

October 8, 2024

To: Members of the Kansas City Neighborhood Planning and Development Committee
From: Americans for Tax Reform
Re: **Oppose Ban on Life-Saving Vapor and Nicotine Pouch Flavors**

Dear Councilmember,

On behalf of Americans for Tax Reform (ATR), a non-profit organization which advocates in the interests of taxpayers and consumers throughout the United States, **I urge you to reject Ordinance 240897**. This misguided rule seeks to restrict access to lifesaving, reduced-risk tobacco alternatives, such as electronic cigarettes and nicotine pouches, by banning flavors proven critical to the process of helping adults quit smoking. **The evidence clearly demonstrates that, if enacted, this ordinance would have a disastrous impact upon not only businesses, but public health in general across Kansas City, leading to a clear increase in tobacco-related mortality.**

ATR further contends that in addition to the public health disaster that would be unleashed by reducing access to reduced risk tobacco alternatives, these proposals would also have devastating consequences on businesses at a time when they can least afford it. It would kill countless jobs and would cost small business owners their livelihoods. The ordinance's total economic cost would be devastating.

In addition, the ordinance before you today takes aim at a product growing in popularity with former adult smokers – nicotine pouches. This product category, which include Zyns and Velo, has proven to be an invaluable alternative for smokers looking to quit, as it is quite simple (and smoke-free) to use.

Cracking down on harmless nicotine pouches would significantly narrow the field of proven options available to smokers looking to quit. Between January and March of 2022, over 808 million units of Zyn were [sold](#), and this number has only increased since. Moreover, of these buyers between the age of 15–24, 73% were smokers, and 81% had smoked in the past. On the contrary, only [2.3%](#) of middle- and high-schoolers had even tried these products at all. For these reasons and more, it's obvious why the FDA has already [authorized](#) a similar product, known as snus, which have helped give Sweden the lowest [rate](#) of lung cancer in the developed world.

Flavors are crucial to the efficacy of nicotine pouches and vapor products as an alternative to cigarettes. Studies have repeatedly shown that flavors in vapor products and nicotine pouches – which this ordinance would prohibit – are critical to helping adult smokers make the switch to vaping. **Adults who use flavored alternatives are 43% more likely to quit smoking than an adult who uses unflavored products**, according to a recent [study](#) from ten of the world's top experts in cancer prevention and public health.

Further, bans on flavored vaping products and nicotine pouches are shown to cause increased youth cigarette smoking. A [study](#) from Dr. Abigail Friedman at the Yale School of Public Health found that when San Francisco imposed a flavor ban in 2018,

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youth smoking doubled. Before San Francisco's flavor ban, the city had lower youth smoking rates than comparable counties like New York and Los Angeles. After the flavor ban, San Francisco's youth smoking rate rose to 6.2% while comparable districts had an average rate of 2.8%.

Contrary to the claims of anti-vaping advocates, flavors play no role in youth uptake of vaping. Academic studies have found that teenage non-smokers "willingness to try plain versus flavored varieties did not differ" and a mere 5% of vapers aged 14-23 reported it was flavors that drew them to e-cigarettes. In fact, National Youth Tobacco Survey results have shown [no increase in nicotine dependency](#) among youths since flavored products entered the market.

Along with the flavor bans imposed on reduced risk tobacco alternatives, this ordinance extends flavor prohibition to menthol cigarettes and other conventional tobacco products. Like bans on flavors in reduced risk tobacco alternatives, these would also come with significant negative consequences for Kansas City, with no evidence whatsoever that they have any effect in reducing smoking rates.

Additionally, real world evidence from Massachusetts demonstrates that such bans are counterproductive and come at significant cost. Since Massachusetts implemented a ban on all flavored tobacco products in the middle of 2020, cross-border purchases and the creation of a booming black market have more than made up for the decline in sales in the Commonwealth. In the first six months since the ban was enacted, Massachusetts retailers have sold 17.7 million fewer cigarette packets compared to the same six months in the prior year, while neighboring Rhode Island and New Hampshire have combined to sell 18.9 million more as Massachusetts residents stocked up across state lines. **This policy failure is costing Massachusetts more than \$10 million each [month](#) in excise tax revenue.**

