.09	0.002
DL2	Wave Differences	-1.2326***	0.2425	5.08	0.004

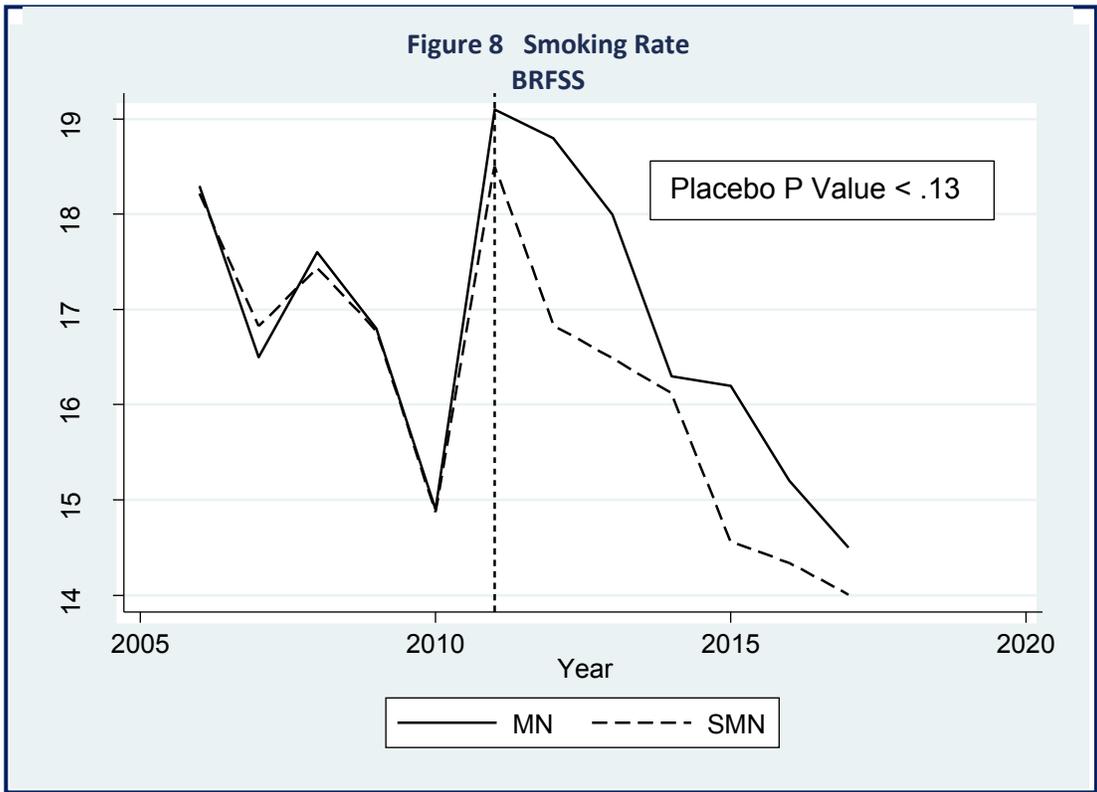
Note: 2002 data are not used in the model for Wave Differences. Asterisks denote significance as follows: \*\*\* p-value  $\leq$  0.01, \*\* 0.01 < p-value  $\leq$  0.05, \* 0.05 < p-value  $\leq$  0.10.



**Table 4**  
**Effect of the MN E-cigarette Tax on Daily Cigarette Consumption (Intensive Margin)**  
**DD: MN vs. Synthetic MN**

Model type	Data	Coefficient of the treatment variable	Standard Error	t-value	P-value
DL1	Levels	0.0885	0.4195	0.21	0.841
DL2	Wave Differences	0.0517	0.6298	0.08	0.938

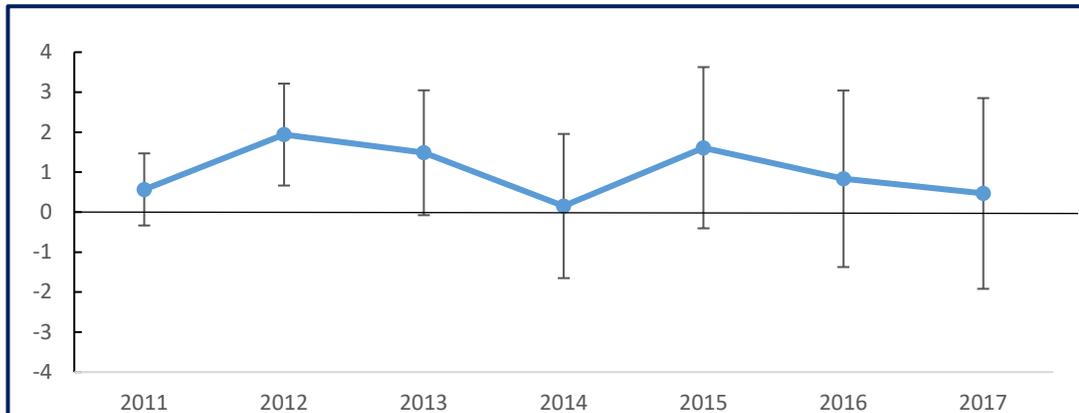
Note: Data on cigarettes consumed are not available for 2003. Asterisks denote significance as follows: \*\*\* p-value  $\leq$  0.01, \*\* 0.01 < p-value  $\leq$  0.05, \* 0.05 < p-value  $\leq$  0.10.



