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Dear Chairman Rogers and Members of the Committee on Appropriations,

I write today in support of efforts to save the thousands of small businesses and their employees in the United States who are selling tobacco-free technology products to adult consumers trying to kick their smoking habits. Congress should help facilitate all efforts by the free market to accomplish what stiff regulations and taxes never could, getting smokers to quit for good.

Without Congressional action, an overreaching Food and Drug Administration (FDA) will proceed with an arbitrary bureaucratic hurdle more akin to prohibition than reasonable regulation. After 2009, the Tobacco Control Act (TCA) established a predicate date of February 15, 2007 at which all new tobacco or tobacco-derived products must establish "substantial equivalence" to products sold before then in order to avoid an expensive and lengthy pre-approval process by the FDA.

Without Congressional action, the FDA pre-approval process will cost upwards of several million dollars per product, a cost affordable to none other than the large tobacco companies, for products already being sold to consumers. Since 2007, significant innovation in the electronic cigarette and vapor product category has occurred, meaning nearly 99% of the life-saving vapor products on the market will cease to exist.

This burdensome regulatory hurdle also stands to harm producers and retailers of premium cigars, pipe tobacco and dissolvable tobacco.

Amending the predicate date established in the Tobacco Control Act for new products will do nothing to impede upon the FDA's general efforts to regulate this product category. In fact, efforts to protect consumers that do not impede upon innovation in the vapor product market are an important element of the larger effort to reasonably regulate this industry. Retroactively requiring products that have hit the market over the past 9 years to go through a process intended to apply to actual tobacco products (like combustible cigarettes), however, is unnecessarily burdensome and unaffordable.

A predicate date change to the date of FDA deeming regulation enactment will simply allow innovation to continue, without decimating an entire market of smoking cessation products and the health of the consumers who use them.

In testimony to the Senate Commerce Committee in 2014, **Matthew Myers of the Campaign for Tobacco-Free Kids explained, "Responsibly marketed and properly regulated, e-cigarettes could benefit public health if they help significantly reduce the number of people who smoke conventional cigarettes and become sick and die as a result."** He explained further that if properly regulated, "I don't think there is any doubt that there would be a reduction in harm," from smokers who switched to e-cigarettes. He is absolutely right on this point.

An independent report published by the executive agency of the Department of Health in the United Kingdom, Public Health England, recently confirmed Myers assertion, in concluding that **the products are at least 95 and as much as 99 percent less harmful than combustible cigarettes.**

A recent Centers for Disease Control (CDC) survey suggests that there are more than 9 million adult consumers of vapor products in the United States. This represents the greatest accomplishment in public health in decades and is due entirely to the free market. This rise corresponds with a significant decline in smoking rates among Americans, including teenagers, and is no coincidence.

That is why I support a change in the 2007 predicate date, which would permit products currently being used by consumers to quit smoking to continue to be sold. This very reasonable step has been put in legislative language authored by Rep. Tom Cole (R-Okl.) in the form of H.R. 2058 and existed in similar form in an amendment made to the House Appropriations Rural Development, Food and Drug Administration and Related Agencies agriculture appropriations bill last year.

Unlike smokers, adult vapor product consumers are becoming single-issue voters who correctly attribute their switch from combustible tobacco products to smoke free alternatives like e-cigarettes to saving their lives. To crush this new and emerging industry by preserving the status quo at the FDA would reverse decades of efforts to get people to quit smoking.

I urge Congress to amend the Tobacco Control Act predicate date for the tobacco-derived products in the electronic cigarette and vapor product category in an effort to protect public health and protect American jobs. Such a change in the predicate date would not interfere with the short-term goals of responsibly regulating the products; it would simply help avoid the looming economic and public health disaster associated with status quo prohibition.

Onward,

Grover Norquist
President, Americans for Tax Reform