

Committee Report

CONSENT CALENDAR

February 12, 2020

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Commerce and Consumer Affairs to
which was referred HB 1624-FN,

AN ACT establishing a moratorium on sales of e-
cigarettes. Having considered the same, report the
same with the following resolution: **RESOLVED**, that it
is **INEXPEDIENT TO LEGISLATE**.

Rep. Constance Van Houten

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Commerce and Consumer Affairs
Bill Number:	HB 1624-FN
Title:	establishing a moratorium on sales of e-cigarettes.
Date:	February 12, 2020
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill would establish a moratorium on the sale of e-cigarettes for the length of time it takes the Commissioner of Health and Human Services to determine that they are not a cause of illness or death. However, the bill only provides an indeterminate timeline for such a moratorium. Furthermore, the bill does not establish any parameters by means of which the Commissioner of Health and Human Services can make this determination. In sum, the bill is too broad as it is written.

Vote 20-0.

Rep. Constance Van Houten
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Commerce and Consumer Affairs

HB 1624-FN, establishing a moratorium on sales of e-cigarettes. **INEXPEDIENT TO LEGISLATE.**

Rep. Constance Van Houten for Commerce and Consumer Affairs. This bill would establish a moratorium on the sale of e-cigarettes for the length of time it takes the Commissioner of Health and Human Services to determine that they are not a cause of illness or death. However, the bill only provides an indeterminate timeline for such a moratorium. Furthermore, the bill does not establish any parameters by means of which the Commissioner of Health and Human Services can make this determination. In sum, the bill is too broad as it is written. **Vote 20-0.**

HB 1624-FN, an act establishing a moratorium on the sale of e-cigarettes.

INEXPEDIENT TO LEGISLATE.

Rep. Constance Van Houten for Commerce and Community Affairs. This bill would establish a moratorium on the sale of e-cigarettes for the length of time it takes the commissioner of the department of health and human services to determine that they are not a cause of illness or death. However, the bill only provides an indeterminate timeline for such a moratorium. Furthermore, the bill does not establish any parameters by means of which the commissioner of the department of health and human services can determine that e-cigarettes are not a cause of illness or death. In sum, the bill is too broad as it is written. **Vote 20-0.**

Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1624-FN

BILL TITLE: establishing a moratorium on sales of e-cigarettes.

DATE: February 4, 2020

LOB ROOM: 302

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Van Houten

Seconded by Rep. Fargo

Vote: 20-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Joyce Weston, Acting Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1624-FN

BILL TITLE: establishing a moratorium on sales of e-cigarettes.

DATE: 2/4/2020

LOB ROOM: 302

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # 20-0
- Interim Study (2nd year)
- (if offered)*

Moved by Rep. Van Houten Seconded by Rep. Fargo Vote: _____

MOTION: (Please check one box)

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

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

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

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

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

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

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

Respectfully submitted: Rebecca McBeath
Rep Rebecca McBeath, Clerk



2020 SESSION

Commerce and Consumer Affairs

 Bill #: 1624-FN Motion: ITL AM #: _____ Exec Session Date: 2/4/2020

<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.	✓		
McBeath, Rebecca Susan Clerk	✓		
Bartlett, Christy D.	✓		
Herbert, Christopher J.	✓		
Van Houten, Constance	✓		
Fargo, Kristina M.	✓		
Indruk, Greg L.	✓		
Muscatel, Garrett D.	✓		
Weston, Joyce	✓		
Hunt, John B.	✓		
Sanborn, Laurie J.	✓		
Osborne, Jason M.	✓		
Costable, Michael	✓		
Plumer, John R.	✓		
Barnes, Arthur E.	✓		
Potucek, John M.	✓		
Warden, Mark	✓		
TOTAL VOTE:	<u>20</u>		

Sub-Committee Actions

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 1624-FN

BILL TITLE: establishing a moratorium on sales of e-cigarettes.

DATE: January 30, 2020

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

Comments and Recommendations: P Schmidt agrees we are addressing this issue.

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Rep. Butler

Seconded by Rep. Rep. Hunt

Vote: 6-0

Respectfully submitted,

Rep. Kristina Fargo
Subcommittee Clerk

Fargo

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 1624-FN

BILL TITLE: establishing a moratorium on sales of e-cigarettes.