**Table 5  
Effect of the MN E-cigarette Tax on Smoking Rate from the BRFSS  
DD: MN vs. Synthetic MN**

Model type	Data	Coefficient of the treatment variable	Standard Error	t-value	P-value
DL1	Levels	1.0404***	0.3124	3.33	0.008
DL2	Year Differences	0.5677	0.8457	0.67	0.517

**Figure 9  
BRFSS Effects of Lagged Treatment Variables with 95% confidence intervals**



### 3. Truth Initiative Fact Sheet – Minnesota

# Tobacco use in Minnesota 2019

Jun. 28, 2019 | 3 min read

## Cigarette use: Minnesota

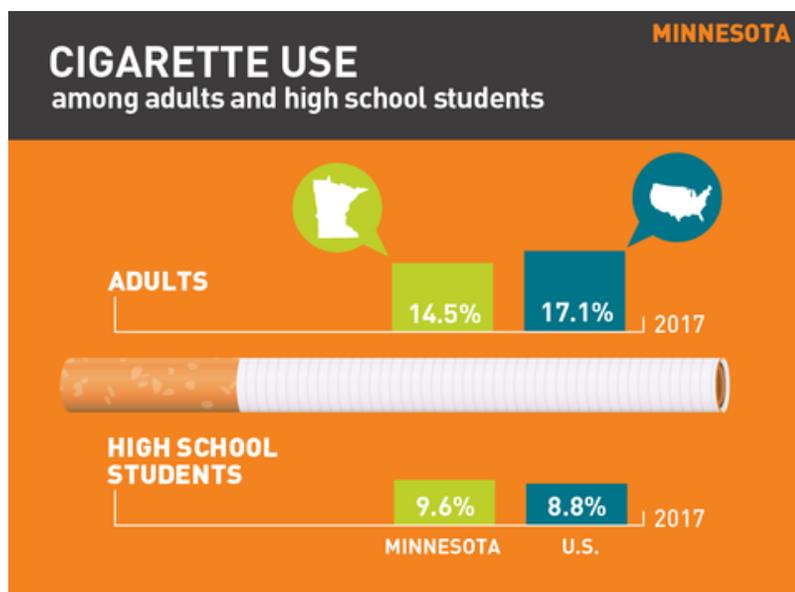
- In 2017, 14.5% of adults smoked. Nationally, the rate was 17.1%.<sup>1</sup>
- In 2017, 9.6% of high school students in Minnesota smoked cigarettes on at least one day in the past 30 days. Nationally, the rate was 8.8%.<sup>2,3</sup>

TOPIC

Smoking by  
Region

SUBTOPIC

State Facts

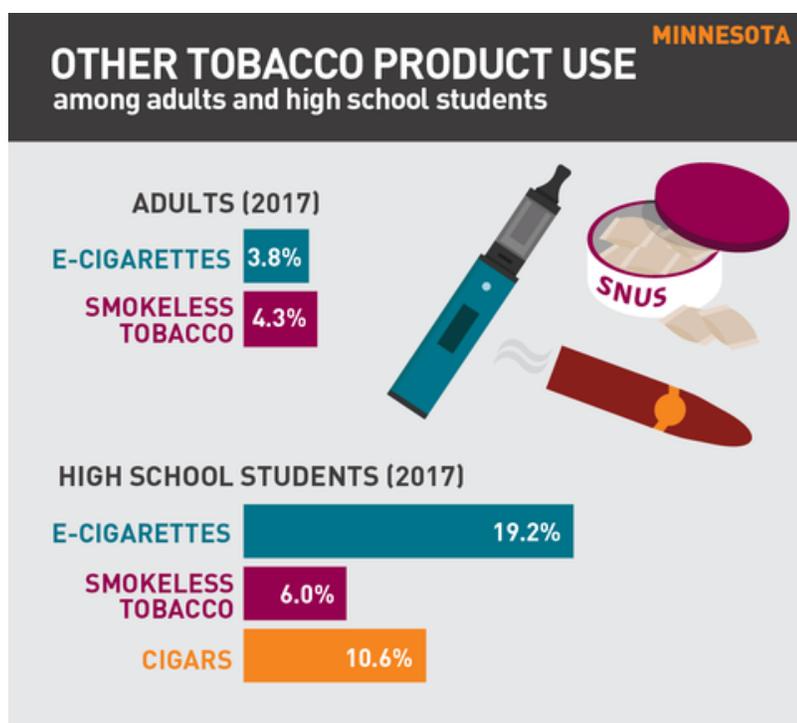


## Other tobacco product use: Minnesota

- In 2017, 3.6% of adults used e-cigarettes and 4.8% used

smokeless tobacco.<sup>4</sup>

- In 2017, 19.2% of high school students in Minnesota used electronic vapor products on at least one day in the past 30 days.<sup>2</sup>
- In 2017, 6.0% of high school students in Minnesota used chewing tobacco, snuff or dip on at least one day in the past 30 days.<sup>2</sup>
- In 2017, 10.6% of high school students in Minnesota smoke cigars, cigarillos or little cigars on at least one day in the past 30 days.<sup>2</sup>



## Economics of tobacco use and tobacco control

- Minnesota received \$703.6 million (estimated) in revenue from tobacco settlement payments and taxes in fiscal year 2019.<sup>3</sup>
- Of this, the state allocated \$17.3 million in state funds to tobacco prevention in fiscal year 2019, 32.7% of the Centers

for Disease Control and Prevention's annual spending target.<sup>3</sup>

- Smoking-caused health care costs: \$2.51 billion per year.<sup>5</sup>
- Smoking-caused losses in productivity: \$1.54 billion per year.<sup>6</sup>



## Minnesota tobacco laws

### Tobacco taxes

- Minnesota is ranked 8th in the U.S. for its cigarette tax of \$3.04 per pack (enacted January 2018), compared to the national average of \$1.81. (The District of Columbia has the highest tax at \$4.50 and Missouri has the lowest at 17 cents.)<sup>5-7</sup>
- Moist snuff containers weighing less than 1.2 ounces are taxed at the greater of 95% of the wholesale price or a minimum price equal to the cigarette tax at each container. Moist snuff containers weighing more than 1.2 ounces are taxed at the greater of 95% of the wholesale price or a minimum tax equal to the cigarette tax on each container multiplied by the number of ounces of moist snuff in the container, divided by 1.2 (container = smallest consumer-size can, package or other container that is marketed or packaged by an entity for separate sale to a retail

purchaser).

