

Testimony of Guy Bentley
Director of Consumer Freedom, Reason Foundation
HB 5019

Chairman Webber, members of the committee, thank you for allowing me to testify before you today. My name is Guy Bentley, and I'm the director of consumer freedom at the Reason Foundation, a public policy research, and education institute.

Like most states, Michigan is trying to strike an appropriate balance between protecting youth from adult nicotine products while keeping safer alternatives available to adult smokers who want to quit.

First, I would like to address the outbreak of lung illnesses and deaths that have been associated with vaping. It's important to remember that e-cigarettes are platforms, and vaping is a process, not a product. What determines the level of risk to the user is not the process of vaping but rather what is being vaped. After months of study, a clear pattern has emerged. The vast majority of these cases have been linked with the use of illegal THC cartridges, not legal nicotine products, which have been used by millions of people over many years. This outbreak has also been entirely confined to the United States.

Unfortunately, the lack of clarity around this issue has led to knee jerk bans and public confusion, with a majority of Americans incorrectly believing vaping is just as or even worse than smoking.

While addictive, it is not the nicotine that is responsible for smoking-related diseases, but the process of burning tobacco and inhaling the resulting smoke. The risks of legal e-cigarettes are unlikely to exceed five percent of those of combustible cigarettes, according to the Royal College of Physicians, and they are now the most popular tool used by Americans to quit smoking.¹ Research shows that e-cigarettes are almost twice as effective as nicotine replacement therapies (NRT) at helping smokers quit.² Replacement of cigarette use by e-cigarettes over ten years could yield 6.6 million fewer premature deaths.³

While youth vaping rose this year, the youth smoking rate fell 28%, the largest year-on-year decline in history. The fear that vaping might be a gateway to smoking has thankfully not been borne out by the evidence in this country or anywhere else.

The United States is alone in the developed world in having such a problem with youth vaping. In Europe, where e-cigarettes are widely available in different models and thousands of flavors, there is no such problem. In the U.K., e-cigarettes are actively promoted as a safer alternative to smoking. The latest figures show England's smoking rate falling at the fastest pace in over a

Thank you for your time.

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Endnotes

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Testimony Presented to the House Committee on Regulatory Reform House Bill 5019 to Overturn Ban on Flavored Nicotine Vaping Products

Gilda Z. Jacobs, President & CEO

Oct. 22, 2019

Since 1912, the Michigan League for Public Policy has been working to protect Michigan kids and keep them safe. We strengthened our commitment to kids even more in 1992, when we became the Kids Count organization in Michigan, and we proudly continue to be a policy-minded and data-driven voice for Michigan kids.

And it is as that voice for Michigan's kids—and out of real concern for an urgent and growing threat to their health and well-being—that I am submitting this testimony.

Last month, the League voiced our support for Gov. Gretchen Whitmer and her sweeping action to keep flavored vaping products off of Michigan shelves, and in turn, keep Michigan kids out of hospitals and morgues.

The tobacco industry's predatory and exploitative practices to go after our kids are alarming enough. Fruit and candy flavors, outlandish and questionable health claims designed to make users—especially kids—believe e-cigarettes are safe and a healthy alternative to traditional tobacco products, sales strategies with intentional marketing and advertisements targeting our kids, and even the intentional, and subversive product designs of many vaping and e-cigarette devices to camouflage them as other items like pens and USB drives all raise concern.

These ploys are working in concert to move the needle on nicotine addiction in the completely wrong direction. Nationwide, nicotine e-cigarette use jumped 78% last year alone, and it's getting worse.

Faced with these tactics to target our kids, and this data that shows how well it's working, most sensible people, including lawmakers and parents, would agree that Michigan needs to take swift and strong action to better regulate the vaping industry. And this is just what's happening to get these products in the hands of Michigan kids. The real urgency resides in what could happen to these youth when they do.

The Public Health Case for E-cigarette Flavors



Lack of combustion is key to the success of e-cigarettes as tobacco harm reduction product. While addictive, nicotine is not responsible for smoking-related diseases, but the process of burning tobacco and inhaling the resulting smoke is.¹

