

**Remarks before the Senate Finance Committee, Ohio General Assembly  
by Tony Abboud, Executive Director, Vapor Technology Association**

**May 31, 2017**

**Chairman Oelslager, Vice-Chair Manning, Ranking Member Skindell, and distinguished members of the committee,** my name is Tony Abboud. I am the Executive Director of the Vapor Technology Association. I want to thank you for giving me the opportunity to present this written testimony on behalf of the thousands of small and mid-sized businesses, across the country and here in Ohio.

The Vapor Technology Association is the leading national trade organization representing manufacturers, wholesalers, distributors, small business owners, and entrepreneurs who have developed innovative and quality vapor products. Our members employ thousands of people around the country and in the great state of Ohio. The proposed tax directly jeopardizes the businesses that they have built and are still building, not to mention the real jobs that they are creating.

**SCIENCE DEMONSTRATES THAT VAPOR PRODUCTS  
ARE AT LEAST 95% SAFER THAN CIGARETTES**

The leading rationale for taxing cigarettes is discouraging their use because of the proven negative consequences for the user (death and disease) and the associated costs to society (such as medical treatment costs). However, there is no comparable justification for taxing vapor products which leading scientific bodies around the world have concluded are at least 95% safer than combustible cigarettes.

**E-CIGARETTES: AN EVIDENCE UPDATE:**

*A Report Commissioned by Public Health England, May 2016*

The United Kingdom's Department of Health (Public Health England) recently reaffirmed its 2014 conclusion that "most of the chemicals causing smoking-related disease are absent and the chemicals present pose limited danger." After another independent exhaustive review of all existing scientific literature, Public Health England concludes that "the current best estimate is that e-cigarette use is around 95% less harmful than smoking" tobacco.

Read the full report: <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>

**NICOTINE WITHOUT SMOKE: TOBACCO HARM REDUCTION:**

*Royal College of Physicians, April 2016*

This 200-page report provides an update on the science of tobacco harm reduction, in relation to all non-tobacco nicotine products but particularly vapor products. The Royal College of Physicians concluded that e-cigarettes, at most, have only 5% of the risk profile of combustible cigarettes.

Read the report here: <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>

**NICOTINE, CARCINOGEN, AND TOXIN EXPOSURE IN LONG-TERM E-CIGARETTE AND NICOTINE REPLACEMENT THERAPY USERS: A CROSS-SECTIONAL STUDY**

*Annals of Internal Medicine, February 2017*

In February, researchers from the US Centers for Disease Control and Prevention, the Roswell Park Cancer Institute in New York, and the University College London concluded yet another study finding that using e-cigarettes is far safer and less toxic than smoking conventional tobacco cigarettes. **The study concluded that long-term NRT-only and e-cigarette-only use is associated with substantially reduced levels of measured carcinogens and toxins relative to smoking only combustible cigarettes.**

Read the study here: [https://www.eurekalert.org/pub\\_releases/2017-02/cru-est020317.php](https://www.eurekalert.org/pub_releases/2017-02/cru-est020317.php)

One of the study's lead authors, Dr Lion Shahab, senior lecturer in the department of epidemiology and public health at UCL, said: "Our study *adds to existing evidence* showing that *e-cigarettes and NRT are far safer than smoking*, and suggests that there is a *very low risk associated with their long-term use.*"

"We've shown that the levels of toxic chemicals in the body from e-cigarettes are considerably lower than suggested in previous studies using simulated experiments. *This means some doubts about the safety of e-cigarettes may be wrong.*"

"Our results also suggest that while e-cigarettes are not only safer, the amount of nicotine they provide is not noticeably different to conventional cigarettes. *This can help people to stop smoking altogether by dealing with their cravings in a safer way.*"

Source: <https://www.sciencedaily.com/releases/2017/02/170207104358.htm>

To be sure, even the FDA's Center for Tobacco Products Director **Mitch Zeller**, a life-long anti-smoking advocate, has clearly and repeatedly stated the potential benefits of e-cigarettes. During a Senate Health, Education, Labor, and Pensions hearing in 2014, FDA Director Zeller stated:

"If we could get all those people [who smoke] to completely switch all of their cigarettes to noncombustible cigarettes, it would be good for public health."

