



Montgomery
County Council

Committee: HHS
Committee Review: Completed
Staff: Amanda Mihill, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #VapeFreeMontgomery
Key words: vape, vaping, e-cigarette, electronic cigarette,
vape shops, schools, zoning, Board of Health

AGENDA ITEM 4E & 5C
March 31, 2020
Action

SUBJECT

Bill 32-19, Health and Sanitation – Flavored Electronic Cigarettes
Resolution to adopt Bill 32-19 as a Board of Health regulation
Lead Sponsors: Councilmembers Riemer and Albornoz
Co-Sponsors: Councilmember Hucker, then-Council Vice President Katz, then-Council President Navarro and Councilmembers Jawando and Glass

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Action – Council vote expected
- The Committee recommended enacting Bill 32-19 with amendment to reduce from 1 mile to 0.5 miles the buffer around certain retail stores and to remove “parks” and “playgrounds” from the required buffer areas. The Committee further recommended adopting the Board of Health regulation as introduced.

DESCRIPTION/ISSUE

Bill 32-19 and the corresponding Regulation would prohibit an electronic smoking devices manufacturer from distributing flavored electronic cigarettes to stores within 1 mile of an elementary, middle, or high school.

SUMMARY OF KEY DISCUSSION POINTS

- None

This report contains:

Staff report	Page 1
Bill 32-19	©1
Board of Health regulation	©4
Legislative Request Report	©6
Sponsor memorandum	©7
Fiscal and Economic Impact statement	©8
Bill 32-19 testimony	

Support
Oppose

©15
©22

Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

F:\LAW\BILLS\1932 Flavored E Cig\Action Cover Sheet.Docx

MEMORANDUM

March 26, 2020

TO: County Council

FROM: Amanda Mihill, Legislative Attorney

SUBJECT: Bill 32-19, Health and Sanitation – Flavored Electronic Cigarettes
Resolution to adopt Bill 32-19 as a Board of Health regulation ¹

PURPOSE: Action – Roll call vote on Bill and Resolution

Health and Human Services Committee recommendation (3-0): enact Bill 32-19 with amendment to reduce from 1 mile to 0.5 miles the buffer around certain retail stores and to remove “parks” and “playgrounds” from the required buffer areas; adopt the Board of Health regulation as introduced.

Bill 32-19, Health and Sanitation – Flavored Electronic Cigarettes and a Resolution to adopt Bill 32-19 as a Board of Health regulation, sponsored by Lead Sponsors Councilmembers Riemer and Albornoz and Co-Sponsors Councilmember Hucker, then-Council Vice President Katz, then-Council President Navarro and Councilmembers Jawando and Glass, was introduced on October 1. A public hearing was held on November 5 on ZTA 19-06, Vape Shops along with related Bills 29-19 and 31-19 and their companion resolutions adopting each Bill as a Board of Health regulation. A Health and Human Services Committee worksession was held on November 25 on Bill 32-19 in addition to related Bills and companion resolutions.

Bill 32-19 and the Regulation would prohibit an electronic smoking devices manufacturer from distributing flavored electronic cigarettes to stores within 1 mile of an elementary, middle, or high school. The Resolution would adopt the bill as a Board of Health regulation. A memorandum from the sponsors of Bill 32-19 is on ©7. Additional background material, including the reasons for introducing Bills 29-19, 31-19, and 32-19 and the ZTA is in the packet for Bill 29-19 and is not reprinted here.

#VapeFreeMontgomery

Key words: vape, vaping, e-cigarette, electronic cigarette, vape shops, schools, zoning, Board of Health

Public Hearing

The Council held a public hearing on November 5 on Bill 29-19 and its companion regulation as well as related Bills 31-19 and 32-19 and ZTA 19-06. It was a joint hearing and most written testimony submitted on these bills is attached to this staff report. If testimony/correspondence was submitted specifically referencing Bills 29-19 or 31-19, that testimony/correspondence is in the staff report for those bills. Similarly, to the extent that testimony/correspondence was submitted on the ZTA, that testimony is attached to the staff report for the ZTA.

Testimony and correspondence specific to Bill 32-19 is attached on ©15-26. Specific to Bill 29-19, the Maryland Association of Convenience Stores and Energy Distributors opposed Bill 32-19, but recommended legislation that includes penalties for use and possession of vape products by individuals under 21 (©26).

