

November/December 2019 Newsletter

First, we would like to thank all those who came out and supported the National Vape Rally on November 9, 2019. There were approximately 4,000 attendees. Although it was a chilly 47°F, everyone enjoyed the opportunity to come together and show support for an industry that changed their lives for the better. The Rally began a few minutes late because *the Ellipse* was closed while President Trump departed the White House on *Marine One*. As he flew overhead, the group waved banners and signs to show that vaping lives matter and #wepapewevote. Pictures of the event can be found on Facebook [HERE](#).

Second, we apologize for the delay in this newsletter. The holidays, along with recent vaping news and developments, hindered the release. We want to bring you up to date information as much as possible.

And Third, we hope you had a great holiday season and Happy New Year 2020!! Now, on to the important news...

Local update/news

Members of the Maryland Vapor Alliance (MVA) meet frequently with lawmakers and attend hearings here in Maryland. One recent hearing was in Montgomery County. The Council is considering several bills that would have a severe negative impact on vape shops and potentially closes them 90-100 days once passed into law.

The [Health & Human Services Committee](#) (HHS), chaired by [Gabe Alborno](#), unanimously voted to advance bills to the full Council. These bills stem from an outcry surrounding the alleged rise of vaping among youth. One bill bans ecigarettes from being sold within one-half mile of schools. A second bill bans flavored ecigarettes from being sold within one-half mile of schools, as well as libraries and recreational facilities. The third bill is nearly identical to Maryland state law - prohibiting the use, possession, and distribution of ecigarettes to people under 21. This "under-21" rule does not apply to active/retired military members with valid ID.

Supporters of the legislation say these bills help protect youth health and limit their ability to purchase vape products. Vape shops argue it's just another ploy to shut down the stores that are not guilty of selling to minors. Bans eliminate options for adults looking to quit smoking cigarettes (per FDA Compliance Checks over the past 16 months, no vape store in Maryland has sold to a minor). The zoning bill also requires stores to comply within 90 days of passage. Vape shops are most affected because vaping products are the only products they sell while convenience stores, gas stations, etc generate their revenue from more than 70% of non-vape related items. Ultimately, vape shops, with no other source of revenue will close and jobs will be lost. Stores will still be on the hook for leases & other expenses and adults will purchase products outside the county thus causing the County to lose potential tax revenue – it is a lose-lose scenario.

On both the state & federal levels, bills are being drafted that would ban flavored products altogether - riding on the claim that a rise in youth vaping is occurring at alarming rates. These claims are completely nonfactual and totally misconstrue the 2018 & 2019 National Youth Tobacco Survey (NYTS) results. Although the surveys report a rise in youth ecigarette usage, asking the question "have you used an ecigarette in the past 30 days", the data merely indicate kids are doing what kids do – experimenting. Those that vape frequently, more than 1-5 days per month, are already every-day tobacco users and make up only 0.6% of 14.8 million high schoolers. A closer look shows only 22% of youth say they vape because of the flavors (to read the article summary, click [HERE](#).) So where is this "epidemic" of youth usage? There isn't one and the survey data proves it.

It is also alarming that the most vocal anti-vaping activists are funded primarily by big tobacco and/or big pharma – [American Lung Association](#) (ALA), [American Cancer Society](#) (ACS), [American Heart Association](#) (AHA), [Campaign for Tobacco-Free Kids](#) (CTFK), [Truthinitiative.org](#), and [Parents Against Vaping ecigarettes](#) (PAVe). Don't believe us? Click on their links to see donors and other financial backing info. It is ironic that ALA, ACS, and CTFK each have agreed that ecigarettes are a safer alternative to quitting cigarettes. So why do they continue their attacks and call for bans across the country? The green reason – money. Their donors stand to lose billions if vaping products stay on the market. A vivid picture is captured in the documentary, "A Billion Lives" - stream it for free on the TUBI app.

Recently, Michael Bloomberg donated \$160 million to anti-vaping efforts in New York, thus bringing his total global donations to more than \$1 billion. Ironically, he has invested in Have Health's soon to be released product, [HALE](#). Have

Health wants it classified as a “smoking cessation treatment”. Using the key phrase “pharmaceutical grade ingredients”, they believe this product should not have to go through the PMTA process. Bloomberg’s investment is through one of his many companies, Village Global, which has donated heavily to Campaign for Tobacco-Free Kids (CTFK) and the CDC Foundation. The CDC Foundation has been previously investigated for allegedly allowing private donations to influence Center for Disease Control (CDC) policies, as reported by Roll Call and The Times of India. With all of this said, Bloomberg stands to make billions if the vape industry is shut down.