DATE: 1/30/20

Subcommittee Members: Reps. Van Houten, Hunt, J. Osborne, Gidge, Williams, Potucek and Butler. MacBeath, Fargo

Comments and Recommendations:

P. Schmidt agrees we are addressing this issue. Motion to ITL

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

Moved by Rep. Butler Secoded by Rep. Hunt AM Vote: 6-0

Adoption of Amendment #

Moved by Rep. Secoded 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. Secoded by Rep. AM Vote:

Adoption of Amendment #

Moved by Rep. Secoded by Rep. Vote:

Amendment Adopted Amendment Failed

Respectfully submitted,

Rep. Subcommittee Chairman/Clerk

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1624-FN

BILL TITLE: establishing a moratorium on sales of e-cigarettes.

DATE: January 15, 2020

LOB ROOM: 302

Time Public Hearing Called to Order: 12:20 pm

Time Adjourned: 1:48 pm

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

Bill Sponsors:

Rep. P. Schmidt

Rep. Cleaver

TESTIMONY

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

Rep Hunt Introduced the bill.

1. Mr Scott - NH Vapors Association

Written testimony via email

* Will work with sub-committee

* Will provide contact info

2. Steve Gorham - Smoke Ends Inc.

*Helps people stop smoking and live longer

*10 years in NH Industry

*6.6 million lives could be saved if cigarette smokers convert to vaping. Need "hand to mouth".

*Convenience shops are his stores,

*Does not sell flavors

*Vape shops are safer

*Does not support this bill because the Black Market will flourish.

3. Peter Schmidt - Sponsor

*Health & Human Services Commissioner to withhold the sales until determined that they are safe

*Products are highly addictive and marketed to youth. Need to determine how long children would be addicted, similar to cigarettes.

*Wanted to be sure we had a bill to evaluate the safety of these products.

Rep Costable

Question: Don't we know deaths were caused by illegal THC products?

Answer: Yes

Rep Plumer

Question: Do you know the impact of this bill on the industry?

Answer: Significant, but safety is paramount over this novel industry.

4. Richard Parsons - Reynolds American - Written testimony

*Opposes Bill

*Will work with the sub-committee

Rep Butler

Question: E-liquids are FDA approved?

Answer: Have not processed the applications yet. Have until May 13th, 2020.

Question: Are any approved?

Answer: Anything prior to 2007. Any product prior to that is grandfathered.

5. John Shear - Convenience Stores

*Will submit written testimony

*Products are regulated, enforced, and taxed today.

*Bans will force the black market

*Fiscal note - does not take lost revenue from new taxes into consideration. 5.7 million according to DRA

Respectfully Submitted

Kristina M. Fargo

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1624-FN

BILL TITLE: establishing a moratorium on sales of e-cigarettes.

DATE: 1/15/20

ROOM: 302

Time Public Hearing Called to Order: 12:20

Time Adjourned: 1:48

(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. P. Schmidt

Rep. Cleaver

TESTIMONY

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

Rep. Hunt introduced bill

#1 Mr. Scott - NH Vapors Assoc.

* Written testimony - by email

- Will work on sub-committee

- Will provide contact info

#2 Steve Gosham - SmokeEnds Inc.

- helps people stop smoking & live longer

- 10 years in NH industry

- 6.6M lives could be saved

if cigarette smokers convert

to vaping. Need "hand to mouth"

- Convenience Shops are his stores.

- Vape Shops are safer. Does not sell flavors

- does not support this bill because Black Market will flourish.

#3 Peter Schmidt - Sponsor

Health
& Human
Services

- bill would allow the Commissioners to withhold the sales until determined if they are safe.
- products are highly addictive and marketed to youth. Need to determine how long children would be addicted, similar to cigarettes.

Q Wanted to be sure we had a bill to evaluate the safety of these products.

Q Costable - Don't we know deaths were caused by illegal THC products?

A Yes but we

Q Plumer - Do you know impact of this bill on the industry
A Significant but safety is paramount over this novel industry.

#4 Richard Parsons - Reynolds American
* Written Testimony

- Opposes bill
- Will work with the sub-committee

Q - Butlers - E-signatures are FDA approved?

A - Have not processed the applications yet. Have until May 13th 2000

Q - Butlers - Are any approved?

A - ~~Nothing~~ ~~over~~ to 2007. Any

product prior to that is grandfathered.

#5 John Shear - Convenience Stores *

- Will submit written testimony
- Products are regulated, today enforced and taxed
- Bars will force black market

- Fiscal Note - does not take

~~lost~~ revenue from

new taxes into consideration
5.7M according to DPH

Testimony

#4
Richard
Parsons

**REYNOLDS AMERICAN
TESTIMONY ON HB 1624-FN
HOUSE COMMERCE AND CONSUMER AFFAIRS COMMITTEE
JANUARY 15, 2020**

Good morning, Mr. Chairman and members of the committee. Thank you for the opportunity to provide industry input on HB 1624-FN.

