

I am writing to strongly urge you to reject HB 2801. This bill, if passed, would have detrimental effects on Kansas's vaping community and small businesses, while favoring large tobacco corporations. The proposed regulations mirror those of the Biden Administration's FDA, which have consistently failed to address the needs of the American populace and have a track record of negatively impacting small businesses.

#### Overview of House Bill 2801:

HB 2801 proposes implementing a Pre-Market Tobacco Application (PMTA) registry that would effectively prohibit all vaping products introduced in the past eight years. This registry would only include manufacturers who submitted a PMTA to the FDA by September 9, 2020, excluding over 9,000 non-tobacco nicotine products currently under FDA review. The bill would severely limit consumer choice and disproportionately benefit large tobacco companies at the expense of small businesses.

#### Implications for Small Businesses:

If enacted, HB 2801 would severely restrict the availability of nicotine vaping products in Kansas, akin to operating a cell phone store that can only sell outdated iPhone models. This would directly threaten the viability of small businesses and jeopardize the livelihoods of their employees, as they would be unable to sell products that consumers demand.

#### Unfunded Enforcement Mandate:

The proposed fees for registering vaping products are insufficient to cover enforcement costs, especially considering the FDA's track record of approving only a fraction of submitted products. With inadequate funding, effective enforcement of the registry would be nearly impossible, leaving the door open for regulatory failure.

#### Consequences for Public Health and Consumer Choice:

HB 2801 could potentially drive consumers towards unregulated markets, increasing public health risks and potentially facilitating criminal activities. Additionally, restricting access to vaping products could push consumers back towards smoking cigarettes, which contradicts public health goals.

#### No State Has Successfully Implemented a PMTA Registry:

Historically, no state has successfully implemented a PMTA registry due to legal challenges and enforcement difficulties. Attempting to enforce such regulations in Kansas would likely lead to similar issues and may exacerbate existing challenges.

#### Youth Vaping Has Plummeted as Adult Use Has Grown:

Contrary to misconceptions, the rate of youth vaping has decreased significantly since 2019, while adult vaping has increased. This indicates a shift towards safer alternatives to smoking among adults, emphasizing the importance of preserving access to vaping products.

#### Inappropriate Marketing Does Not Justify Broad Bans:

While there may be concerns about inappropriate marketing of vaping products, broad bans like those proposed in HB 2801 are not the solution. Targeted legislation can address these issues without harming responsible businesses and consumers.

#### Questions for Proponents:

I urge proponents of HB 2801 to consider the following questions:

1. If Altria anticipates a rebound in cigarette sales due to PMTA registries, how does this benefit public health?
2. How will enforcement be effective with limited funding from annual fees?
3. Have any states effectively curtailed illicit sales via social media platforms?
4. How will constituents respond to being denied access to flavored vape products while cigarettes remain available?

#### Conclusion:

In conclusion, I implore you to reject HB 2801 to protect Kansas vapers and small businesses. Thank you for considering my testimony.

Sincerely,  
Alli Boughner  
Vice President of American Vapor Manufactures