



March 8, 2017

The Honorable Paul Ryan  
Office of the Speaker of the House  
H232, U.S. Capitol  
Washington, DC 20515

The Honorable Nancy Pelosi  
Office of the Democratic Leader  
H204, U.S. Capitol  
Washington, DC 20515

Dear Speaker Ryan and Leader Pelosi:

We write today in strong support for the *FDA Deeming Authority Clarification Act of 2017* (HR 1136). This bi-partisan legislation, introduced by Representatives Tom Cole and Sanford Bishop, would lift the industry-ending effect of the retroactive predicate date in FDA's recent deeming regulations on electronic cigarettes, while instituting regulations that better fit the unique nature of our products. Without it, only major tobacco companies will have a chance to survive beyond 2018. Ensuring this groundbreaking technology continues to be available as a healthier alternative for adult Americans who smoke is key in the mission to ultimately eliminating cigarette smoking and smoking-related disease.

The FDA's plan to regulate vapor products out of existence is misguided. There is a large and rapidly growing body of scientific evidence that supports the premise that vapor products are the most important tobacco harm reduction opportunity of the last decade. The most recent study, [published in the Annals of Internal Medicine](#), conducted and authored by researchers from the U.S. Centers for Disease Control and Prevention (CDC), University College London and King's College, Roswell Park Cancer Institute found that consuming e-cigarettes exposes vapers to dramatically lower levels of toxins than smoking conventional cigarettes. Moreover, the difference between smokers' and vapers' exposure is actually similar to the difference between smokers and non-smokers, as found by the same CDC scientist in a [2012 study](#). Additionally, the Royal College of Physicians released a [comprehensive scientific review](#) that concluded that vapor products are *at least* 95% less harmful than combusted cigarettes. In the UK, [Public Health England published a report](#) recommending these products as a harm-reducing alternative for smokers.

The *FDA Deeming Authority Clarification Act of 2017* will allow an entire vapor products industry to remain afloat, saving tens of thousands of American jobs while providing unprecedented regulation of vapor products appropriate for this innovative new technology. Unlike the FDA's regulations issued in 2016, the Cole-Bishop bill addresses the issues of product safety and enhances youth protections. Additionally, the legislation provides the

March 8, 2017

Page 2

strictest industry standards while also preserving access to vapor products for the millions of adult Americans who now use them every day instead of smoking.

Specifically, the *FDA Deeming Authority Clarification Act of 2017* would:

- Amend the current law's highly-problematic retroactive predicate date from February 15, 2007 to the effective date of the final deeming regulations, allowing products that meet all regulatory requirements to remain on the market and keeping thousands of small businesses, and their tens of thousands of employees, afloat.
- Protect consumers by preserving access to the diverse vapor marketplace, as opposed to the current law and FDA's deeming regulations that threaten to force millions of adult consumers back to smoking or into the black market.
- Set higher standards for product safety by requiring the FDA to implement rulemaking on product standards for batteries used in the devices within 12 months.
- Protect teens by severely restricting marketing and youth access to vapor products.

If the FDA's deeming regulations are allowed to stand, small and midsize vapor retailers and manufacturers all over the United States will shutter their doors, leaving consumers – who are battling every day to quit smoking – without access to these life-changing and possibly life-saving alternatives to combustible cigarettes. Although it does not purport to solve every issue with the FDA's deeming regulations, the *FDA Deeming Authority Clarification Act of 2017* is a significant first step toward correcting the FDA's misguided approach to regulation of the vapor industry.

On behalf of these consumers and small business owners across the country, we urge you to support this commonsense legislation.

Sincerely,



---

Tony Abboud  
Executive Director  
Vapor Technology Association



---

Alex Clark  
Executive Director  
Consumer Advocates for Smoke-Free  
Alternatives Association



---

Pamela Gorman  
Executive Director  
Smoke Free Alternatives Trade Association



---

Gregory Conley  
President  
American Vaping Association