

Before the Senate Finance Committee
Written Testimony of Sarah Rutland
Sub HB 166
June 17, 2019

My name is Sarah Rutland, and I am the proud owner of Top Notch Vapor, we have two locations right here in Columbus Ohio. I am writing today to express my concerns regarding the addition for a 17% wholesale tax on vapor products (eliquid, devices and all components), Tobacco 21 as well as redefining Vapor products as Tobacco.

I myself smoked almost a pack a day for twenty years. I had tried to quit smoking several times using the patch, gum, and Chantix, nothing worked until I found vaping. When I was a smoker, I would cough every morning, and found it difficult to catch my breath if I had a coughing fit throughout the day. My family enjoys hiking and lots of other outdoor activities, which I found myself having a hard time doing when I decided to make the switch. The difference in my health is amazing since I started vaping several years ago, and that was the main reason that my husband and I decided to open Top Notch Vapor in April 2014. We invested everything we had into the business, it was a lot of hard work and sleepless nights. We are incredibly proud and thankful that we have been able to help thousands of people end their addiction to traditional cigarettes. Currently we have 12 full time employees. We were hoping to continue to expand our business, but with the future of Vapor products being so uncertain, we haven't felt that it would be wise to expand at this time.

I spoke with two of our large national distributors Wednesday explaining the proposed tax on vapor products in Ohio. Unlike some other industries, there is only one small dedicated wholesale distributor that does not offer online sales directly to the public. Both of the distributors I talked to yesterday explained that they would not want to pay \$1000 a year to sell products in Ohio. They went on to say that the bigger issue is that they would not want to be responsible to remit the 17% tax to the state. They feel that our customers would go to their website and order products directly at their retail prices. If our major national distributors refuse to sell products in Ohio, we won't be able to get products to stock our shelves and we would be forced to close our doors permanently.

Taxes on vapor liquid using a per milliliter tax system could have some serious potential drawbacks as well. The vast majority of our customers use open systems where they can refill their devices. Those people usually vape with lower nicotine levels (for instance 3mg of nicotine), the per milliliter tax will drive those people to buy smaller bottles with a higher concentration of nicotine (25mg to

45mg of nicotine). If a \$.05 per milliliter tax was passed with the budget for example, that would add \$.10 of tax to a Juul pod. However, when my customers will buy a 60ml bottle of liquid they will have to pay \$3.00 in tax on a bottle that contains less nicotine than the Juul pods. A per milliliter tax will hurt locally owned small business like mine the most.

I know competing with online sales is difficult in any industry, the vapor industry is no different. Having high taxes in our state, only drives people to buy online more and more, where they can avoid paying the higher tax. I have spoken with several business owners from other states where taxes have been imposed on vapor products, some are no longer in business, and they all have told us that their customers continue to get their products, they just buy online to avoid the taxes. There are about 65 vapor shops located just in Central Ohio alone, and they employ an estimated 325 people collectively. There are over 725 vapor specific business located in our state, that employ an estimated 3,200 Ohioans, that cater to the estimated 350,000 vapers in our state. If this budget were to pass with high taxes on vapor products, the amount of jobs lost in the entire state would be huge, and small business opened by families like mine would be forced to close their doors, and potentially lose everything. This would effectively kill one of the fastest growing markets for local small business owners in our state.

Currently, my two stores pay an average of \$12,000.00 per month in sales tax. If my stores, and hundreds of other stores go out of business because of this 17% tax, or a high per milliliter tax, we will obviously no longer be collecting sales tax to remit to the state. So rather than adding tax revenue to the state, I feel very strongly that these taxes will have the opposite effect. Brick and mortar vapor stores are where people can go to learn about their devices and battery safety. We also educate our customers about nicotine strengths and how to step down the amount of nicotine if their ultimate goal is to quit vaping once they have quit smoking. If we are forced out of business, we will not be available to educate and help people in our community.

While I agree that children should not use vapor products, I do not agree that Tobacco 21 will stop the issue that we are facing with underage vaping. My son graduated last year from Thomas Worthington. While my son does not use vapor products or smoke cigarettes, every person he knew in high school who used vapor products, made those purchases online. Over the last year, the FDA has done thousands of "Compliance Check Inspections" at retailers of vapor products nationwide. Their findings are that brick and mortar shops selling only vapor products, are in compliance with age verification. As an industry, we take our responsibility very seriously to verify our customers age so that we can continue to offer our products to former smokers to help change their health for the better.

An adult, who is addicted to nicotine, should have the option to make the switch. As a board member of The Ohio Vapor Trade Association (OHVTA), we would like the opportunity to have an open dialogue about how to keep vapor products accessible to adults 18 and over while keeping them out of the hands of young people. I feel that working together, we could meet everyone's goal of keeping adolescents from accessing tobacco products and vapor products. However, if Tobacco 21 stays in the budget without input from my industry, I feel that it will penalize 18-20-year olds who want to make the switch and do nothing to curb youth access.

Vapor products are already classified as Alternative Nicotine Products. Reclassifying them as Tobacco, after just a couple of years being categorized otherwise is premature. Tobacco is not the only source of nicotine found in nature, and it is not the only source of nicotine for Vapor products. As a former smoker, I am very proud that I do not use Tobacco products and I know thousands of customers who feel the same way. I would ask that Vapor products retain their current classification.

Because this tax was added to the proposed budget so late in the process, we feel blindsided. As store owners who talk to our customers every day, and as parents, we understand the need for a very serious conversation about what is best for our community and our state. I would ask that the language regarding taxation of vapor products be removed from the budget. The OHVTA would like the opportunity to sit down and talk about a stand-alone bill that wouldn't devastate locally owned small businesses like mine. Working together, I know we could curb youth access and ensure that our products are accessible at a reasonable price to our customers.