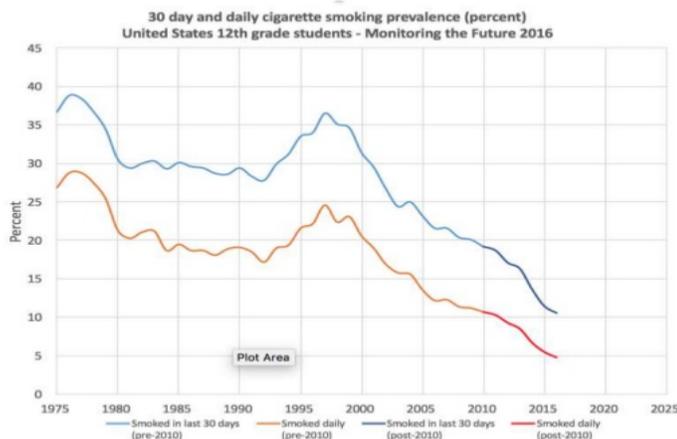
**SCIENCE DISPROVES ANY "GATEWAY" CONCERNS**

Anti-vaping groups have repeatedly rung alarm bells that vaping amongst teens is "skyrocketing" and that such increased use will "hook" them on nicotine and lead to the next generation of cigarette smokers. That, in total, is their "fear of a gateway" theory.

For a gateway claim to have any credibility, there must be a skyrocketing increase in teens smoking to go along with the increase in teens vaping. However, the exact opposite is true. U.S. Centers for Disease Control (CDC) data from its Youth Risk Behavior Survey on tobacco use shows that cigarette smoking (past 30 days) fell 47% among middle school students and 41% among high school students between 2011-2015, the years when the vapor products industry grew exponentially.<sup>1</sup>

Similarly, in December of 2015, the University of Michigan's *Monitoring the Future* study reported, "**Cigarette smoking among teens in grades 12, 10 and 8 continued a decades-long decline in 2016 and reached the lowest levels recorded since annual tracking began**

Long term 12<sup>th</sup> grade smoking: Monitoring the Future survey



42 years ago.”<sup>2</sup>

While youth experimentation grew between the years of 2011 and 2015, it should be no surprise youth engage in experimentation just as they do with other substances. **The number of youths vaping on a regular basis, however, hovers around only two percent, with a large number of these products being zero nicotine.**<sup>3</sup>

Further debunking the myth that e-cigarette use is a gateway to teen smoking, is the fact that among youth who experiment with e-cigarettes, only 22% have tried e-cigarettes with nicotine. Absent nicotine, there is no scientific basis for asserting that e-cigarettes are addicting youth and converting them to cigarette smokers.

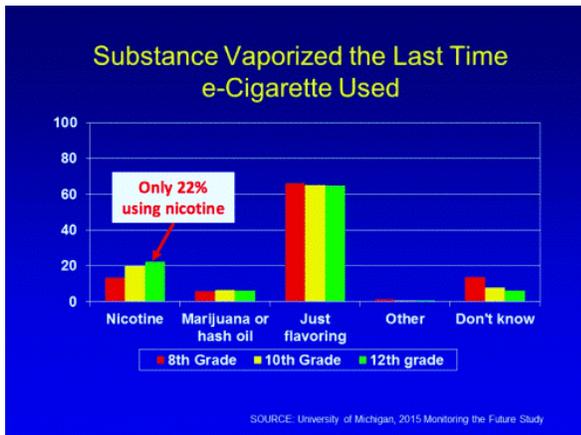
<sup>1</sup> [http://www.cdc.gov/mmwr/volumes/65/wr/mm6514a1.htm?s\\_cid=mm6514a1\\_e](http://www.cdc.gov/mmwr/volumes/65/wr/mm6514a1.htm?s_cid=mm6514a1_e)

<sup>2</sup> *Teen cigarette smoking drops to historic low in 2015*, December 16, 2015 press release, [http://monitoringthefuture.org/pressreleases/15cigpr\\_complete.pdf](http://monitoringthefuture.org/pressreleases/15cigpr_complete.pdf)

<sup>3</sup> *Risk Factors for Exclusive E-Cigarette Use and Dual E-Cigarette Use and Tobacco Use in Adolescents*, Thomas A. Wills, et. al., *Pediatrics*, December 2014.

## MONITORING THE FUTURE

**Monitoring the Future** is an ongoing study of the behaviors, attitudes, and values of American secondary school students, college students, and young adults. Each year, a total of approximately 50,000 8th, 10th and 12th grade students are surveyed (12th graders since 1975, and 8th and 10th graders since 1991). In addition, annual follow-up questionnaires are mailed to a sample of each graduating class for a number of years after their initial participation. The Monitoring the Future Study has been funded under a series of investigator-initiated competing research grants from the [National Institute on Drug Abuse](#), a part of the [National Institutes of Health](#). MTF is conducted at the [Survey Research Center](#) in the [Institute for Social Research](#) at the [University of Michigan](#).



