



American Vaping Association | [www.vaping.org](http://www.vaping.org)

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March 1, 2021

**RE: SB 45, creating a tax on vaping products**

Chairman Bishop, Vice Chair Stevens, and members of the Senate Labor & Commerce Committee:

On behalf of the American Vaping Association, a nonprofit organization that advocates for tobacco harm reduction policies to reduce smoking rates, I am writing to urge the committee to reject SB 45. With nearly 100,000 adults still smoking combustible cigarettes in Alaska, a 75 percent wholesale tax will cause a significant drop in the number of adults using vaping products to quit smoking, all while doing little to combat youth experimentation.

Contrary to claims made in the prior hearing on SB 45, there is a great amount of evidence from both the United States and worldwide supporting two central facts: (1) Vaping products are far less hazardous than smoking; and (2) Vaping products help inveterate adult smokers quit. Attached to our testimony you will find statements from approximately a dozen respected public health organizations that have put their support behind vaping products. While it may be true that the FDA has approved several products for smoking cessation – such as the nicotine gum and patch – it is also true that the authoritative Cochrane Review has found vaping products to be more effective at six months versus those approved products.

Opposing unjustifiably high excise taxes on vaping products is more important now than ever. One month ago, the Wall Street Journal sounded a warning bell – cigarette sales have increased during the COVID-19 pandemic thanks in part to misinformation over the health risks of vaping.<sup>1</sup> With consumers already uncertain about the health impacts of switching to vaping, it is vital that legislators look at the data from other states that show that the end effect of a new vaping tax will be more cigarettes being smoked.<sup>2</sup>

Alaska's vape businesses and vapers want to be a part of the solution. However, punishing adults by making it harder for them to quit smoking is not the answer. Alaska should vigorously enforce its numerous existing laws on vaping products, but new excise taxes – particularly in the middle of a pandemic when we know cigarette sales are increasing – are not warranted.

Again, we urge you to reject this bill.

Sincerely,

Gregory Conley, J.D., M.B.A.  
President, American Vaping Association

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<sup>1</sup> "Smoking's Long Decline Is Over." Wall Street Journal. January 28, 2021. <https://www.wsj.com/articles/during-covid-19-lockdowns-people-went-back-to-smoking-11611829803>

<sup>2</sup> Henry Saffer & Daniel Dench & Michael Grossman & Dhaval Dave, 2020. "E-cigarettes and adult smoking: Evidence from Minnesota," Journal of Risk and Uncertainty, Springer, vol. 60(3), pages 207-228, June. (estimating that Minnesota's 95% wholesale tax caused approximately 32,400 fewer smokers to quit)

**Growing list of respected scientific and public health organizations that have reviewed all the evidence and concluded that nicotine vaping is safer than smoking (and helps smokers quit)**

Partial list:



**World Health Organization EURO Office:** ["There is conclusive evidence that: Completely substituting electronic nicotine and non-nicotine delivery systems for combustible tobacco cigarettes reduces users' exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes."](#)

[International Agency for Research on Cancer](#)



**International Agency for Research on Cancer:** ["The use of e-cigarettes is expected to have a lower risk of disease and death than tobacco smoking... E-cigarettes have the potential to reduce the enormous burden of disease and death caused by tobacco smoking if most smokers switch to e-cigarettes."](#)



**Cochrane systematic review:** ["We found 50 studies in 12,430 adults who smoked... The studies took place in the USA \(21 studies\), UK \(9\), Italy \(7\), Australia \(2\), New Zealand \(2\), Greece \(2\) and one study each in Belgium, Canada, Poland, South Korea, South Africa, Switzerland and Turkey."](#)

**FINDINGS:** ["Moderate certainty" that "e-cigarettes with nicotine increase quit rates compared to e-cigarettes without nicotine, and compared to nicotine replacement therapy \[nicotine patches & gum\]... We did not detect any clear evidence of harm from nicotine e-cigarettes" \[up to 2 years\]."](#)



Public Health  
England

**Public Health England:** ["Our new review reinforces the finding that vaping is a fraction of the risk of smoking, at least 95% less harmful, and of negligible risk to bystanders. Yet over half of smokers either falsely believe that vaping is as harmful as smoking or just don't know."](#)



**Royal College of Physicians:** ["Although it is not possible to precisely quantify the long-term health risks associated with e-cigarettes, the available data suggest that they are unlikely to exceed 5% of those associated with smoked tobacco products, and may well be substantially lower than this figure... E-cigarettes are effective in helping people to stop smoking."](#)



