

# Committee Report



March 4, 2020

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

The Committee on Commerce and Consumer Affairs to  
which was referred HB 1410,

**AN ACT** prohibiting the use of flavors and certain  
chemicals in vaping products. Having considered the  
same, report the same with the following amendment,  
and the recommendation that the bill **OUGHT TO PASS**  
**WITH AMENDMENT.**

**Rep. Constance Van Houten**

**FOR THE COMMITTEE**



## COMMITTEE REPORT

Committee:	Commerce and Consumer Affairs
Bill Number:	HB 1410
Title:	prohibiting the use of flavors and certain chemicals in vaping products.
Date:	March 4, 2020
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2020-0723h

### STATEMENT OF INTENT

In the wake of President Trump's December 20, 2019 signing of legislation amending the Federal Food, Drug and Cosmetic Act to raise the federal minimum age of sale of tobacco products, including e-cigarettes, to 21, federal law and the U.S. Food and Drug Administration's companion enforcement of flavored vaping products have been playing out. However, New Hampshire's enforcement authority for tobacco sales, the Liquor Commission, can only enforce state law. This bill as amended, provides the Liquor Commission with enforcement authority relating to flavors in vaping products. It prohibits flavors in e-cigarettes and other vaping products, which would include disposable products not specifically covered by federal law, for any person under age 21. In addition, all flavors, except tobacco and menthol, are prohibited in cartridges for all persons. Refillable tanks are exempt from this prohibition.

Vote 11-9.

Rep. Constance Van Houten  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File



## REGULAR CALENDAR

Commerce and Consumer Affairs

**HB 1410**, prohibiting the use of flavors and certain chemicals in vaping products. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Constance Van Houten for Commerce and Consumer Affairs. In the wake of President Trump's December 20, 2019 signing of legislation amending the Federal Food, Drug and Cosmetic Act to raise the federal minimum age of sale of tobacco products, including e-cigarettes, to 21, federal law and the U.S. Food and Drug Administration's companion enforcement of flavored vaping products have been playing out. However, New Hampshire's enforcement authority for tobacco sales, the Liquor Commission, can only enforce state law. This bill, as amended, provides the Liquor Commission with enforcement authority relating to flavors in vaping products. It prohibits flavors in e-cigarettes and other vaping products, which would include disposable products not specifically covered by federal law, for any person under age 21. In addition, all flavors, except tobacco and menthol, are prohibited in cartridges for all persons. Refillable tanks are exempt from this prohibition. Vote **11-9**.

Original: House Clerk

Cc: Committee Bill File





**HB 1410**, prohibiting the use of flavors in vaping products. **OUGHT TO PASS AS AMENDED.**

Rep. Constance Van Houten for Commerce and Consumer Affairs. In the wake of President Trump's December 20, 2019, signing of legislation amending the Federal Food, Drug and Cosmetic Act that raised the federal minimum age of sale of tobacco products, including e-cigarettes, to 21, federal law and the U. S Food and Drug Administration's companion enforcement of flavored vaping products have been playing out. However, New Hampshire's enforcement authority, the Liquor Commission, can only enforce state law. HB 1410, as amended, provides the Commission with enforcement authority relating to flavors in vaping products.

HB1410 prohibits flavors in e-cigarettes and other vaping products, which would include disposable products not specifically covered by federal law, for any person under age 21. In addition, all flavors, except tobacco and menthol, are prohibited in cartridges for all persons. Refillable tanks are exempt from this prohibition. **Vote 11-9.**



Rep. Knirk, Carr. 3  
Rep. Muscatel, Graf. 12  
Rep. Van Houten, Hills. 45  
Rep. Fargo, Straf. 14  
February 18, 2020  
2020-0723h  
01/04

Amendment to HB 1410

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT prohibiting the use of flavors in vaping products.

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 New Section; Youth Access to Tobacco Products; Flavors in E-Liquids. Amend RSA 126 K by  
8 inserting after section 4-a the following new section:

9 126-K:4-b Flavors Prohibited in E-Liquids.

10 I. Flavors shall be prohibited in e-cigarettes and other vaping products for any person under  
11 age 21.

12 II. For cartridges used in e-cigarettes and other vaping devices, all flavors other than  
13 menthol and tobacco shall be prohibited for all persons. Refillable tanks shall be exempted from the  
14 prohibition under this paragraph.

15 2 New Section; Alcoholic Beverages; Tobacco Products; Flavors in E-Liquids. Amend RSA 175  
16 by inserting after section 5-b the following new section:

17 175:5-c Flavors Prohibited in E-Liquids.

18 I. Flavors shall be prohibited in e-cigarettes and other vaping products for any person under  
19 age 21.

20 II. For cartridges used in e-cigarettes and other vaping devices, all flavors other than  
21 menthol and tobacco shall be prohibited for all persons. Refillable tanks shall be exempted from the  
22 prohibition under this paragraph.

23 3 Effective Date. This act shall take effect January 1, 2021.



**Amendment to HB 1410**

**- Page 2 -**

2020-0723h

**AMENDED ANALYSIS**

This bill prohibits flavors from being added to e-liquids or other vaping products for any person under age 21. This bill prohibits flavors other than menthol and tobacco for cartridges used in e-cigarettes and other vaping devices for all persons.



# Voting Sheets





HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1410

**BILL TITLE:** prohibiting the use of flavors and certain chemicals in vaping products.

**DATE:** March 3, 2020

**LOB ROOM:** 302

**MOTIONS: OUGHT TO PASS WITH AMENDMENT**

Moved by Rep. Van Houten                      Seconded by Rep. Williams                      AM Vote: 12-8

Amendment # 2020-0723h

Moved by Rep. Van Houten                      Seconded by Rep. Williams                      Vote: 11-9

**CONSENT CALENDAR: NO**

**Statement of Intent:**                      Refer to Committee Report

Respectfully submitted,

Rep Van Houten, Acting Clerk



HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1410

BILL TITLE: prohibiting the use of flavors and certain chemicals in vaping products.

DATE: 3/3/2020

LOB ROOM: 302

MOTION: (Please check one box)

OTP  ITL  Retain (1st year)  Adoption of Amendment # 0723 (if offered)  Interim Study (2nd year)

Moved by Rep. Van Houten Seconded by Rep. Williams Vote: 12-8

MOTION: (Please check one box)

OTP  OTP/A  ITL  Retain (1st year)  Adoption of Amendment # \_\_\_\_\_ (if offered)  Interim Study (2nd year)

Moved by Rep. Van Houten Seconded by Rep. Williams Vote: 11-9

MOTION: (Please check one box)

OTP  OTP/A  ITL  Retain (1st year)  Adoption of Amendment # \_\_\_\_\_ (if offered)  Interim Study (2nd year)

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

MOTION: (Please check one box)

OTP  OTP/A  ITL  Retain (1st year)  Adoption of Amendment # \_\_\_\_\_ (if offered)  Interim Study (2nd year)

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote: \_\_\_\_\_

CONSENT CALENDAR: \_\_\_\_\_ YES  NO

Minority Report?  Yes  No If yes, author, Rep: Osborne Motion ITL

Respectfully submitted: Van Houten  
Rep Rebecca McBeath, Clerk





2020 SESSION

Commerce and Consumer Affairs

Bill #: HB 1410 Motion: OTPA AM #: ~~3~~ Exec Session Date: 3/3/20

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Butler, Edward A. Chairman	✓		
Williams, Kermit R. Vice Chairman	✓		
Gidge, Kenneth N.		✓	
Abel, Richard M.	✓		
Bartlett, Christy D.	✓		
Berbert, Christopher J.	✓		
McBeath, Rebecca Susan	✓		
van Houten, Constance	✓		
Fargo, Kristina M.	✓		
Andruk, Greg L.	✓		
Muscotel, Garrett D.	✓		
Weston, Joyce	✓		
Hunt, John B.			✓
Sanborn, Laurie J.			✓
Osborne, Jason M.			✓
<del>Costabile, Michael</del> <i>Lucelles</i>			✓
Plumer, John R.			✓
Barnes, Arthur E.			✓
Potucek, John M.			✓
Warden, Mark			✓
<b>TOTAL VOTE:</b>	<b>11</b>		<b>9</b>





2020 SESSION

Commerce and Consumer Affairs

Bill #: HB 1410 Motion: OTPA AM #: 0723 Exec Session Date: 3/3/20

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Butler, Edward A. Chairman	✓		
Williams, Kermit R. Vice Chairman	✓		
Gidge, Kenneth N.	✓		
Abel, Richard M.	✓		
Bartlett, Christy D.	✓		
Herbert, Christopher J.	✓		
McBeath, Rebecca Susan	✓		
Van Houten, Constance	✓		
Fargo, Kristina M.	✓		
Indruk, Greg L.	✓		
Muscatel, Garrett D.	✓		
Weston, Joyce	✓		
Hunt, John B.		✓	
Sanborn, Laurie J.		✓	
Osborne, Jason M.		✓	
Costabile, Michael <i>Leselles</i>		✓	
Plumer, John R.		✓	
Barnes, Arthur E.		✓	
Potucek, John M.		✓	
Warden, Mark		✓	
<b>TOTAL VOTE:</b>	<b>12</b>	<b>8</b>	





# Sub-Committee Actions



HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

**SUBCOMMITTEE WORK SESSION** on HB 1410

**BILL TITLE:** prohibiting the use of flavors and certain chemicals in vaping products.

**DATE:** February 21, 2020

**Subcommittee Members:** Reps. Williams, Abel, Plumer, Herbert, Indruk, Butler, Gidge, Hunt and Bartlett

**Comments and Recommendations:** Amendment 2020-0723h introduced by Rep Van Houten

**MOTIONS:** OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Van Houten                      Seconded by Rep. Williams                      AM Vote: 7-4

Amendment # 2020-0723h

Moved by Rep. Van Houten                      Seconded by Rep. Williams                      Vote: 8-3

Respectfully submitted,

Rep. Greg Indruk  
Subcommittee Clerk



HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 1410

BILL TITLE: prohibiting the use of flavors and certain chemicals in vaping products.

DATE: 2/21/2020

Subcommittee Members: Reps. Williams, Sanborn, Abel, Plumer, Costable, Warden, Herbert, Indruk and Butler

GIDGE, BUTLER, HUNT, BARTLETT

Comments and Recommendations:

AMENDMENT 0723H INTRODUCED (VAN HOUTEN)

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ AM Vote:

Adoption of Amendment # 0723H

Moved by Rep. VAN HOUTEN Seconded by Rep. WILLIAMS Vote: 7-4

Amendment Adopted Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. VAN HOUTEN Seconded by Rep. WILLIAMS AM Vote: 8-3

Adoption of Amendment # \_\_\_\_\_

Moved by Rep. \_\_\_\_\_ Seconded by Rep. \_\_\_\_\_ Vote:

Amendment Adopted Amendment Failed

Respectfully submitted,

Rep. Indruk Subcommittee Chairman/Clerk



Rep. Knirk, Carr. 3  
Rep. Muscatel, Graf. 12  
Rep. Van Houten, Hills. 45  
Rep. Fargo, Straf. 14  
February 18, 2020  
2020-0723h  
01/04

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4

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6

7 1 New Section; Youth Access to Tobacco Products; Flavors in E-Liquids. Amend RSA 126-K by  
8 inserting after section 4-a the following new section:

9 126-K:4-b Flavors Prohibited in E-Liquids.