- Premium cigars are taxed at 95% of the wholesale or 50 cents per cigar, whichever is less.
- All other tobacco products, including e-cigarettes, are taxed at 95% of the wholesale sales price.<sup>7,8</sup>

### **Clean indoor air ordinances**

- Smoking is prohibited in all government workplaces (workplaces with two or fewer employees are exempt), private workplaces (workplaces with two or fewer employees are exempt), schools, childcare facilities, restaurants, bars, casinos/gaming establishments (tribal establishments are exempt), retail stores and recreational/cultural facilities.<sup>6</sup>
- The use of e-cigarettes is prohibited in day care and health facilities, government owned or operated buildings, facilities owned by Minnesota state colleges and universities, the University of Minnesota, facilities licensed by the commissioner of human services, and in public and charter schools and any facility or vehicle owned, rented or leased by a school district.<sup>9</sup>

### **Youth access laws**

- The minimum age to purchase tobacco products in Minnesota is 21. In December 2019, the United States adopted a law raising the federal minimum age of sale of all tobacco products to 21, effective immediately.
- Minors are prohibited from buying nicotine delivery products, including e-cigarettes.<sup>5</sup>
- Self-service sales are prohibited, except in adult-only facilities.<sup>7,8</sup>

### **Local tobacco laws**

- Minneapolis and 33 other localities in the state raised their minimum age requirement for the purchase of tobacco products to 21.<sup>10</sup>

- In Minneapolis and St. Paul, the sale of flavored tobacco products is restricted to tobacco product shops. The sale of menthol flavored tobacco products is prohibited except in adult-only tobacco shops and liquor stores.<sup>11,12</sup>
- In Duluth, Falcon Heights and Lauderdale, the sale of flavored tobacco products, including menthol, is prohibited except in adult-only tobacco stores.<sup>13-15</sup>
- In Mendota Heights, Robbinsdale, Shoreview and St. Louis Park, the sale of flavored tobacco products is prohibited except in adult-only tobacco stores. Menthol, mint and wintergreen flavors are exempt from the restriction.<sup>16-19</sup>
- In Arden Hills, the sale of all flavored tobacco products is prohibited.<sup>20</sup>
- In Minneapolis, Robbinsdale and St. Paul, the minimum price for cigars (after coupons and discounts have been applied and before sales tax) is \$2.60 for a single cigar, \$5.20 for a 2-pack or “double” pack, \$7.80 for a 3-pack and \$10.40 for packs with four or more cigars.<sup>12,17,21</sup>
- Rock County prohibits pharmacies from selling tobacco products.<sup>22</sup>

## Quitting statistics and benefits

- The CDC estimates 46% of daily adult smokers in Minnesota quit smoking for one or more days in 2017.<sup>4</sup>
- In 2014, the Affordable Care Act required that Medicaid programs cover all tobacco cessation medications.<sup>8\*\*</sup>
- Minnesota’s state quit line invests \$13.18 per smoker, compared to the national average of \$2.21.<sup>8</sup>
- Minnesota does not have a private insurance mandate provision for cessation.<sup>8</sup>

# Notes and references

## Updated April 2019

\*National and state-level prevalence numbers reflect the most recent data available. This may differ across state fact sheets.

\*\*The seven recommended cessation medications are NRT gum, NRT patch, NRT nasal spray, NRT inhaler, NRT lozenge, Varenicline (Chantix) and Bupropion (Zyban).

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## 4. Truth Initiative Fact Sheet – Maryland

# Tobacco use in Maryland 2019

Jun. 28, 2019 | 3 min read

## Cigarette use: Maryland

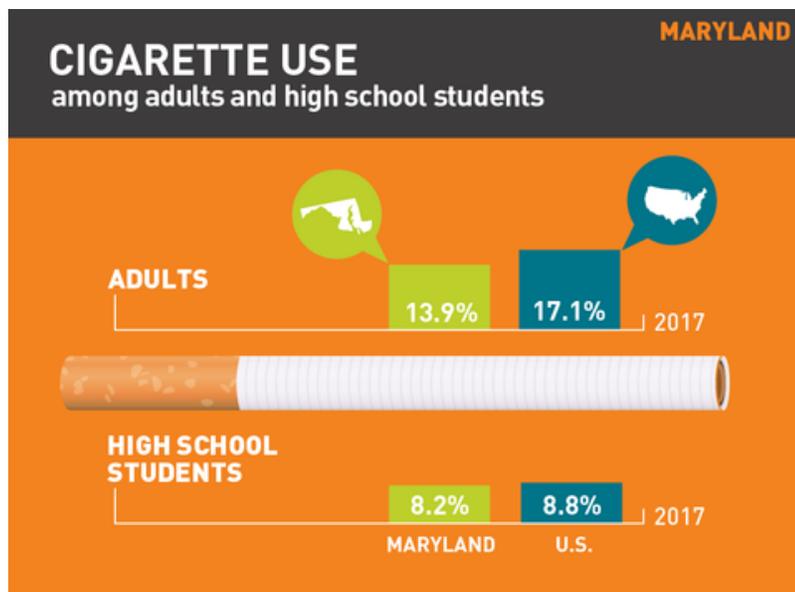
- In 2017, 13.9% of adults smoked. Nationally, the rate was 17.1%.<sup>1</sup>
- In 2017, 8.2% of high school students in Maryland smoked cigarettes on at least one day in the past 30 days. Nationally, the rate was 8.8%.<sup>2</sup>

