

INTERIM STUDY PROPOSAL 2019-138

REQUESTING THE SENATE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR STUDY THE IMPACT OF VAPOR PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, AND E-LIQUID PRODUCTS ON THE CITIZENS OF ARKANSAS.

WHEREAS, the use of e-cigarettes or vapor products, alternative nicotine products, and e-liquid products, also known as vaping, has become an epidemic in the State of Arkansas, especially among the youth of Arkansas; and

WHEREAS, five and seven-tenths percent (5.7%) of adults in Arkansas reported using e-cigarettes in 2017; and

WHEREAS, thirteen and nine-tenths percent (13.9%) of high school students in Arkansas used electronic vapor products on at least one (1) day in the past thirty (30) days in 2017, which is higher than the national rate of thirteen two-tenths percent (13.2%); and

WHEREAS, more than three million six hundred thousand (3,600,000) middle and high school students had used e-cigarettes in the past thirty (30) days last year, according to the Centers for Disease Control and Prevention and the United States Food and Drug Administration; and

WHEREAS, about one million five hundred thousand (1,500,000) more American young people used e-cigarettes in 2018 than in 2017; and

WHEREAS, the Department of Health announced in December 2018 that e-cigarette use among students in Arkansas is expected to match a national rate of just over twenty percent (20%) or more than one (1) in five (5) teens; and

WHEREAS, under Arkansas Code § 5-27-227, minors are prohibited from using, possessing, or purchasing vapor products, alternative nicotine products, or e-liquid products; and

WHEREAS, under Arkansas Code § 26-57-203, "vapor product" means an

1 electronic oral device of any size or shape that contains a vapor of
2 nicotine, e-liquid, or any another substance that when used or inhaled
3 simulates smoking, regardless of whether a visible vapor is produced,
4 including without limitation a device that:

5 (1) Is composed of a heating element, battery, electronic
6 circuit, chemical process, mechanical device, or a combination of heating
7 element, battery, electronic circuit, chemical process, or mechanical device;

8 (2) Works in combination with a cartridge, other container, or
9 liquid delivery device containing nicotine, e-liquid, or any other substance
10 and manufactured for use with vapor products;

11 (3) Is manufactured, distributed, marketed, or sold as any type
12 or derivation of a vapor product, e-cigarette, e-cigar, e-pipe, or any other
13 product name or descriptor; and

14 (4) Does not include a product regulated as a drug or device by
15 the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., as it
16 existed on January 1, 2015; and

17
18 WHEREAS, under Arkansas Code § 26-57-203, "alternative nicotine
19 product" means a product that consists of or contains nicotine that can be
20 ingested into the body by chewing, smoking, absorbing, dissolving, inhaling,
21 snorting, sniffing, or by any other means but does not include a:

22 (1) Tobacco product;

23 (2) Vapor product;

24 (3) Product that is a drug under 21 U.S.C. § 321(g)(1);

25 (4) Product that is a device under 21 U.S.C. § 321(h); or

26 (5) Product that constitutes a combination drug, device, or
27 biological product as described in 21 U.S.C. § 353(g); and

28
29 WHEREAS, under Arkansas Code § 26-57-203, "e-liquid product" means a
30 liquid product, which may or may not contain nicotine, that is inhaled when
31 using a vapor product, and that may or may not include without limitation
32 propylene glycol, vegetable glycerin, nicotine from any source, and
33 flavorings; and

34
35 WHEREAS, Acts 2019, No. 580, modifies the Arkansas Code to define a
36 minor as a person who is under twenty-one (21) years of age but excludes from

1 that definition military personnel or a person who attains nineteen (19)
2 years of age as of December 31, 2019; and

3
4 WHEREAS, Acts 2019, No. 580, modifies the Arkansas Code to authorize a
5 certified law enforcement officer or school official to confiscate and
6 destroy vapor products, alternative nicotine products, or e-liquid products
7 if found in the possession of a minor; and

8
9 WHEREAS, the Arkansas Attorney General Leslie Rutledge recently stated:
10 "While I am generally not one to push for more regulations, we absolutely
11 must wrap our hands around the vaping epidemic. It is a true epidemic in
12 Arkansas and across the country. Every single superintendent, school official
13 that I have spoken with has said we have a vaping problem at our schools";
14 and

15
16 WHEREAS, United States health officials are presently investigating
17 possible cases of severe lung disease associated with vaping across the
18 states; and

19
20 WHEREAS, the first death related to the outbreak of severe lung disease
21 in individuals who use e-cigarettes or vaping devices was reported in
22 Illinois in August 2019; and

23
24 WHEREAS, vapor products, alternative nicotine products, and e-liquids
25 are subject to the state sales and use tax; and

26
27 WHEREAS, the General Assembly should study the impact of vapor
28 products, alternative nicotine products, and e-liquids on the State of
29 Arkansas to determine what strategies would combat the epidemic and what
30 strategies would benefit the citizens of Arkansas,

31
32 NOW THEREFORE,

33 BE IT PROPOSED BY THE SENATE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR
34 OF THE NINETY-SECOND GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

35

1 THAT the Senate Committee on Public Health, Welfare, and Labor study
2 the impact of vapor products, alternative nicotine products, and e-liquid
3 products on the State of Arkansas to determine what strategies would combat
4 the epidemic and what strategies would benefit the citizens of Arkansas,
5 including without limitation:

6 (1) The consequences and effects on the health of the citizens
7 of Arkansas;

8 (2) The costs associated with the use of e-cigarettes or vapor
9 products, alternative nicotine products, and e-liquid products, also known as
10 "vaping"; and

11 (3) A comparison of the costs associated with the use of e-
12 cigarettes or vapor products, alternative nicotine products, and e-liquid
13 products, also known as "vaping", versus the revenues received as a result of
14 the sale of vapor products, alternative nicotine products, and e-liquid
15 products.

16
17 BE IT FURTHER PROPOSED THAT, upon request, the Department of Health and
18 Arkansas Tobacco Control shall provide assistance to perform this study.

19
20
21 Respectfully submitted,

22
23
24
25 Senator Missy Irvin
26 District 18

27
28
29
30 Senator Jim Hendren
31 District 2

32
33
34 Prepared by: JMB/JMB
35
36