10 I. Flavors shall be prohibited in e-cigarettes and other vaping products for any person under  
11 age 21.

12 II. For cartridges used in e-cigarettes and other vaping devices, all flavors other than  
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15 2 New Section; Alcoholic Beverages; Tobacco Products; Flavors in E-Liquids. Amend RSA 175  
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19 age 21.

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22 prohibition under this paragraph.

23 3 Effective Date. This act shall take effect January 1, 2021.





2020-0723h

AMENDED ANALYSIS

This bill prohibits flavors from being added to e-liquids or other vaping products for any person under age 21. This bill prohibits flavors other than menthol and tobacco for cartridges used in e-cigarettes and other vaping devices for all persons.



SUBCOMMITTEE  
WORK  
SESSION



HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

**SUBCOMMITTEE WORK SESSION** on HB 1410

**BILL TITLE:** prohibiting the use of flavors and certain chemicals in vaping products.

**DATE:** January 30, 2020

**Subcommittee Members:** Reps. Van Houten, Hunt, J. Osborne, Potucek, Barnes and Fargo

**Comments and Recommendations:** Fargo sub for MacBeath. Discussion will continue, no motions accepted. Amendment 2020-0261h - J Knirk

Respectfully submitted,

A handwritten signature in black ink that reads "Kristina Fargo". The signature is written in a cursive style with a large, prominent "K" and "F".

Rep. Kristina Fargo  
Subcommittee Clerk



Fargo

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 1410

BILL TITLE: prohibiting the use of flavors and certain chemicals in vaping products.

DATE: 1/30/20

Subcommittee Members: and Butler

Reps. Van Houten, Hunt, Osborne, Gidge, Williams, Potuck, MacBeath, Fargo, Barnes

Comments and Recommendations:

Fargo sub for Mac Beath - Discussion will continue, no motions accepted. Amendment 2020-0261h - J. Krisk

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. Seconded by Rep. AM Vote:

Adoption of Amendment #

Moved by Rep. Seconded by Rep. Vote:

Amendment Adopted Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. Seconded by Rep. AM Vote:

Adoption of Amendment #

Moved by Rep. Seconded by Rep. Vote:

Amendment Adopted Amendment Failed

Respectfully submitted,

Rep. Subcommittee Chairman/Clerk





Rep. Knirk, Carr. 3  
Rep. Muscatel, Graf. 12  
Rep. Van Houten, Hills. 45  
January 28, 2020  
2020-0261h  
10/08

Amendment to HB 1410

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT prohibiting the use of flavors in vaping products.

4

5 Amend the bill by replacing sections 1-3 with the following:

6

7 1 Statement of Intent. The general court recognizes that flavored vaping products encourage  
8 teenagers to use vaping products. Therefore, the general court hereby prohibits the sale of any  
9 flavors in any vaping or electronic cigarette products for those persons under 21 years of age.

10 2 New Section; Youth Access to Tobacco Products; Flavors in E-Liquids. Amend RSA 126-K by  
11 inserting after section 4-a the following new section:

12 126-K:4-b Flavors Prohibited in E-Liquids. Flavors are prohibited in e-cigarettes and other  
13 vaping products for any person under age 21 and for any cartridges used in e-cigarettes and other  
14 vaping devices. Refillable tanks are exempted from this prohibition.

15 3 New Section; Alcoholic Beverages; Tobacco Products; E-Liquids. Amend RSA 175 by inserting  
16 after section 5-b the following new section:

17 175:5-c Flavors Prohibited in E-Liquids. Flavors are prohibited in e-cigarettes and other vaping  
18 products for any person under age 21 and for any cartridges used in e-cigarettes and other vaping  
19 devices. Refillable tanks are exempted from this prohibition.

2020-0261h

AMENDED ANALYSIS

This bill prohibits flavors from being added to e-liquids or other vaping products for any person under age 21 and for any cartridges used in e-cigarettes and other vaping devices.

UNAPPROVED

# Hearing Minutes



HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1410

**BILL TITLE:** prohibiting the use of flavors and certain chemicals in vaping products.

**DATE:** January 15, 2020

**LOB ROOM:** 302

**Time Public Hearing Called to Order:** 9:56 AM

**Time Adjourned:** 12:10 PM

**Committee Members:** Reps. Butler, Williams, Abel, Bartlett, Van Houten, Fargo, Indruk, Weston, Hunt, Costable, Plumer, Barnes, Potucek and Warden

**Bill Sponsors:**

Rep. Knirk

Rep. Martin

Rep. Marsh

Rep. Indruk

Rep. Muscatel

Rep. R. Osborne

Rep. Woods

Rep. Fargo

Rep. Crawford

Sen. Rosenwald

Sen. Sherman

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

1. \*Rep Knirk introduced bill and written testimony. Amendment 2020-0044

**Rep Warden**

Question: Explain ammendment

Answer: Removes the exemption of menthol and removed the chemical restrictions.

**Rep Constable**

Question: Are you aware of cost and time to get defined as a smoking cessation tool?

Answer: Very aware of cost and trial needed to prove vapes work.

**Rep Hunt**

Question: How do you feel about legalizing marijuana?

Answer: I support legalizing marijuana.

**Rep Williams**

Question: Is tobacco a flavor?

Answer: Yes, another ammendment proposed to exempt tobacco flavor with menthol.

**Rep Warden**

Question: Does tobacco have a flavor?

Answer: Bitter taste I think.

2. \*Kaycee Reagan - Pro - Written Testimony

**Rep Van Houton**

Question: Can you be more specific about what you see in your school?

Answer: Smoking in bathrooms, snap chats showing usage, cannot reach students to inform them of damage.

**Rep Butler**

Question: Does nicotine exist in these products?

Answer: 98% contain nicotine.



### **Rep Williams**

Question: Can you smell a POD when it is being used?

Answer: Doesn't necessarily smell distinctive.

### 3. \*Stephen Kaltas - Vapor Shop Owner

\*Will be seriously impacted by ban on flavors. Moved to NH from MA

\*2015 Got into business to help people quit cigarettes

\*Flavors help smokers stay off cigarettes

\* Pelham store does not sell to minors

\*We should not oppose adults having flavors

\*Live Free or Die

\*Invites us to shop to see consumers are adults.

### **Rep Warden**

Question: What percent are 21 or over?

Answer: 65% or better

### **Rep Van Houten**

Question: What is the ratio of people that want cessation or just replacement?

Answer: Try cold turkey first.

Question: Do you lose customers who go to vaping then quit?

Answer: Yes

### **Rep Butler**

Question: How many products contain tobacco

Answer: Free Base contain choice of 0, 3, 6, 12, 18 percent. PODS contain 2-7 percent.

Question: E-liquids that are not nicotine?

Answer: Yes, but small percent. Used to wean off for smokers.

### **Rep Abel**

Question: MA has a ban on sale, but NH is just banning flavors. How does that effect you?

Answer: I would be out of business.

### 4. \*Mr Slawniak - Raven Vapes, Tilton, NH

The ban would be a death sentence to his business

### **Rep Butler**

Question: Saving lives - how do you define?

Answer: People get off cigarettes

Question: Is burning of cigarette the most dangerous part?

Vaping is safer than burning and helps replace cigarettes.

Question: But nicotine still exists?

Answer: Vaping is a safer alternative not a magic bullet.

### **Rep Plumer**

Question: Statistics on people who come in to quit cigarettes?

Answer: Do not know statistics.

### 5. \*Max Hager - Store Owner - Written Testimony

\*Owns 4 stores in NH

\*90-95% of customers want flavor

\*Most customers trying to quit smoking

\*Use 1.5% of nicotine in a vape liquid

\*70-80% of customers are over 21.

\*How many people want 0% nicotine? I first recommend 0%. 10-15% request 0%. Most want a step down program.

\*MA shops closed, customers have come to NH to get product

\*If we take away flavors, we create a black market for product.





- \*Gov't has handled youth issue already
- \*PODS are more dangerous and have high nicotine levels
- \*4 shops - 16 employees would be impacted.

**Rep Butler**

Question: Isn't the fact that MA came here for product an addiction

Answer: Yes, but it is just like caffeine.

Question: Open vs. Closed?

Answer: We do not make e-liquids. 90% use a device that is large and open - FDA approved.

PODS are closed, they will be banned by the Feds except for menthol and tobacco. PODS were primarily used by youth.

Question: Are there shops who make liquids on site?

Answer: FDA wants shops to sell pre-mixed liquids that are approved. Most shops only sell that. Only one in NH that mixes.

**Rep Williams**

Question: Online purchasing your main competition?

Answer: Online is acknowledging ban and won't sell illegally. All products can be bought online but don't provide service to customers.

6. \*Brett Scott - Owns Smokers Haven (8 shops) - Written testimony

**Rep Butler**

Question: Closed system, RJ Reynolds had a product. Does it still exist?

Answer: Yes, but no flavor options.

Question: Nicotine significantly higher for closed systems?

Answer: Yes

**Rep Abel**

Question: If flavor ban doesn't discourage youth, what will?

Answer: Ban online sales as a start. Elimination of flavors in closed PODS is good move.

**Rep Van Houten**

Question: Are youth attracted to flavors in closed PODS?

Answer: No, 80% of customers purchase open flavored systems.

7. \*Gaetano Putigmano - Will send testimony

\*3 stores in Vermont

\*Left Vermont because of taxes to come to NH

\*Does not sell closed (Juul)

\*Used vape to quit smoking

\*In the business to help customers quit smoking.

\*Adults like flavors

\*Stores do not sell to minors

\*Smoke and tar in cigarettes kill people, vape is safer

\*He personally quit smoking in Philadelphia by vaping

\*Services help people use the product safely

\*Vaping helps replace the habit of smoking. Can do with 0% nicotine.

\*Passionate about helping people stop smoking

\*Enforce existing laws for youth. Don't restrict adults from enjoying in the privacy of their homes

\*Feel that regulation is good and supports enforcement.

8. \*Kay Sequeira - Consumer

\*Smoked since 16

\*Vaping helped her quit cigarettes, likes the flavors

\*She is healthier, snores less, smells better, and energized

\*Father was diagnosed with emphysema, sadly, she wants to avoid

\*Concerned about protecting youth, as a mother

\*Wants to keep industry as it is today for adults.



## **Rep Butler**

Question: What about the deaths recorded to date?

