



January 16, 2024

Testimony on Vermont S18 — “An act relating to banning flavored tobacco products and e-liquids”

Hello Chairwoman and Members the Human Services Committee,

My name is Elizabeth Hicks and I am the US Affairs Analyst of the consumer advocacy group Consumer Choice Center, and I want to thank you for letting me speak with you all today.

Simply put, Senate Bill 18 will do more harm than good if passed. Enacting a flavor ban on vaping products will push adult consumers to switch back to smoking combustible tobacco. Sadly, 1,000 Vermonters lose their lives to smoking-related illnesses every year. Considering that [studies have shown vaping to be 95% less harmful than smoking](#) and that adults who use flavored vaping products are [2.3 times more likely](#) to quit smoking cigarettes, ensuring that adult consumers have access to the vaping products they prefer will ultimately lead to fewer cigarette smoking-related deaths in Vermont.

More than 3% of Vermont’s adult population uses vaping products, accounting for over 19,000 adults in Vermont who have switched to a less risky alternative to combustible tobacco. Banning flavored vaping products will encourage these former smokers to switch back to smoking cigarettes, and will ultimately lead to increases in smoking-related healthcare costs, which are already costing Vermont’s taxpayers \$93.7 million annually through medicaid expenses alone.

Furthermore, while this bill is intended to protect youth from tobacco use, [data from the Journal of the American Medicine Association](#) shows that when flavored vaping products are banned, combustible smoking rates **increase** for youth aged 18 and younger. This unintended consequence would only exacerbate the problem Vermont is trying to fix, while simultaneously harming adult consumers, making this particular bill unviable in achieving its desired outcomes.

Additionally, if a flavor ban is enacted in Vermont, then consumers will look towards the illicit market in order to get access to their preferred flavored vaping products. This presents serious concerns for public health in the state as vapers will be purchasing unregulated products that do not necessarily adhere to regulatory standards. Additionally, the illicit market does not abide



by age restrictions therefore making it much easier for youth to acquire these products illegally.

This committee asked some great questions in the last hearing on this bill including where youth are getting these products from. There are regulations preventing anyone under the age of 21 from purchasing any type of tobacco product, including nicotine vapes. I believe the pediatric pulmonologist who testified said that her patients are reporting getting vapes from older siblings or friends, not from shops. Therefore prohibition of products simply won't work, if a ban is enacted then the illicit market will be emboldened to fill the void the legal market can't, meaning adult consumers will be punished by losing legitimate access to the products they prefer while it will be even easier for anyone under the age of 21 to find these products illegally.

Other states have implemented flavor bans and the results weren't quite what public health officials were hoping for. Massachusetts was one of the first states to enact a ban on flavored vaping products in 2019. Since the ban went into effect in 2020, the state's [Multi-Agency Illegal Task Force](#) admitted that the ban had created a new market for hundreds of millions of dollars worth of illicit counterfeit tobacco products brought in from states such as New Hampshire. Additionally, the ban [resulted](#) in substantially lower earnings for Massachusetts store owners and employees and over \$114 million in lost tax revenue for the state.

California enacted a state-wide flavor ban for cigarettes and vaping products in 2022. A [recent study](#) looking at the effects of the California ban by analyzing empty discarded packs, found that the ban had little effect on product availability considering 98% of the vaping products found were flavored. Frighteningly, international smuggling from China has helped fill the void with over 9,000 different vaping devices being illegally sold in the US, areas with flavor bans being particularly lucrative places to sell.

In regard to combustible cigarettes, researchers found that after the California ban had taken effect, menthol products and menthol work-around products continue to make up over 21% of the marketplace. Whereas before the ban went into effect, menthol cigarettes made up a little over 24% of the marketplace, meaning the ban had little effect on consumer access. Again, international smuggling through the illicit market has helped fill the void for consumer demand. One of the most-found brands, Sheriff, is known to be trafficked by Mexican cartels. It made up over 5% of the sample examined in



the study, which suggests that tens of millions of packs are illegally entered California since the ban went into effect.

Our goal should be to expand adult's choices to quit combustible tobacco, not to limit them severely. Sweden is a great example as to how tobacco harm reduction policies reduce smoking related deaths and illnesses. Perhaps Vermont could follow in the footsteps of Sweden, which the World Health Organization has [announced](#) will likely become the first smoke-free country. Instead of implementing prohibitionist policies like bans, the Swedish government made sure to keep taxes low on nicotine alternatives like vaping, snus, and nicotine pouches while allowing a full range of flavors for adult consumers. These policies have [resulted](#) in smoking rates declining by 55 percent in the last decade, smoking-related death average dropped to 22 percent lower than the European Union average, cancer incidence is 41 percent lower and total deaths from cancer is 38 percent lower than the rest of Europe.

We know that smoking is one of the leading causes of cancer. On a personal note, I've undergone cancer treatment over the last couple of years, and although I'm happy to share that I am now finally in remission, I had to go through the full works of chemotherapy, surgeries, radiation, and immunotherapy. I'm telling you this because by embracing policies that focus on harm reduction, we can help increase the odds that your constituents do not end up in a situation like mine. Vermont could set itself up to lead the charge for this public health win and become a blueprint for other states to follow.

The fear I have if this bill is adopted, is that the state will move quickly to deprive adult consumers of these less risky options, unaware of the severe repercussions and harm that it would cause to both adult consumers and youth.

Additional policies that Vermont could look into that could help reduce smoking rates and further improve public health include items that the UK has enacted. For example, the UK created a Swap-2-Stop program where adults who want to stop smoking combustible tobacco could trade in their packs of cigarettes for a vaping starter kit and pledged up to 1 million vaping kits for people who smoke. Another idea from the UK is to increase educational efforts around available nicotine alternatives that are less harmful than smoking in addition to cessation resources. Such as including a small informational packet inserted into each combustible cigarette pack highlighting





less harmful nicotine alternatives and various resources on which programs exist to help adults quit smoking altogether.

To wrap up, our policies must be fair, just, and based on scientific evidence. I believe this body can help make that determination for the residents who depend on you to protect their consumer choice and public health, and therefore **I would urge you to vote against S18.**

Thank you for your time & I'm happy to answer any questions you may have.

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