



AMERICANS *for* TAX REFORM

February 14, 2021

To: Members of the Minnesota Preventative Health Committee
From: Americans for Tax Reform

Dear Representative,

On behalf of Americans for Tax Reform (ATR), a non-profit organization which advocates in the interests of taxpayers and consumers throughout the United States, I urge you to reject HF 904, misguided legislation which seeks to restrict access to life-saving reduced risk tobacco alternatives such as electronic cigarettes through flavor bans proven critical to the process of helping adults quit smoking. **The evidence clearly demonstrates that if enacted, this bill would have a disastrous impact upon not only businesses, but public health throughout the State, and lead to a clear increase in tobacco-related deaths.** HF 904 also institutes a ban on all flavored conventional tobacco products, such as menthol cigarettes, which would have a disastrous impact on the Minnesota economy and state finances, lead to a boom in illicit smuggling operations, and cause significant harm to minority populations.

It is important to note that poor public health policies already implemented by the Minnesota legislature have had disastrous consequences on the citizens of your state. **After Minnesota imposed a tax on vaping products, the National Bureau of Economic Research determined that it prevented 32,400 additional adult smokers from quitting smoking.**

Traditional combustible tobacco products remain one of the leading preventable causes of death in Minnesota. It is noted, however, that the negative health effects of smoking combustible tobacco come not from the nicotine, a relatively benign, yet highly addictive substance much like caffeine, but rather the chemicals produced during the combustion process – “people smoke for the nicotine but die from the tar”. For this reason, nicotine replacement therapies such as nicotine patches and gums have been used to help smokers quit for decades.

In more recent years, technology has developed to allow for the creation of more effective alternative nicotine delivery systems, colloquially known as e-cigarettes or personal vaporizers. Through delivering nicotine through water vaper, these mimic the habitual nature of smoking, however, the absence of “smoke” leads to the absence of the carcinogens created through the combustion of tobacco. **As a result, these have been overwhelmingly proven to be 95% safer than combustible cigarettes, while least twice as effective as more traditional nicotine replacement therapies.** For this reason, over 30 of the world’s leading public health organizations have endorsed nicotine vaping as safer than smoking and an effective way to help smokers quit. This list includes Cancer Research UK; the British Medical Association; the British Lung Foundation; the New Zealand Minister of Health; the US National Academies of Sciences, Engineering, and Medicine; the American Association of Public Health Physicians; the Royal Australian College of Physicians; the French National Academy of Pharmacy; and the German Federal Institute for Risk Assessment.

It is further noted that studies have repeatedly shown that flavors, which these bill seek to ban, are critical to helping adult smokers make the switch to vaping, and that adults who used flavored e-cigarette products have been found to be more than twice as likely to quit smoking combustible cigarettes than adults using non-flavored vaping products. Multiple studies have shown that banning all flavors in e-cigarettes (except tobacco flavor) would result in a decline in the use of e-cigarettes and an increase in the smoking of deadly combustible cigarettes. This deadly shift would occur because flavors “contribute to both perceived pleasure and the effort to reduce cigarette consumption or quit smoking.” One such study found a simple ban on all flavors but tobacco in e-cigarettes would increase smoking by 8.3 percent.

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We would also like to draw the Committee's attention to the fact that in the UK, Public Health England canvassed a number of vaper surveys and found that "banning flavored liquids would deter them [vapers] from using vaping products to help them quit or reduce their smoking. It could also push current vapers towards illicit products." Public Health England therefore concluded that, a "[ban on flavored liquids could have adverse effects and unintended consequences for smokers using vaping products to quit.](#)" One nationwide British survey from 2019 found that if a vaping flavor ban were enacted, then 25 percent of vapers would still try to get flavors through the black market. Nearly 10 percent who use flavored liquids said they would stop vaping, and 20 percent said that they would either smoke more tobacco or return to smoking tobacco entirely.