Answer: Deaths are a result of bad mixes of THC. Stores provide safe products approved by the FDA. Banning flavors will result in poor mixology and danger.

### 9. Hitesh Pangabi - Store Owner

- \*Store owner, 2 in MA, 2 in NH
- \*4 packs a day smoker or more
- \*Vaping helped him quit
- \*Had to close stores in MA, moved employees to NH
- \*Many customers come from MA to NH to buy product
- \*Black market if we ban flavors, it will expose kids again
- \*19+ law was a good solution for NH
- \*Deaths are caused by THC, not safe products offered by regulated stores.

### \* Michel Boutin - Written testimony only

- \*False media can reflect badly on the industry
- \*UK has vaping in hospitals to help people quit
- \*Tobacco and menthol are made the same as flavors, so why ban flavors.

They are made the exact same way.

\*Adults like flavors - ie: cereal, ice cream, cough drops, toothpaste, etc. Adults should be able to choose.

\*Personally, would lose his business that he invested everything he has. Employees would lose their jobs.

### 10. \*Victor Vitale - Written Testimony

### 11. Rob Currier - Valley Vape

- \*Smoked for 29 years
- \*Vaped for the last 6 years
- \*Much healthier today
- \*Cartridges are used by youth, most are dangerous. We do not sell.
- \*Store since 2014, does not sell to youth. Does not sell closed units.
- \*Use flavored vape to reduce nicotine usage gradually.
- \*Ban cartridges, not flavors.

### 12. \*John Shaer - NECSEMA - Will provide written testimony

- \*Represents convenience stores in NH
- \*Opposed bill but convenience stores are not the culprit
- \*Bans are a terrible policy because they push people out of safe, regulated options to the black market
- \*What can be done? 21 years old, sales limits, stricter penalties, crack down on online sales.

## **Rep Abel**

Question: do convenience stores sell the same products as vape stores?

Answer: Convenience usually sell PODS and cartridges.

### 13. \*Tom Prasol - Written Testimony - Reynolds American

- \*Provided a proposed amendment

## **Rep Costable**

Question: Percent of sales of flavor vs tobacco?

Answer: Youth more attracted to flavors.

Question: Sales growth in Menthol or Tobacco?

Answer: Will get back to us with an answer.

### 14. \*Kate Frey - New Futures - Will provide written testimony - Support



15. \*Lance Barcher - American Lung Association - Written Testimony
  - \*Supports bill
  - \*Will work on sub-committee
  
16. \*Nancy Vaughan - American Heart Association - Written Testimony
  - \*Supports bill with menthol
  - \*Will work on sub-committee

*Respectfully Submitted*  
*Kristina Fargo*



HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1410

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DATE: 1/15/20

ROOM: 302

Time Public Hearing Called to Order: 9:56

Time Adjourned: 12:10

(please circle if present)

Committee Members: Reps. Butler, Williams, McBeath, Gidge, Abel, Bartlett, Herbert, Van Houten, Fargo, Indruk, Muscatel, Weston, Hunt, Sanborn, J. Osborne, Costable, Plumer, Barnes, Potucek and Warden

Bill Sponsors:

Rep. Knirk  
Rep. Indruk  
Rep. Woods  
Sen. Rosenwald

Rep. Martin  
Rep. Muscatel  
Rep. Fargo  
Sen. Sherman

Rep. Marsh  
Rep. R. Osborne  
Rep. Crawford

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

Rep. Knirk \* - Introduced bill & written testimony.  
Amendment 2020-0044k

Q - Warden - Explain Amendment?

A - Knirk - removes the exemption of menthol & removes the chemical restrictions

Q - Costable - Are you aware of cost & time to get defined as a smoking cessation tool?

A - Knirk - Very aware of cost and trials needed to prove vapes work.





Q - Hunt - How do <sup>you</sup> feel about legalizing marijuana?  
A - Knisk - Support legalizing marijuana.

Q, Williams - Is Tobacco a flavor?  
A - Knisk - Yes, another amendment proposed to exempt tobacco flavor with menthol.

Q - Warden - Does tobacco have a flavor?  
A - Knisk - Bitter taste I think.

## #Kaycee Reagan\* - Written Testimony

- supports this bill

Q - Van Houton - Can you be more specific about what you see in your school?

A - Smoking in bathrooms, snapchat showing usage, cannot reach students to inform them of damage.

Q - Butler - does nicotine exist in these products

A - 98% contain nicotine

Q - Williams - can you smell a POD when it's being used?

A - Doesn't necessarily smell distinctive.

#3 Stephen Kaltas - Vapor Shop owner  
seriously impacted by ban  
on flavors - moved to NH from MA  
- 2015 got into business to  
help people quit cigarettes  
- flavors help smokers  
stay off cigarettes  
- Pelham store - does not sell  
to minors  
- should not oppose adults  
having flavors  
- Live Free or Die  
- invites us to shop to see  
consumers are adults

Q. Warden - ~~What~~ What % 21 or over?  
A - 65% or better

Q Van Houken - Ratio of people  
that want cessation or  
just replacement.

A - Try cold turkey first.

Q Van Houken - Do you lose customers who  
go to vaping then quit?

A - Yes

Q Butler - How many products  
contain tobacco?

A - Free Base - contain - Choice of 0-3-6-12-18  
PODs - contain - 2% - 7%

Q - E-liquids that are not nicotine?

A - Yes, but small % used to wean off for smokers.

Q - <sup>Pop.</sup> Bel - MA has ban on sale but NH is just flavors. How does that affect you?

A - I would be out of business.

#4 Mr. Slawniak\* - Raven Vapes  
Tilton NH

- ban would be death sentence to his business

Q - Butler - Saving lives - how do you define?

A - Gets people off cigarettes

Q - Butler - Does burning of cigarette the most dangerous?

A - Vaping safer than burning and help replace cigarettes

Q - But nicotine still exists

A - Vaping is safer alternative - not magic bullet

Q Plumer - Statistics on people who come in to quit cigarettes

A - Don't know statistics

# 5 Max Hager - \* Written Testimony - Will email to Ed Butler - Store Owner

- Owns 4 stores in NH
- 90-95% of customers want flavor
- Most customers trying to quit smoking
- Use 1.5% of nicotine in a vape liquid.
- 70-80% of customers over 21
- How many people want 0% nicotine? A first recommend 0% 10-15% request 0%, most want a step down program.
- MA shops closed, customer have come to NH to get product
- If we take away flavors, we create a black market for product.
- Gov't has handled youth issue already.
- PODs more dangerous and have high nicotine levels.
- 4 Shops - 16 employees would be impacted

Q - Butler - Isn't the fact that MA come here for product an addiction

A - Yes, but it's just like Caffeine

Q - Butter - Open vs Closed?

Who makes?

- A - We do not make E-liquids  
90% use a device that's  
large & open - FDA approved.  
- PODs are closed, will be  
banned by Feds, except  
for menthol & tobacco  
- PODs were primarily used  
by youth?

Q - Are there shops who make  
liquids on site?

A - FDA wants shops to sell  
pre-mixed liquids that are  
approved. Most shops only  
sell that. Only one in NH  
that mixes.

Q - Williams - Online purchasing  
your main competition?

A - Online is acknowledging pan  
and won't sell illegally.  
All products can be bought  
online but don't provide  
service to customers.

#6 Brett Scott - Owns Smokers Haven - 8 Shops  
\* Written Testimony

Q - Butter - Closed system, RJ Reynolds had a product. Does it still exist?

A - Yes but no flavor options

Q - Nicotine significantly higher for closed systems

A - Yes

Q - Axel - If flavor ban doesn't discourage youth, what will?

A - Ban online sales as a start. Elimination of flavors in closed PODs is good move.

Q - Van Houten - Are youth attracted to flavors in closed PODs?

A - No, 80% of customers purchase open flavored systems

#7 Gaetano Putignano - <sup>\* Will send testimony because of ages</sup>  
- 3 stores in Vermont  
- left Vermont to come to NH  
- Does not sell closed (Jewel)  
- Used vape to quit Smoking.  
- In the business to help customers quit Smoking

- Adults like flavors
- Stores do not sell to minors
- Smoke & tar in cigarettes kill people, vape is safer
- He personally quit smoking in Philadelphia by vaping
- Services help people use the product safely
- Vaping helps replace the "habit" of smoking. Can do with 0% nicotine.
- Passionate about helping people stop smoking ~~to~~
- Enforce existing laws for youth, don't restrict adults from enjoying in the privacy of their homes
- Feel regulation is good and supports enforcement

#8 Kay Seguire\* - will send testimony

- speaking as consumer
- smoked since 16
- Vaping helped her quit cigarettes, likes the flavors
- She is healthier, snores less, smells better, and energized
- father diagnosed with emphysema, sadly she wants to avoid

- Concerned about protecting youth, as a mother
- wants to keep industry as it is today for adults

Q - Butler - What about the deaths recorded to date?

A - Deaths are result of bad mixes of <sup>THC</sup> ~~THC~~ stores provide safe products approved by FDA.  
Banning flavors will result in poor methodology and dangerous ~~products~~

# 9 Nitesh Pungabi - Will send written testimony

- Store Owner, 2 in MA, 2 in NH
- 4 pack a day smoker or more
- Vaping helped him quit
- Had 2 shops in MA that had to close, moved employees to NH
- many customers come from MA to NH to buy product
- Black Market if we ~~the~~ ban flavors will expose kids again
- 19+ law was good solution for MA
- Deaths are caused by THC not safe products offered by regulated stores.



- Note - Written Only Testimony  
from Michael Boulton

- False media can reflect  
badly on the industry  
- UH has vaping in hospitals  
to help people quit  
nicotine

- Tobacco and menthol are made  
the same as flavors so why  
ban flavors? Made the  
exact same way.

- Adults like flavors, i.e.  
Cereal, ice-cream, cough drops,  
tooth paste, etc. Adults  
should be able to choose

- Personally, would lose his  
business that he invested  
everything <sup>has</sup> employees would  
lose their jobs.

#10 Victor Vitale - written testimony

#11 Rob Currier - Valley Vape

- Smoked for 29 years.

- Vaped for last 6 years.

- Much healthier today.

- Cartridges are used by youth,  
more dangerous. We do not sell.

- Store (since 2014) does not  
sell to youth. Does not  
sell closed units.

Note: Written by testimony from Michael Goodwin

- Use flavored vape to reduce nicotine usage gradually
- Ban cartridges, not flavors!

