



Our Mission: Improve the lives of the world's one billion adult smokers by eliminating cigarettes.

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Written Testimony of
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In Opposition to \$2/per pod surcharge

Before the Joint Taxes Conference Committee (HF 2125)
Minnesota Legislature

Chairman Chamberlain, Chairman Marquart, and members of the Taxes Conference Committee,

On behalf of JUUL Labs, thank you for the opportunity to submit testimony in opposition to the Senate language that adds a \$2 surcharge per pod of closed vapor product systems found in Senate Article 10, Sec. 4.

JUUL Labs' mission is to improve the lives of the world's one billion adult smokers by eliminating cigarettes. This mission is driven by the fact that smoking is the number one cause of preventable death worldwide. In the United States alone, smoking kills approximately 480,000 people every year.

In the three short years that JUUL Labs has been around, it has already profoundly changed the tobacco industry as the year-over-year decline in cigarette use has accelerated to a historic high. In fact, for the 4-week period ending in late March, year-over-year declines for cigarette pack volumes worsened, falling to 8.8 percent, according to U.S. syndicated market data from Nielsen. This was the second consecutive month featuring year-over-year cigarette pack volume declines of 8 percent or more.¹

We share a common goal with policymakers, regulators, parents, school officials, and community stakeholders - **prevent the use of tobacco and vapor products, including JUUL, by America's youth.** We are committed to stopping youth access of JUUL products, and no young person or non-nicotine user should ever try JUUL.

In November of 2018, we began implementing a number of significant voluntary actions, as outlined in our [Action Plan](#), to address youth access, appeal, and use of JUUL products. This included a major reset of how JUUL Labs markets and sells its products, requiring automated sales controls to limit the purchase of certain flavored products to adults 21+. Currently, we only sell these products through our ecommerce platform (JUUL.com), where we utilize sophisticated automated technology, supported by third-parties, to ensure purchasers are 21+ and to prevent bulk purchases. These are not the popular kid flavors that are flooding the vaping marketing. We do not market to kids and our current flavors serve as an off-ramp tool for current adult smokers.

We also eliminated our U.S. Facebook and Instagram accounts, and are developing new technology to further limit youth access and use. We are committed to working with lawmakers, the Surgeon General, FDA, state Attorneys General, local municipalities, and community organizations as a transparent and responsible partner in this effort. We believe that these efforts combined with increasing the minimum age to purchase tobacco and vapor products to 21, will drastically reduce youth access of JUUL products.

Vaping devices are used as off-ramp tools for current smokers. The state should not disincentivize smokers from switching to vapor products by levying exorbitant excise taxes and increasing their cost. A \$2/per pod tax on top of a 95% of wholesale tax would make a JUUL pod taxed more than a pack of cigarettes. (*For reference, a pod is equivalent to a pack of cigarettes.*) Vapor products provide an alternative to adult smokers interested in switching away from combustible cigarettes. Reducing the number of people who smoke cigarettes is a shared public policy goal that can also reduce strains on public healthcare budgets. While still a small part of the overall tobacco product

¹ <https://newsroom.juul.com/2019/04/03/cigarette-sales-in-the-u-s-continue-historic-decline-into-the-first-quarter-of-2019/>



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category, vapor products hold the potential to be a viable alternative for adult smokers and could lead to the end of smoking combustible cigarettes.

Vaping devices are generally categorized into two categories: 1) “closed systems” (pods), and 2) “open systems”.

Closed systems consist of pre-filled cartridges, or pods, that are typically low volume and have variable degrees of nicotine strength.

Open systems are refilled manually, generally require much more liquid than closed systems, and users of these systems often have their preferred liquid and preferred nicotine strength mixed, or “manufactured”, inside a vape shop.

Given the differences between the two systems, especially in terms of volume, certain tax regimes may inadvertently benefit one system over the other, as is the case in Minnesota. The administrative challenges regarding the taxation of vapor products stem from the nascent nature of an industry that offers products that are not uniform across the product category. Unlike traditional tobacco products, which are generally homogenous across product class, vapor products can vary drastically depending on the e-liquid solution and delivery device.

Moreover, wide disparities in state tax rates can incentivize smuggling from lower tax jurisdictions, as high tax rates can fuel a black market.² Therefore, states should carefully craft their tax frameworks and develop robust enforcement regimes in order to limit opportunities for tax evasion and to ensure better regulation of vapor products. JUUL Labs urges the committee to consider whether the state can enforce any tax that is levied on the wholesale level for open systems. We have had initial meetings with the Department of Revenue and are committed to working on a solution to this administrative issue throughout the interim.

At JUUL Labs, we are focused on creating an alternative to combustible cigarettes that provides an off ramp for adult smokers. We recognize that we cannot do this without also actively working to pass proven legislative measures that prevent youth from using tobacco products. Therefore, we have been active and vocal supporters of the Tobacco 21 not only in Minnesota, but in most other states. No other company within the e-cigarette industry is more committed to responsible use of its products, which are made for Adult Smokers.

Thank you for the opportunity to address the committee and I hope we have your support to remove the \$2/per pod language that would unfairly target and further exacerbate a loophole in tax collections on vapor products.

Respectfully,

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JUUL Labs

CC: Commissioner Cynthia Bauerly
Senator Howe
Senator Rest
Senator Senjem
Senator Dahms
Representative Lislegard
Representative Gomez
Representative Davids
Representative Loffler

² <https://taxfoundation.org/cigarette-tax-cigarette-smuggling-2015/>