More importantly, in December 2016, *Monitoring the Future* reported that “the percentage of U.S. teens who vape declined in 2016 – the first significant reversal of a rapid rise in adolescent vaping.”<sup>4</sup>

“From 2015 to 2016, the percentage of adolescents who vaped in the last 30 days declined from 16 percent to 13 percent among 12th-grade students, from 14 percent to 11 percent among 10th-grade students, and from 8

percent to 6 percent among 8th-grade students. Each of these declines was statistically significant.”<sup>5</sup>

The vast majority of young people who try vapor products are already users of cigarettes. A number of studies have demonstrated this, including research published in *The Lancet*<sup>6</sup> which analysed CDC data and concluded that 90.6% of young people using vapor products were already smokers. Other studies have similar findings, as summarized by Dr. Holly Middlekauf, a cardiologist from the David Geffen School of Medicine at UCLA<sup>7</sup>:

Although experimentation with e-cigarettes is increasing in young people, the majority of this experimentation is in established cigarette smokers. That is, approximately 90% of youth who reported trying e-cigarettes were already tobacco smokers. Only 0.6% of non-tobacco smoking high school students reported using an e-cigarette in the last 30 days, and of course, experimentation does not equal regular use or addiction.

Very simply, there is *no peer-reviewed science* which demonstrates that vapor products are a gateway to increased cigarette smoking by minors. The Royal College of Physicians and the United Kingdom’s Department of Health, after their independent and separate reviews of all the available research, concluded that there is no evidence to support the concern that vaping is a gateway.

<sup>4</sup> Vaping, hookah use by US teens declines for first time, December 13, 2016 press release, [http://monitoringthefuture.org/pressreleases/16cigpr\\_complete.pdf](http://monitoringthefuture.org/pressreleases/16cigpr_complete.pdf)

<sup>5</sup> *Id.*

<sup>6</sup> <http://www.thelancet.com/journals/lanonc/article/PIIS1470-2045%2813%2970495-9/abstract>

<sup>7</sup> <http://www.medpagetoday.com/primarycare/smoking/51265>

### **TAX POLICY**

It is clear that vapor products are the first game-changing technology in the ongoing fight to reduce cigarette smoking. This, Members of the Committee, is why it is imperative that we must *properly* regulate vapor products.

For that reason, **Sally Satel, Yale University School of Medicine**<sup>8</sup>, has stated: “There is no convincing public health evidence that would justify taxing e-cigarettes at rates similar to those applied to cigarettes.”

To be sure, the independent **Tax Foundation** has concluded: “Policymakers should avoid extending punitive rates from traditional cigarettes to vapor products because it limits the consumer’s ability to use vapor products to quit cigarettes...Our first reaction should not be to impose cigarette taxes on what is fundamentally a different product.”

#### **A Current Case Study in Vapor Tax Policy:**

##### **Ohio Should Avoid Neighboring Pennsylvania’s 40% Wholesale Tax Mistake**

In addition to sound public health reasons, there are important business reasons to reject the proposed tax. The vapor industry in Ohio is primarily made up of small businesses—businesses owned by entrepreneurs who once faced a promising future. However, these small businesses already presently being crushed by burdensome set of new federal regulations. The 69% tax proposed would certainly decimate by the industry.

In October of 2016, the state of Pennsylvania implemented a 40% wholesale tax on vapor products. This tax has essentially been in effect to date nearly six months. The 40% tax was passed to try to address Pennsylvania’s \$31 billion-dollar budget deficit, but was only expected to generate approximately \$13 million in revenue.

Unfortunately for Pennsylvania vapor businesses, and Pennsylvania smokers seeking an alternative to traditional combustible tobacco, the tax has been the equivalent of death sentence for the Pennsylvania vapor industry.

The Pennsylvania vapor industry has had over 25% of its retailers close in the last 6 months. The Pennsylvania Vape Association, an association representing vapor businesses and consumers in Pennsylvania, identified over 100 businesses have closed their doors. In addition, at least 1,000 jobs have been lost due to these businesses closures. Please keep in mind that these are the results from only the first six months of the tax being implemented. There are a number of other vapor businesses on the brink of closure because of this tax policy.

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<sup>8</sup> [http://www.aei.org/wp-content/uploads/2014/04/-should-ecigarettes-be-taxed\\_085703182672.pdf](http://www.aei.org/wp-content/uploads/2014/04/-should-ecigarettes-be-taxed_085703182672.pdf)

The potential for business closings and job losses are even greater in Ohio under the proposed tax which is significantly higher than the tax which is causing such dislocation in Pennsylvania. Governor Kasich's administration has stated that job creation has been its number one priority. Members of the committee, this proposal would be a jobs killer.

As importantly, this proposal would stifle innovation, and take vapor products out of the ongoing fight to reduce and ultimately eliminate combustible tobacco usage in the State of Ohio and around the country.

For these reasons, we respectfully ask the Honorable Members of this Senate Finance Committee to remove the 69% vapor tax and \$1000 license fee.

Thank you for your consideration.

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