

# CCAGW Urges Opposition to H.R. 2339

## Letters to Officials

February 14, 2020

U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative,

On November 19, 2019, H.R. 2339, the Reversing the Youth Tobacco Epidemic Act of 2019, was reported out of the Energy and Commerce Committee. It is likely you will vote on this legislation before the end of February.

The Council for Citizens Against Government Waste (CCAGW) understands the concerns Congress has with youth use of tobacco products, particularly electronic nicotine delivery systems (ENDS) and vaping, but legislation was passed in December 2019 that raised the age from 18 to 21 for the legal use of any tobacco product. It would seem obvious that Congress should allow that new law to take hold before H.R. 2339, a far more drastic measure, is even considered. If this bill should become law, it would create a black market that will cause great harm to our citizens. On behalf of the more than 1 million members and supporters of CCAGW, I ask that you oppose H.R. 2339.

The legislation would make it illegal to sell any flavored ENDS product and ban flavors in other tobacco products, including menthol, mint, and spice flavors found in combustible cigarettes and non-combustible products like flavored cigars and chewing tobacco. Only natural tobacco flavor would be allowed.

Adults use ENDS and other non-combustible harm-reduction tobacco products to quit smoking because they enjoy the sweet and fruity flavors, finding them essential in moving away from smoking. Banning menthol and other flavors, like spices and herbs found in combustible cigarettes and other products like chewing tobacco, will encourage many current users to find other sources of these flavors. Menthol crystals can easily be bought and enterprising street vendors will be eager to sell a variety of flavorings for all tobacco users.

Much of the impetus behind H.R. 2339 was based on reports that youth use of e-cigarettes had climbed significantly. The 2019 National Youth Tobacco Survey data showed that 64.8 percent of youth had never tried an e-cigarette and 6.7 percent had used an e-cigarette in their entire life for more than 100 days. The largest percent of youth purchased their e-cigarette from a friend, not a store. Certainly, 6.7 percent is a number to be concerned about but whether that should be considered an epidemic and warrant passing such radical legislation that will hurt adults who are using harm reduction tobacco products to quit smoking is questionable.

For example, according to 2017 Centers for Disease Control (CDC) statistics, it was found that among high school students, during the past 30 days, 30 percent drank some amount of alcohol; 14 percent binge drank; 6 percent drove after drinking alcohol; and, 17 percent rode with a driver who had been drinking alcohol. Yet despite these numbers, Congress is not calling for a ban on alcohol. That was tried before with disastrous results.

In late summer and into the early fall, there were reports of severe illnesses and death due to a national outbreak of “e-cigarette, or vaping, product use-associated lung injury” or EVALI. The CDC admits that as of February 11, 2020 the data shows tetrahydrocannabinol (THC)-containing e-cigarette, or vaping products, which were obtained from “informal sources like friends, family, or in-person or online dealers, are linked to most EVALI cases and play a major role in the outbreak” and that “Vitamin E acetate is strongly linked to the EVALI outbreak.”

In other words, it was the illicit market that caused the problem, not the legitimate ENDS market that produces thousands of jobs and helps millions of ex-smokers stay away from combustible cigarettes that Congress and the Food and Drug Administration are so keen to destroy.

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Fortunately, the EVALI cases have dropped significantly, so Congress and health officials should take heed. Tobacco is a legal product in the U.S. and even if Congress could ban it, there should be little doubt that China would step in and flood an illicit market as it is the leading producer of tobacco in the world. The same result will occur if flavors are banned, especially with ENDS products. Current adult users will either go back to combustible cigarettes, which are deadly, or take the chance and purchase illegal products. Congress will have created a real health crisis that could have been avoided.

Again, I urge you to vote no on H.R. 2339. All votes on this legislation will be among those considered for CCAGW's 2020 Congressional Ratings.

Sincerely,

Tom Schatz  
President, CCAGW

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