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Testimony from:
Jeffrey S. Smith, Senior Fellow, Integrated Harm Reduction, R Street Institute

R Street Testimony in opposition of SB 702, a bill to Prohibit the sale of
flavored tobacco and nicotine products.
March 04, 2025

Oregon Senate Committee on Early Childhood and Behavioral Health

Chairwoman Reynolds and members of the committee,

My name is Jeff Smith, and I am a senior fellow on the Integrated Harm Reduction team at the R Street Institute. The R Street Institute is a nonprofit, nonpartisan public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas. Our efforts to promote tobacco harm reduction are why we have a particular interest in SB 702.

The R Street Institute has long-standing concerns about the health-related consequences of inhaling combustible cigarettes and has been a staunch advocate for limiting the sale of nicotine-related products to those who are 21 years of age and older. We strongly support varied pathways for quitting smoking which include access to a wide array of alternative, reduced-risk, nicotine products including Electronic Nicotine Delivery Systems (ENDS), Heated Tobacco Systems (HnB), and Oral Tobacco and Nicotine Products (Snus).

I am a former Oregonian who lived in the Mississippi Avenue District of Portland while working as a professor at the University of Portland. I have always been impressed with the unique balance of empathy that Oregonians have for those in need whilst maintaining the traditional passion of independence that stems from the early pioneer days. These characteristics are exemplified in past legislation passed by the state supporting harm reduction efforts. From syringe exchange services for those that use drugs to providing Naloxone to prevent overdoses, Oregon has been a leader in harm reduction efforts for decades.¹ This proactive approach to supporting harm reduction efforts is the primary source of confusion over why SB 702 is being brought forward.

¹ Oregon Health Authority, Harm Reduction Website,
<https://www.oregon.gov/oha/ph/preventionwellness/substanceuse/pages/harm-reduction.aspx>



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We believe SB 702 would greatly hamper adult smokers on their journey to a smoke-free life. Along with varied product types, access to a wide variety of flavors has been shown to be a key attribute that helps adult smokers switch away from cigarettes, greatly reducing the harms related to the use of combustible products. Removing access to flavored alternatives would greatly curtail the positive movement toward reducing the consumption of combustible products for the citizens of Oregon.

About a decade ago, scientific evidence emerged demonstrating the importance of non-tobacco-flavored reduced-risk products. In 2015, researchers reported that 66 percent of those who independently chose to switch to novel ENDS products were able to stop smoking cigarettes completely.² Most of the study participants attributed their success, which was verified by exhaled carbon monoxide readings, to the availability of non-tobacco- and non-menthol-flavored ENDS products. The appeal and likelihood of use of multiple flavor varieties of ENDS among adult current, former, and never-tobacco users have also been investigated, suggesting potential benefits for current cigarette users without posing a substantial risk of initiation by tobacco non-users, including young adults.³ In fact, in locations where flavor bans are put into place, smoking rates rise (in both adult and underage consumers).⁴

Simply put, flavors help people quit smoking and stay smoke-free.

Unfortunately, around the same time, the underage use of vapes (both nicotine and non-nicotine) began to increase.⁵ All agree that reducing youth access to any nicotine product—flavored or not—must be a priority.⁶ Because certain flavors, like fruit, candy, dessert, and menthol, are particularly appealing to young adults and adolescents, who are more likely to initiate and continue smoking flavored products,

² Tackett, Alayna P, William V Lechner, Ellen Meier, DeMond M Grant, Leslie M Driskill, Noor N Tahirkheli, and Theodore L Wagener. "Biochemically Verified Smoking Cessation and Vaping Beliefs among Vape Store Customers." *Addiction* 110, no. 5 (2015): 868-74. <https://onlinelibrary.wiley.com/doi/abs/10.1111/add.12878>

³ McDowell, Elliott H, Leiyu Yue, Jennifer T Lyden, and William R Bagwell. "Appeal and Likelihood of Use of Multiple Flavor Varieties of Bidi® Stick Electronic Nicotine Delivery Systems among Adult Current, Former, and Never Tobacco Users in the United States." (2022). <https://www.researchsquare.com/article/rs-1962398/v1>

⁴ Friedman, Abigail, Alex C Liber, Alyssa Crippen, and Michael Pesko. "E-Cigarette Flavor Restrictions' Effects on Tobacco Product Sales." Available at SSRN (2023). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4586701

⁵ Farzal, Zainab, Martha F Perry, Wendell G Yarbrough, and Adam J Kimple. "The Adolescent Vaping Epidemic in the United States—How It Happened and Where We Go from Here." *JAMA Otolaryngology—Head & Neck Surgery* 145, no. 10 (2019): 885-86. <https://jamanetwork.com/journals/jamaotolaryngology/article-abstract/2748897>