Other state news

The Supreme Court of New York issued a preliminary injunction against governor Cuomo’s executive ban on vaping products. The court stated that the emergency ban was unwarranted and “has encroached on the legislative prerogative of policy-making”. To read the injunction, click [HERE](#).

In New York City, the Council voted overwhelmingly, on Nov 26, 2019, to ban flavored ecigarettes. The bill passed 42 to 2. Their reasoning was the “mysterious vaping illness” and the rise in youth vaping – both of which, we know, are lies. The “illnesses” were caused by black-market THC cartridges. Penalties for violating the new ban start at \$1,000 and escalate with repeat violations.

In Massachusetts, the emergency state-wide ban was lifted. However, newer restrictions were implemented. These include retailers may be allowed to sell unflavored vaping products, 75% excise tax on nicotine vaping products, health insurers are now required to cover tobacco cessation counseling, and sales may resume once new signage, detailing the new state restrictions, are posted. Violators face fines starting at \$1,000 for the first offense.

Other states have instituted total flavor bans and other restrictions. Some cities, counties, and other municipalities prohibit vaping where smoking is prohibited, sales only to adults 21 years & older, and prohibit the sale of illegal and counterfeit products.

In some states, the governor’s executive ban was temporarily struck down and the courts issued a Temporary Restraining Order (TRO). Hearings are being scheduled to decide whether or not a permanent ban will go into effect. Michigan was one of the first to implement an executive ban and it is also the first to have the state’s appeal denied by the court. To “save” the industry, it may come down to the courts deciding if a vape ban is legal or not. Hearings give the industry an opportunity to provide evidence that vaping is a safer alternative to smoking via countless factual scientific & medical studies.

Federal update/news

In September 2019, first lady Melania Trump announced her war on vaping. She claimed the youth epidemic was out of control. Vaping advocates quickly sprang into action to which President Trump held a “vape summit” at the White House in November 2019. The meeting lasted almost three hours, an hour of which was televised. Both pro-vape and anti-vape activists were given a chance to share their viewpoints which caused a very heated debate. Anti-vape spewed lies that Juul represents the entire industry, vape marketing is geared directly at youth only, vaping is a gateway to smoking cigarettes, flavors sole purpose is to attract youth, adults don’t like flavors, half of middle and high schoolers vape and are addicted, and vaping causes lung illness and death.

We have already debunked all of the lies - but let’s do it again.

1. Lie - Juul represents the entire industry.

Answer – Juul does not represent the entire industry. They are most the well-known because their product is sold in almost every gas station, convenience store, pharmacy, grocery store, and big box store across the country. These stores are selling to youth and NOT verifying photo identification – for FDA compliance checks click [here](#).

2. Lie - Marketing and Flavors is geared towards youth.

Answer - This is and always has been a product to assist adult smokers in quitting cigarettes.

3. Lie - Vaping is a gateway to smoking cigarettes.

Answer - There is ZERO factual basis for this.

4. Lie - Adults don’t like flavors.

Answer - Adults absolutely like flavors. A recent poll of over 5,000 vape shops shows more than 70% of sales are Fruit flavored. Smokers trying to quit want to shy away from tobacco flavors and not be tempted to revert back to the deadly habit.

5. Lie - There is a youth vaping epidemic.

Answer - As previously stated, per NYTS, 0.6% of high schoolers are considered frequent users and already using some type of tobacco product regularly.

6. Lie - The “great lung illness of 2019” was caused by nicotine vaping products.

Answer – The illnesses were caused by tainted black-market THC vaping products. There is ZERO proof that nicotine vaping products caused the problem due to the fact that they are water soluble while THC products are oil based. Once vaporized and inhaled, the vapor turns back into an oil and because the body cannot break it down, it prohibits proper lung functions and the ability to breath normally.

In December 2019, President Trump announced new rules on vaping would be released. The first one (snuck into the recent omnibus bill) passed into law was T21 – sales only to adults 21 & over. This is an attempt to curb youth access. On a side note, Oct 1, 2019 was the day Maryland’s T21 law went into effect with exemption for military personnel 18 years and older with valid ID. The next rule, issued by FDA, was finalized on January 6, 2020 – a ban on closed pod systems. This it designed to encompass pre-filled systems like Juul, Njoy, Blu, and others. In contrast, open systems are those that are refillable. Manufacturers now have 30 days (until February 6, 2020) to cease all wholesale and retail sales of pre-filled pods – except for tobacco & menthol flavors. Retailers, however, will be allowed to sell out of the product(s) so they are not stuck with a loss of unsellable products. If manufacturers want to bring back flavors other than tobacco & menthol, they must go through the FDA’s PMTA process.

