



# Tobacco and Vapor Retail Association of Oregon

Dear Chair Nosse and members of the Committee,

To paraphrase fmr. Mexican president Vincente Fox, not even God was able to make prohibition work as evidenced by the fact that Adam ate the apple despite God's prohibition. For thousands of years, such has been the case for literally every attempt by man to impose prohibition over products that are easy to manufacture and in high demand. These efforts have never worked and always bring unintended consequences which are usually worse than the problem they are trying to solve. HB3090 in its current form is no different.

Here is a copy of the talking points we have been distributing among legislators, our members, and their customers who have decided to get involved, and the public. If the goal of those behind HB3090 is truly to keep age-restricted products out of the hands of minors, you will have no better partner than our Association. We strive to help our members comply with the law and ensure that a market regulated within society will always dominate over dangerous black markets operated by killers and social predators functioning outside of society.

HB3090 will fail in its current form. Similar bans in Massachusetts and San Francisco show this. Fortunately, HB3090 can be amended in the following ways that will accomplish many of its stated goals. Such amendments include: 1) Store owners can be required to "card" anyone buy age-restricted products regardless of apparent age, 2) Store owners can be required to use ID validation devices to detect fake IDs, 3) Employees can be held accountable along with store owners for any sales of age-restricted products to minors, 4) The sale of "fruity and candy" flavored products can be restricted to 21+ establishments where minors are not allowed on premises while menthol and "minty" flavored products can continue to be sold from behind counters in other stores.

## **Here are some unintended consequences of HB3090 in its unamended form:**

1. **HB3090 Blasts a Hole in the State Budget.** Estimates differ but, including federal matching dollars, HB3090 could cost the state from \$122 to \$200 million in lost revenue. Making up this loss would require raising taxes/fees or reallocating funds from other programs which have their own constituencies. *HB3090 does nothing to mitigate this.*
2. **HB3090 Will Do More Harm than Good to Minors.** HB3090 will not stop demand, it will only end legal supply. The supply vacuum will be filled as customers, including minors, go to the streets where they will buy more dangerous unregulated products, turn to the Internet where product may or may not be regulated, return to more dangerous tobacco-flavored products (which minors have done for generations), turn to harder drugs, or experiment by making their own product. *HB3090 does nothing to mitigate this.*
3. **Black Market Crime Will Increase.** A ban will not stop demand and, ultimately, will not stop supply. HB3090 would effectively grant a complete monopoly of the flavored tobacco and vape market to criminals, killers and social predators. These people sell unsafe and unregulated products that are frequently laced with dangerous chemicals and drugs. They will smuggle product in from other states. Our already strained law enforcement community will have to deal with this at an elevated level. Poor and disadvantaged neighborhoods, already dealing with over-policing, will suffer most. *HB3090 does nothing to mitigate this.*
4. **Worried About Minors? There Are Better Alternatives to Bans.** If the true motive of HB3090 supporters is to keep minors from purchasing flavored tobacco/vape products, there are things short of a ban which can be done that would not blast a hole in Oregon's budget and generate the unintended

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consequences a ban would bring. Specifically, it could be required that every purchaser of age-restricted products be carded regardless of their apparent age. Additionally, fruit and candy flavored products could be restricted to 21+ stores while other stores could continue to sell menthol and “minty” flavored-products. Minors can be protected without a complete ban. HB3090 in its current form, contains none of these alternatives.

5. **Minors Face Bigger Hazards than Flavored Tobacco/Vapes.** Alcohol is a much larger problem among minors yet, while tobacco and vaping products are kept behind counters and under glass, any minor can walk into a convenience store offering ready access to alcohol where they can grab what they want and simply leave. So called “buzz balls,” or canned cocktails sold in a cute ball shape, are within easy reach at grocery stores. HB3090 doesn't address any of this.
6. **A Ban on Flavored Tobacco/Vape Products Hurts Minority Communities.** Many of the smoke and vape shops impacted by HB3090 are owned by members of minority communities and employ members of minority communities. HB3090 won't just fail to solve the problems it is designed to solve, it will also destroy many minority-owned businesses and throw their employees out of work. Increased black market activity will also, as it always is, be concentrated in minority neighborhoods that are already over-policed. HB3090 doesnt address any of these problems.
7. **What About Adults?** It is well known that vaping products are healthier than traditional cigarettes. While much has been made of the appeal that flavors offer to minors, adults like flavors too and make vaping products more attractive to adults as they look for less dangerous alternatives to smoking. Adults like flavors too and they should be able to enjoy them even as we take actions short of a ban to keep age-restricted products out of the hands of minors. It is often said that, if the true motive is to limit the rights of adults, use the motive of “protecting children” as a pretense. There are other ways to protect children without restricting adult rights. HB3090 violates the rights of adults, purportedly in the name of protecting children.
8. **Voting “NO” is Consistent with the Concept of Bodily Autonomy.** Democrats in particular are championed for supporting the concept of “Your Body, Your Choice” when it comes to other areas of public policy. Voting “NO” on HB3090 is consistent with this concept. Voting “YES” on HB3090 will undermine their credibility with respect to “Your Body, Your Choice, in other areas of public policy. Because HB3090 violates the rights of adults, it is an assault on the concept of bodily autonomy and individual choice.
9. **Don't Respond to the Money.** This ban is being pushed by groups like “Flavors Hook Oregon Kids” which currently has over \$285,000 in the bank, ready to make contributions to friendly legislators for their re-election campaigns. The groups which fund Flavors Hook Oregon Kids have a lot to gain by showing their donors and sponsors that they pushed a ban through the legislature.

***But where will these groups be when the unintended consequences of a ban hit society?***

***They will be nowhere to be found.*** There is nothing on their website addressing this question. This means that the responsibility to deal with unintended consequences will fall on you, me, and all Oregonians. Don't respond to their money by enacting bad policy.

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