

Coalition Urges President Trump to Protect Adult Vapers by Keeping Flavored Products Legally Available

October 3, 2019



The Honorable President Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500



Dear Mr. President,



THE
AMERICAN
CONSERVATIVE
UNION

We urge you to preserve access to life-saving alternatives to cigarettes for the millions of adults who rely on electronic cigarettes and vapor products to quit smoking in the United States. Of particular importance is the preservation of flavored products, which are not only the preferred product for adult smokers but essential to the success of vaping as an alternative to cigarette use long-term.

Your administration has rightly derided “regulatory dark matter,” or agency-generated guidance because it imposes “back door” regulations without going through a formal rule-making process. **The flavored vapor product guidance under consideration by the FDA is among the most striking and non-transparent violations of your commitment to limit dark regulations since you took office.** Unchallenged, the FDA will destroy thousands of small businesses without Congressional oversight and without sufficient input from the public.



Over 10,000 small mom-and-pop vape shops comprise an overwhelming percentage of this industry and represent the fastest-growing retail segment of the past ten years, a recent Labor Department analysis shows. A Wells Fargo analysis estimates that the commercial e-cigarette and vapor product industry is expected to be a \$10 billion industry by next year, a growth trajectory that has significantly reduced combustible cigarette sales across the country.



A vast majority of these businesses employ fewer than ten employees, making the shops that sell e-cigarettes to adults trying to quit smoking increasingly reliant on sensible federal regulations that don’t impose millions of dollars in costs through a FDA regulatory process designed purposefully by Congressional Democrats and the world’s largest tobacco companies to end in failure.



Billionaires like former New York City Mayor Mike Bloomberg have long attempted to curtail individual rights and consumer freedom in the United States. He has already committed nearly \$1 billion to anti-tobacco efforts globally, in seeking to influence organizations like the World Health Organization and fund research that demonizes adult smokers and adult vapers. On September 10, he announced a \$160 million push to ban flavored e-cigarettes in America. **Given your administration’s historic accomplishments and deregulatory agenda, it would be a mistake to allow HHS and the FDA to take marching orders from activists like Mike Bloomberg.**



Adults like flavors. That’s precisely why everything from vodka to ice cream comes in a variety of flavors. When it comes to vaping, this holds true. Prior to the rise of JUUL



in 2018, more than 80% of adult vapers used fruit, dessert, and sweet flavors to stay away from cigarettes. Tobacco and menthol e-cigarette flavors ranked as the fifth and sixth most popular flavor before one company dominated the traditional convenience store market.



Eliminating all but one or two of these options for adults would destroy thousands of small businesses, force many adult vapers to return to smoking, and force some to seek out products on the black market.



Both the FDA and Centers for Disease Control and Prevention now acknowledge that the recent deaths and respiratory and lung illnesses associated with vaping have largely been caused by the illicit marijuana and THC market. Instead of targeting legal nicotine products that have existed for a decade, the administration's focus should be on cracking down on California drug dealers that are poisoning consumers with dangerous, unregulated, and counterfeit products sourced from places like China and Mexico.



Your administration can keep e-cigarettes out of the hands of teenagers without jeopardizing the great accomplishments that have been made in public health through the availability of vapor products for adults. **We urge you to immediately halt the FDA's planned actions that will limit choices for millions of American adults who rely on flavored vaping products to quit smoking.** More than 100,000 jobs and the lives of 34 million adult smokers are on the line.

Sincerely,

Grover Norquist
President, Americans for Tax Reform

Phil Kerpen
President, American Commitment

Daniel Schneider
Executive Director, American Conservative Union

Steve Posiask
President, American Consumer Institute

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President, Center for a Free Economy

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Cc: Executive Office of the President of the United States
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