TOPIC

Smoking by  
Region

SUBTOPIC

State Facts

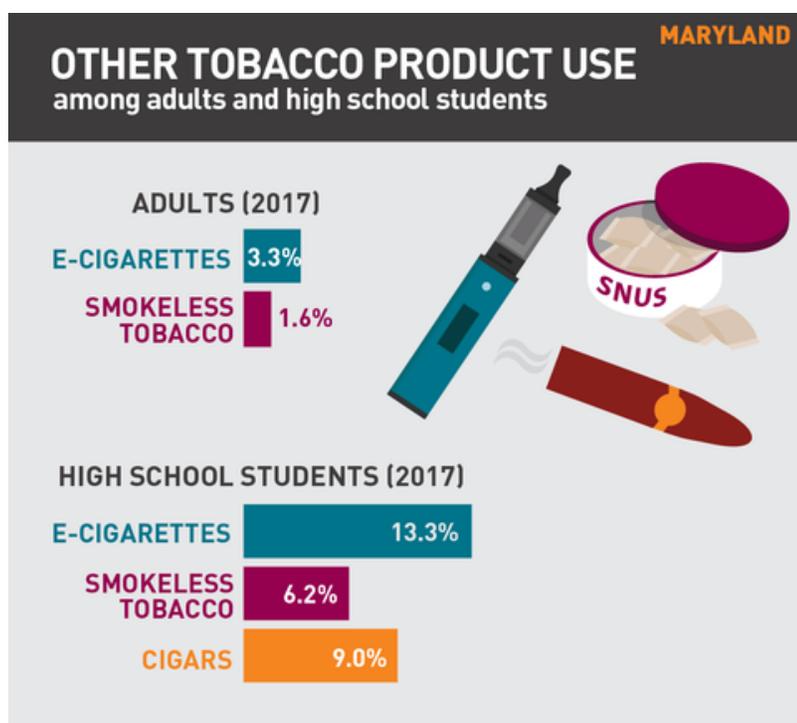


## Other tobacco product use: Maryland

- In 2017, 3.3% of adults used e-cigarettes and 1.6% used

smokeless tobacco.<sup>3</sup>

- In 2017, 13.3% of high school students in Maryland used electronic vapor products on at least one day in the past 30 days. Nationally, the rate was 13.2%.<sup>2</sup>
- In 2017, 6.2% of high school students in Maryland used chewing tobacco, snuff or dip on at least one day in the past 30 days. Nationally, the rate was 5.5%.<sup>2</sup>
- In 2017, 9.0% of high school students in Maryland smoked cigars, cigarillos or little cigars on at least one day in the past 30 days. Nationally, the rate was 8.0%.<sup>2</sup>



## Economics of tobacco use and tobacco control

- Maryland received \$525 million (estimated) in revenue from tobacco settlement payments and taxes in fiscal year 2019.<sup>4</sup>
- Of this, the state allocated \$10.5 million in state funds to tobacco prevention in fiscal year 2019, 21.8% of the Centers for Disease Control and Prevention's annual spending

target.<sup>4</sup>

- Smoking-related health care costs: \$2.71 billion per year.<sup>4</sup>
- Smoking-related losses in productivity: \$2.22 billion per year.<sup>5</sup>



## Maryland tobacco laws

### Tobacco taxes

- Maryland is ranked 17th in the U.S. for its cigarette tax of \$2 per pack (enacted January 2008), compared with the national average of \$1.81. (The District of Columbia has the highest tax at \$4.50 and Missouri has the lowest at 17 cents.)<sup>6-8</sup>
- Cigars are taxed at 70% of the wholesale price and premium cigars are taxed at 15% of the wholesale price. All other tobacco products are taxed at 30% of the manufacturer's list price.<sup>6,7</sup>

### Clean indoor air ordinances

- Smoking is prohibited in all government and private workplaces, schools, childcare facilities, restaurants, bars, casinos/gaming establishments, retail stores and recreational/cultural facilities.<sup>7</sup>

- No smoke-free restrictions exist for e-cigarette use.<sup>9</sup>

### Youth access laws

- The minimum age to purchase tobacco products in Maryland is 21. In December 2019, the United States adopted a law raising the federal minimum age of sale of all tobacco products to 21, effective immediately.
- Minors are prohibited from buying electronic smoking devices, including e-cigarettes.<sup>6,7</sup>

## Quitting statistics and benefits

- The CDC estimates that 50.4% of daily adult smokers in Maryland quit smoking for one or more days in 2017.<sup>3</sup>
- In 2014, the Affordable Care Act required that Medicaid programs cover all quit medications.<sup>7\*\*</sup>
- Maryland's state quit line invests \$3.39 per smoker, compared with the national average investment per smoker of \$2.21.<sup>7</sup>
- Maryland does have a private insurance mandate provision for cessation.<sup>7</sup>

## Notes and references

### Updated April 2019

\*National and state-level prevalence numbers reflect the most recent data available. This may differ across state fact sheets.

\*\*The seven recommended quitting medications are NRT gum, NRT patch, NRT nasal spray, NRT inhaler, NRT lozenge, Varenicline (Chantix) and Bupropion (Zyban).

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5. Public Health England Study,  
E-Cigarettes Are About 95%  
Safer Than Smoking

# E-cigarettes around 95% less harmful than tobacco estimates landmark review

Expert independent review concludes that e-cigarettes have potential to help smokers quit.

[Public Health England](#)

An [expert independent evidence review](#) published today by Public Health England (PHE) concludes that e-cigarettes are significantly less harmful to health than tobacco and have the potential to help smokers quit smoking.

Key findings of the review include:

- the current best estimate is that e-cigarettes are around 95% less harmful than smoking
- nearly half the population (44.8%) don't realise e-cigarettes are much less harmful than smoking
- there is no evidence so far that e-cigarettes are acting as a route into smoking for children or non-smokers

The review, commissioned by PHE and led by Professor Ann McNeill (King's College London) and Professor Peter Hajek (Queen Mary University of London), suggests that e-cigarettes may be contributing to falling smoking rates among adults and young people. Following the review PHE has published a paper on the [implications of the evidence for policy and practice](#).

The comprehensive review of the evidence finds that almost all of the 2.6 million adults using e-cigarettes in Great Britain are current or ex-smokers,

most of whom are using the devices to help them quit smoking or to prevent them going back to cigarettes. It also provides reassurance that very few adults and young people who have never smoked are becoming regular e-cigarette users (less than 1% in each group).

