



COUNCIL *for*
CITIZENS
AGAINST
GOVERNMENT
WASTE

1100 Connecticut Ave., N.W., Suite 650
Washington, D.C. 20036
ccagw.org

Council for Citizens Against Government Waste
Thomas A. Schatz, President
Statement for the Record

before the

U.S. House of Representatives
Energy and Commerce Subcommittee on Health

“H.R. 2339 – Reversing the Youth Tobacco Epidemic”

October 16, 2019

On behalf of the more than 1 million members and supporters of the Council for Citizens Against Government Waste (CCAGW), we appreciate the opportunity to provide testimony for the record on H.R. 2339, the “Reversing the Youth Tobacco Epidemic Act.” While no one would want any teenager to become addicted to any substance, whether it be alcohol, marijuana, drugs, or nicotine, we believe H.R. 2339 takes the wrong approach to stopping teen vaping. We are particularly concerned with the restrictions on flavors for vaping.

If H.R. 2339 should become law, it would do great damage to the vaping industry and the health of millions of Americans. It would spur the creation of a huge black market to replace products that have been sold in the United States since 2007 to help adult smokers move from smoking deadly combustible cigarettes to a successful tobacco harm-reduction product.

Vaping is not smoking. The liquid in all electronic nicotine delivering systems (ENDS), or e-cigarettes, usually contain the same liquids. These are vegetable glycerin, propylene glycol, flavorings, and nicotine. The ingredients, heated together, create a vapor. The nicotine could come in various levels, or none, and therefore an e-cigarette can be used to slowly wean a smoker away from combustible cigarettes.

Propylene glycol and vegetable glycerin are recognized by the Food and Drug Administration (FDA) as additives that are “generally recognized as safe” for use in food, medicines, and cosmetics.ⁱ

Consumer Advocates for Smoke Free Alternatives Association (CASAA) provides a timeline of the development of e-cigarettes. While Herbert Gilbert is credited for inventing the device that resembled the current e-cigarette, Hon Lik, a Chinese pharmacist and smoker, designed the first successful commercial e-cigarette. He did so supposedly after his father, also a heavy smoker, died of lung cancer. Hon Lik worked for Golden Dragon Holdings, which developed and marketed the device, and changed its name to Ruyan, which means “like smoke.”ⁱⁱ

ENDS, or e-cigarettes, are used as a tobacco harm-reduction product so that smokers can stop using combustible cigarettes. It is the burning of tobacco that produces thousands of chemicals, 93 of which are considered harmful and potentially harmful constituents according to the FDA, including acrylamide, acrylonitrile, benzene, and carbon monoxide.ⁱⁱⁱ

According to CASAA, in 2006, e-cigarettes were introduced in Europe and the first known import recording of such a device by U.S. Customs was on August 22, 2006.

In the United States, CDC figures show that adult smoking has declined from 20.9 percent in 2005 to 14 percent in 2017. According to a July 6, 2019 blog post by University of Louisville Professor of Medicine Brad Rodu, a harm-reduction researcher, vaping among adults increased from 6.9 million in 2017 to 8.07 million in 2018. Of that increase, 38 percent was due to former smokers. He found that more Americans are moving away from combustible cigarettes to the safer smoke-free nicotine delivery systems.^{iv}

A July 23, 2029 Massachusetts General Hospital’s Tobacco Research and Treatment Center study demonstrated that using e-cigarettes daily helps U.S. smokers to quit smoking combustible cigarettes. It is the first longitudinal data report about the effectiveness of e-cigarettes to quit smoking. The researchers analyzed data of the first three years of the Population Assessment of Tobacco and Health (PATH) study. The statement about the report said, “Using data from more

than 8,000 adult smokers, the investigators measured how likely a smoker was to quit smoking and stay quit, comparing daily and non-daily e-cigarette users with those who smoked only regular cigarettes. They found that smokers who used e-cigarettes every day, compared to e-cigarette non-users, were more likely to quit combustible cigarettes within one year and to stay quit for at least another year. They also found that smokers who used e-cigarettes were no more likely to relapse back to smoking regular cigarettes than smokers not using e-cigarettes.”^v

Another study, which produced similar results, was reported in the February 2019 *New England Journal of Medicine*, “A Randomized Trial of E-cigarettes Versus Nicotine-Replacement Therapy.” It found that the use of e-cigarettes was more effective than nicotine replacement therapy, such as patches or gum, to help individuals quite smoking.^{vi}

In the past year, the FDA and the CDC have expressed alarm about increased youth use of ENDS, such as e-cigarettes. There has been an urgent push by the Department of Health and Human Services to ban flavors in e-cigarettes to discourage youth vaping, as would the current legislation under your consideration, H.R. 2339.

