

Testimony of Chris Hughes to OH House Ways and Means Committee hearing 3/9/17

Chairman Schaffer and the esteemed members of the Committee,

I would like to thank you for accepting written testimony from me. I would have liked to give this testimony in person, but it presented a conflict with a commitment to serve jury duty here in Lycoming County, PA.

My name is Chris Hughes. I am the former owner of Fat Cat Vapor Shop LLC, and also the former President of the Pennsylvania chapter of the Smoke Free Alternatives Trade Association (PA SFATA), which served as a trade association here in Pennsylvania for several hundred small mom and pop vapor shops.

In July of last year, the Pennsylvania General Assembly passed a 40% wholesale cost tax on vapor products that went into effect on October 1, 2016. The result of increasing the tax on vapor products from the state sales tax rate of 6 percent by more than 500% has been nothing less than catastrophic for small businesses in the state.

By mid October of last year, about 60 small businesses had already closed, a significant loss for those who had enjoyed stable work until the new vapor tax was passed. To date, more than 100 businesses have closed as a direct result of the tax, which represents roughly one third of all vapor businesses that operated in Pennsylvania until last year. We expect another 50 or so to close by mid this year, and for the number of these businesses to continue to decline after that.

Prior to the passage of this tax, the Pennsylvania Dept of Revenue estimated that the tax would generate \$13.3 million in additional tax revenue. The state is on track to collect approximately one third that much.

I'm convinced that if an even moderately broad economic impact study of the tax were to be undertaken, including lost tax revenue from business closures, and even a portion of the lost economic activity from the business closures, that our state has actually likely seen a net loss of revenue as a result of this tax.

Businesses have not been the only victims of this tax. The PA Dept of Revenue has faced severe challenges in producing required tax forms and licensing documents, as well as determining which products can be taxed and which not. "Vapor products" as a category actually captures a dizzying array of products, many of which have alternate uses and purposes. For example, a vape shop can typically be expected to sell organic cotton, as well as lithium ion batteries. Under the PA law, if these products (and others) are sold at a vape shop, the 40% vapor tax applies, but if they are sold in a different business category, like a pharmacy or sporting goods shop, the tax doesn't apply. This "intended use" application of the PA tax has even led to a lawsuit by a vendor against the PA Dept of Revenue (Kingdom Vapor and Smoke For Less LLC v. Pennsylvania Department of Revenue). Despite what you may think, or have been led to believe, vapor products are an incredibly diverse category of products and thus are exceptionally difficult to draft taxation for without an extensive understanding of the product class.

If the members of the Committee would briefly indulge me, I'd love to share a little info about my former business and how it came to be. I had been a fairly heavy smoker for over 30 years, when a friend introduced me to vapor products in late 2011. These products had such a profound effect on my life, I soon set about to open a business specializing in offering this amazing technology to other adult smokers. It's a story that is more common than not in the vapor products industry. I spent approximately a year and a half learning everything I could about these products, networking with vape shop owners, and attending small business seminars at my local Small Business Development Center. The SBDC helped me put together a business plan, and pointed me in the direction of a local bank.

Off I went to the bank with a briefcase full of all types of products, and a tremendous passion for wanting to get this business open and start helping people get away from cigarettes. On Dec 13, 2013 Fat Cat Vapor Shop opened for business for the first time. It snowed 18" that day, but I didn't care. I sold a few hundred dollars in merchandise, and was never happier or prouder. As my business grew, I hired employees, joined my local Chamber of Commerce, and the NFIB. As legislative threats grew in my state, PA SFATA was formed and I was asked to serve in a volunteer capacity as chapter President. On Sept 24, 2016 my small business opened for the last time. In 2 ¾ years my tiny business had done about \$1.6 million in gross revenues, and collected over \$90K in sales tax alone for the state of Pennsylvania. On the day my business closed, two full time employees and myself lost our livelihoods. Many other non-vapor related businesses we dealt with also lost a client. The effects of one small business closing ripple out into the economy, and affect many other businesses. I urge you to reject this requested tax, and prevent the ending of my business story (and that of 115 other PA businesses) from repeating over and over again across Ohio.