However, the review raises concerns that increasing numbers of people think e-cigarettes are equally or more harmful than smoking (22.1% in 2015, up from 8.1% in 2013: ASH Smokefree GB survey) or don't know (22.7% in 2015, ASH Smokefree GB survey).

Despite this trend all current evidence finds that e-cigarettes carry a fraction of the risk of smoking.

Emerging evidence suggests some of the highest successful quit rates are now seen among smokers who use an e-cigarette and also receive additional support from their local stop smoking services.

Professor Kevin Fenton, Director of Health and Wellbeing at Public Health England said:

Smoking remains England's number one killer and the best thing a smoker can do is to quit completely, now and forever.

E-cigarettes are not completely risk free but when compared to smoking, evidence shows they carry just a fraction of the harm. The problem is people increasingly think they are at least as harmful and this may be keeping millions of smokers from quitting. Local stop smoking services should look to support e-cigarette users in their journey to quitting completely.

Professor Ann McNeill, King's College London and independent author of the review, said:

There is no evidence that e-cigarettes are undermining England's falling smoking rates. Instead the evidence consistently finds that e-cigarettes are another tool for stopping smoking and in my view smokers should try vaping and vapers should stop smoking entirely.

E-cigarettes could be a game changer in public health in particular by reducing the enormous health inequalities caused by smoking.

**Professor Peter Hajek, Queen Mary University London and independent author of the review said:**

My reading of the evidence is that smokers who switch to vaping remove almost all the risks smoking poses to their health. Smokers differ in their needs and I would advise them not to give up on e-cigarettes if they do not like the first one they try. It may take some experimentation with different products and e-liquids to find the right one.

**Professor Linda Bauld, Cancer Research UK's expert in cancer prevention, said:**

Fears that e-cigarettes have made smoking seem normal again or even led to people taking up tobacco smoking are not so far being realised based on the evidence assessed by this important independent review. In fact, the overall evidence points to e-cigarettes actually helping people to give up smoking tobacco.

Free Stop Smoking Services remain the most effective way for people to quit but we recognise the potential benefits for e-cigarettes in helping large numbers of people move away from tobacco.

Cancer Research UK is funding more research to deal with the unanswered questions around these products including the longer-term

impact.

Lisa Surtees, acting director at Fresh Smoke Free North East, the first region where all local stop smoking services are actively promoted as e-cigarette friendly, said:

Despite making great strides to reduce smoking, tobacco is still our biggest killer. Our region has always kept an open mind towards using electronic cigarettes as we can see the massive potential health benefits from switching.

All of our local NHS Stop Smoking Services now proactively welcome anyone who wants to use these devices as part of their quit attempt and increase their chance of success.

## Background

PHE's remit letter for 2014 to 2015 requested an update of the evidence around e-cigarettes. PHE commissioned Professors Ann McNeill and Peter Hajek to review the available evidence. The review builds on previous evidence summaries published by PHE in 2014.

The full list of authors of the report are:

- McNeill A, Brose LS, Calder R, Hitchman SC: Institute of Psychiatry, Psychology & Neuroscience, National Addiction Centre, King's College London and UK Centre for Tobacco & Alcohol Studies
- Hajek P, McRobbie H (Chapters 9 and 10): Wolfson Institute of Preventive Medicine, Barts and The London School of Medicine and Dentistry Queen Mary, University of London and UK Centre for Tobacco & Alcohol Studies

Implications of the evidence for policy and practice: Based on the findings of the evidence review PHE advises that:

- e-cigarettes have the potential to help smokers quit smoking, and the evidence indicates they carry a fraction of the risk of smoking cigarettes but are not risk free
- e-cigarettes potentially offer a wide reach, low-cost intervention to reduce smoking in more deprived groups in society where smoking is elevated, and we want to see this potential fully realised
- there is an opportunity for e-cigarettes to help tackle the high smoking rates among people with mental health problems, particularly in the context of creating smokefree mental health units
- the potential of e-cigarettes to help improve public health depends on the extent to which they can act as a route out of smoking for the country's eight million tobacco users, without providing a route into smoking for children and non-smokers. Appropriate and proportionate regulation is essential if this goal is to be achieved
- local stop smoking services provide smokers with the best chance of quitting successfully and we want to see them engaging actively with smokers who want to quit with the help of e-cigarettes
- we want to see all health and social care professionals providing accurate advice on the relative risks of smoking and e-cigarette use, and providing effective referral routes into stop smoking services
- the best thing smokers can do for their health is to quit smoking completely and to quit for good. PHE is committed to ensure that smokers have a range of evidence-based, effective tools to help them to

quit. We encourage smokers who want to use e-cigarettes as an aid to quit smoking to seek the support of local stop smoking services

- given the potential benefits as quitting aids, PHE looks forward to the arrival on the market of a choice of medicinally regulated products that can be made available to smokers by the NHS on prescription. This will provide assurance on the safety, quality and effectiveness to consumers who want to use these products as quitting aids
- the latest evidence will be considered in the development of the next Tobacco Control Plan for England with a view to maximising the potential of e-cigarettes as a route out of smoking and minimising the risk of their acting as a route into smoking

From October this year it will be an offence to sell e-cigarettes to anyone under the age of 18 or to buy e-cigarettes for them. The government is [consulting on a comprehensive array of regulations](#) under the European Tobacco Products Directive.

Photo by [pixelblume](#), used under [Flickr Creative Commons](#)

Please contact PHE press office for:

- the full review [E-cigarettes: an evidence update - A report commissioned by Public Health England](#)
- interviews with PHE spokespeople or the review's independent authors
- case studies of stop smoking services who work with e-cigarette users and smokers who have quit completely with a combination of e-cigarettes and attending a service



## Underpinning evidence for the estimate that e-cigarette use is around 95% safer than smoking: authors' note

The estimate that e-cigarette use is around 95% safer than smoking is based on the facts that:

- the constituents of cigarette smoke that harm health – including carcinogens – are either absent in e-cigarette vapour or, if present, they are mostly at levels much below 5% of smoking doses (mostly below 1% and far below safety limits for occupational exposure)
- the main chemicals present in e-cigarettes only have not been associated with any serious risk

Our review<sup>i</sup> aimed to assess whether studies that have recently been widely reported as raising new alarming concerns on the risks of e-cigarettes changed the conclusions of the previous independent review ([Britton and Bogdanovica, 2014](#)) and other reassuring reviews.