**National Institute for Health and Care Excellence:** ["The evidence suggests that e-cigarettes are substantially less harmful to health than smoking but are not risk free. Many people have found them helpful to quit smoking cigarettes."](#)



**British Medical Association:** [“Significant numbers of smokers are using e-cigarettes \(electronic cigarettes\), with many reporting that they are helpful in quitting or cutting down cigarette use. There are clear potential benefits to their use in reducing the substantial harms associated with smoking, and a growing consensus that they are significantly less harmful than tobacco use.”](#)



**Cancer Research UK:** [“While the long-term health consequences of e-cigarette use are uncertain, the evidence so far suggests that e-cigarettes are far less harmful than smoking. ...There is also growing evidence to suggest that e-cigarettes can work successfully as an aid to cessation. ...There is insufficient evidence to support a blanket indoor ban on e-cigarette use, either on the basis of renormalisation of smoking or harm to bystanders from second-hand vapour.”](#)



**British Lung Foundation:** [“Experts have reviewed all the research done on e-cigarettes over the past few years, and found no significant risks for people using e-cigarettes. ...Swapping cigarettes for an e-cig can improve your symptoms of lung conditions like asthma and COPD.”](#)



**Royal College of General Practitioners:** [“The evidence so far shows that e-cigarettes have significantly reduced levels of key toxicants compared to cigarettes, with average levels of exposure falling well below the thresholds for concern.”](#)



**Royal Society for Public Health:** [“RSPH has welcomed a new comprehensive evidence review on e-cigarettes published by Public Health England \(PHE\). The report reflects an up-to-date evidence base that is increasingly pointing in the same direction: not only that vaping is at least 95% less harmful than smoking, but also that it is helping increasing numbers of smokers to quit.”](#)



**Stroke Association UK:** [“Current evidence shows that the risk to health posed by e-cigarettes in the short term is likely to be considerably less compared to smoking.”](#)



**Action on Smoking and Health UK:** [“It has been estimated that e-cigarettes are 95% less harmful than ordinary cigarettes. There is negligible risk to others from second-hand e-cigarette vapour. ...The lifetime cancer risk of vaping has been assessed to be under 0.5% of the risk of smoking. \[But\] Public understanding of the relative harms of e-cigarettes \[vs smoking cigarettes\] have worsened over time and are less accurate today than they were in 2014.”](#)



# THE OHIO STATE UNIVERSITY

## COLLEGE OF PUBLIC HEALTH

### Knee-jerk vaping bans will fail public health, experts argue

Evidence supports e-cigarettes as a harm-reduction tool

Bans and other policies restricting e-cigarette sales could do more public harm than good, according to a group of public-health, tobacco-policy and ethics experts.

In a piece published online today (Dec. 12, 2019) in the journal [\*Science\*](#), the authors, including three public health deans, caution that blanket policies developed in a rush to address two different concerns come with dangerous downsides – most notably the risk of taking away a powerful tool to help smokers quit.



“Illnesses and deaths, which appear to be related to vaping illicit THC oils, have caused justifiable alarm as has the rise of young people who are vaping nicotine. But in our response we must not lump together these troubling developments and fail to consider the powerful evidence supporting the availability of legal nicotine products,” said lead author [Amy Fairchild, dean of The Ohio State University College of Public Health](#).

In *Science*, she and her co-authors write that “Restricting access and appeal among less harmful vaping products out of an abundance of caution while leaving deadly combustible products on the market does not protect public health. It threatens to derail a trend that could hasten the demise of cigarettes, poised to take a billion lives this century.”

The paper comes after the emergence this year of vaping-related lung injuries and deaths throughout the U.S. The Centers for Disease Control and Prevention has reported 2,291 cases of serious lung injury and 48 deaths as of last week. Authorities have identified vitamin E acetate, a THC-product additive, as a “chemical of concern” and said that many of the products appear to have been acquired through informal sources – not from retail establishments selling

products directly from known manufacturers. THC, or Tetrahydrocannabinol, is the primary psychoactive component of marijuana.

Many policymakers and organizations including the American Medical Association have called for an across-the-board ban on vaping, and some municipalities and states have moved to ban either all vaping products or those with flavors other than tobacco flavoring, including menthol.

Fairchild said that vaping policy discussions and debates should include an examination of the immediate crisis in the context of all of the scientific evidence regarding the risks and benefits.

“There are important distinctions to be made between nicotine and THC products, between products manufactured by reputable companies and those sold on the black market, and between the potential risks and benefits to adolescents and to adults,” she said.

