

Submitter: Richard Burke  
On Behalf Of:  
Committee: House Committee On Commerce and Consumer Protection  
Measure, Appointment or Topic: HB2528

Chair Sosa and Members of the Committee,

My name is Richard P. Burke. I am the Executive Director of the "21+ Tobacco and Vapor Retail Association of Oregon" or "VAR21" for short. We are a 501(c)6 professional association of retail outlets, selling tobacco, vaping, and related products where only people 21 or older are allowed on premises (excepting for trained employees). This makes our association distinct from tobacco and vaping retailers who allow minors on property such as gas stations, convenience stores, and grocery stores. Our membership currently includes the owners of 72 retail outlets, one manufacturer, and two distributors who make and/or sell tobacco and vaping products.

When registering to testify, it is necessary to indicate support or opposition to the legislation at issue. With respect to HB2528, this was difficult as we favor sections of the bill and oppose others. I have therefore selected "NEUTRAL." This testimony is meant to express our position in more detail.

VAR21 has no objection to expanding the definition of "inhalant delivery systems" for purposes of taxation. For regulatory purposes, we oppose expanding this definition to cover components that can be used with products that do not contain tobacco or nicotine. There are many "inhalant delivery systems" which can be used with a wide variety of products that do not contain tobacco or nicotine which can actually provide alternatives to such products.

VAR21 opposes defining "tobacco products" to include anything that is derived from tobacco or nicotine. The reason for this is that tobacco products which contain nicotine carry different benefits and risks than products containing nicotine which do not include or are derived from tobacco.

As the tobacco and vape industries evolve, as more data are collected, and as government entities and enforcement methods evolve, it makes sense to maintain the regulatory flexibility which comes from treating different classes of products differently. As an example it is generally recognized that vaping products containing nicotine but not tobacco are generally regarded as being less hazardous than products containing nicotine but NOT tobacco.

VAR21 opposes using the FDA approval as an absolute standard for allowing the

sale of tobacco and vaping products in Oregon. One reason is that the FDA is often politically driven rather than driven by its public mission. For example, president Trump has publicly declared himself a "friend" to the vaping industry while president Biden (and perhaps future administrations) are more hostile. VAR21 believes that the Oregon government should regulate this industry as it sees fit rather than place our industry at the mercy of Washington's shifting sands.

VAR21 supports elements of HB2528 which tightens up, clarifies, and creates civil liabilities for those who sell age-restricted products to minors in lieu of criminal liabilities. We would support an amendment which makes trained retail employees liable for civil penalties alongside owners when age-restricted products are illegally sold to minors.

VAR21 opposes allowing city and/or local governments to place restrictions on retailers of tobacco and vaping products in excess of restrictions established by state entities empowered to do so. VAR21 works very hard to help its members comply with government restrictions on retailing and many of our owners have retail stores in different cities and counties. A checkerboard of varying restriction complicates the process of complying with reasonable restrictions.

VAR21 has independent documentation to support assertions made in this testimony and stands ready to provide additional information upon request. I am also ready to come to Salem for the purpose of discussing this legislation and working together to make it better. Thank you for your attention.

Respectfully,

Richard P. Burke, Exec. Dir.  
21+ Tobacco and Vapor Retail Association of Oregon