We concluded that these new studies do not in fact demonstrate substantial new risks and that the previous estimate by an international expert panel ([Nutt et al, 2014](#)) endorsed in an expert review ([West et al, 2014](#)) that e-cigarette use is around 95% safer than smoking, remains valid as the current best estimate based on the peer-reviewed literature.

Some flavourings and constituents in e-cigarettes may pose risks over the long term. We consider the 5% residual risk to be a cautious estimate allowing for this uncertainty.

Ongoing monitoring is needed to ensure that if any new risks emerge, recommendations to smokers and regulatory requirements are revised accordingly.

On current evidence, there is no doubt that smokers who switch to vaping reduce the risks to their health dramatically.

Professor Ann McNeill  
Institute of Psychiatry, Psychology & Neuroscience, National Addiction Centre, King's College London



Public Health  
England

Protecting and improving the nation's health

Professor Peter Hajek  
Wolfson Institute of Preventive Medicine, Barts and The London School of Medicine and  
Dentistry Queen Mary, University of London

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<sup>i</sup> McNeill et al, [E-cigarettes: an evidence update – A report commissioned by Public Health England](#), Public Health England, August 2015

## 6. Public Health Consequences Of E-Cigarettes



January 2018

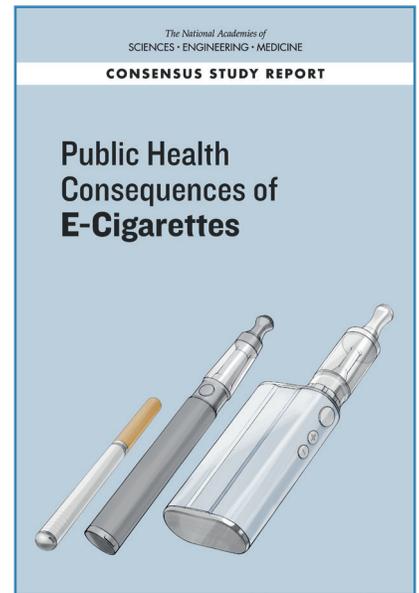
## Public Health Consequences of E-Cigarettes

Millions of Americans use electronic cigarettes (e-cigarettes). Young people especially, age 17 and under, have quickly taken up their use: Substantially more young people use e-cigarettes than any other tobacco product, including traditional combustible tobacco cigarettes.

Despite their popularity, little is known about the health effects of e-cigarettes. Perceptions of potential risks and benefits of e-cigarette use vary widely among the public, users of the products, health care providers, and the public health community.

With support from the Center for Tobacco Products of the Food and Drug Administration (FDA), the National Academies of Sciences, Engineering, and Medicine convened an expert committee to conduct a critical, objective review of the scientific evidence about e-cigarettes and health. The resulting report, *Public Health Consequences of E-Cigarettes*, provides an overview of the evidence, recommends ways to improve the research, and highlights gaps that are priority focus areas for future work.

As part of its work, the committee conducted a comprehensive, in-depth review of the scientific literature around e-cigarettes, including key constituents in e-cigarettes, human health effects, initiation and cessation of combustible tobacco cigarette use, and harm reduction. The committee considered the quality of individual studies and the totality of the evidence to provide 47 structured, consistent conclusions on the strength of the evidence (categorized as conclusive, substantial, moderate, limited, insufficient, and no evidence—all defined on the next page).



## CONSTITUENTS OF E-CIGARETTES

E-cigarettes contain liquids (called e-liquids), which typically contain nicotine, flavorings, and humectants (to retain moisture).

With respect to nicotine, conclusive evidence shows that exposure to nicotine from e-cigarettes is highly variable. It depends on characteristics of the products, including those of the device and e-liquids, as well as how the device is operated. Substantial evidence also shows that among experienced adult e-cigarette users, exposure to nicotine can be comparable to that from combustible tobacco cigarettes.

Most of the flavorings used in e-cigarettes are generally regarded as safe by the FDA, although these designations relate to oral consumption (flavorings used in food), and most have not been studied for safety when inhaled with an e-cigarette.

The primary humectants are propylene glycol and glycerol (also known as vegetable glycerin). Similar to flavorings, they are generally regarded as safe for ingestion, but less is known about their health effects when inhaled.

**Overall, e-cigarette aerosol contains fewer numbers and lower levels of toxicants than smoke from combustible tobacco cigarettes. Nicotine exposure can mimic that found with use of combustible tobacco cigarettes, but it is highly variable. The exposure to nicotine and toxicants from the aerosolization of flavorings and humectants depends on device characteristics and how the device is used.**

## HEALTH EFFECTS OF E-CIGARETTES

Because e-cigarettes have only been on the U.S. market for a relatively brief time—first imported in 2006, most have entered the market much more recently—it is difficult to scientifically compare their health effects to those of combustible tobacco cigarettes, whose health effects were not fully appreciated until after decades of use. However, in contrast to long-term effects, research on short-term health effects of e-cigarettes is now available.

The committee evaluated the current state of knowledge on outcomes including dependence and abuse liability, cardiovascular diseases, cancers, respiratory diseases, oral diseases, reproductive and developmental effects, and injuries and poisonings.

**Overall, the evidence reviewed by the committee suggests that e-cigarettes are not without biological effects in humans. For instance, use of e-cigarettes results in dependence on the devices, though with apparently less risk and severity than that of combustible tobacco cigarettes. Yet the implications for long-term effects on morbidity and mortality are not yet clear.**

To see the full text of the committee's conclusions organized by levels of evidence and outcome, visit [nationalacademies.org/eCigHealthEffects](https://www.nationalacademies.org/eCigHealthEffects).