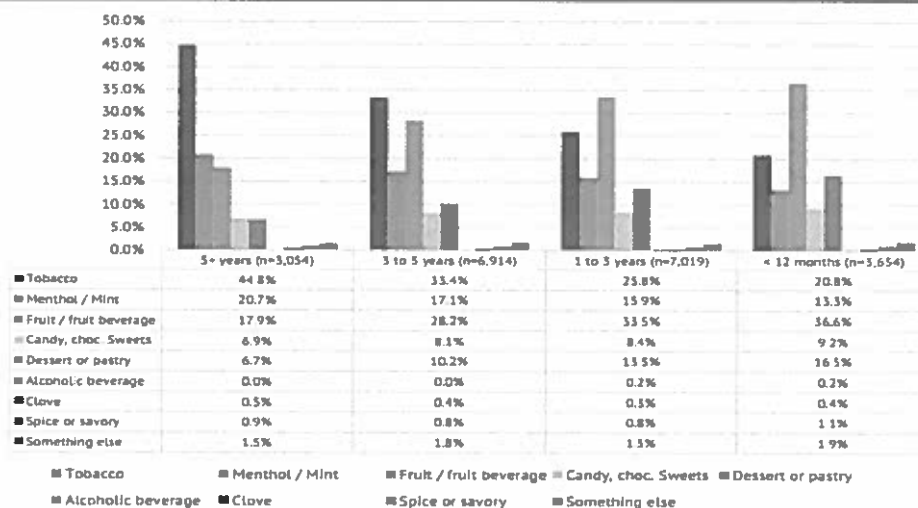
Legal e-cigarettes containing nicotine are known to be 95% safer than combustible cigarettes and are the most popular tool used by Americans to quit smoking.² The latest research published in the *New England Journal of Medicine (NEJM)* shows e-cigarettes are almost twice as effective as nicotine replacement therapies (NRT) at helping smokers quit.³ The study builds on years of empirical research showing similar results.^{4,5,6}

Since e-cigarettes began gaining popularity in the U.S. from 2011, the adult smoking rate has declined at a considerably accelerated pace. After decades of consistent decline, the adult smoking rate leveled off between 2004 and 2010 at 20-21%. Between 2011 and 2017, however, the adult smoking rate fell from 19% to 14%. Youth smoking rates fell even more dramatically from 15.8% in 2011 to 8.1% in 2018.⁷

How flavors help smokers switch to vaping

Surveys and academic research consistently show, contrary to popular belief, fruit, sweet, and dessert flavored e-cigarettes are the most popular choices among adult vapers. These flavors are now more often than not the first choice for smokers looking to make the switch to vaping. There is also a growing body of research suggesting not only are non-tobacco flavors the most popular options with adult vapers; they assist in smoking cessation.⁹

FIGURE 1: FLAVOR OF FIRST E-CIGARETTE PURCHASED BY TIME SINCE FIRST E-CIGARETTE PURCHASE: FREQUENT E-CIGARETTE USERS



Source: Russell, Christopher, Neil McKeganey, Tiffany Dickson, Mitchell Nides. "Changing patterns of first e-cigarette flavor used and current flavors used by 20,836 adult frequent e-cigarette users in the USA." *Harm Reduction Journal*. April 18, 2018.

A 2017 study by researchers at the Yale School of Public Health published in the *National Bureau of Economic Research* analyzing the impact of different tobacco flavor bans concluded: "According to our predictions, a ban on flavored e-cigarettes would drive smokers to combustible cigarettes, which have been found to be the more harmful way of getting nicotine." The authors concluded that banning e-cigarette flavors "reduces the appeal of

e-cigarettes to those who are seeking to quit (smoking); e-cigarettes have proven useful as a cessation device for these individuals, and we find that quitters have a preference for flavored e-cigarettes."¹⁰

Endnotes

1. Gottlieb, Scott. "Protecting American Families: Comprehensive Approach to Nicotine and Tobacco." White Oak, MD. July 28, 2017. <https://www.fda.gov/news-events/speeches-fda-officials/protecting-american-families-comprehensive-approach-nicotine-and-tobacco-06282017>
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Separating Fact From Fiction on Vaping, E-Cigarettes and Lung Illnesses

What's causing the outbreak of lung illness?

- The Center for Disease Control and Prevention (CDC) has not yet identified any single product or category of products as the principal cause of the outbreak of pulmonary illnesses.
- But according to the CDC: "Among patients with data on substances used in e-cigarettes, or vaping products, tetrahydrocannabinol (THC)-containing product use was reported by 76.9% (36.0% reported exclusive THC-product use)."¹
- The majority of these products appear to be illicit, or counterfeit THC oils.
- Deaths reported so far appear to be caused by lipoid pneumonia or eosinophilic chemical pneumonitis, diseases known to be caused by the inhalation of oils.
- Former FDA Commissioner Scott Gottlieb has warned against confusing the illegal THC market with the legal nicotine market. On September 26, he noted:

"Reading transcripts, it seems there's too much conflating these tragic lung injuries with store-bought brands of regulated, legal e-cigs like Juul and NJOY; and far too little blaming THC, CBD, and bootleg nicotine vapes - where so far, the only available hard evidence points."²

Is this happening in other countries where e-cigarettes are legal?

- Similar cases have been identified before in the U.K. but the cause of these cases was found to be the use of synthetic cannabis product called Spice.³
- In the European Union, where e-cigarette use is widespread, there have not been similar outbreaks.
- Public health experts overseas agree that the primary cause of the U.S. outbreak is likely to be illicit THC products. For example, Linda Bauld, professor of Public Health at the University of Edinburgh and one of the world's foremost experts on e-cigarettes notes:

"The evidence accumulating in America points to contaminants in black market products as having caused these cases, particularly cannabis oils that are being vaped. Nicotine-containing flavored vaping products are almost certainly not the main cause."⁴

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