



HR 2339 is a Big Gift to Big Tobacco
Pallone-Shalala Flavor Ban and Tax
Will Lead to Increased Cigarette Sales, Millions Fewer Quitters and
the Loss of 13,000 Small Businesses

Washington, D.C., February 27, 2020 — The Vapor Technology Association (VTA) warned today that proponents and supporters of HR 2339 in the U.S. House of Representatives will unwittingly devastate American public health and hand deliver control of the market to Big Tobacco.

“HR 2339’s ban on flavors in e-cigarettes and massive tax increase, among its other provisions, will benefit Big Tobacco by eliminating vapor products as an alternative for adults who are desperately trying to quit smoking cigarettes, while shuttering the small businesses which are competing with Big Tobacco,” said Tony Abboud, Executive Director of the Vapor Technology Association.

“Make no mistake, HR 2339 will do little to protect youth and will endanger U.S. public health for years to come for at least three specific reasons: (1) banning flavors will increase smoking or force adults to the black market; (2) empirical research proves that e-cigarette taxes increase cigarette sales and cause fewer smokers to quit; and (3) flavor bans will shut down more than 13,000 small businesses and lay off 150,000 American workers.”

“*First*, public health experts have repeatedly warned that banning e-cigarette flavors will drive adult consumers back to smoking deadly cigarettes. Just this week, Dr. Amy Fairchild, Dean of the College of Public Health at Ohio State University, published an Op Ed in the *Columbus Dispatch*¹ [saying](#), ‘We have evidence that smokers who vape nicotine with flavors are two to three times more likely to quit smoking. It is critically important to find a vape that is satisfying enough to help a smoker move completely away from cigarettes.’

“Also, a study from Penn State University researchers just released concluded that banning flavors will lead to increased smoking and consumers turning to the black market or flavoring products themselves:

‘If their preferred flavor or all the non-tobacco flavors were banned, very few participants anticipated that they would stop using e-cigarettes or use e-cigarettes less, but about 50% reported they would ‘find a way to buy my preferred flavor or ‘add flavoring agents myself’ (Table 4).’ A total of 36 (9.7%) reported that ‘I would return to smoking traditional tobacco cigarettes’, if all non-tobacco flavors were banned.’²

¹ <https://www.dispatch.com/opinion/20200226/vaping-smoking-restrictions-neither-necessary-fair/1?fbclid=IwAR25siREzAjOt-i4j4RXLVbJZKBwD3umzzf3D0H4tqo4DqIRdlt1rAidNJU>

² Du, Ping, et. al., Changes in Flavor Preference in a Cohort of Long-term Electronic Cigarette Users, *Annals of the American Thoracic Society*, January 2020, <https://www.atsjournals.org/doi/pdf/10.1513/AnnalsATS.201906-472OC>



“*Second*, two recent studies funded by the National Institutes of Health have concluded that the Pallone-Shalala e-cigarette tax in HR 2339 will *increase* smoking of combustible cigarettes. In January 2020, [Cotti et al.](#)³ concluded:

‘Our study suggests that, as intended, e-cigarette taxes raise e-cigarette prices and reduce e-cigarette sales. **However, an unintended effect is an increase in cigarette sales.**’ (Cotti et al., p. 25)

“Importantly, the authors analyzed *the specific tax now in HR 2339* and concluded:

‘This price increase would reduce e-cigarette purchases by 3,188 ml per 100,000 adults (\$2.54 x 1,255 from Table 5), but would increase traditional cigarette purchases by 29,182 packs per 100,000 adults (\$2.54 x 11,489 from Table 5). **Therefore, a national e-cigarette tax will increase traditional cigarettes purchased by 6.2 extra packs for every one standard e-cigarette pod of 0.7 ml no longer purchased.**’ (Cotti et al., p. 25)

“Also, in December 2019, [Saffer et al.](#)⁴ examined the massive tax imposed in Minnesota and concluded that the tax on e-cigarettes prevented 32,400 adult smokers from quitting: “If this tax were imposed on a national level, about 1.8 million smokers would be deterred from quitting in a ten year period.” (Saffer et al., p. 21) However, the researchers go on to warn against the tax equalization in HR 2339:

‘**Some have suggested that e-cigs should be taxed at the same rate as cigarettes. Implementation of that policy would** raise the price of e-cigs by approximately 62 percent, increase smoking participation by 8.1 percent, and **deter approximately 2.75 million smokers from quitting.**’ (Saffer et al., p. 21)

“*Third*, as VTA has repeatedly warned, flavors are essential to the more than 13,000 small businesses that make up the independent (i.e., non-tobacco) side of the industry. HR 2339 will shut down America’s small business driven vapor products industry, which is an essential part of the American economy. According to the [Economic Impact of a Ban on Flavored Vapor Products](#) analysis conducted by economist John Dunham & Associates, a ban on all flavored vapor will decimate the vapor products distribution chain, resulting in the loss of over 150,000 jobs, \$22 billion in economic activity, and more than 13,000 small businesses.

“Youth vaping is already being aggressively addressed. In December 2019, the President signed the bi-partisan bill banning the sale of tobacco products – including e-cigarettes – to buyers under age 21. Also, the FDA has now banned the sale of all flavored e-cigarette products sold in cartridges and pods. Moreover, the most recent NYTS 2019 results have

³ Cotti, Chad, et al., The Effects Of E-Cigarette Taxes One-Cigarette Prices And Tobacco Product Sales: Evidence From Retail Panel Data, National Bureau of Economic Research, January 2020, <http://www.nber.org/papers/w26724>

⁴ Saffer, Henry, et al., E-Cigarettes and Adult Smoking: Evidence from Minnesota, National Bureau of Economic Research, December 2019, <http://www.nber.org/papers/w26589>



proven that flavors are NOT the reason that youth may be experimenting with e-cigarettes, a fact which further underscores the prohibition mentality of the opponents of vapor products.

“Hence, HR 2339 can only serve to hurt adult smokers, their families, and small businesses in communities throughout the country. VTA remains committed to working with lawmakers and regulators to implement real solutions that will achieve the twin goals of further restricting youth vaping while preserving e-cigarettes and flavored vapor as an alternative for adult consumers who are desperately trying to quit smoking, without shutting down America’s vapor products industry.”

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The Vapor Technology Association is the leading U.S. non-profit industry trade association whose 1,000 members are dedicated to innovating and selling high quality vapor products that provide adult consumers with a better alternative to traditional combustible cigarettes. VTA represents the industry-leading manufacturers of vapor devices, e-liquids, flavorings, and components, as well as the largest wholesalers, distributors, importers, and e-commerce retailers, in addition to hundreds of hardworking American brick-and-mortar retail store owners throughout the United States.