Issues/Committee Recommendation

Should the Council refrain from enacting Bill 32-19? The American Cancer Society Cancer Action Network, American Heart Association, and American Lung Association submitted a joint letter to the Council urging the Council to “hold off moving forward” with Bill 32-19 because of their assertion that the County cannot regulate all flavored tobacco products. These organizations argue that without a comprehensive prohibition, the bill will not be as effective or “end the epidemic”. Instead, these organizations indicate that a statewide bill will be introduced in the General Assembly in 2020 that will ban all flavored tobacco products. Instead of enacting Bill 32-19, these organizations prefer for the County to support the statewide bill (©22-24). As Councilmembers know, the Maryland General Assembly has adjourned for the 2020 session. None of the statewide measures related to electronic cigarettes were enacted.

Council staff comments: Council staff agrees that a statewide bill to ban flavors of e-cigarettes and tobacco products would be a favorable development. However, that does not, and should not, preclude the Council from enacting Bill 32-19. The Council has led on many important initiatives, especially health initiatives. For instance, the Council enacted measures to regulate electronic cigarettes well before the General Assembly. Additionally, the Council required nutrition labeling before the federal government acted on this. There is no guarantee that the state or federal governments will be successful in moving legislation during the next year, or ultimately what the legislation might include.

Furthermore, even if Bill 32-19 does not “end the epidemic”, it can certainly be helpful in addressing it. The Council has the authority to act in this regard and Council staff recommends the Council use that authority.

Committee recommendation (3-0): Proceed with Bill 32-19.

Overlap with Bill 29-19. As introduced, Bill 29-19 would prohibit a manufacturer from distributing *electronic cigarettes* to retail stores within 0.5 miles of *middle and high schools* in the County. As introduced, Bill 32-19 would prohibit a manufacturer from distributing *flavored*

electronic cigarettes to retail stores within 1.0 miles of elementary, middle, or high school, library, park, playground, or recreational facility in the County.

Council staff comments: Bill 29-19 covers a broader array of products (i.e., any electronic cigarette product, including flavored electronic cigarettes) while Bill 32-19 covers a broader area of the County.

Committee recommendation (3-0): The Committee supported both bills and recommended enactment of these measures. The Committee recommended amending Bill 32-19 to reduce the from 1 mile to 0.5 miles the buffer around certain retail stores. Committee members believed that the bills and ZTA should be comparable regarding the buffer. Additionally, the Committee recommended removing “parks” and “playgrounds” from the types of facilities for which the distribution buffer would apply. Committee members believed that including these 2 types of facilities were too vague to properly provide distributors with notice about where the flavored distribution ban applied. (See amendments on ©3, lines 29-32.)

The Committee recommended (3-0) amending Bill 32-19 as described above and adopting the Board of Health regulation as introduced.

This packet contains:	<u>Circle #</u>
Bill 32-19	1
Board of Health regulation	4
Legislative Request Report	6
Sponsor memorandum	7
Fiscal and Economic Impact statement	8
Bill 32-19 testimony	
Support	15
Oppose	22

Bill No. 32-19
Concerning: Health and Sanitation –
Flavored Electronic Cigarettes
Revised: 9/25/2019 Draft No. 4
Introduced: October 1, 2019
Expires: April 1, 2021
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Riemer and Alborno
Co-Sponsors: Councilmember Hucker, Council Vice President Katz,
Council President Navarro, and Councilmembers Jawando and Glass

AN ACT to:

- (1) prohibit an electronic smoking devices manufacturer from distributing flavored electronic cigarettes to certain retail stores in the County; and
- (2) generally amend County law regarding smoking, electronic cigarettes, and health and sanitation.

By amending

Montgomery County Code
Chapter 24, Health and Sanitation
Section 24-15

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 24-15 is amended as follows:**

2 **[24-15] 24-16 — 24-21. Reserved.**

3 **24-15. Distribution of flavored electronic cigarettes.**

4 (a) *Definition.* In this Section, the following words have the meanings
5 indicated:

6 *Characterizing flavor* means a distinguishing taste or aroma, other than
7 the taste or aroma of tobacco, imparted either before or during use of an
8 electronic cigarette or component part. *Characterizing flavor* includes
9 any taste or aroma relating to any fruit, mint, menthol, wintergreen,
10 chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb,
11 or spice. However, an electronic cigarette is not deemed to have a
12 characterizing flavor solely because of the use of additives or flavorings
13 or the provision of ingredient information.

14 *Constituent* means any ingredient, substance, chemical, or compound,
15 other than nicotine, tobacco, water, or reconstituted tobacco sheet, that is
16 added by the manufacturer to an electronic cigarette during the
17 processing, manufacture or packing of the electronic cigarette.

18 *Distribute* means to:

- 19 (1) give away, sell, deliver, dispense, or issue;
20 (2) offer to give away, sell, deliver, dispense, or issue; or
21 (3) cause or hire any person to give away, sell, deliver, dispense, or
22 issue or offer to give away, sell, deliver, dispense, or issue.