#12 John Shaer - NECSEMA

- will provide written testimony

- represents convenience stores in NH
- Opposed Bill but Convenience stores are not culprit
- bans are a terrible policy.

because they push people out of safe, regulated options to black market

- What can be done? -

- 21 yr
- sales limits
- stricter penalties
- crack down on online sales

Q Abel - Convenience stores sell same products as Vape stores

A - Convenience usually sell PODs and cartridges

#13 Tom Basol - Written Testimony Reynolds American

- Provided a proposed amendment

G - Costable - % of sales of flavors  
vs tobacco

A - Youth more attracted to

G - No sales growth in Menthol  
& tobacco

A - Will get back to

#14 Kate Frey - New Futures

- did not speak

- supports bill

- Written testimony will be provided

{ #15 Lance Baschel - American Lung Assoc.  
\* Written Testimony

- supports bill

- will work on sub-committee

#16 Nancy Vaughan

\* Written Testimony  
American Heart Assoc.

- supports bill with menthol

- will work on sub-committee

A - Will get back to  
A - ?  
A - Will get back to  
A - Will get back to

#14 State treaty - New features  
- did not speak  
- supports bill  
- written testimony will be provided  
#15 Vance Barber - American Lung Assoc  
\* written testimony  
- supports bill  
- will work on sub-committee

#16 Nancy Vaughan  
\* written testimony  
American Heart Assoc  
- supports bill with amendments  
- will work on sub-committee

# SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1410 Date 1/15/20  
 Committee Commerce

\*\* Please Print All Information \*\*

Name	Address	Phone	Representing	(check one)	
				Pro	Con
SEN. CINDY ROSENWALD			DISTRICT #13	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alvin See	London		50th	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Senator Sherman			SD#24	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REP. BOB GREENE			HILLS 37	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep Alicia Letas			Hills 37	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep Gary Woods			Merr 23	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep XAREL CRAWFORD			Carroll 4	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep Joelle Martin			HILLS 23	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mike RdNo			NCSCANT	<input checked="" type="checkbox"/>	<input type="checkbox"/> <i>is not</i>
LISA Shapiro	214 N Main St Merrimack Hill		Vape Technology Assn	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Paul Beasley	N HVE			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Tom Stannard				<input type="checkbox"/>	<input checked="" type="checkbox"/>
Michael Padmore			NH Medical Society	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep Dick Hinch	House Republican Office			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kyle Withm				<input type="checkbox"/>	<input checked="" type="checkbox"/>
Kara Tibbetts				<input type="checkbox"/>	<input checked="" type="checkbox"/>
Victor Vitale	Hudson NH			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mike Boutin	Merrimack & NH			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Ryan Trexler	Stoddard NH			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Alex Hakhinian	Waterville, ME			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rob Lassiter	Lebanon, NH			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rob Schneider	Manchester NH			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Ryan McClellan	Dover, NH			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Brandon Bordonaro	Georgetown, MA			<input type="checkbox"/>	<input checked="" type="checkbox"/>

Lukas Chasse Manchester, NH oppose

Rep. Max Abramson Seabrook, N.H. oppose

Rep. Michael Vakubovich Merr-24 oppose

Justin Noviello Laconia NH oppose

GAETANO POTIGNANO Bellows Falls, VT oppose

Rep Al Baldasaro Londonderry oppose

Mike Chapman Rochester NH 603 948-1166 oppose

Handwritten notes at the bottom of the page, including "New 20" and "Rep and Wood".

# Testimony





HB 1410--banning flavored vaping products

Jan 15, 2020

Rep Jerry Knirk, Carroll 3, Madison, Tamworth, Albany, Freedom and retired surgeon

This bill is a public health initiative to lessen teen vaping. We are all aware of the epidemic of vaping amongst our teens. E-cigarette use is highly prevalent among teenagers with about 27% of high school students and 10% of middle school students having vaped in the past 30 days and many more have tried it. Fruit is the preferred flavor choice for about 2/3 of teens.

I became aware of how enticing these flavors are to teens last year while working on another vaping bill and decided to sponsor a bill to ban flavors. I elected to exempt menthol as a political expediency. We have been told by the vape industry that the flavors help people in their attempt to switch from smoking combustible cigarette products to vaping. Therefore, I felt that it would be reasonable to exempt menthol, since it is a common flavor in cigarettes, in an attempt to craft a bill that would not be as objectionable to the vaping industry to increase the chance of passage. The addition of the prohibition of chemicals which are non-FDA approved or known to be carcinogenic was in response to the fact that pulegone, the chemical used to impart the menthol flavor in vaping devices is highly carcinogenic.

Subsequent to signing off on the LSR, I became aware that menthol and mint flavors are also quite popular amongst high school and middle school students. I understand that when all flavors except mint and menthol were banned in towns in Massachusetts, mint became the number one flavor in high schools. As a result of this, I decided to offer amendment 0044h to this bill to remove the menthol exemption. It also removes the ban on the use of non-FDA approved chemicals as that becomes unneeded with a total ban on flavors.

Just yesterday I was contacted by the director of the Therapeutic Cannabis Program about this bill. He stressed that we do need to amend out the prohibition of adding any chemicals which are not approved as food additives as the ATCs add THC, CBD, and terpenes (bioactive chemicals in cannabis) to vapes and these compounds are of course not FDA approved.

I have also been contacted by some advocates who would like to extend the flavor ban to all tobacco products. I have not included such an extension as that may make this bill more difficult to pass.

Though the Trump administration initially planned to ban all flavors, it recently decided to exempt menthol and is planning to exempt refillable tanks. It will only affect cartridges. Such federal rules may be further changed. Therefore, this bill is still needed to address this at a state level.

I understand the removal of flavors may make it harder for some people to transition from cigarettes to vaping. However, in medicine and public health, one must always balance the risks and benefits of any intervention. Though there may be a small benefit to allowing menthol to assist people coming off cigarettes, the risk of getting more teens hooked on nicotine vaping outweighs that potential benefit. Though nicotine alone is safer than inhaling products of combustion, nicotine is highly addictive and is not benign, including effects on the developing brain and significant effects on the cardiovascular system.

If someone is really serious about trying to get off cigarettes, they should make the move using a proven FDA approved smoking cessation technique. FDA approved nicotine replacement therapy (NRT) includes patches, gum, lozenges, nasal spray and an inhaler. These help with the nicotine craving so that a person can work on a program of behavioral modification and wean the nicotine dose.

If the vaping industry is really serious about the goal of using vaping products to help people come off cigarettes, they should apply for FDA approval of vaping devices as a smoking cessation device so that sale could be by prescription, highly regulated, with trackable serial numbers to minimize the chance of diversion. Or the vape shops should at least train their employees as tobacco treatment specialists in order to counsel their clients in behavioral modification, weaning and eventually stopping the use of nicotine. I think this is highly unlikely.

The aggressive marketing of these devices must be stopped. We already have a large number of teens addicted. We need to intervene now to stop addicting more of them. We need to place our children's health and the public health before the profits of the vaping industry.

#1

Rep. Knirk, Carr. 3  
Rep. Marsh, Carr. 8  
Rep. Muscatel, Graf. 12  
January 10, 2020  
2020-0044h  
01/05

Amendment to HB 1410

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT prohibiting the use of flavors in vaping products.

4

5 Amend the bill by replacing sections 1-3 with the following:

6

7 1 Statement of Intent. The general court recognizes that flavored vaping products encourage  
8 teenagers to use vaping products, therefore, the general court hereby prohibits the sale of any flavors  
9 in any vaping or electronic cigarette products.

10 2 New Section; Youth Access to Tobacco Products; Flavors in E-Liquids. Amend RSA 126-K by  
11 inserting after section 4-a the following new section:

12 126-K:4-b Flavors Prohibited in E-Liquids. Flavors are prohibited in e-cigarettes and other  
13 vaping products.

14 3 New Section; Alcoholic Beverages; Tobacco Products; E-Liquids. Amend RSA 175 by inserting  
15 after section 5-b the following new section:

16 175:5-c Flavors Prohibited in E-Liquids. Flavors are prohibited in e-cigarettes and other vaping  
17 products.

2020-0044h

AMENDED ANALYSIS

This bill prohibits flavors from being added to e-liquids or other vaping products.

UNAPPROVED

*Statement:*

My name is Kaycee Reagan and I am from North Haverhill. I am a member of the Legislative Youth Advisory Council, and I am here in support of this bill. Vaping is an issue that I am incredibly concerned about, especially in regards to the e-cigarette JUUL. Over the past two years, vaping has overtaken my peers, even though, very recently, tobacco use was almost defeated among youth. To my horror and disbelief, I have watched as JUUL has made its way from my social media feed into the hands of my peers and friends. I am here because I believe that HB 1410 can help to mitigate this crisis

Currently, 1 in 4 students report having used e-cigarettes in the past month. JUUL, which controls 70% of the e-cig market, is specifically attractive to youth for many reasons. Many compare their looks to that of a USB port, because they are small, generally black, and just that discreet. I have heard numerous accounts from peers of people smoking in the classroom and the teachers not even knowing. Because it looks like a tech product and because of its attractive colors, some people call JUUL the "I-Phone of E-Cigs". It was marketed on social media platforms frequented by people under 35, towards people like me and my peers, by influencers that we follow and look up to. And, of course, JUUL's are attractive because of their many, many flavors, from Mango and Mint to Blue Raspberry and Sour Berry Belts.

JUUL quickly spread through my school. Everyone was doing it, regardless of their grades, their participation in school activities, or their regular substance use. This terrified me because, for a while, we didn't know what the dangers of using JUULs were. We still don't know the long-term consequences, really. What I slowly learned was that there is more nicotine in a single JUUL pod than in an entire pack of cigarettes and that the nicotine salts used in JUUL allow



nicotine to be absorbed faster and much more pleasantly than in regular e-cigs and cigarettes. The reason I am talking a lot about JUUL and not about e-cigarettes, in particular, is because the 1,800% spike over the past 8 years in youth who use e-cigs coincides with the release of JUUL in 2015. In one 2018 report, the CDC actually said, "*The rise in e-cigarette use during 2017- 2018 is likely because of the recent popularity of e-cigarettes shaped like a USB flash drive, such as JUUL.*" I can also tell you from personal experience that youth are majorly using JUULs and not more traditional e-cigarette devices.

My fears only increased when the deaths and illnesses began to be reported. 57 people have died so far, and, as of January 7, 2,602 cases of hospitalization due to EVALI have been reported. 78% of the people who've died were under 35. The most recent death was a 15-year-old from Texas.

This is a crisis. Such a crisis among our youth needs strong action. I believe that a ban on the flavors used in e-cigarettes will make them less attractive to youth. They are currently drawn to e-cigarettes because of the numerous flavor options, which makes smoking them fun and appealing. According to a recent study, 72.2% of high schoolers who use e-cigarettes used flavored ones. According to the Truth Initiative, flavors are *the reason* that 29% of people use JUUL.