The PMTA process is potentially the “end-all to end-all”. In a recent 2019 case, FDA was sued over its lack of oversight during the process. The Federal District Court judge ruled the new date for PMTA filings is May 12, 2020 instead of 2022. Meaning, all vaping products sold in the U.S., must be submitted to FDA for approval. Keep in mind, FDA does not “approve” anything, they merely allow it to be sold. The judge did allow the United Vapors Alliance (UVA) to be added as a “party to the case”. UVA’s stance is that it is impossible to complete the process due to two key factors – shortened timeline and enormous costs. Therefore, they requested a TRO but were denied. The case is now under appeal to the Federal Appeals Court. We briefly spoke with the UVA lawyers and were told they are ready to take this case all the way to the Supreme Court if necessary. Their basis is using both medical and scientific factual studies that show vaping saves lives and therefore should not be eliminated. They also want FDA to issue proper PMTA guidance, making the process less expensive and less time consuming.

Your involvement is a MUST

The vape industry needs your help and the time to act is **now**. The Maryland General Assembly legislative session began on January 7, 2020 and three (3) bills have already been introduced:

[House Bill 3 \(HB3\)](#)

Sponsor: [Derek Davis](#) (D) Prince George’s County – Chair of Economic Matters Committee

House Committee: [Economic Matters Committee](#)

Bill Title: Business Regulation – Flavored Tobacco Products Prohibition

Bill Synopsis summary: prohibit manufacture, ship, import, or sell into or within the State of Maryland any flavored tobacco & vape products

[Senate Bill 3 \(SB3\)](#)

Sponsor: [Cory McCray](#) (D) Baltimore City

Senate Committee: [Budget & Taxation Committee](#)

Bill Title: Taxation & Regulation – Electronic smoking devices, other tobacco products, & cigarettes

Bill Synopsis summary: changing the current cigarette tax from 30% to 86% AND adding the same 86% tax to vaping products

[Senate Bill 54 \(SB54\)](#)

Sponsor 1: [Delores Kelley](#) (D) Baltimore County – Chair of [Finance Committee](#)

Sponsor 2: [Clarence Lam](#) (D) Baltimore & Howard Counties

Bill Title: Electronic Smoking Devices – Adding flavoring – prohibition of shipping, import, or sale

Bill Synopsis summary: prohibiting any shipping, importing, or selling into or within the State of Maryland a flavored electronic smoking device other than tobacco

To summarize these bills, two eliminate ALL flavored vaping products and the third taxes them out of existence at 86%. Prohibition is not the answer when attempting to curb youth usage and the high taxes discourage everyone from usage. An example of high taxing, that didn't work, is in Pennsylvania. There, a 40% tax was implemented and immediately 85% of the stores closed. The economical results alone were absurd – loss of jobs plus loss of revenue for the state.

Why ban and tax flavored vape products (which has claimed zero lives) when other products remain on the market such as alcohol and cigarettes which take lives every day? Legislators claim adults don't like flavors and wouldn't be caught dead asking for a candy or fruit flavor. We beg to differ because there are hundreds of flavored alcohol products that appeal to adults. Sensible regulation is necessary not prohibition.

Legislators want and need to hear from their constituents. So, regardless if you are a resident of Maryland or not, we need everyone to call Senators and Delegates asking them not to ban flavored products. By staying in the forefront of their mind, they are more likely to see the impact prohibition will cause. Therefore, call frequently not just once or twice because each call is logged and carry more weight than emails or written letters.

When calling, be respectful and courteous. Here is an example phone call:

- Hello, my name is John Smith
- I am calling regarding House Bill 3 (for Delegates) or Senate Bill 3 & Senate Bill 54 (for Senators)
- As an adult vapor, it is imperative that flavors remain available to me and other adults (say what your preferred flavor is). I understand curbing youth usage is important, but prohibition is not the answer
- I am asking that the representative vote against the bill(s)
- Thank you for your time

Note - If asked, some preferred legislative methods would be: nicotine cap (limit nicotine strengths to 25mg or 35mg), restrict selling of vaping products to vape stores only, raise penalties for underage sellers, and no additional tax or cap at 6%.

To contact Maryland Senators or Delegates, click [HERE](#)

To contact Federal Senators or Representatives, click [HERE](#)