Earlier this week in a hearing on HB 1662, you heard from numerous witnesses about the benefits of ensuring that New Hampshire state law and regulations are kept consistent with changes in federal law. In the case of HB 1662, which involves the legal age for purchase of tobacco products and e-cigarettes, the testimony of state agencies and other stakeholders was strongly in favor of raising the state age from 19 years of age to the new federal floor of 21, in order to make sure that businesses, patrons and law enforcement avoid serious confusion over the issue.

Passing the state's own blanket moratorium, as this legislation proposes and as other states have demonstrated, runs the risk of imposing an ineffective solution. Such a moratorium will likely expand the black-market sales of unsafe products, products which are now recognized as being at the root of the recent widespread health problems related to vaping.

Respectfully, we would request that the committee consider amending HB 1624-FN to be consistent with federal procedures and guidelines on this matter. Currently, the Federal Food and Drug Administration (FDA) has issued guidelines for a Pre-Market Tobacco Application (PMTA) process. The process states that virtually all cartridge-based products except tobacco and menthol will be off the market as of Feb. 8, 2020, pending submission of new PMTA requests by a May 11, 2020, deadline. The FDA will review all applications, and only products that have been found to be safe can fully re-enter the market following federal certification. HB 1624-FN relies on the commissioner of the state Department of Health and Human Services to determine product safety, with certification by the secretary of state and the director of legislative services. We believe these duties are best assigned to the FDA, which has both the resources and expertise to more effectively carry out the process and guarantee public safety.

We stand ready and willing to work with the committee on amendments to HB 1624-FN that will provide appropriate and meaningful solutions.

Bill as
Introduced

HB 1624-FN - AS INTRODUCED

2020 SESSION

20-2660
01/10

HOUSE BILL **1624-FN**
AN ACT establishing a moratorium on sales of e-cigarettes.
SPONSORS: Rep. P. Schmidt, Straf. 19; Rep. Cleaver, Hills. 35
COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill establishes a moratorium on the sale of "e-cigarettes" for the length of time it takes the commissioner of the department of health and human services to determine that they are not a cause of illness or death.

.....

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 establishing a moratorium on sales of e-cigarettes.

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

1 1 Moratorium on the Sale of E-Cigarettes. There shall be a moratorium on the sale of e-
2 cigarettes until the commissioner of the department of health and human services determines that
3 they are not a cause of illness or death as certified by the commissioner to the secretary of state and
4 the director of legislative services. For the purposes of this section, "e-cigarette" means any
5 electronic smoking device composed of a mouthpiece, a heating element, a battery, and electronic
6 circuits that may or may not contain nicotine. This term shall include such devices whether they are
7 manufactured as e-cigarettes, e-cigars, or e-pipes, or under any other product name.

8 2 Effective Date. This act shall take effect upon its passage.

HB 1624-FN- FISCAL NOTE
AS INTRODUCED

AN ACT establishing a moratorium on sales of e-cigarettes.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	\$0	\$69,550	\$69,550	\$69,550
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General Medicaid funds	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other Federal

METHODOLOGY:

This bill establishes a moratorium on the sale of e-cigarettes until the commissioner of the Department of Health and Human Services determines that they are not a cause of illness or death. The Department of Health and Human Services states that the proposed moratorium may result in increased demand for the Tobacco Quitline Program, as individuals previously using e-cigarettes as a transitional measure may try to quit smoking via other means. Based on moratoriums in other states, the Department anticipates a 24 percent increase in demand for Quitline services during the first year of the moratorium. Based on anticipated Quitline costs of \$156,526, this would result in a \$37,566 increase in the first year of the moratorium. Additionally, based on anticipated annual costs of \$133,268 for approved tobacco cessation medication for the uninsured, Medicare, and Medicaid populations, the Department expects an increase of \$31,984 in costs for these services. These costs would be paid for with a combination of state and federal Medicaid funds. The combined total of \$69,550 per year (shown in the table above) assumes the moratorium will take effect in the beginning of FY 2021 and remain in effect through FY 2023.

The Department of Revenue Administration notes that the moratorium may result in a revenue decrease, as the State's tobacco tax is scheduled to apply to e-cigarettes as of January 1, 2020. For informational purposes, the current FY 2020/21 operating budget assumes that the tobacco tax applied to e-cigarettes will generate a total of \$5.7 million in FY 2021 (\$3.2 million for the state general fund, and \$2.5 million for the education trust fund).

AGENCIES CONTACTED:

Departments of Health and Human Services and Revenue Administration