



**Before Ohio Senate Finance Committee
Testimony of James Jarvis, Ohio Vapor Trade Association
Am. Sub. House Bill 166
June 14, 2019**

Chairman Dolan, Vice Chair Burke, Ranking Member Sykes, thank you for allowing me to testify today on the damaging tax on vapor products that the Senate included in their version of HB 166. My name is James Jarvis and I am the President of the Ohio Vapor Trade Association.

In very simple terms, with this tax and the language surrounding it, the Senate is trying to fit a square peg into a round hole. I have said it before in this committee; vapor is not tobacco. Therefore, it does not make sense to fit us into a regulatory tax framework that has served the tobacco industry for years.

First and foremost, the Ohio Vapor Trade Association opposes any tax on vapor products. That is not to say that we are against regulations and aren't for some sort of retail licensing fee. If a tax is imposed, we strongly believe that it should be a minimal percentage of the product and collected at the point of sale. We are also very much against an equivalence tax or a tax per milliliter.

The vapor industry does not follow the same supply chain that traditional tobacco does. While cigarettes and other tobacco products are sold by a handful of manufacturers to a wholesale dealer, vapor products follow a much different path to the final retailer. It is true that closed systems, vapor products that use a pod or cartridge system (like Blu or JUUL) are sold through wholesale dealers. However, the majority of our stand-alone vapor stores buy their product, both devices and liquid directly from the manufacturer. Additionally, many of our retailers are in fact the manufacturer.

The language that was added to Sub HB 166 does not take into account this type of supply chain and again makes the assumption that we work like a tobacco product. We do not.

Within the language, both the liquid and the device would be subject to the 17% wholesale rate. This creates an unfair market for the closed systems vs. the open systems. Further, no accessory to traditional tobacco is taxed like this. For example, if you put loose tobacco in a pipe to smoke it, the pipe itself is only subject to sales and use tax, not the wholesale tax. The vapor industry respectfully requests that IF we are to be taxed in the same manner as

traditional tobacco that that extends to not assessing the wholesale tax on devices or accessories.

Further, the language includes misleading definitions for both vapor product, vapor distributor and secondary manufacturer and I believe has the unintended consequences of applying a \$1000 license fee to most retailers, this is not how the tobacco retail license program works.

Again, this notion that there is a vapor distributor is misleading to how the industry supply chain works. It makes the assumption that we have someone like a wholesale dealer that our retail stores buy from when in fact they buy straight from the manufacturer. Additionally, this sub category of secondary manufacturer will encompass nearly every retail store. If you buy a bottle of liquid from a manufacturer but choose to put your own label on the bottle you will be considered a secondary manufacturer and be subject to the \$1000 license fee.

I can't say it enough; the vapor supply chain does not work like the traditional tobacco supply chain.

Lastly, traditional tobacco had years to work its way up to the 17% wholesale price. We respectfully ask that vapor be taxed at a lower rate, to reflect the new immerging industry it is.

In closing, we believe that taxing vapor products, especially taxing both the device and the liquid, will discourage adult smokers from switching to a product we know is 95% less harmful than traditional tobacco. Further, we believe vapor is fundamentally a different product than tobacco and IF, a big IF, it is taxed than it should be classified and taxed in its own manner outside of the Other Tobacco Product code.

We respectfully ask that this dangerous, damaging tax be removed from HB 166. If it is the Senate's will to levy a new tax on vapor products we ask that the vapor industry be included in those conversations in a standalone piece of legislation to be worked on in the future.

Thank you, I'd be happy to answer any questions you may have.