While flavors in vaping products are critical in helping adults quit smoking, the evidence also demonstrates that they play no role in youth uptake of vaping. A 2015 survey of nonsmoking teens aged 13-17 found interest levels in flavored e-cigarettes at 0.4 out of a possible score of 10. Additionally, fewer than a third of high school students self-report to care about flavors. Academic studies have found that teenage non-smokers' "willingness to try plain versus flavored varieties did not differ" and a mere 5 percent of vapers aged 14-23 reported it was the different flavors that attracted them to e-cigarettes. It is also worth noting that, despite media reports to the contrary, data from the National Youth Tobacco Surveys demonstrates that youth dependence on nicotine in US high school students has [not increased since the](#) introduction of these products to the market.

Extrapolating from a large-scale analysis by the US's leading cancer researchers and coordinated by Georgetown University Medical Centre, **if a majority of Minnesota smokers made the switch to vaping, over to 110,000 lives would be saved.** These bills place lives in jeopardy by reducing access to these life-saving products,

ATR further submits that in addition to the public health disaster that reducing access to reduced risk tobacco alternatives will unleash, these proposals would also have devastating consequences on businesses, at a time when they can afford it least. At a time of great hardship due to the Covid-19 pandemic, a bill which would effectively outlaw sections of the Minnesota economy. It would kill thousands of jobs and would cost business owners their livelihood. Its total economic cost would be devastating. In addition to the flavor bans imposed on reduced risk tobacco alternatives, HF 904 extends flavor prohibition to menthol cigarettes and other conventional tobacco products. Similar to bans on flavors in reduced risk tobacco alternatives, these would also come with significant negative consequences for the state, with no evidence whatsoever that they have any effect in reducing smoking rates. To the contrary, real world evidence from Massachusetts demonstrates that such bans are counterproductive and come at significant cost.

Since Massachusetts implemented a ban on all flavored tobacco products in the middle of 2020, cross-border purchases and the creation of a booming black market have more than made up a decline in sales in the Commonwealth. In the first six months since the ban was enacted, Massachusetts retailers have sold 17.7 million fewer cigarette packets compared to the same six months in the prior year, while neighboring Rhode Island and New Hampshire have combined to sell 18.9 million more as Massachusetts residents stock up across state lines. The loss to the state, already in the midst of a fiscal crisis brought on by the Covid-19 pandemic, has thus far been a [staggering \\$73,008,000.](#)

While the states of Rhode Island and New Hampshire have been some of the biggest beneficiaries of Massachusetts' ban, collecting close to \$50 million in additional revenue, criminal syndicates have also benefited. Contrary to popular belief that tobacco smuggling is a victimless crime consisting of someone purchasing a few extra cartons across state lines, in reality most tobacco smuggling is run by multi-million dollar organized crime syndicates. These networks, who also engage in human trafficking & money laundering, have also been used to fund terrorist and the US State Department has explicitly called tobacco smuggling a "[threat to national security](#)". [Over a quarter](#) of all cigarette sales in Connecticut are already the product of black market, and this bill will significantly increase this. Paradoxically these bans may therefore increase youth smoking in the state: By definition criminals and smugglers are unlikely to obey laws and would not follow rigorous age-verification requirements mandated at reputable outlets.

In addition to lost revenue the financing of criminal activities, and potential increase in youth uptake, another adverse effect of these bans is the disproportionate harm it inflicts upon minority communities. For this reason, civil liberty organizations such as the ACLU and the Law Enforcement Action Partnership oppose flavor bans as they "[disproportionately impact people and communities of color](#)." As noted by these organizations in a joint letter to Congress, approximately "[80 percent of blacks and 35% of Latinx](#) who choose to smoke prefer menthol cigarettes", and "black adults are [60% of cigarillo](#) and non-premium cigars smokers, with these products often flavored." Any efforts to specifically criminalize the consumption of these products therefore will lead to significant setbacks to the pursuit of racial equality and criminal justice reform.

For the reasons outlined above, in the interests of public health, protecting the Minnesota economy, and preventing the spread of smuggling cartels and the disproportionate targeting of minorities, we call upon the Committee to accept the science and vote against HF 904. Tens of thousands of lives quite literally depend upon it.

Sincerely,

Tim Andrews
Director of Consumer Issues
Americans for Tax Reform