



**Letter of opposition to S.86 – An act relating to increasing the legal age for buying and using cigarettes, electronic cigarettes, and other tobacco products from 18 to 21 years of age**

**Respectfully submitted to the House Committee on Human Services  
Jake Butcher, State Affairs Director, Vapor Technology Association**

**April 9, 2019**

**Chairwoman Ann Pugh and members of the House Committee on Human Services**, my name is Jake Butcher and I am the State Affairs Manager of the Vapor Technology Association. I am writing on behalf of the thousands of small and mid-sized businesses, across the country and here in Vermont.

The Vapor Technology Association is the leading national trade organization representing manufacturers, wholesalers, distributors, small business owners, and entrepreneurs who have developed innovative and quality vapor products. Our members employ thousands of people around the country and in the state of Vermont. Any ban or limitation on access to vapor products directly jeopardizes these businesses in Vermont, not to mention the consumers who are reliant upon vapor products as an alternative to combustible cigarettes.

**SCIENCE DEMONSTRATES THAT VAPOR PRODUCTS  
ARE AT LEAST 95% SAFER THAN CIGARETTES**

The leading rationale for taxing cigarettes is discouraging their use because of the proven negative consequences for the user (death and disease) and the associated costs to society (such as medical treatment costs). However, there is no comparable justification for banning vapor products which leading scientific bodies around the world have concluded are at least 95% safer than combustible cigarettes.

**E-CIGARETTES: AN EVIDENCE UPDATE:**

*A Report Commissioned by Public Health England, February 2018*

In 2015, United Kingdom's Department of Health - [Public Health England](#) (PHE) - performed a landmark independent evidence review concluding that e-cigarettes are significantly less harmful to health than traditional combustible cigarettes.<sup>1</sup> With respect to e-cigarettes, PHE concluded that "most of the chemicals causing smoking-related disease are absent and the chemicals present pose limited danger," and that "the current best estimate is that e-cigarette use is around 95% less harmful than smoking" cigarettes.<sup>2</sup>

On February 6, 2018, PHE issued a new report, updating the 2015 findings.<sup>3</sup> The new report found, among other positive attributes, that "vaping poses only a small fraction of the risks of smoking and

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<sup>1</sup> McNeill A, Brose LS, Calder R, Hitchman SC, Hajek P, McRobbie H. E-cigarettes: an evidence update; A report commissioned by Public Health England. August 2015.

<sup>2</sup> <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>

<sup>3</sup> New Release: PHE publishes independent expert e-cigarettes evidence review. Available at: <https://www.gov.uk/government/news/phe-publishes-independent-expert-e-cigarettes-evidence-review> (Last Visited: February 9, 2018).

switching completely from smoking to vaping conveys substantial health benefits, e-cigarettes could be contributing to at least 20,000 successful new quits per year and possibly many more, e-cigarette use is associated with improved quit success rates over the last year and an accelerated drop in smoking rates across [the UK].<sup>4</sup> Further, the report documents the issues with misperceptions about nicotine and vaping: “[T]here is much public misunderstanding about nicotine (less than 10% of adults understand that most of the harms to health from smoking are not caused by nicotine).”<sup>5</sup> Efforts to equate vapor products with combustible cigarettes work to further erode the public’s ability to understand that “people smoke for the nicotine but they die from the tar.”<sup>6</sup>

#### **NICOTINE WITHOUT SMOKE: TOBACCO HARM REDUCTION:**

*Royal College of Physicians, April 2016*

This 200-page report provides an update on the science of tobacco harm reduction, in relation to all non-tobacco nicotine products but particularly vapor products. The Royal College of Physicians concluded that e-cigarettes, at most, have only 5% of the risk profile of combustible cigarettes.<sup>7</sup>

#### **NICOTINE, CARCINOGEN, AND TOXIN EXPOSURE IN LONG-TERM E-CIGARETTE AND NICOTINE REPLACEMENT THERAPY USERS: A CROSS-SECTIONAL STUDY**

*Annals of Internal Medicine, February 2017*

In February 2017 researchers from the US Centers for Disease Control and Prevention, the Roswell Park Cancer Institute in New York, and the University College London concluded yet another study finding that using e-cigarettes is far safer and less toxic than smoking conventional tobacco cigarettes. **The study concluded that long-term NRT-only and e-cigarette-only use is associated with substantially reduced levels of measured carcinogens and toxins relative to smoking only combustible cigarettes.**<sup>8</sup>

One of the study’s lead authors, Dr. Lion Shahab, senior lecturer in the department of epidemiology and public health at UCL, said: “Our study *adds to existing evidence* showing that *e-cigarettes and NRT are far safer than smoking*, and suggests that there is a *very low risk associated with their long-term use*.”