⁶ Farzal, Zainab, Martha F Perry, Wendell G Yarbrough, and Adam J Kimple. "The Adolescent Vaping Epidemic in the United States—How It Happened and Where We Go from Here." *JAMA Otolaryngology—Head & Neck Surgery* 145, no. 10 (2019): 885-86. https://jamanetwork.com/journals/jamapediatrics/article-abstract/2592300?utm_campaign=scite&utm_source=scite&utm_medium=referral



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detering and preventing use is critically important.⁷ To help address this concern, on Dec. 20, 2019, Tobacco 21 (also called “T21”) was signed into law as an amendment to the Federal Food, Drug, and Cosmetic Act.⁸ This law made it illegal for anyone under the age of 21 to purchase any tobacco or nicotine products, and it has drastically decreased the use of such products among underage individuals. The existence of this law is a primary driver for the reduction of youth vaping across the country.⁹ Since the establishment of T21, youth ENDS use rates in Oregon have plummeted. It was reported that in 2017, youth vaping peaked in Oregon at 21.4% of 11th graders¹⁰ using electronic cigarettes in the last thirty days, but that number has dropped to 6.9% in 2022.¹¹

The overwhelming majority of e-cigarettes used by youth were products that are illegally in the marketplace, most of which have been imported illegally from China. These products have not filed applications with the FDA or did and had their application denied. There are a wide variety of brand names associated with these illegal vapes, including Elf Bar, Kangvape, FUME, and Mr. Fog, but the packaging can also be changed by the importer to represent additional brand names and marketing imagery. Attempting to track and enforce all of the hundreds of potential brands of illegal products would be a very difficult task. If concerns about youth use of these products persist, there are multiple tools to address underage use without putting barriers to access for adult smokers, from enforcement for purchasing to targeted prevention campaigns. Recently, localities have even gone so far as to install vape detectors in schools.¹²

Current, federally-funded initiatives are attempting to better evaluate the role of flavors in smoking cessation at the population level by standardizing research measures. In fact, the FDA Center for Tobacco Products (CTP) has recently (January 16th 2025) granted marketing orders for a wide variety of flavored nicotine pouches produced by Swedish Match. The CTP stated in their announcement that

⁷ van der Eijk, Yvette, Xian Yi Ng, and Jeong Kyu Lee. "Cross-Sectional Survey of Flavored Cigarette Use among Adult Smokers in Singapore." *Tobacco Induced Diseases* 19 (2021).

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8173988/>

⁸ U.S. Food & Drug Administration, “Tobacco 21”, <https://www.fda.gov/tobacco-products/retail-sales-tobacco-products/tobacco-21>

⁹ CDC/FDA, National Youth Tobacco Survey, https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm?s_cid=mm7244a1_w

¹⁰ Oregon Health Authority, Healthy Teens Survey, <https://www.oregon.gov/oha/PH/BIRTHDEATHCERTIFICATES/SURVEYS/OREGONHEALTHYTEENS/Pages/2019.aspx>

¹¹ Truth Initiative, Tobacco Use in Oregon 2023, <https://truthinitiative.org/research-resources/smoking-region/tobacco-use-oregon-2023>

¹² Mia Nelson, “Lynchburg City Schools installs vape detectors in high schools,” ABC 13 News, March 16, 2023. <https://wset.com/news/local/lynchburg-city-schools-installs-vape-detectors-ec-glass-heritage-high-school-vaping-tobacco-thc-weed-pen-dr-derrick-brown-director-student-services-lcs-virginia-march-2023>.



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these nicotine pouches are appropriate for the protection of public health, providing more benefits to the population's health than risks.¹³ We should anticipate that there will be even more FDA-authorized flavored reduced-risk products available for adult consumers to help support them on their journey toward a combustion-free life. A broad-reaching flavor ban, such as the one that SB 702 would implement, would act to block any future FDA-CTP-approved flavored ENDS product from being legally marketed in Oregon.

The R Street Institute urges you to consider all facets of how access to reduced-risk products impacts the health of all Oregonians as you review SB 702. These data are clear for the state of Oregon; adult smokers are migrating away from cigarettes toward less harmful ENDS products, and that is a clear public health win for the state. The passage of SB 702 would stop this positive trend in its tracks.

Thank you,

A handwritten signature in black ink, appearing to read 'Jeffrey S. Smith', enclosed in a thin black rectangular border.

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¹³ FDA Center for Tobacco Products, "FDA Authorizes Marketing of 20 ZYN Nicotine Pouch Products after Extensive Scientific Review", <https://www.fda.gov/news-events/press-announcements/fda-authorizes-marketing-20-zyn-nicotine-pouch-products-after-extensive-scientific-review>