Mango and mint are the most popular flavors, but there are plenty more out there. JUUL themselves recognized that the flavors used in their products were part of what attracted youth to them. I don't know about you, I can't think of anyone over 35 who would be attracted to flavors like Green Apple or Cotton Candy. That is why, in October, JUUL chose to stop selling most of its flavors. Unfortunately, other companies quickly took over the JUUL-compatible flavored pod market they left. It is my belief that a ban on flavors will make them harder to access by youth,





and that their inability to use the flavored pods will lead to a decrease in the amount of youth who use e-cigarettes. I support this ban because it still leaves e-cigarettes as an option for adults trying to quit smoking while making them less attractive to youth. I hope you agree that strong action is needed to help mitigate this crisis and therefore hope you agree to support this bill. I will accept questions if there are any.



**Against HB 1410****Thomas Slawniak**

1

Good morning members of the Commerce Committee, my name is Thomas Slawniak. I am the owner of Raven Vapes located on Main St in Tilton.

Approximately five years ago I opened a vape store in Tilton, NH. It has been successful. Since then my store has helped hundreds if not thousands of people to quit smoking. Vaping is a successful solution to help adult smokers quit cigarettes. The products we sell are for adults.

Flavored eliquids just like flavored alcohol are for adults. A ban on flavored eliquid is a death sustenance on businesses such as mine. A flavor ban did not accomplish anything in MA except kill small businesses. Dozens of business closed, and hundreds of people lost their jobs.

Just recently a law on the federal level was passed to ban certain types of flavored eliquids, these are the Juul and Vuse type devices. These are the devices that the youth are after. So why ban something that is used by adults when flavored Juul pods and similar devices will be illegal in another 17 days?

Similar bans in MI and NY are being overturned. All a flavor ban will do is put us out of business. New Hampshire will lose its wholesale tax revenue on flavored eliquid, I will lose my business and four employees will lose their jobs.

Why is a flavor ban being considered? My understanding it's because certain people, certain groups of people believe that kids are using vapes because of the flavors. And they want to protect our youth, but that is a misguided assumption. That is not correct. This is a recent survey:

<https://reason.org/commentary/cdc-survey-shows-flavors-arent-driving-youth-vaping/>



*Over 75 percent of youth vapers apparently don't care much about flavors, according to the most recent survey conducted by the Centers for Disease Control and Prevention.*

*Among middle and high school students who ever tried using e-cigarettes, the most common reasons for e-cigarette use were 'I was curious about them.' (55.3 percent)," the CDC reports in its report "Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019."*

*Given the choice of selecting any and/or all of 12 different reasons for why they had tried vaping in the first place, only 22.3 percent of young people said because e-cigarettes "are available in flavors, such a mint, candy & fruit"*

**\*\*The rest of this article is on the next pages.**

So why ban flavors? We all like flavored things. There should be an approach focused on education rather than prohibition. This approach is far more likely to be successful in reducing teen vaping, while also allowing the adult access to vaping products that might save millions of smokers' lives.

**In closing, any kind of flavor ban will kill small businesses in New Hampshire. It will cost jobs, and it will cost the state revenue. Thank You**

Thomas Slawniak

Raven Vapes  
272 Main St  
#3  
Tilton, NH 03276  
603-273-2813

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## COMMENTARY

### CDC Survey Shows Flavors Aren't Driving Youth Vaping

*The CDC finds only 22 percent of young people say they tried e-cigarettes because they "are available in flavors, such as mint, candy, fruit or chocolate."*

By J.J. Rich

January 13, 2020

Over 75 percent of youth vapers apparently don't care much about flavors, according to the most recent survey conducted by the Centers for Disease Control and Prevention.

"Among middle and high school students who ever tried using e-cigarettes, the most common reasons for e-cigarette use were 'I was curious about them.' (55.3 percent)," the CDC reports in its report *"Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019."*

Given the choice of selecting any and/or all of 12 different reasons for why they had tried vaping in the first place, only 22.3 percent of young people said because e-cigarettes "are available in flavors, such as mint, candy, fruit or chocolate." That's about the same number of them who said they use e-cigarettes because "I can use them to do tricks."

Nevertheless, despite the lack of association between flavors and youth vaping, the Trump administration recently directed the Food and Drug Administration to pull all flavored vaping cartridges from the market, except menthol and tobacco flavors.

On Fox Business Network's *Kennedy*, I briefly elaborated on the negative public health implications of this policy:

"Flavors happen to be a very important factor when adults are making their decisions on whether they're going to switch from combustible-dangerous-carcinogenic cigarettes to vaping ... If you look at the surveys for teen use, and when you ask them why they're using, 'curiosity' by far is the number one reason why they're using them and flavors happen to be way, way down the totem pole—only [about] 23 percent of teens say flavors even enter any sort of consideration when they are choosing to vape."





The role that flavors play in helping adults quit smoking has been verified by some of the world's most prestigious medical journals. A study in *The BMJ*, formerly the *British Medical Journal*, concluded that if flavors were removed from the e-cigarette market, barring no changes to cigarette availability, there would be about an 11.1 percent decrease in vaping, but an 8.3 percent increase in smoking among adults. This is because e-cigarettes happen to be twice as effective at helping adults quit cigarettes as the current FDA-approved smoking cessation products, according to a randomized controlled trial published by *The New England Journal of Medicine*.

For smokers looking to quit, vaping flavors tend to make the experience more enjoyable. The Trump administration's recent regulation banning flavors is likely to cause fewer smokers to shift to vaping, which is bad for public health.

Another study in *The BMJ* estimates that if every adult smoker completely switched over to e-cigarettes over a 10-year period there would be "6.6 million fewer premature deaths" from smoking with a total of "86.7 million fewer life years lost."

This finding is further supported by a study in the *Journal of the American Medical Association*, which finds: "Compared with cigarette-only smokers, e-cigarette-only users were found to have significantly lower concentrations of all major nicotine metabolites ... [polycyclic aromatic hydrocarbon] biomarkers ... [and volatile organic compounds]"—basically the stuff that kills smokers.

Although young people who vape also prefer flavors, there is no evidence that flavors are *uniquely* appealing to children versus adults. Despite groups like the Campaign for Tobacco Free Kids arguing that "flavored tobacco products are intentionally designed to attract kids," studies show that both adults and youth tend to prefer flavors at similar rates, with consumption in both age groups mostly reflecting what is purchased by adults in the legal market.

Before Juul voluntarily pulled its fruit-flavored e-cigarette pods from convenience stores, both youth and adults preferred fruit flavors. But after Juul discontinued its fruit flavors, following mounting pressure and raids from the FDA, the mint flavor moved up to assume 75 percent of Juul's flavor distribution and both adults and youth used mint at



the highest rate. Going forward, following the recent prohibition of most characterizing flavors, young people will most likely still vape the menthol and tobacco flavored pods most easily available—just like their adult role models—and the overall youth vaping rates that public health leaders consider an “epidemic” will likely still persist.

Just like with cigarettes, youth use tends to reflect adult use. But with enormous potential public health gains to be had from e-cigarettes making conventional cigarettes obsolete, public policy would be more effective if it is focused on what has proven to be most successful in reducing youth use of all vices: education. Before any historic reduction in youth use of any substance, increased “perception of great risk” has always come first. That’s because young people tend to be smart enough to figure out ways to acquire the products they want, regardless of the law, and thus if the government is looking to prevent youth use it is most advantageous to educate young people about why they shouldn’t vape in the first place.

In 2017, the Truth Initiative conducted a survey and found that over 63 percent of Juul users aged 15-24 didn’t even know that Juul e-cigarettes always contained nicotine. At that time, Juul had only been on the market for a year, and without that knowledge, teens were much more likely to try Juul. With their disproportionate fear of cigarettes and other tobacco products, knowing Juul contained nicotine likely would’ve stopped some teens from trying it.

Today there is good news: the smoking rates among teenagers are at record lows. As a result, it should not be too hard to teach teens that e-cigarettes carry some legitimate risks, such as nicotine addiction, that should be considered. An approach focused on education rather than prohibition is far more likely to successfully reduce teen vaping, while also allowing the adult access to vaping products that might save millions of smokers’ lives.

<https://reason.org/commentary/cdc-survey-shows-flavors-arent-driving-youth-vaping/>



**HB 1440 – Flavor Ban**

January 15, 2020

Brett Scott  
 President/Owner  
 Smokers Haven Inc  
 12 Chenell Drive  
 Concord, NH 03301  
 603-817-1588



I operate 8 retail locations and employ 60 NH workers. I have been in this business for just shy of 10 years, nearly the same time vaping has been around. It is likely that you had not heard much about vaping until “Juul”, “Juul pods”, and “Juuling” were introduced to the market, also owned by big tobacco. Over my 10 years, we have helped thousands of smokers quit smoking using flavored e-cigarettes to provide the nicotine they desire without the 7,000 smoke constituents and cancer-causing chemicals inhaled from the burning of cigarettes.

A week ago, the federal government announced that Juul pods and other flavored pods will be banned. Pod sales represent 50% of our vape sales and will hurt our business however I agree with the decision legislators made. As I mentioned, before these flavored high nicotine pods, vaping was not seen as an issue but as a way for adults to switch from traditional combustible cigarettes to e-cigarettes, however, I believe the industry lost focus when flavored pods were introduced. The discreet devices in both size and minimal amounts of vapor produced caused an appeal to the youth. I believe the federal government got it right by separating these products produced by big tobacco from the small market open systems that have been used for 10 years, alongside flavored e-liquid, to help adult smokers quit smoking.

A flavor ban would be highly detrimental to not only my business but all NH businesses in this industry. In Massachusetts, nearly all vape and smoke shops permanently closed. When the regulated in-state shops close there is a ripple effect. NH will not receive business profits tax revenue, sales will move online where businesses are difficult to regulate and will be extremely difficult to collect the vapor tax that has already been enacted, small businesses will close, thousands of workers will lose their jobs, and worst of all people will switch back to traditional cancer-causing cigarettes.

One important point to make is that online sales remain a major problem. Banning online sales, as Maine has done to curb youth access, would solve youth access issues by allowing only registered, regulated businesses to sell these products. The FDA and Liquor commission can enforce businesses checking proper identification and not selling to underage youth whereas online is simply a matter of clicking a box that you are of age to purchase tobacco products.

The decisions you are making today will impact many consumers as well as family businesses like my own that employ my brother, sister, mother, father, fiancée, sister in law, best friend, friends and many great staff. A flavor ban will leave many people here today out of a job and out of business. I am speaking here today hoping that with such a large decision that you would be open to giving myself and others an opportunity to meet with you to answer any questions, discuss the impacts, alternatives, and work together to come up with a plan that brings government and industry together towards practical solutions.



**HB 1624 – Temporary Sales Ban**

January 15, 2020

Brett Scott  
President/Owner  
Smokers Haven Inc  
12 Chenell Drive  
Concord, NH 03301  
603-817-1588

As of September 2019, the FDA and CDC strongly believed THC products were the source of lung illnesses. In December 2019 the CDC released their laboratory data on the vaping illnesses and have linked them to THC-containing products from illegal sources, cut with vitamin e acetate. This has been reinforced by a second study released in January 2020, confirming their original findings.

A temporary vape ban would, without a doubt, put everyone in the vape industry out of business.