Drawing comparisons to initial reluctance to offer needle exchange programs that promote safety by preventing life-threatening infections for people who aren’t ready to quit heroin, the authors write that evidence about harm reduction should outweigh emotional responses.

“We should be careful to remain aware of the unintended consequences of extreme measures and the important lessons that harm reduction has provided us in areas such as heroin use, HIV prevention and alcohol control,” said co-author [Cheryl G. Heaton, dean of New York University’s College of Global Public Health.](#)

The authors point to research showing that not only vaping – but flavored products, in particular – can help adult smokers quit and provide a more effective and appealing option than nicotine replacement therapy.

They urge continued efforts to better understand the risks and benefits of vaping and call for regulatory measures that strike a balance between “making regulated nicotine vaping products available to smokers while adopting forceful measures to limit the risks to and use by youth as much as possible.”

Among their suggestions to combat youth use: Implementation and enforcement of laws that restrict purchases to those 21 and older and prohibitions against predatory marketing to children and teens.

They call for the U.S. Food and Drug Administration to implement a product monitoring system and for a surveillance system to detect unanticipated harm early.

Regulatory bans on the menthol front should start with cigarettes and inexpensive little cigars, not with nicotine vape products, they argue.

“Despite two FDA-derived reports that recommended a ban on menthol in combustibles, there has been policy paralysis in the face of appalling evidence,” they write, citing statistics showing that more than half of young people and more than 90 percent of African-American youth start smoking with menthol.

Fairchild and her co-authors stress that they take the illnesses and deaths due to vaping seriously but emphasize that each day more than 2,500 U.S. teens start smoking and about 1,300 adults die due to cigarettes. Taking vaping – including flavored products – away as a smoking-cessation and harm-reduction tool now will amount to a public health failure, they argue.

“It is crucial to identify the source of serious lung injuries and closely monitor and regulate the vaping industry – including how it markets its products to young people,” said co-author [James Curran, dean of the Rollins School of Public Health at Emory University.](#)

“But the evidence so far supports continuing to allow nicotine vaping as a harm-reduction alternative to smoking, which remains the largest preventable cause of death and disability in our country.”

Other authors of the paper were [Ronald Bayer of Columbia University](#) and [David Abrams of NYU.](#)

“Restricting access and appeal among less harmful vaping products out of an abundance of caution while leaving deadly combustible products on the market...threatens to derail a trend that could hasten the demise of cigarettes, poised to take a billion lives this century.”

BUSINESS

# Smoking's Long Decline Is Over

Slide in cigarette sales stopped last year amid Covid-19 lockdowns and health concerns about e-cigarettes

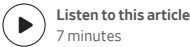


U.S. cigarette sales last year topped those of 2015, when many consumers switched back to cigarettes after trying first-generation vaping devices.

PHOTO: PAUL WEAVER/ZUMA PRESS

By [Jennifer Maloney](#)

Updated Jan. 28, 2021 10:58 am ET



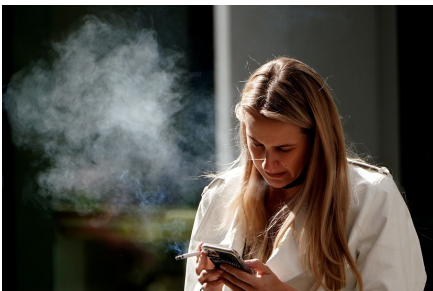
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The decadeslong decline in U.S. cigarette sales halted last year as people in lockdown lit up more frequently and health concerns around e-cigarettes caused some vapers to switch back to cigarettes.

Before the pandemic, U.S. cigarette unit sales had been falling at an accelerating rate, hitting 5.5% in 2019, as smokers quit or switched to alternatives like e-cigarettes. The pandemic put the brakes on that slide. In 2020, the U.S. cigarette industry's unit sales were flat compared to the previous year, according to data released Thursday by Marlboro maker Altria Group Inc.

People had more opportunities to smoke because they spent more time at home and had more money to spend on cigarettes because they spent less on gas, travel and entertainment, Altria said. They drank more liquor, too, buoying spirits makers.

At the same time, some e-cigarette users turned back to combustible cigarettes because of increased e-cigarette taxes, bans on flavored vaping products and confusion about the health effects of vaping, consumers and industry officials say. Altria on Thursday didn't offer a projection for cigarette sales in 2021, saying it would depend in part on the rollout of the Covid-19 vaccine and how consumers' behavior changes after they are vaccinated.



