



Robert M. Califf M.D.
FDA Commissioner
10903 New Hampshire Ave
Silver Spring, MD 20993

Dear Commissioner Califf,

We write to you in opposition to a new regulation signed into law by Congress that will effectively ban vapor products that include synthetic nicotine manufactured and sold legally in the United States.

The law authorizes your administration, the Food and Drug Administration (FDA), to take products containing synthetic nicotine off of store shelves, requiring manufacturers to submit product authorizations to the FDA. Unfortunately, FDA itself has stated that acceptable applications generally require six months of preparation, making this a de facto ban on every small company that lacks the resources of multinational tobacco companies. As a result, this law, led by your colleagues Senators Richard Burr, Dick Durbin, and Patty Murray deprive smokers and former smokers of a crucial tool to quit cigarettes in favor of healthier alternatives.

We urge you to exercise enforcement discretion to allow for regulated small businesses trying to comply with this foolish new law to remain on the market for longer than the 60 days stipulated, as they prepare their marketing applications. The FDA has done this before, and you should do it now. If you don't there will be disastrous consequences for former smokers that rely on synthetic vapor products to stay off cigarettes.

If the FDA implements this law as written, it will deprive Americans of an accessible and approachable option to stop smoking. Flavored vapor products have been arguably the most

successful alternative for smokers to safely ease out of cigarette use, but this ban will leave Americans with significantly less options resulting in fewer Americans quitting combustible tobacco. As leading voices against government overreach, we believe that no regulator or lawmaker should be able to restrict consumer choice in this matter, especially if it presents direct health implications.

The other big winners in this law are Chinese counterfeiters, as it re-opens the floodgates for illegal counterfeit products from China which have already been shown to be fatal. In 2019 and even now, illegally imported vapor products from China formed a dangerous black market domestically that have lured Americans to use these cheap knockoffs with unsafe, unregulated substances, resulting in multiple cases of illnesses and fatalities. This ban will separate American consumers from safe and accessible options, forcing them to use harmful products, and flooding the market with Chinese counterfeits.

As advocates for government accountability and free market policies, we urge you to recognize the gravity of this issue and use logical discretion in order to avoid causing serious unintended outcomes. If not, it will be ordinary Americans who will have to face these detriments.

Sincerely,

Center for a Free Economy

Competitive Enterprise Institute

Institute for Liberty

Market Institute

Hispanic Leadership Fund

60 Plus Association

American Commitment

Americans for Prosperity

Less Government

Freedom Foundation of Minnesota

Center for Freedom and Prosperity

Independent Women's Forum

Young Voices

National Taxpayers Union

Rio Grande Foundation

Roughrider Foundation

Oregon Capitol Watch Foundation

Oregon Taxpayer Coalition

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