**Carrie Morris**

---

**From:** The Opinionated Vaper <brutforce50cal@gmail.com>  
**Sent:** Wednesday, January 15, 2020 12:08 PM  
**To:** Carrie Morris  
**Subject:** Copy of speech for vape ban hearing

From Kaya Sequeira, a not well put together but well executed speech representing the consumer of vape products:

Mr Gilbert 1965 patent  
Hon Leek 2005 start production  
2006 went international  
2008 streamlined and began to evolve into what we know today

Hello, my name is Kay, pardon my disheveled appearance, I work third shift and came straight here to partake in this morning's hearing. I am a 29 year old working class single mother. I started smoking when I was 17, and continued to smoke up until last year. I stumbled upon vaping by accident, and it has changed my life

More active  
Run again  
Don't snore half as bad as I used to  
Smell better (lots of compliments, makes a great perfume) And confidences that I have made an effort to prolong my life

Advocate for vaping  
Education is crucial  
(As a parent and a Vaper I have duties)

Many years of positive adverts for tobacco have hurt our youth

Media has giving vaping a negative connotation

Making flavored juices will propitiate the problem, uneducated people will make unsafe products in their homes

Pro regulated legal open market

Youth alcohol abuse and tobacco use is alarming, vaping is only a small portion of the issue. Let's work together to find a solution, rather than disband responsible adults from a healthy alternative to tobacco

For more questions or concerns, I can be reached at 603-777-7482, thank you for your time and consideration



#10  
Vitale

**Victor Vitale**  
**VictorVitale1@gmail**  
**267-549-3714**

## **FLAVOR BAN TESTIMONY HB1410**

We are not JUUL. We are not Flavored Pods. Trump already put a temporary ban on these and that ban begins on February 6, 2020 and It doesn't have an end date yet.

We're a small business in Hudson New Hampshire that sells vapor products to adults who want to quit smoking. We also sell to Adults who just want to vape.  
What's the problem with that?

What's the purpose of this bill? Is it to stop minors from getting Nicotine Vapor products? Because this past November (2 months ago) a line was adamantly added to the budget to prevent youth access. It's currently 19 to use all Nicotine products. This is the solution and it just started January 1, 2020.

Let me get back to my point; We're a small business in Hudson New Hampshire that sells vapor products to adults, and the fact is, Vapor products exist to give people an alternative to traditional smoking. So far, Flavored Nicotine has existed for 16 years and there has been no deaths and zero adverse health effects on record. Also, Public Health England (England is our brother in everything else) says e-cigarettes are 95% safer than traditional cigarettes and asked Parliament to mandate the sale of Vapor Products in every tobacco store and Hospitals as a healthier alternative to smoking. Do we as a country know better than England? I'd like to say that we do, but on this particular topic, unfortunately we don't. So, the question is: since cigarettes will NEVER be banned, why would you want to ban e-cigarettes or Flavored Nicotine Vape? 13 Million Americans successfully used Flavored Nicotine Vapor to quit cigarettes. Compare the success of the 'FDA approved' methods to quit smoking and you'll find those products are failing miserably.

Without being an approved 'smoking cessation', vaping successfully helped over 13MM people quit smoking. With numbers like that, you have to ask yourself; Why doesn't the FDA approve Vaping as smoking cessation?

If we ban Flavored Nicotine Vape in NH, people will just go and buy it online and instead of our New Hampshire small businesses being on the front line, working with the state and helping enforce youth prevention; you'll just be giving away the business to some garage-run online web-store in Albuquerque. Is that what you want?

The CDC hasn't sent any warnings regarding Flavored Nicotine Vapes. REF the CDC(dot)gov front page and see for yourself that it's Vitamin E Acetate that's been added to illegal THC cartridges that has been killing people. We pointed out this fact back in September 2019 and now the CDC is also pointing out this fact. - State Governments began blaming Vape Products in September 2019 'in the name of public health' using the data collected by the CDC and at the time the CDC hadn't identified the problem. Now the CDC knows exactly the cause. It's Vitamin E Acetate that's been added to illegal THC cartridges. REF: CDC(dot) com

Flavored Nicotine Vapor products have helped over 13 Million people successfully quit smoking traditional cigarettes. Flavored Nicotine Vape products are helping people. Meanwhile, combustable cigarettes are killing people. Flavored Nicotine Vape is by far, the number one

successful alternative to smoking and it presents a REAL chance to quit something that has been killing people. Destroying the numbers of The Patch, Nicorette Gum and Chantix Pills that are prescribed by Doctors.

Protecting our children is priority number one. So is allowing adults to legally use a product that hasn't harmed anyone (Fact check ref CDC). NH just passed 19 to use Nicotine this past November. This is the that State's solution to youth prevention. Not a ban. A ban only kills businesses within the state, puts people out of work and sends New Hampshire residents to the web, to buy their products from Albuquerque or even worse, China.

Remember; No one is asking people to vape. - It's a choice - . Just like the right to choose alcohol (90,000 deaths per year) or the right to choose Cigarettes (500,000 deaths per year). I've go a longer list here of legally and harmful things, but I'll spare you the drama.

(over)

REF:

Judge strikes down New York's ban on flavored vaping products ALBANY — A state Supreme Court justice has struck down New York's ban on the sale of certain flavored electronic liquids, granting an injunction sought by the vaping industry that challenged the legality and constitutionality of an emergency order issued last year by Gov. Andrew M. Cuomo and the state Health Department.

<https://timesunion.com/.../Judge-strikes-down-New-York-s-ban-...>  
#WeVapeWeVote #QuitLying #EndTheLies #msabloodmoney #vaping  
#ecigarette #eliquid #evali #cdc #fda #fdaapproved

Judge Blocks Michigan's Ban on Flavored E-Cigarettes

<https://www.usnews.com/news/politics/articles/2019-10-15/judge-blocks-michigans-ban-on-flavored-e-cigarettes>

CDC.GOV

[https://www.cdc.gov/tobacco/basic\\_information/e-cigarettes/severe-lung-disease.html](https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html)

# Policy Tip Sheet

POLICY ANALYSIS FROM  
THE HEARTLAND INSTITUTE

## *Tobacco Harm Reduction 101: New Hampshire*

Since their introduction to the U.S. market in 2007, e-cigarettes and vaping devices—tobacco harm reduction products that are 95 percent safer than combustible cigarettes—have helped more than three million American adults quit smoking.

### **1. Economic Impact**

According to the Vapor Technology Association, in 2018, the industry created 360 direct vaping-related jobs, including manufacturing, retail, and wholesale jobs in New Hampshire, which generated \$11 million in wages alone.<sup>1</sup> Moreover, the industry has created hundreds of secondary jobs in the Granite State, bringing the total economic impact in 2018 to \$77,357,800. In the same year, New Hampshire received more than \$3 million in state taxes attributable to the vaping industry. These figures do not include sales in convenience stores, which sell vapor products including disposables and prefilled cartridges. In 2016, sales of these products in New Hampshire eclipsed \$6.1 million.<sup>2</sup>

### **2. State Health Department Data**

As of October 7, 2019, the New Hampshire Division of Public Health Services (NHPHS) has reported the state's first probable case of a vaping-related lung illness.<sup>3</sup> There is information on age, gender, or substance vaped by the particular patient, but NHPHS noted that most patients in statewide reports indicated they had vaped tetrahydrocannabinol (THC). *The Heartland Institute gives NHPHS a grade of D for information available on vaping-related lung illnesses.*

### **3. More Information Needed**

The most recent report on youth e-cigarette use in New Hampshire is from the 2017 New Hampshire Youth Risk Behavior Survey.<sup>4</sup> According to the survey, in 2017, 76 percent of New Hampshire high school students reported *not using* a vapor product in the 30 days prior to the survey, and only 3.9 percent reported daily use. More data is needed to understand the effects of public health campaigns on youth e-cigarette use.

### **4. Youth Sales Miniscule**

From January 1, 2018 to September 30, 2019, the U.S. Food and Drug Administration (FDA) administered 1,106 tobacco age compliance inspections in New Hampshire, in which the agency used a minor in an attempt to purchase tobacco products.<sup>5</sup> Of those, 157, or 14 percent, resulted in a sale to a minor. Of the violations, 60 (38 percent of violations and 5 percent of all compliance checks) involved the sale of e-cigarettes or vaping devices. The number of violations involving sales of

cigars and cigarettes were 10 and 87, respectively, during the same period.

### **5. Misspent Money**

In 2019, New Hampshire received an estimated \$254.9 million in tobacco taxes and tobacco settlement payments. In the same year, the state spent only \$140,000, or less than 1 percent, on funding tobacco control programs, including education and prevention.<sup>6</sup> The lack of funding is notable in the state's telephone quit line, of which New Hampshire invests only \$2.12 per smoker, compared to the national average of \$2.21.

### **Policy Solution**

Electronic cigarettes and vaping devices have proven to be tremendous tobacco harm reduction tools, helping many smokers transition away from combustible cigarettes. Despite recent fearmongering, their use is significantly safer than traditional cigarettes, as noted by numerous public health groups including the Royal College of Physicians,<sup>7</sup> Public Health England,<sup>8</sup> and the American Cancer Society.<sup>9</sup> Rather than restricting their use, and undoubtedly reducing public health gains and millions of dollars in economic output, lawmakers should dedicate existing tobacco funds on programs that actually reduce youth use.

### **Key Points:**

1. New Hampshire's vaping industry provided more than \$77 million in economic activity in 2018 while generating 360 direct vaping-related jobs. Sales of disposables and prefilled cartridges in New Hampshire exceeded \$6.1 million in 2016.
2. As of October 7, 2019, NHPHS has reported one case of vaping-related lung illness, noting other state health departments finding patients vaping THC prior to illness. NHPHS earns a **D** for its reporting on vaping-related lung illnesses.
3. In 2019, only 3.9 percent of New Hampshire high school students reported daily e-cigarette use. More data is needed.
4. Only 5 percent of FDA retail compliance checks in New Hampshire resulted in sales of e-cigarettes to minors from January 1, 2018 to September 30, 2019.
5. New Hampshire spends very little on tobacco prevention. In 2019, New Hampshire dedicated only \$140,000 on tobacco control, or less than 1 percent of what the state received in tobacco settlement payments and taxes.