While the states of Rhode Island and New Hampshire have been some of the biggest beneficiaries of Massachusetts' ban, criminal syndicates have also benefited. Contrary to popular belief that tobacco smuggling is a victimless crime consisting of someone purchasing a few extra cartons across state lines, in reality, most tobacco smuggling is run by multi-million-dollar organized crime syndicates. These networks, who also engage in human trafficking & money laundering, have also been used to fund terrorist and the **US State Department has explicitly [called tobacco smuggling a "threat to national security"](#)**. Paradoxically, these bans may therefore increase youth smoking in the state: By definition, criminals and smugglers are unlikely to obey laws and would not follow rigorous age-verification requirements mandated at reputable outlets.

Prohibitions on menthol-flavored cigarettes will disproportionately impact minority populations and communities of color. Banning menthol cigarettes will also significantly increase the policing of minority communities and lead to a rise in unnecessary interactions between law enforcement and people of color. This proposal would ensure that every menthol cigarette in Kansas City is untaxed, and therefore illegal, subjecting the possessor to search and arrest. **This ordinance prioritizes criminalization over harm reduction and public health.**

Civil liberty organizations such as the American Civil Liberties Union (ACLU), the Law Enforcement Action Partnership, and the Drug Policy Alliance are all [opposed](#) to bans on menthol and other flavored tobacco products for these same reasons. Further, law enforcement officials [overwhelmingly](#) oppose a menthol ban because it will spur smuggling, counterfeit cigarettes, and increase organized crime.

About E-Cigarettes and Vapor Products:

- Traditional combustible tobacco remains one of the leading preventable causes of death.

The negative health effects of combustible tobacco come from the chemicals produced

in the combustion process, not nicotine. While highly addictive, nicotine is a relatively benign substance like caffeine and nicotine use “does not result in clinically significant short- or long-term harms”.

- Nicotine replacement therapies such as nicotine patches and gums have helped smokers quit for decades. In recent years, advancements in technology have created a more effective alternative: vapor products and e-cigarettes. These products deliver nicotine through water vapor, mimicking the habitual nature of smoking while removing the deadly carcinogens that exist in traditional cigarettes.
- The CDC has [found](#) that only 3.1% of youths use e-cigarettes daily as of 2021, disproving the myth of an ongoing “youth vaping epidemic.”

Benefits of E-Cigarettes and Vapor Products:

- Vapor products have been [proven to be at least 95% safer](#) than combustible cigarettes. A comprehensive analysis of nicotine product harm estimates that e-cigarettes expose users to just 4% of the harm of combustible cigarettes.
- E-cigarettes are also more than [twice as effective](#) at helping smokers quit than traditional nicotine replacement therapies. According to one [study](#), someone who smokes and is attempting to quit with an e-cigarette has an estimated 323% higher chance of achieving complete cessation compared to someone using a traditional nicotine replacement therapy like nicotine-containing patches, gum, or mouth spray.
- Vaping has been endorsed by over 100 of the world’s [leading public health organizations](#) as safer than smoking and an effective way to help smokers quit.
- When e-cigarettes entered the market in 2003, the U.S. adult cigarette smoking [rate](#) was 21.6%. Due to increased access to vaping, the U.S. adult smoking rate has [plummeted](#) to 11.5% as of 2021.

- An [analysis](#) by Public Health England demonstrated just how effective vaping is in helping people quit smoking, noting that in just one year, over 50,000 British smokers, who would have continued smoking otherwise, quit smoking with vaping.
- A study from Value in Health Journal [found](#) that legislative actions banning flavored electronic cigarettes are directly correlated with increased traditional cigarette sales.
- A University of Glasgow study showed that e-cigarettes particularly [help disadvantaged](#) people quit smoking. This ordinance will have a tremendously negative impact on public health and would fail to decrease socioeconomic disparities by reducing adult access to products shown to improve public health.
- Large-scale [analysis](#) from Georgetown University Medical Center estimates that 6.6 million American lives can be saved if most cigarette smokers switched to vaping.

In the interest of improving public health, protecting the Kansas City economy, and preventing the spread of smuggling cartels, we call upon you to **vote against this flavor ban ordinance**. The lives of your constituents quite literally depend upon it.

Sincerely,

Dennis Hull
State Affairs Coordinator
Americans for Tax Reform