### Levels of Evidence for Conclusions

*Conclusive evidence:* There are many supportive findings from good-quality controlled studies (including randomized and non-randomized controlled trials) with no credible opposing findings. A firm conclusion can be made, and the limitations to the evidence, including chance, bias, and confounding factors, can be ruled out with reasonable confidence.

*Substantial evidence:* There are several supportive findings from good-quality observational studies or controlled trials with few or no credible opposing findings. A firm conclusion can be made, but minor limitations, including chance, bias, and confounding factors, cannot be ruled out with reasonable confidence.

*Moderate evidence:* There are several supportive findings from fair-quality studies with few or no credible opposing findings. A general conclusion can be made, but limitations, including chance, bias, and confounding factors, cannot be ruled out with reasonable confidence.

*Limited evidence:* There are supportive findings from fair-quality studies or mixed findings with most favoring one conclusion. A conclusion can be made, but there is significant uncertainty due to chance, bias, and confounding factors.

*Insufficient evidence:* There are mixed findings or a single poor study. No conclusion can be made because of substantial uncertainty due to chance, bias, and confounding factors.

*No available evidence:* There are no available studies; health endpoint has not been studied at all. No conclusion can be made.

## The net public health outcome of e-cigarette use depends on the balance between positive and negative consequences.

### E-CIGARETTES AND HARM REDUCTION

FDA regulations require that tobacco products introduced to the U.S. market over the past decade must show a net public health benefit. In considering this public health effect, a product must pose less risk to users than combustible tobacco cigarettes. Additionally, if a product caused more people to start harmful tobacco use, or caused fewer people to quit tobacco use, a product would be kept off the market. So separate from the health effects of e-cigarettes, the tobacco control field must pay close attention to the effects of e-cigarettes on starting and quitting combustible tobacco products.

For youth and young adults, there is substantial evidence that e-cigarette use increases the risk of ever using combustible tobacco cigarettes. For e-cigarette users who have also ever used combustible tobacco cigarettes, there is moderate evidence that e-cigarette use increases the frequency and intensity of subsequent combustible tobacco cigarette smoking.

There is insufficient evidence from randomized controlled trials about the effectiveness of e-cigarettes as cessation aids compared to no treatment or to FDA-approved smoking cessation treatments. While the overall evidence from observational trials is mixed, there is moderate evidence from observational studies that more frequent use of e-cigarettes is associated with increased likelihood of cessation.

**Overall, the evidence suggests that while e-cigarettes might cause youth who use them to transition to use of combustible tobacco products, they might also increase adult cessation of combustible tobacco cigarettes.**

Completely substituting e-cigarettes for combustible tobacco cigarettes conclusively reduces a person's exposure to many toxicants and carcinogens present in combustible tobacco cigarettes and may result in

reduced adverse health outcomes in several organ systems. **Across a range of studies and outcomes, e-cigarettes appear to pose less risk to an individual than combustible tobacco cigarettes.**

To examine the possible effects of e-cigarette use at the population level, the committee used population dynamic modeling. Under the assumption that using e-cigarettes increases the net cessation rate of combustible tobacco cigarettes among adults, the modeling projects that in the short run, use of these products will generate a net public health benefit, despite the increased use of combustible tobacco products by young people. Yet in the long term (for instance, 50 years out), the public health benefit is substantially less and is even negative under some scenarios. If the products do not increase combustible tobacco cessation in adults, then with the range of assumptions the committee used, the model projects that there would be net public health harm in the short and long terms.

### RESEARCH RECOMMENDATIONS

There is a great need for more evidence around the new field of e-cigarettes; research with both long- and short-term horizons is required.

The committee identified gaps in the literature in every aspect in its work and provides overarching categories of research needs and specific research suggestions within the final chapters of each of the three major sections of the report. These overarching categories include: (1) addressing gaps in substantive knowledge and (2) improving research methods and quality through protocol and methods validation and development, including the use of appropriate study design.

To download a copy of the report and read the full text of the committee's recommendations, please visit **[nationalacademies.org/eCigHealthEffects](https://www.nationalacademies.org/eCigHealthEffects)**.

## Committee on the Review of the Health Effects of Electronic Nicotine Delivery Systems

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**David L. Eaton (Chair)**

University of Washington

**Anthony J. Alberg**

University of South Carolina

**Maciej Goniewicz**

Roswell Park Comprehensive Cancer Center

**Adam Leventhal**

University of Southern California

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**David Mendez**

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**Kent E. Pinkerton**

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**Nancy A. Rigotti**

Harvard Medical School and Massachusetts General Hospital

**David A. Savitz**

Brown University

**Gideon St.Helen**

University of California, San Francisco

## CONCLUSION

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. However, young people who begin with e-cigarettes are more likely to transition to combustible cigarette use and become smokers who are at risk to suffer the known health burdens of combustible tobacco cigarettes. The net public health outcome of e-cigarette use depends on the balance between positive and negative consequences.

More and better research is needed to help clarify whether e-cigarettes will prove to reduce harm—or induce harm—at the individual and the population levels. The approach taken by the committee to evaluate the health effects of e-cigarettes in this report is anticipated to provide a generalizable template for future evaluations of the evidence.

## Study Staff and Fellow

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Christine Mirzayan Science and Technology Policy Graduate Fellow

## Study Sponsor

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U.S. Food and Drug Administration

To read the full report, please visit  
[nationalacademies.org/eCigHealthEffects](https://www.nationalacademies.org/eCigHealthEffects)

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## DEPARTMENT OF HEALTH

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

February 13, 2020

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

### **RE: SB 410 – Electronic Smoking Devices – Flavor Prohibition – Letter of Information**

Dear Chair Kelley and Committee Members:

The Maryland Department of Health (MDH) submits this letter of information for Senate Bill 410 (SB 410) entitled “Electronic Smoking Devices – Flavor Prohibition.” SB 410 prohibits businesses licensed to ship, import, or sell electronic smoking devices into or within the state from selling any electronic smoking device containing a natural or artificial flavor other than tobaccos. SB 410 also requires that a person who violates the prohibition is subject to a fine not to exceed \$1,000 or imprisonment not exceeding 30 days.