# Policy Tip Sheet

POLICY ANALYSIS FROM  
THE HEARTLAND INSTITUTE

## *Tobacco Harm Reduction 101: New Hampshire*

### References

- <sup>1</sup> Vapor Technology Association, “The Economic Impact of the Vapor Industry NEW HAMPSHIRE,” 2019, <https://vta.guerrillaeconomics.net/reports/46d2314b-b4da-4438-af7e-48c2b09b39d4?>
- <sup>2</sup> Teresa W. Wang et al., “National and State-Specific Unit Sales and Prices for Electronic Cigarettes, United States, 2012-2016,” *Preventing Chronic Disease*, Centers for Disease Control and Prevention, August 2, 2018, [https://www.cdc.gov/pcd/issues/2018/17\\_0555.htm](https://www.cdc.gov/pcd/issues/2018/17_0555.htm).
- <sup>3</sup> New Hampshire Division of Public Services, “Vaping-Associated Lung Injury Identified in NH,” *Fact Sheet*, New Hampshire Department of Health and Human Services, October 7, 2019, <https://www.dhhs.nh.gov/dphs/cdcs/alerts/documents/vaping-lung-injury-nh.pdf>.
- <sup>4</sup> New Hampshire Department of Health and Human Services, “New Hampshire High School Survey,” 2017 Youth Risk Behavior Survey Results, 2017, <https://www.dhhs.nh.gov/dphs/hsdm/documents/hs-summary-vrbs-results-2017.pdf>.
- <sup>5</sup> U.S. Food and Drug Administration, “Compliance Check Inspections of Tobacco Product Retailers,” September 30, 2019, [https://www.accessdata.fda.gov/scripts/oc/inspections/oc\\_insp\\_searching.cfm](https://www.accessdata.fda.gov/scripts/oc/inspections/oc_insp_searching.cfm).
- <sup>6</sup> Truth Initiative, “Tobacco use in New Hampshire,” June 28, 2019, <https://truthinitiative.org/research-resources/smoking-region/tobacco-use-new-hampshire-2019>.
- <sup>7</sup> Royal College of Physicians, *Nicotine without Smoke: Tobacco Harm Reduction*, April 2016, <https://www.rcplondon.ac.uk/projects/outputs/nicotinewithout-smoke-tobacco-harm-reduction-0>.
- <sup>8</sup> A. McNeill et al., “Evidence review of e-cigarettes and heated tobacco products 2018,” Public Health England, February 2018, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/684963/Evidence\\_review\\_of\\_e-cigarettes\\_and\\_heated\\_tobacco\\_products\\_2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684963/Evidence_review_of_e-cigarettes_and_heated_tobacco_products_2018.pdf).
- <sup>9</sup> The American Cancer Society, “What Do We Know About E-Cigarettes?” June 19, 2019, <https://web.archive.org/web/20190806152535/https://www.cancer.org/cancer/cancer-causes/tobacco-and-cancer/e-cigarettes.html>.

For more information, please refer to:

### **Tobacco Harm Reduction 101: A Guidebook for Policymakers**

<https://www.heartland.org/publications-resources/publications/latest-heartland-policy-booklet-addresses-vaping-myths>

This booklet from The Heartland Institute aims to inform key stakeholders on the much-needed information on the benefits of electronic cigarettes and vaping devices. *Tobacco Harm Reduction 101* details the history of e-cigarettes, including regulatory actions on these products. The booklet also explains the role of nicotine, addresses tax policy and debunks many of the myths associated with e-cigarettes, including assertions about “popcorn lung,” formaldehyde, and the so-called youth vaping epidemic.

Nothing in this *Policy Tip Sheet* is intended to influence the passage of legislation, and it does not necessarily represent the views of The Heartland Institute. For further information on this and other topics, visit the [Budget & Tax News](#) website, [The Heartland Institute’s website](#), and [PolicyBot](#), Heartland’s free online research database.

The Heartland Institute can send an expert to your state to testify or brief your caucus; host an event in your state; or send you further information on a topic. Please don’t hesitate to contact us if we can be of assistance! If you have any questions or comments, contact Heartland’s government relations department, at [governmentsrelations@heartland.org](mailto:governmentsrelations@heartland.org) or 312/377-4000.

DID NOT SPEAK  
SUBMITTING WRITTEN.

Hello and good day, I am hoping you take the time to read this and for what its worth I am speaking from the heart. Please Reject both of these Bills HB 1410 and HB 1624. Banning Flavored nicotine products is not the answer. I am 47 years old, I have a family and I have a small mom and pop business and my family depends on my income. Banning flavored nicotine e-cigarettes would be detrimental and put not only myself but tons of other small businesses out of work and a job.. Since 2013 I have helped thousands of Americans get off combustible tobacco cigarettes and as a result they are in fact living a better lifestyle. Adults need access to flavors. The CDC even acknowledged it's a safer alternative to traditional cigarettes. If e-cigarettes/ Vape were around 40-50 years ago maybe more kids would have grandparents today. I lost my mom to cancer 10 years ago and she smoked all her life. Maybe she would be alive today if vaping was available. What we need to Ban Tobacco Cigarettes that in fact kill over 480,000 Americans every year. Think about it there is cotton candy vodka on the shelf's and that's not appealing to kids. I get it I have kids I love them and I want to protect them, but its up to us as parents to keep of children away from adult things. The big epidemic thats going on now are in Fact caused from those underground THC Vape cartridges. Not nicotine vape. I have been doing this for 7 years trust me. I do think JUUL pods should be banned because there nicotine levels are so high in those pods. Open tank systems we have a 0mg, 3mg and a 6mg. Far less from a 50mg in a JUUL pod.

If anything Ban online sales and ban the enclosed High nicotine strength cpods not the open tank systems.

Thank you for your time and consideration.

Michael Boutin  
603-475-9497

Mike@  
GPVapor.com

380 DW  
Hrs hwr  
mest.malc





#13  
Tom  
Prasol

HB 1410 - AS INTRODUCED

2020 SESSION

HOUSE BILL **1410**

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty*

AN ACT prohibiting the use of flavors and certain chemicals in vaping products.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 Statement of Intent. The general court recognizes that flavored vaping products encourage teenagers to use vaping products, therefore, the general court hereby prohibits the sale of any flavors, except menthol, in any vaping or electronic cigarette products.

2 New Section; Youth Access to Tobacco Products; Flavors and Chemicals in E-Liquids. Amend RSA 126-K by inserting after section 4-a the following new section:

126-K:4-b Certain Flavors and Chemicals Prohibited in E-Liquids. Flavors, except **tobacco or** menthol, are prohibited in e-cigarettes and other vaping products. In addition, no chemicals shall be added to e-liquids or other vaping products which are prohibited for use as a food additive by the federal Food and Drug Administration or known to cause disease when inhaled in concentrations achieved by vaping.

3 New Section; Alcoholic Beverages; Tobacco Products; E-Liquids. Amend RSA 175 by inserting after section 5-b the following new section:

175:5-c Certain Flavors and Chemicals Prohibited in E-Liquids. Flavors, except **tobacco or** menthol, are prohibited in e-cigarettes and other vaping products. In addition, no chemicals shall be added to e-liquids or other vaping products which are prohibited for use as a food additive by the federal Food and Drug Administration or known to cause disease when inhaled in concentrations achieved by vaping.

4 Effective Date. This act shall take effect January 1, 2021.



Statement of Lance Boucher  
Senior Division Director, State Public Policy – East Division  
American Lung Association  
Before the New Hampshire House Committee on Commerce & Consumer Affairs  
January 15, 2020

Good morning Chair Butler and members of the committee, thank you for the opportunity to testify before you today. My name is Lance Boucher and I'm the Senior Division Director for State Public Policy for the American Lung Association. On behalf of the Lung Association, we are pleased to speak today in support of HB 1410 "an act prohibiting the use of flavors and certain chemicals in vaping products," with the amendment adding menthol as proposed by the sponsor.

The Lung Association works on behalf of the 33 million Americans living with lung diseases including lung cancer and COPD – which are primarily caused by tobacco use and exposure to secondhand smoke.

We have made tremendous progress in reducing adult and youth cigarette smoking rates to all-time lows, with 5.8 percent of high school students in 2019 and 13.7 percent of adults smoking cigarettes in 2018, according to Centers for Disease Control and Prevention (CDC) surveys. However, this positive news was tempered by a dramatic and extremely troubling rise in youth use of e-cigarettes.

In new data from CDC's 2019 National Tobacco Youth Survey (NYTS), e-cigarette use soared by another 32 percent among high school students from 2018-2019 showing that 27.5 percent of high school users have used e-cigarettes in the last month, compared to 11.7% in 2017 and 20.8% in 2018. This equals more than 5 million middle and high school students who now use e-cigarettes.

Flavors have been consistently cited as one of the main reasons kids use e-cigarettes and flavored tobacco products more generally. From the 2019 NYTS, 71.1 percent of high school students who currently use e-cigarettes reported using flavored e-cigarettes in the past month. In a November 2019 study in the *Journal of the American Medicaid Association* using data from the 2019 NYTS, 66% of high school students who currently used e-cigarettes reported using fruit flavors and 57.7% reported using mint or menthol flavors in the last month. Overall, according to the 2019 NYTS close to 73% of high school students who use tobacco products reported using a flavored product.

The American Lung Association has been sounding the alarm about e-cigarettes for more than a decade *and warns against the use of all e-cigarettes* as the inhalation of harmful chemicals found in e-cigarettes can cause irreversible lung damage and lung disease. The developing lungs of youth may be more at risk.

Continued progress on reducing both cigarette smoking, and other tobacco product use requires bold and swift action on the part of our federal, state and local governments. But we cannot sit here and wait for potential action from our partners on the federal level. It is imperative that New Hampshire acts now – as waiting for other levels of government to act may lead to not only another generation of New Hampshire kids addicted to tobacco products but ultimately more tobacco-caused death and disease.

We recognize, in the absence of strong federal action especially by the FDA, New Hampshire is being forced to make decisions to protect the health of children and adults from vaping-related public health emergencies.



The American Lung Association strongly supports ending the sale of ALL flavored tobacco products, including flavored e-cigarettes, menthol cigarettes and flavored cigars, and encourages a comprehensive evidenced-based approach to prevention and limiting access to all tobacco products.

Without a doubt, flavored tobacco products are attractive to kids, and flavors are one of the main reasons the youth use of e-cigarettes has reached epidemic levels. According to a 2018 study from the Centers for Disease Control and Prevention (CDC), one of the primary reasons teens use e-cigarettes is because candy and fruit flavors are appealing to them.

E-cigarettes are a tobacco product that produces an aerosol by heating a liquid that typically contains nicotine, flavorings, and other chemicals. E-cigarettes currently being sold have not been reviewed by the Food and Drug Administration. That means the company has not had to disclose the ingredients in their products to the FDA. But we do know that e-cigarettes include nicotine, as well as chemicals and toxins which are unsafe to inhale. Since 2016, we've had evidence that flavor additives in e-cigarettes – especially those that are based on natural plant-based extracts, are menthol-based and food-related additives such as cinnamaldehyde – are particularly toxic to lungs when they are inhaled. One study found that these additives significantly affect the lung cell viability and the respiratory barrier integrity<sup>1</sup>. Another study found that lower concentrations of these flavor additives in e-cigarettes caused inflammation and created symptoms consistent with endothelial dysfunction<sup>2</sup>. And the presence of chemicals such as diacetyl and acetyl propionyl, are associated with respiratory disease.<sup>3</sup> The FDA must use its authority to clear the market of products that have not undergone premarket review. Absent FDA enforcing the Tobacco Control Act, local, state and federal policymakers must use every tool at their disposal to end this public health emergency.