“We’ve shown that the levels of toxic chemicals in the body from e-cigarettes are considerably lower than suggested in previous studies using simulated experiments. *This means some doubts about the safety of e-cigarettes may be wrong.*”

“Our results also suggest that while e-cigarettes are not only safer, the amount of nicotine they provide is not noticeably different to conventional cigarettes. *This can help people to stop smoking altogether by dealing with their cravings in a safer way.*”<sup>9</sup>

#### **POSITION STATEMENT ON E-CIGARETTES** **AMERICAN CANCER SOCIETY, FEBRUARY 2018**

In a position statement released on its website, the American Cancer Society (ACS) announced a major shift in position to embrace e-cigarettes as alternatives to FDA-approved cessation aids. ACS said

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Russell MJ. Low-tar medium nicotine cigarettes: a new approach to safer smoking. *BMJ* 1976;1:1430–3.

<sup>7</sup> <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>

<sup>8</sup> [https://www.eurekalert.org/pub\\_releases/2017-02/cru-est020317.php](https://www.eurekalert.org/pub_releases/2017-02/cru-est020317.php)

<sup>9</sup> <https://www.sciencedaily.com/releases/2017/02/170207104358.htm>

while it primarily recommends FDA-approved cessation aids, “some smokers, despite firm clinician advice, will not attempt to quit smoking cigarettes and will not use FDA approved cessation medications.” Adding, “These individuals should be encouraged to switch to the least harmful form of tobacco product possible.”<sup>10</sup> ACS summarizes that while the long-term health effects are not known, “using current generation e-cigarettes is less harmful than smoking cigarettes.”<sup>11</sup>

### **FDA COMMENTS ON PROMISE OF VAPOR PRODUCTS**

As early as 2014, the **FDA’s Center for Tobacco Products Director Mitch Zeller**, a life-long anti-smoking advocate, clearly stated the potential benefits of e-cigarettes. During a Senate Health, Education, Labor, and Pensions hearing in 2014, FDA Director Zeller stated:

“If we could get all those people [who smoke] to completely switch all of their cigarettes to noncombustible cigarettes, it would be good for public health.”

On July 28, 2017, the Commissioner of the U.S. Food and Drug Administration (FDA) Dr. Scott Gottlieb announced a shift in the agency’s regulation of nicotine-containing products, placing lower risk products such as e-cigarettes at the center of the answer to the problem of combustible cigarettes.<sup>12</sup> Dr. Gottlieb stated that the FDA has concluded that cigarette smoking causes direct health care costs and lost productivity totaling nearly \$300 billion per year. Gottlieb concluded, we must envision “a world where “less harmful alternative [forms of nicotine delivery], efficiently delivering satisfying levels of nicotine, are available for adults who need or want them”<sup>13</sup>

Indeed, in September 2017 at the Chasing Cancer Summit, Commissioner Gottlieb stated that the agency must ensure that it is “providing proper avenues for [adults] who want to get access to nicotine [...] to be able to do it without having to combust tobacco.”<sup>14</sup>

### **VAPOR PRODUCTS SHOULD BE AVAILABLE TO ADULTS AS AN ALTERNATIVE TO COMBUSTIBLE CIGARETTES**

It is clear that vapor products are the first game-changing technology in the ongoing fight to reduce combustible cigarette smoking. This is why it is imperative that vapor products are regulated based on their potential benefits to the population. This is also why vapor products should be available to ALL adults as an alternative to combustible cigarettes. The current age for purchase and possession of vapor

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<sup>10</sup> American Cancer Society Position Statement on Electronic Cigarettes. Available at: <https://www.cancer.org/healthy/stay-away-from-tobacco/e-cigarette-position-statement.html> (Last Visited: February 26, 2018).

<sup>11</sup> *Id.*

<sup>12</sup> News Release: FDA announces comprehensive regulatory plan to shift trajectory of tobacco-related disease, death. Available at: <https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm568923.htm> (Last Visited: January 29, 2018).

<sup>13</sup> Remarks by Scott Gottlieb, *Protecting American Families: Comprehensive Approach to Nicotine & Tobacco*, delivered July 28, 2017, available at <https://www.fda.gov/NewsEvents/Speeches/UCM569024.htm>.

<sup>14</sup> Transcript: Chasing Cancer Summit. *Washington Post Live*. September 19, 2017. Available at: [https://www.washingtonpost.com/blogs/post-live/wp/2017/09/19/transcript-chasing-cancer-summit/?deferJs=true&outputType=default-article&utm\\_term=.94003084165c](https://www.washingtonpost.com/blogs/post-live/wp/2017/09/19/transcript-chasing-cancer-summit/?deferJs=true&outputType=default-article&utm_term=.94003084165c). (Last Visited: January 29, 2018).

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products in Vermont is 18, and we believe this should remain the age for purchase and possession of vapor products.

Thank you for your consideration.

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