A woman smokes a cigarette while standing on Wall Street in New York City.

PHOTO: CARLO ALLEGRI/REUTERS



U.S. cigarette sales were even stronger last year than they were in 2015, when gas prices dropped sharply, allowing consumers more discretionary spending, and many people switched back to cigarettes after trying first-generation vaping devices. Those early products didn't deliver nicotine effectively enough to satisfy some addicted cigarette smokers. But e-cigarette sales took off again in 2017, spurred by the popularity of a new vaporizer called Juul.

E-cigarette sales were booming in the fall of 2019 when the U.S. Centers for Disease Control and Prevention, investigating an outbreak of a mysterious lung illness, warned consumers not to use any vaping products. Sales took a nosedive. The illness later was [linked to vitamin E oil](#) in marijuana vaping products, but the public's perception of e-cigarette safety hasn't rebounded and neither have sales.

Bisher Kunbargi, a software developer in San Antonio, gave up Marlboros for e-cigarettes around 2018 and switched back to cigarettes in late 2019.

"Trust the devil you know," said Mr. Kunbargi, who is 28. "I keep smoking, it's going to give me cancer. Whereas vaping is much more uncharted territory."

Working at home with a laptop outside on his front patio during the pandemic, he said, he is smoking more than he did before—as many 10 cigarettes a day.

"I can't take 10 breaks a day" at the office, he said. At home, "I can have a cigarette whenever I want."

Public health officials say that while e-cigarette use isn't risk-free, it poses significantly less risk than cigarette smoking, which is associated with more than 480,000 deaths in the U.S. each year. Yet according to a Euromonitor survey in early 2020, 73% of U.S. respondents said vaping products were as harmful or more harmful than cigarettes. Euromonitor reported that public perceptions of e-cigarette safety worsened in all 20 of the countries it surveyed.

"This weakness was undoubtedly a factor in the relative robustness of cigarette volumes in 2020," the research firm said.

Adults using e-cigarettes as an alternative to cigarettes shouldn't go back to smoking, said Brian King, a deputy director of the CDC's Office on Smoking and Health and a senior official involved in the agency's vaping-related illness response. Those people should consider using FDA-approved smoking cessation medications, and if they choose to use e-cigarettes, they should switch completely from cigarettes, he added.

During the lung-illness investigation, the CDC promptly shared the latest data with the public and [refined its recommendations](#) based on available scientific evidence, Dr. King said. The CDC now recommends that people avoid vaping products containing THC, the psychoactive ingredient in marijuana, particularly from informal sources like friends, family, or in-person or online dealers.

Other adult smokers said in interviews that restrictions on fruity and minty e-cigarette flavors have nudged them back to cigarettes.

Seeking to curb an uptick in underage vaping, federal legislation in 2020 raised the legal tobacco purchase age to 21 and the Food and Drug Administration [took some sweet and mint-flavored e-cigarette refill cartridges off the market](#).

Those measures appear to have worked. In a federal survey conducted between January and March of 2020, 19.6% of high-school students said they had vaped in the past 30 days, compared with 27.5% in the same period a year earlier. But vaping also declined among adults. The number of vapers 21 years or older in the U.S. fell to 9.8 million last year from 11.8 million in 2019, according to Altria's estimates.

An FDA spokeswoman said changes in tobacco consumption couldn't be attributed to a single policy, event or piece of legislation. She noted that adult consumers still had access to flavored vaping products like disposable e-cigarettes and tank systems.

“Covid-19 has created a drastic change in daily life, including increased stress and anxiety, that may contribute to a smaller-than-expected reduction in cigarette sales,” she said. She added that because cigarette smoking increases the risk of more severe illness with Covid-19, “There has never been a better time to try to quit.”

Altria, the biggest U.S. tobacco company, reported that sales rose 4.9% to \$6.3 billion in the quarter ended Dec. 31 from \$6.0 billion a year earlier. Its revenue from cigarettes and cigars was \$5.6 billion.

E-cigarette market leader Juul Labs Inc. reported \$1.9 billion in sales in the first nine months of 2019. The CDC in September of that year warned people not to vape, and Juul later that autumn voluntarily stopped selling its sweet and mint-flavored refill pods in anticipation of federal flavor restrictions. The company’s revenue dropped to \$1.1 billion in the first nine months of 2020 and was an estimated \$340 million in the last quarter of the year. Altria holds a 35% stake in Juul.

Write to Jennifer Maloney at [jennifer.maloney@wsj.com](mailto:jennifer.maloney@wsj.com)

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