One of the most effective policies that New Hampshire can implement to address the youth e-cigarette epidemic is the restriction of the sale of all flavored tobacco products. Recognizing that almost all tobacco users begin their use during their adolescence or young adulthood, tobacco companies have spent billions of dollars marketing their products and making them more attractive to young people. For decades, the tobacco industry has used flavors to attract youth. Indeed, the industry's decades-long conspiracy to deceive the public includes many documents that demonstrate the industry's understanding of the role flavors play in tobacco use initiation. We must counter their attempts to addict the next generation of nicotine addicted youth to their products.

When considering legislation to address flavored tobacco products, it is important that the proposal is comprehensive - addressing all flavors and all products. While most flavored cigarettes are prohibited federally, menthol is not. The American Lung Association strongly supports menthol cigarettes being removed from the marketplace and has been calling for such action since 2011. In April 2013, the American Lung Association and our partners submitted a formal citizen petition to the FDA, requesting that the Commissioner "prohibit menthol as a characterizing flavor of cigarettes."<sup>4</sup> In it, our organizations cited the FDA's Tobacco Products Scientific Advisory Committee (TPSAC) report, which concluded:

1. Menthol cigarettes have an adverse impact on public health in the United States;

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<sup>1</sup> Fetterman, J.L., et al. (2018). Flavorings in Tobacco Products Induce Endothelial Cell Dysfunction. *Arterioscler, Thrombosis, and Vascular Biology*. Retrieved from <http://atvb.ahajournals.org/content/early/2018/06/13/ATVBAHA.118.311156>

<sup>2</sup> Fetterman, J.L., et al. (2018). Flavorings in Tobacco Products Induce Endothelial Cell Dysfunction. *Arterioscler, Thrombosis, and Vascular Biology*. Retrieved from <http://atvb.ahajournals.org/content/early/2018/06/13/ATVBAHA.118.311156>

<sup>3</sup> Farsalinos, K.E., et al. (2014). Evaluation of Electronic Cigarette Liquids and Aerosols for the Presence of Selected Inhalation Toxins. *Nicotine & Tobacco Research*. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4892705/>

<sup>4</sup> American Lung Association and other health groups. (2013). Citizens Petition to the Division of Dockets Management at the Food and Drug Administration re Menthol in Cigarettes. Retrieved from <http://www.lung.org/assets/documents/advocacy-archive/menthol-citizen-petition.pdf>



2. Menthol cigarettes offer no public health benefits.
3. Menthol cigarettes increase the likelihood of addiction and the degree of addiction in youth smokers.

Menthol is not only a flavoring, but a chemical with complex, drug-like properties that can impact smoking initiation, addiction and cessation. Menthol has cooling and anesthetic properties which reduce the harshness of cigarette smoke for new smokers. Menthol also reduces airway pain and irritation and can suppress coughing, which can mask the early warning symptoms of smoking-induced respiratory problems. Use of menthol cigarettes by youth also makes it more likely that youth will go on to become regular smokers. While overall cigarette sales have been declining, the proportion of smokers using menthol cigarettes has been increasing, and over half of kids who smoke cigarettes use menthol cigarettes.

The health disparities the use of menthol cigarettes has caused is also very troubling. The sale and marketing of menthol cigarettes disproportionately burdens the African-American community as a result of decades of targeted marketing to the African-American community by the tobacco industry<sup>5</sup>. The use of menthol is more common among youth, female smokers, LGBT smokers<sup>6</sup>, those with mental illness and racial and ethnic minorities, especially African-Americans. Nearly 9 in 10 African-American smokers (88.5 percent) aged 12 years old and older use menthol cigarettes<sup>7</sup>.

We appreciate the opportunity to join you this morning and your attention to addressing the crisis before us. With a vision of a world free of lung disease, the American Lung Association is working to eliminate the use of all tobacco products. We support strong tobacco prevention policies that are proven to reduce tobacco rates. A comprehensive approach, including policies discussed today restricting the sale of flavored tobacco products is needed to realize this vision and address the youth e-cigarette epidemic and prevent today's youth from being the next generation of kids addicted to nicotine. We strongly support the legislation before you today, HB 1410, with the amendment provided by the sponsor to include menthol flavoring. We further urge the Committee to amend the legislation to address the youth tobacco epidemic comprehensively. The Lung Association believes that the most effective way to protect our youth is through a comprehensive policy measure that would include all flavors and all tobacco products, including but not limited to menthol cigarettes, cigars and smokeless products.

Again, thank you for your time and the opportunity to address the Committee in support of HB 1410, with suggested amendments.

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<sup>5</sup> Too Many Cases, Too Many Deaths: Lung Cancer in African Americans, American Lung Association. <https://www.lung.org/assets/documents/research/ala-lung-cancer-in-african.pdf>

<sup>6</sup> Menthol cigarette smoking among lesbian, gay, bisexual, and transgender adults.

Fallin A1, Goodin AJ2, King BA3. <https://www.ncbi.nlm.nih.gov/pubmed/25245795>

<sup>7</sup> <https://truthinitiative.org/news/6-key-takeaways-new-fda-plan-e-cigarettes-flavored-tobacco-products>





#16  
Nancy Vaughan



American Heart Association.

You're the Cure

**American Heart Association**  
2 Wall Street | Manchester, NH 03101

January 15, 2020

House Commerce and Consumer Affairs Committee

Re: HB 1410, an act prohibiting the use of flavors and certain chemicals in vaping products

Chairman Butler, Vice Chair Williams and Committee Members;

The American Heart Association (AHA) is strongly in support of a statewide policy which eliminates the sales of flavored tobacco products, including electronic cigarettes, allowing only for 'tobacco flavored products'. Because the overwhelming majority of young people (81%) are attracted to using tobacco products for the first time by sweet, fruity or minty flavors, this policy, as part of a comprehensive set of tobacco control policies, will help reduce tobacco use among young people. We are grateful to the bill sponsor and co-sponsors for bringing HB 1410 forward as a starting point to an effective policy. However, we do have a couple of recommendations to make this policy more effective.

#### Menthol

The AHA encourages the Commerce Committee to amend the bill to eliminate the sale of all characterizing flavors, including menthol. Because menthol produces a cooling and soothing effect, and because all candy -flavored products are more attractive to kids, flavored products are more appealing for youth and other inexperienced tobacco users.

#### All Tobacco Products

The AHA would also recommend the elimination of flavored tobacco sales extend beyond electronic cigarettes to All Tobacco; menthol cigarettes, flavored cigars, cigarillos, hookah and smokeless tobacco products. Far too many people – more than half of all youth and young adult smokers – now smoke menthol cigarettes. Leaving menthol flavored traditional cigarettes on the market creates the potential for young users to switch to smoking these products and does not encourage tobacco cessation among adult smokers.

#### Model Definition

The AHA suggests the following model definition. "Flavored tobacco product" means any tobacco product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to, or during the consumption of , a tobacco product, including, but limited

to, any taste or smell relating to menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, or any candy, fruit, dessert, alcoholic beverage, herb or spice.

Tobacco use remains the leading cause of preventable death in the United States, killing nearly ½ million people each year. Tobacco use causes heart disease, stroke, cancer, respiratory disease, and other health disorders. In New Hampshire, tobacco use results in \$729 million per year in healthcare costs! Tobacco control policies in New Hampshire over the past 20 years had resulted in a decrease in youth initiation from over 30% to 7.8%, however the use of e-cigarettes by 24% of teens, threaten this public health success.

The easy availability of menthol cigarettes, flavored cigars, flavored hookah and youth friendly e-cigarette candy-like flavors is causing an increase in youth tobacco use of epic proportions. 1 in 4 high school students in New Hampshire report being regular users of these products. The 2019 National Youth Tobacco Survey found youth use of e-cigarettes have increased even further across the country – and flavors such as menthol, mint and fruit are driving the increase. Thank you and please consider me as a resource to you as the committee, or a subcommittee, works on improving HB 1410. Working together we can drive down smoking, vaping and all forms of tobacco and nicotine use.

Sincerely,

Nancy Vaughan  
Director of Government Relations, NH  
American Heart Association

[Nancy.vaughan@heart.org](mailto:Nancy.vaughan@heart.org); 603-263-8329

Bill as  
Introduced



HB 1410 - AS INTRODUCED

2020 SESSION

20-2208  
01/10

HOUSE BILL            **1410**

AN ACT                prohibiting the use of flavors and certain chemicals in vaping products.

SPONSORS:            Rep. Knirk, Carr. 3; Rep. Martin, Hills. 23; Rep. Marsh, Carr. 8; Rep. Indruk, Hills. 34; Rep. Muscatel, Graf. 12; Rep. R. Osborne, Graf. 7; Rep. Woods, Merr. 23; Rep. Fargo, Straf. 14; Rep. Crawford, Carr. 4; Sen. Rosenwald, Dist 13; Sen. Sherman, Dist 24

COMMITTEE:          Commerce and Consumer Affairs

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ANALYSIS

This bill prohibits certain flavors and chemicals from being added to e-liquids or other vaping products.

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Explanation:          Matter added to current law appears in *bold italics*.  
Matter removed from current law appears ~~[in brackets and struck through]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty*

AN ACT                    prohibiting the use of flavors and certain chemicals in vaping products.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            1 Statement of Intent. The general court recognizes that flavored vaping products encourage  
2 teenagers to use vaping products, therefore, the general court hereby prohibits the sale of any  
3 flavors, except menthol, in any vaping or electronic cigarette products.

4            2 New Section; Youth Access to Tobacco Products; Flavors and Chemicals in E-Liquids. Amend  
5 RSA 126-K by inserting after section 4-a the following new section:

6            126-K:4-b Certain Flavors and Chemicals Prohibited in E-Liquids. Flavors, except menthol, are  
7 prohibited in e-cigarettes and other vaping products. In addition, no chemicals shall be added to e-  
8 liquids or other vaping products which are prohibited for use as a food additive by the federal Food  
9 and Drug Administration or known to cause disease when inhaled in concentrations achieved by  
10 vaping.

11           3 New Section; Alcoholic Beverages; Tobacco Products; E-Liquids. Amend RSA 175 by inserting  
12 after section 5-b the following new section:

13           175:5-c Certain Flavors and Chemicals Prohibited in E-Liquids. Flavors, except menthol, are  
14 prohibited in e-cigarettes and other vaping products. In addition, no chemicals shall be added to e-  
15 liquids or other vaping products which are prohibited for use as a food additive by the federal Food  
16 and Drug Administration or known to cause disease when inhaled in concentrations achieved by  
17 vaping.

18           4 Effective Date. This act shall take effect January 1, 2021.