

# Public Health Committee JOINT FAVORABLE REPORT

**Bill No.:** HB-6450

AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS

**Title:** CONCERNING PUBLIC HEALTH.

**Vote Date:** 3/12/2021

**Vote Action:** Joint Favorable

**PH Date:** 3/3/2021

**File No.:** 237

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## **SPONSORS OF BILL:**

Public Health Committee  
Office of the Governor

## **REASONS FOR BILL:**

This bill is intended to eliminate the sale, or possession with intent to sell, an electronic nicotine delivery system or a vapor product with a flavoring agent, other than tobacco flavor, that has been added for the purpose of flavoring the contents of the electronic nicotine delivery system or vapor product.

## **RESPONSE FROM ADMINISTRATION/AGENCY:**

### **Deidre Gifford, MD, Commissioner, Connecticut Department of Public Health (DPH)**

The elimination of flavors in electronic nicotine delivery systems and vapor products (hereafter ENDS) will help to reduce youth initiation and continued use of tobacco products. Historically, flavoring agents have been added to tobacco products to attract the interest of young tobacco users, especially since flavors help to mask the harsh taste of tobacco and assist in making them a more appealing product.

In early 2020, the Food and Drug Administration prioritized enforcement for eliminating flavored ENDS cartridges and pods from the marketplace. However, this action does not include cigars, e-liquids, or disposable products. This has led to both confusion and an opening for other products to target youth. Although most e-liquids on the market previously contained 36 mg/ml or less, with the introduction of JUULS to the market in 2015 and the creation of nicotine salts, ENDS manufacturers' products have become more appealing with continuously increasing levels of nicotine.

The Department of Public Health (DPH) strongly supports House Bill 6450.

**Miriam Delphin- Rittman, Commissioner, Connecticut Department of Mental Health and Addiction Services (DMHAS)**

Because adolescent brains are uniquely vulnerable to the effects of nicotine and nicotine addiction, DMHAS strongly supports the Governor's proposed interventions designed to reduce the likelihood of electronic cigarette use by youth. Studies show nicotine has a detrimental effect on the adolescent brain, altering normal development that can impact that person for the rest of their life.

This law would require DMHAS inspectors to conduct unannounced checks on registered ENDS dealers to determine compliance with the ban on flavors.

DMHAS is in strong support of HB 6450.

**Melissa McCaw, Secretary, Connecticut Office of Policy and Management (OPM)**

Governor Lamont is proposing policy interventions designed to reduce the likelihood of electronic cigarette use by youth.

The Governor is calling for a ban on the sale of any electronic nicotine delivery systems (ENDS) and vapor products with a flavoring agent other than tobacco flavor. Data from the 2019 Connecticut School Health Survey indicate that, although the rate of smoking combustible cigarettes among CT high schoolers continues to decline and is now 3.7%, the prevalence of e-cigarette use among high schoolers continues to explode and is now 27.0%.

Governor Lamont is also recommending capping the maximum level of nicotine in ENDS and vapor products allowed to be sold in Connecticut at 35 milligrams per milliliter. Prohibiting the sale of products having greater nicotine concentration levels will protect youth and young adult users by making these products less addictive.

Finally, the Lamont administration is proposing to increase penalties for sales to minors with the expectation that retailers will be compelled to comply with the stricter law, resulting in fewer youth trying or becoming addicted to nicotine.

**Victoria Veltri, Executive Director, Connecticut Office of Health Strategy (OHS)**

Sections 7 and 8 of the HB 6450 will resolve a persistent challenge in the State's management of the All-Payer Claims Database ("APCD"), established pursuant to Conn. Gen. Stat. § 19a-755a. This comprehensive tool provides the State and approved researchers the data necessary to analyze health care trends; consumers with meaningful information about the cost and quality of health care services and policymakers with comprehensive analysis of the data to help inform health policy. Section 7 permits Access Health CT to increase assessments or user fees in order to make up the funding shortfall. Section 8 recognizes a new funding mechanism for the Health Information Exchange (HIE).

**Mark D. Boughton, Commissioner, Connecticut Department of Revenue Services (DRS)**

The Connecticut Department of Revenue Services (DRS) strongly supports the proposed legislation, specifically, Sections 1 through 6, which would prohibit the sale of flavored vaping products, set more stringent nicotine content limits in electronic nicotine delivery systems, and establish penalties for underage sale of these products.

