

Testimony of Cascade Policy Institute

Oregon House Committee On Behavioral Health and Health Care

March 21, 2023

HB 3090: Opposition to Ban on Sale of Flavored Nicotine Products

As policymakers, you surely know that any policy proposal must answer at least three questions:

1. What is the problem we are trying to solve?
2. Is it really a problem?
3. Does our proposed policy do anything to solve the problem?

The proposed ban on flavored nicotine products seeks to solve a problem that does not exist. If passed, HB 3090 will do nothing to reduce teen nicotine use while needlessly imposing huge burdens on Oregon businesses still struggling to recover from the pandemic and preparing for an impending recession.

Oregon has a teen drug and alcohol crisis, not a tobacco problem

The most recent Oregon Health Authority *Student Health Survey* reports among Oregon 11th graders, since 2015:¹

- **Vaping product use has declined** by 4.9 percentage points, from 17.1% in 2015 to 12.2% in 2020; and
- **Cigarette use has declined** by 5.8 percentage points, from 8.8% in 2015 to 3.0% in 2020.

In contrast, **Oregon teens are more likely to drink alcohol and/or use marijuana** than they are to use vaping products. **Moreover, teens who use alcohol or marijuana use these substances more frequently than vaping products**. This is despite strict laws—and enforcement of those laws—restricting the distribution and sale of alcohol and marijuana.

Substance use among Oregon 11th Graders

| | Cigarettes | Vape | Marijuana | Alcohol |
|-------------------------------|-------------------|-------------|------------------|----------------|
| None | 97.0% | 87.8% | 86.3% | 83.0% |
| 1 or 2 days | 1.5% | 3.6% | 5.2% | 10.5% |
| 3 to 5 days | 0.6% | 1.7% | 2.5% | 3.6% |
| 6 to 9 days | 0.3% | 1.2% | 1.4% | 1.6% |
| 10 or more days | 0.6% | 5.7% | 4.6% | 1.3% |
| Any use | 3.0% | 12.2% | 13.7% | 17.0% |
| Average # of days among users | 2.9 | 11.9 | 13.5 | 17.0 |

Much of the testimony submitted indicates one of the problems to be solved is the retail sale of nicotine-containing products to persons under the age of 21. Nevertheless, the law would ban the sale of flavored products to anyone—including adults over the age of 21.

¹ Oregon Health Authority, Student Health Survey, <https://www.oregon.gov/oha/PH/BIRTHDEATHCERTIFICATES/SURVEYS/Pages/student-health-survey.aspx>.

**A ban on flavored products will not reduce teen tobacco use,
and may increase combustible cigarette use**

Research on San Francisco's ban on flavored products found increases in purchases from the Internet or through the mail increased after the ban, as well as increased purchases from retailers outside of the city.²

HB 3090 will do nothing to meaningfully reduce teen use of nicotine products in the county. In fact, research published last year by the American Medical Association suggests that **a local ban on flavored products led to increased smoking** of combustible products among high school students:

San Francisco's ban on flavored tobacco product sales was associated with increased smoking among minor high school students relative to other school districts. ... This raises concerns that reducing access to flavored electronic nicotine delivery systems may motivate youths who would otherwise vape to substitute smoking.³

A comprehensive review of the academic research concludes, "published evaluation studies of US flavored and menthol sales policies **had not yet provided unequivocal evidence of effects on ultimate intended outcomes of these policies** (e.g., reduction in tobacco use prevalence among youth)."⁴

In the end, HB 3090 will do nothing to reduce teen nicotine use, while imposing incredible financial burdens on struggling businesses that are currently selling a legal product to legal purchasers. They will be deprived not only of the revenues from the sale of tobacco and vapor products, but also be deprived of the revenues from ancillary sales on drinks, snacks, and prepared food. Is the moral panic over teen nicotine use worth the price of shuttering small businesses?

I urge you to oppose HB 3090 banning the sale of flavored nicotine products.

Respectfully submitted by:

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² Yong, Y., E. N. Lindblom, R. G. Salloum, and K. D. Ward, "The impact of a comprehensive tobacco product flavor ban in San Francisco among young adults," *Addictive Behavior Reports*, June 2020, 11:100273, <https://www.sciencedirect.com/science/article/pii/S2352853220300134>.

³ Friedman, A.S., "A difference-in-differences analysis of youth smoking and a ban on sales of flavored tobacco products in San Francisco, California," *JAMA Pediatrics*, May 2021, 175(8):863–865, <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248>.

⁴ Rogers, T., E. M. Brown, L. Siegel-Reamer, B. Rahman, A. L. Feld, M. Patel, D. Vallone, and B. A. Schillo, "A comprehensive qualitative review of studies evaluating the impact of local US laws restricting the sale of flavored and menthol tobacco products," *Nicotine & Tobacco Research*, September 2021, 24:4, 433-443, <https://doi.org/10.1093/ntr/ntab188>.