



KANSAS VAPERS ASSOCIATION
212 SW 8th Avenue, Suite 202
Topeka, KS 66603

February 14, 2017

To: Senate Assessment and Taxation Committee
Re: SB54, clarifying the definition of consumable material on e-cigarette tax

SUPPORT SB54

The Kansas Vaper Association (KVA), representing hundreds of primarily locally-owned retailers across the state, asks you to vote Yes on SB54, clarifying the definition of consumable material on the taxation of e-cigarettes.

If you seriously consider SB130, please **amend it to reduce the current rate of .20 cents per milliliter to 5 cents**, putting Kansas in-line with the other states who have such a tax.

Failure to act will ensure Kansas consumers see an **upwards of 50% price increase** on vaping products and Kansas will have the largest tax of this kind in the United States. It will push consumers to shop across borders in Missouri, Oklahoma and Nebraska; put Kansas stores out of business; and make it more difficult for consumers who use e-cigarettes as an alternative to quit traditional tobacco products.

Our industry will pay its fair share. However, the current tax is well beyond a fair share. To date, this tax has not been collected, the state is not relying on it for collection and no harm will be done to the current fiscal situation if you make this change. Sales tax is currently, and will continue to be, collected on these products.

This proposal taxes the chemical that needs taxed while equalizing the tax across all products. For example, two business could sell a product that contains 30 milliliters of e-juice: nicotine, water and glycerin. However, one could contain 3 milligrams of nicotine, while another could contain 10 milligrams of nicotine. This mean while the products contain the same amounts of overall milliliters, they contain different amounts of nicotine. SB54 puts the definition and tax be on that nicotine, ensuring the state is collecting tax on the regulated product. **That is the rational basis for why we are asking for this definition.**

It is unnecessary for Kansas to have the highest tax of this kind in the U.S. – and by a wide margin! Only three other states have a similar tax: North Carolina, Louisiana and West Virginia. North Carolina and Louisiana are at 5 cents per milliliter, West Virginia 7.5 cents. Therefore, **Kansas is 13.5 to 15 cents higher than any other state with a similar tax.** If the Legislature had held hearings on this issue in 2015, it would have selected a tax rate more in-line with other states.

In 2015, NO bill was introduced, the issue never had a hearing, was not passed by a committee, never had discussion on the floor of either Chamber and never passed the House or Senate. It was placed into an Omnibus tax bill in conference committee with no discussion during overtime of the 2015 session, at the request of only one special interest – R. J. Reynolds Tobacco Company.

With respect to this body, it violated its own rule that an issue must pass at least one chamber for it to be inserted into a conference committee.

Since that time, **the issue has been so complicated that rules and regulations are still not finalized.** The Kansas Department of Revenue, despite having 18 months, has struggled to find reasonable and manageable ways to enforce the tax. This delay has led to massive confusion for business owners, making it more difficult to implement and added to the harm it will cause small-business owners and consumers.

SB54 still ensures Kansas collects the tax. Here are the nicotine amounts used in most e-liquids (most stores start off with a 100 mg/ml base):

10ml 3mg .03ml	30ml 6mg 1.8	60ml 18mg 10.8
10ml 6mg .06	30ml 12mg 3.6	
10ml 12mg 1.2	30ml 18mg 5.4	120ml 3mg 3.6
10ml 18mg 1.8		120ml 6mg 7.2
10ml 24mg 2.4	60ml 3mg 1.8	120ml 12mg 14.4
	60ml 6mg 3.6	120ml 18mg 21.6
30ml 3mg .09	60ml 12mg 7.2	

The purpose of this chart is to show you we can track nicotine amounts and report them. The math is convertible and ensures the tax can be remitted properly.

One size does not fit all: e-cigarettes products are not produced, distributed and sold using the same model as traditional cigarettes. The current tax makes e-cigarettes less affordable than traditional cigarettes. **It is not proportional.** E-Cigarettes are not tobacco products. Keeping them affordable has helped Kansans quit tobacco and lead healthier, smoke-free lifestyles. It is in the best interest of public health that e-cigarettes be available at a reasonable cost to adults who wish to switch from traditional tobacco products. No one is advocating non-smokers take up e-cigarettes. However, these products are healthier alternatives for those trying to quit a smoking habit and have played a key role in helping smokers live healthier lifestyles.

Much of e-cigarette products are sold by small businesses. The current tax rate places an undue hardship on these vendors, making it difficult to do business. These shops pay considerable taxes – sales, property, employment, etc. They employ thousands across Kansas. Hindering revenue puts all of this at risk.

The passage of SB54, or a lowering of the tax, solves these issues and puts Kansas in a proper tax position on e-cigarettes moving forward. We thank you for your support.

I am always happy to discuss this issue with you and answer any questions you may have.

Respectfully Submitted,

Spencer Duncan

Kansas Vapers Association

capitolconnecitonkansas@yahoo.com

785-383-8825

The Kansas Vapors Association was founded in 2014 by vaping product consumers and retailers to provide education to anyone who wants to learn more about vaping products, and helps protect vaper's rights on the local and state level. Spencer Duncan is a native Topekan, resident of the Capital City and non-smoker working to reduce the negative impacts of traditional tobacco products.