



The Consumer Advocates for Smoke-free Alternatives Association

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**Testimony of Alex Clark, CASAA Legislative Coordinator
New Jersey House Health and Senior Citizens Committee
RE: A.3704 (Opposed)**

Mr. Chairman and distinguished Members of the Committee,

My name is Alex Clark. I am the legislative coordinator for The Consumer Advocates for Smoke-free Alternatives Association (CASAA). I am also a resident of Union City, NJ. Thank you for the opportunity to speak to you today on behalf of our 5000+ members in New Jersey.

CASAA has reviewed A.3704, which would prohibit the sale of flavored vapor products. We have identified a few key issues with this policy that we believe warrant the Committee's unanimous opposition to this bill.

The variety of flavored vapor products plays a vital role in helping adult smokers transition to a smoke-free product.

In December of 2015, CASAA conducted a survey of our membership regarding e-cigarette use. The survey results are based on over 19,000 observations from our target population of CASAA members living in the United States who were regular users of e-cigarettes, the vast majority of whom were between the ages of 26-55.

Survey participants were asked specific questions regarding the role that interesting flavors play in how they use vapor products. Overwhelmingly, 72% of respondents who have quit smoking entirely credit interesting flavors with their success (Phillips, 2016).

Prohibition of flavored vapor products from the legal marketplace will force many consumers to purchase products on a newly created black market.

CASAA's survey also asked participants to contemplate a scenario in which flavors other than tobacco and menthol were banned in the United States. Predictably, an overwhelming majority (89%) of respondents indicated that they would turn to a domestic black market to purchase products, make flavored e-liquid at home, or purchase from overseas sources. As it applies to the regulation proposed by A.3704, New Jersey vapor consumers will likely purchase from New York, Pennsylvania, Connecticut, Delaware, and Florida.

When contemplating a ban on flavors other than tobacco and menthol, 14% of respondents who had completely quit smoking indicated they would likely start smoking again, something I think we can all agree would be a blow to genuine public health. In another survey from 2013, 37% of respondents indicated that a lack of flavor variability would make it less likely that they would successfully quit smoking. 48% of respondents indicated that restricting flavors would increase their cravings for traditional combustible cigarettes (Farsalinos, 2013).

Royal College of Physicians urges public health professionals and governments to promote vapor products to adult smokers.

In April, 2016, the Royal College of Physicians (RCP) -- whose groundbreaking 1962 report linking smoking to a host of diseases predated the U.S. Surgeon General's by two years -- released an extensive 200-page report on vapor products. The RCP concluded that vapor products should be promoted widely to smokers as a viable alternative to smoking. To date, the RCP report is the most comprehensive review of the the science, public policy, regulation, and ethics regarding vapor products. The RCP's conclusions include:

- **“E-cigarettes are not a gateway to smoking** – Use of e-cigarettes is limited almost entirely to those who are already using, or have used, tobacco.
- **“E-cigarettes do not result in normalisation of smoking** – there is no evidence that either nicotine replacement therapy (NRT) or e-cigarette use has resulted in renormalisation of smoking. None of these products has to date attracted significant use among adult never-smokers, or demonstrated evidence of significant gateway progression into smoking among young people.
- **“E-cigarettes and quitting smoking** - among smokers, e-cigarette use is likely to lead to quit attempts that would not otherwise have happened, and in a proportion of these to successful cessation. In this way, e-cigarettes can act as a gateway from smoking.
- **“E-cigarettes and long-term harm** - the possibility of some harm from long-term e-cigarette use cannot be dismissed due to inhalation of the ingredients other than nicotine, but is likely to be very small, and substantially smaller than that arising from

tobacco smoking. With appropriate product standards to minimise exposure to the other ingredients, it should be possible to reduce risks of physical health still further. Although it is not possible to estimate the long-term health risks associated with e-cigarettes precisely, the available data suggest that they are unlikely to exceed 5% of those associated with smoked tobacco products, and may well be substantially lower than this figure.” (RCP, 2016)

FDA Deeming.

The FDA deeming regulations are unjustifiably heavy handed and will result in 99% of the vapor industry being shut down. However, the agency made a conscious decision to NOT prohibit the sale of flavored vapor products. The FDA openly acknowledges that a variety of flavors may be helpful in transitioning smokers to less risky vapor products (FDA, 2016, 81 FR 29011).

Recommendation

On behalf of our 5000+ members in New Jersey, CASAA urges the Committee to reject A.3704 and any legislation that would limit the variety of vapor product flavors. However, if the Committee is inclined to keep debate on this issue alive, we would strongly urge you to follow the lead of the FDA and hold this bill for further study.

References:

Phillips, Carl V. "CASAA Ecig Survey Results." Antithrives.com. Carl V. Phillips, 4 Jan. 2016. Web.

Farsalinos, Konstantinos et al. "Impact of Flavour Variability on Electronic Cigarette Use Experience: An Internet Survey." IJERPH 10.12 (2013): 7272–7282. CrossRef. Web.

Royal College of Physicians. "Nicotine without smoke: Tobacco harm reduction." London: RCP, 2016.

US Food and Drug Administration. "Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products." Federal Register. National Archives and Records Administration, 10 May 2016. Web. 15 May 2016.