Maryland Vapor Alliance

HB1576 - Sales and Use Tax – Electronic Smoking Devices and Vaping Liquid – Maryland Pediatric Cancer Fund - OPPOSE

Dear members of the House Ways & Means Committee:

The Maryland Vapor Alliance (MVA) represents licensed small-business vape shops throughout the State of Maryland. We respectfully oppose HB 1576 because its increases in the sales and use tax on electronic smoking devices (ESDs) and vaping liquid will unfairly burden law-abiding small businesses, further distorting a competitive marketplace already plagued by non-compliance, and fail to address the **underlying tax enforcement issues** documented by the Alcohol, Tobacco, and Cannabis Commission.

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1. HB 1576 Imposes Tax Increases That Hurt Law-Abiding Retailers

HB 1576 would raise the already high sales and use tax on ESDs and vaping liquids, diverting additional revenue to the Maryland Pediatric Cancer Fund. While the goal of supporting pediatric cancer research is commendable, using the vaping tax as a revenue source without regard to competitive equity imposes a disproportionate burden on specialty vape retailers that play by the rules, comply with licensing requirements, and provide age-verified, regulated products to adult consumers.

These tax increases will widen the price gap between licensed specialty retailers and **non-compliant sellers** who currently operate outside effective oversight. This undermines one of the core public health goals of Maryland's regulatory framework: channeling adult smokers toward safer alternatives in regulated environments.

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2. A Large Share of ESD Retailers Are Not Collecting Proper Sales Tax, According to the ATCC

Crucially, the *Alcohol, Tobacco, and Cannabis Commission (ATCC)* recently completed a *Retailer Adherence to Maryland Tax Requirements Report*, which documented widespread non-compliance in the retail collection of sales and use tax on ESD products. That investigation found that **approximately 64% of retailers were collecting incorrect amounts of sales tax on ESD purchases**, with many failing to collect and remit the proper tax at all.

This non-compliance creates a **distorted competitive environment**:

- Law-abiding licensed retailers who correctly collect and remit tax are placed at a **competitive disadvantage** relative to those illegally skirting tax obligations.

- Consumers are incentivized to purchase from non-compliant sellers due to lower out-the-door prices, exacerbating revenue loss for the state.
- Increasing tax rates without addressing this baseline compliance failure simply rewards tax evaders and penalizes those who comply.

The ATCC report clearly highlights that **tax enforcement and compliance must be addressed first**, rather than layering higher rates that few are actually collecting uniformly across the marketplace.

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3. HB 1576 Fails to Address Basic Compliance and Enforcement Challenges
The better policy direction is to enhance enforcement and compliance mechanisms so that ALL retailers are held to the same standard:

- Encourage **targeted audits and assistance programs** so retailers understand and correctly apply sales and use tax on ESDs.
- Allocate resources for **inspection, education, and enforcement partnerships** with the Comptroller's Office to reduce non-compliance.
- Develop **clear enforcement pathways and penalties** for those who deliberately avoid tax collection.

Without these reforms, raising tax rates compounds existing inequities and **shifts the burden to compliant, small business owners** in a regulated sector.

Conclusion
The Maryland Vapor Alliance certainly supports finding a permanent funding source for the Maryland Pediatric Cancer Fund, but we respectfully urge the Committee to issue an **unfavorable report on HB 1576**. The Legislature should not impose additional tax burdens on law-abiding specialty ESD retailers while a large portion of the market, as documented by the ATCC, is failing to collect and remit the proper sales tax in the first place. True fairness and revenue integrity require addressing enforcement and compliance before revising tax structures.

Thank you for your consideration.

Respectfully Submitted,
Maryland Vapor Alliance

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