But the FDA has had its sights on restricting flavorings since the proposed rule on deeming tobacco products was first proposed in 2014. Following the recent serious lung illnesses and deaths that have occurred after vaping, the urge to ban flavors has become even more frantic, clearly using this current crisis to act quickly. This would be a grave mistake.^{vii}

As more data has been gathered, it appears that the problem has been the illicit use of tetrahydrocannabinol (THC)-containing products. On October 3, 2019, the CDC reported 78 percent of 578 patients used a THC-containing product, with or without nicotine. The CDC wrote, “the latest national and state findings suggest products containing THC, particularly those obtained off the street or from other informal sources (e.g. friends, family members, illicit dealers), are linked to most of the cases and play a major role in the outbreak.”^{viii ix}

The September 27, 2019 *Washington Post* reported that state health officials in Wisconsin and Illinois found the vast majority of patients used illicit products containing THC and DANK vape cartridges which, “appear to be predominant in a class of ‘largely counterfeit brands with common packaging that is easily available online and that is used by distributors to market THC-containing cartridges with no obvious centralized production or distribution.’” In addition, there has been a major focus on the use of vitamin E oil, or vitamin E acetate, which is used in black markets to stretch out the THC oil that is used to fill e-cigarette cartridges.^x

Cooler heads must prevail in this ongoing crisis. Banning flavors would be catastrophic for the millions of adult smokers who are vaping to quit combustible cigarettes, especially since adults also prefer the fruity, dessert, and candy flavors.^{xi}

As long as tobacco is a legal product, federal and state health agencies should not discourage smokers from using ENDS harm-reduction products, like e-cigarettes. If the FDA, or Congress, chooses to ban flavors which have been so successful in getting smokers to switch to a far less harmful product, the CDC and the FDA will need to be prepared for more outbreaks of lung illnesses caused by black market entrepreneurs anxious and willing to fill a need, as well as more smoking-caused illnesses like lung cancer and heart disease.

ENDNOTES

-
- ⁱ U.S. Food and Drug Administration (FDA), “Generally Recognized As Safe (GRAS),” <https://www.fda.gov/food/food-ingredients-packaging/generally-recognized-safe-gras>.
- ⁱⁱ Consumer Advocates for Smoke Free Alternatives (CASAA), “Historical Timeline of Electronic Cigarettes,” <http://www.casaa.org/historical-timeline-of-electronic-cigarettes>.
- ⁱⁱⁱ FDA, “Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke: Established List,” <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/harmful-and-potentially-harmful-constituents-tobacco-products-and-tobacco-smoke-established-list>.
- ^{iv} Brad Rodu, “CDC Data: Vaping Increased in 2018, Particularly Among Former Smokers,” *Tobacco Truth*, July 6, 2019, <https://rodutobaccotruth.blogspot.com/2019/07/cdc-data-vaping-increased-in-2018.html>.
- ^v Massachusetts General Hospital press release, “Daily E-Cigarette Use May Help Smokers Quit Regular Cigarettes,” July 23, 2019, <https://www.massgeneral.org/about/pressrelease.aspx?id=2427>.
- ^{vi} Peter J. Hajek, Ph.D et al., “A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy,” *New England Journal of Medicine*, February 14, 2019, <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>.
- ^{vii} FDA, Federal Register, “Deeming Tobacco Products to be Subject to the Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act, Regulations on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products,” <https://www.regulations.gov/docket?D=FDA-2014-N-0189>.
- ^{viii} Centers for Disease Control and Prevention (CDC) press release, “CDC, States Update Number of Cases of Lung Disease Associated with E-cigarette Use, or Vaping,” October 3, 2019, <https://www.cdc.gov/media/releases/2019/s1003-lung-disease.html>.
- ^{ix} CDC, “Outbreak of Lung Injury Associated with E-Cigarettes Use, or Vaping, Smoking and Tobacco Use,” https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html.
- ^x “Most Vaping-related lung injuries linked to marijuana products, CDC says,” *Washington Post*, September 27, 2019, <https://www.washingtonpost.com/health/2019/09/27/most-vaping-related-lung-injuries-linked-marijuana-products-cdc-says>.
- ^{xi} “Study: Adults Prefer Sweet Vapes Over Tobacco Flavors,” *Vaping 360*, July 3, 2018, <https://vaping360.com/vape-news/68263/study-adults-prefer-sweet-vapes-over-tobacco-flavors>.