In 2018, the U.S. Surgeon General declared youth vaping an epidemic, evidenced by a 78 percent increase in current ESD use among high school aged youth between 2017 and 2018.<sup>1</sup> Research indicates that youth are more likely to try flavored ESDs and that youth are unaware that nearly all ESDs contain nicotine.<sup>2,3</sup> Following a partial ban of fruit flavored ESDs, use of mint and menthol flavors surged between 2018 and 2019.<sup>4,5</sup> Menthol flavoring has been evidenced as intensifying nicotine dependence and the urge to smoke, making it harder for smokers using menthol to quit.<sup>6</sup> ESDs are not an FDA-approved cessation device, and use of ESDs may lead to dual use of ESDs and cigarettes with associated health risks.<sup>7</sup>

SB 410 would have a fiscal impact on MDH, requiring a one-time increased expenditure of \$50,390 in Fiscal Year 2020. These funds would be used to produce, print, and mail approximately 7,000 letters to licensed tobacco and ESD retailers statewide as well as update and distribute the toolkit to reflect changes to current laws and practices.

If you have any further questions, please contact Director of Governmental Affairs Webster Ye, at (410) 260-3190 or [webster.ye@maryland.gov](mailto:webster.ye@maryland.gov).

Sincerely,

Robert R. Neall  
Secretary

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- <sup>1</sup> <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>
- <sup>2</sup> Willett JG, Bennett M, Hair EC, *et al* Recognition, use and perceptions of JUUL among youth and young adults *Tobacco Control* 2019;28:115-116. <https://tobaccocontrol.bmj.com/content/28/1/115.info>.
- <sup>3</sup> Kristy L. Marynak, Doris G. Gammon, Todd Rogers, Ellen M. Coats, Tushar Singh, and Brian A. King, 2017: [Sales of Nicotine-Containing Electronic Cigarette Products: United States, 2015](https://doi.org/10.2105/AJPH.2017.303660) *Am J Public Health* 107, 702\_705, <https://doi.org/10.2105/AJPH.2017.303660>.
- <sup>4</sup> Schneller LM, Bansal-Travers M, Goniewicz ML, McIntosh S, Ossip D, O'Connor RJ. Use of Flavored E-Cigarettes and the Type of E-Cigarette Devices Used among Adults and Youth in the US-Results from Wave 3 of the Population Assessment of Tobacco and Health Study (2015-2016). *Int J Environ Res Public Health*. 2019;16(16):2991. Published 2019 Aug 20. doi:10.3390/ijerph16162991 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6720922/>.
- <sup>5</sup> <https://www.fda.gov/news-events/press-announcements/trump-administration-combating-epidemic-youth-e-cigarette-use-plan-clear-market-unauthorized-non>, retrieved 3January 2019.
- <sup>6</sup> Ahijevych, K and BE Garrett, The role of menthol in cigarettes as a reinforcer of smoking behavior. *Nicotine Tob Res*, 2010 12 Suppl 2:p S110-6. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3636955/>.
- <sup>7</sup> Dharma N. Bhatta, PhD, MPH; Stanton A. Glantz, PhD Electronic Cigarette Use and Myocardial Infarction Among Adults in the US Population Assessment of Tobacco and Health *J Am Heart Assoc*. 2019;8:e012317. DOI: 10.1161/JAHA.119.012317.

# **SB 410 Maryland Tobacco Free Coalition Information**

Uploaded by: Hale, Laura

Position: INFO

## Letter of Information from Maryland Tobacco Free Coalition

### SB 410—Information

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

The Maryland Tobacco Free Coalition Submits the below statement for information in response to SB 410:

We are grateful to the sponsors for supporting action to address the role flavors play in hooking kids on tobacco products; however, we are concerned that this bill does not comprehensively address all tobacco products that contain flavors.

In Maryland, we are currently facing an epidemic of youth tobacco use. Youth are using products such as electronic smoking devices (ESDs), cigarettes, cigars and chewing tobacco<sup>1</sup>. The flavorings in all of these products are appealing to youth and are the reason many initiate use<sup>2</sup>.

When addressing this issue, it is important to remember the variety of products on the market and not only look at ESDs. The tobacco industry continues to create and market new products to hook Maryland's children. They need new smokers to support their business model. By addicting the next generation to tobacco, they are creating more of a tax burden on Marylanders with the increase in cost for Medicaid as well as the human cost of lives lost each year<sup>3</sup>. If nothing changes, 92,000 kids alive today in Maryland will die prematurely due to tobacco use<sup>4</sup>.

As you address the predatory practices of the industry, we remind the committee of all of the many products that industry targets at youth. Particularly, the industry's long history of targeting communities of color with menthol cigarettes<sup>5</sup>. In not addressing all products, the legislation leaves many communities to still be targeted by the industry with fruity and minty tobacco products.

Thank you for the opportunity to provide this information on SB 410.

Sincerely,

American Heart Association

American Lung Association

Campaign for Tobacco Free Kids

MD PIRG

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<sup>1</sup> <https://www.tobaccofreekids.org/problem/toll-us/maryland>

<sup>2</sup> [https://www.globaltobaccocontrol.org/sites/default/files/state\\_of\\_the\\_evidence\\_-\\_flavor\\_ban\\_or\\_restriction\\_0.pdf](https://www.globaltobaccocontrol.org/sites/default/files/state_of_the_evidence_-_flavor_ban_or_restriction_0.pdf)

<sup>3</sup> <https://www.tobaccofreekids.org/problem/toll-us/maryland>

<sup>4</sup> <https://www.tobaccofreekids.org/problem/toll-us/maryland>

<sup>5</sup> <https://www.cdc.gov/tobacco/disparities/african-americans/index.htm>