The DRS primary role on this front is to administer Connecticut tax laws relating to e-cigarette, vaping, and tobacco products. Tobacco 21 set forth a regulatory structure where DRS, in collaboration with fellow agencies, deploys resources that prevent underage usage. Sections 1 through 6 will enhance oversight, provide additional tools to restrict retail access to these harmful and potentially addictive products, and establish substantial consequences for retailers who fall short in their responsibilities.

## **NATURE AND SOURCES OF SUPPORT:**

### **Nancy Alderman, President, Environment and Human Health**

A growing number of studies find that some of the liquids used in e-cigarettes contain flavorings whose inhalation has been associated with lung problems, ranging from irritation to a rare but serious lung disease. Flavorings are particularly worrisome because they "have a history of being known as respiratory toxins." Because the devices produce an ultrafine aerosol, the vapors with their chemical flavorings go deep into the lungs.

### **Kathleen Silard, Stamford Health**

Stamford Health supports restricting the sale of nicotine products that cause, in the long-term, known illnesses. We encourage restricting the sale of flavored products that tend to encourage young people to use nicotine products in the future. We are all aware of the almost 3,000 hospitalizations and 68 deaths of individuals in connection with vaping in 2019 and 2020. Hospitals have an important role to play in addressing this public health problem. The legislation would be an important step to helping curb this harmful activity.

### **Melisa Luginbuhl, Deputy Director, Amplify, Inc.**

Tobacco use is a significant threat to the health of users, and it creates a substantial burden for healthcare systems. Vaping of tobacco products is a more recent and growing issue. The use of flavors in tobacco products poses a substantial risk with respect to the prevalence of use of tobacco products which poses a risk to the health of individuals and to the financial "health" of the healthcare system.

Multiple studies in both youth and young adults have found flavors as a major reason for use of e-cigarettes, hookahs, cigars, menthol cigarettes, and smokeless tobacco.

### **Additional Sources of Support include:**

Melanie Sue Collins, MD, Pediatric Pulmonologist, Connecticut Children's Medical Center  
Alyssa S. Bennett, MD, Adolescent Medicine, Connecticut Children's Medical Center  
Megan Purvis, Social Work Intern, Connecticut Prevention Network

## **NATURE AND SOURCES OF OPPOSITION:**

### **Tim Andrews, Director of Consumer Issues, Americans for Tax Reform**

HB 6450 is misguided legislation which seeks to restrict access to lifesaving, reduced-risk tobacco alternatives, such as e-cigarettes, through flavor bans proven critical to the process of helping adults quit smoking. Traditional combustible tobacco products remain one of the

leading preventable causes of death in Connecticut. Nicotine replacement therapies such as nicotine patches and gums have been used to help smokers quit for decades.

More recently, technology has developed to allow for the creation of more effective alternative nicotine delivery systems, colloquially known as e-cigarettes or personal vaporizers. We further submit that in addition to the public health disaster that reducing access to reduced risk tobacco alternatives will unleash, these proposals would also have devastating consequences on businesses, at a time when they can afford it least.

**Mark Anton, Executive Director, Smoke-Free Alternatives Trade Association**

HB6450, if enacted, would significantly harm consumer welfare, lead to avoidable negative health outcomes, and cause unnecessary hardship on Connecticut small businesses. The bill to eliminate flavors in vapor products would put undue restrictions on vapor businesses in the state. Many health and public groups have made the false claim that vaping by youth leads to smoking. The data does not indicate that vaping may lead to youth uptake of smoking. In fact, it is quite the opposite.

HB 6450 would put the youth at risk of illicit or underground markets of unknown manufacture and would cost the state of Connecticut considerable revenue.

**Marc Hyden, Director, State Government Affairs, R Street Institute**

One of the most promising weapons used to combat the dangers of combustible cigarettes are e-cigarettes. The simple truth is that e-cigarettes are fast becoming one of the number one tools smokers use to quit and are a far better alternative to combustible cigarettes.

Banning flavored e-cigarettes will likely foster the creation of an unregulated black market to meet consumer demand, and this poses a real risk.

Connecticut should not remove tools and incentives that help smokers kick the habit. Rather, Connecticut should ensure that the people have the opportunities and tools in place to make less harmful decisions.

**Additional Sources in Opposition include:**

- Bryte Johnson, CT Director of Government Relations, American Cancer Society Cancer Action Network
- Cheryl Richter, Stamford, CT
- Jonathan Shaer, Executive Director, NECSEMA

**Reported by: David Rackliffe**

**Date: 4/6/2021**