23 *Flavored electronic cigarette* means any electronic cigarette or any
24 component part thereof that contains a constituent that imparts a
25 characterizing flavor.

26 Manufacturer means an electronic smoking devices manufacturer as
27 defined in Section 16.7-101 of the Business Regulations Article of the
28 Maryland Code.

29 (b) Unlawful distribution. A manufacturer must not distribute any flavored
30 electronic cigarette to any retail store within ~~[[1.0 mile]]~~ 0.5 miles of any
31 elementary, middle, or high school, library, ~~[[park, playground]]~~, or
32 recreational facility in the County.

33 *Approved:*

34 _____
Sidney Katz, President, County Council Date

35 *Approved:*

36 _____
Marc Elrich, County Executive Date

37 *This is a correct copy of Council action.*

38 _____
Selena Mendy Singleton, Esq. Clerk of the Council Date

Resolution No.: _____
Introduced: October 1, 2019
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE MONTGOMERY COUNTY BOARD OF HEALTH**

Lead Sponsors: Councilmembers Riemer and Alborno
Co-Sponsors: Councilmember Hucker, Council Vice President Katz,
Council President Navarro, and Councilmembers Jawando and Glass

SUBJECT: Resolution to adopt Bill 32-19, Health and Sanitation – Flavored Electronic Cigarettes

Background

1. County Code §2-65, as amended, provides that the County Council is, and may act as, the County Board of Health, and in that capacity may adopt any regulation which a local Board of Health is authorized to adopt under state law.
2. Maryland Code Health-General Article §3-202 authorizes the County Board of Health to adopt rules and regulations regarding any nuisance or cause of disease in the County.
3. On November 5, 2020, the Council held a public hearing on this regulation. As required by law, each municipality in the County and the public were properly notified of this hearing.
4. On {DATE}, the County Council enacted Bill 32-19, Health and Sanitation – Flavored Electronic Cigarettes. Bill 32-19 prohibited the distribution of flavored electronic cigarettes to retail stores in the County.
5. The County Council, sitting as the Board of Health, finds after reviewing the evidence in the record that prohibiting the distribution of flavored electronic cigarettes to retail stores as required by this Regulation is necessary to protect the health of County residents.

Action

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, approves the following resolution:

1. The provisions of Section 24-15 of the Montgomery County Code, entitled “Distribution of flavored electronic cigarettes.” as added by Bill 32-19, Health and Sanitation – Flavored Electronic Cigarettes, are adopted as a Board of Health regulation. A copy of Bill 32-19 is attached to this resolution.
2. This resolution takes effect 90 days after adoption.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.
Clerk of the Council

F:\LAW\Resolutions\Board Of Health\Flavored E-Cig\Board Of Health Regulation.Docx

LEGISLATIVE REQUEST REPORT

Bill 32-19

Health and Sanitation – Flavored Electronic Cigarettes

DESCRIPTION: Bill 32-19 would prohibit an electronic smoking devices manufacturer from distributing flavored electronic cigarettes to certain retail stores in the County.

PROBLEM: There is a rapid rise in e-cigarette use among youth and the associated health concerns.

GOALS AND OBJECTIVES: To reduce access to e-cigarette products for County youth.

COORDINATION: Health and Human Services

FISCAL IMPACT: To be requested

ECONOMIC IMPACT: To be requested

EVALUATION: To be researched

EXPERIENCE ELSEWHERE: To be researched

SOURCE OF INFORMATION: Amanda Mihill, Legislative Attorney (240) 777-7815

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: Class C violation



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

TO: Council Colleagues
FROM: Councilmembers Hans Riemer and Gabriel Albornoz
DATE: September 25, 2019
SUBJECT: Placing Severe Restrictions on Flavored Vape Products Aimed at Youth

Shortly we will be introducing an additional piece of legislation to add to the package of bills intended to curb the epidemic of vaping that is occurring in our schools. This bill will aim to severely restrict the availability of flavored vaping products, which are the most popular products among youth, by prohibiting manufacturers from distributing these products to retailers in Montgomery County.

Flavored electronic cigarettes have become very popular amongst our youth. According to preliminary results from the Centers for Disease Control and Prevention's annual National Youth Tobacco Survey more than a quarter of high school students admitted to using e-cigarettes, and the majority cited the fruit, menthol and minty flavors.

These products are not harmless. They lead teens to become addicted to nicotine and may be implicated in the mysterious lung illnesses and deaths that have been linked to vaping.

While this legislation will not prevent all legal sales of these products in the County, it will make them much less available to youth in our community.

I hope you will consider cosponsoring and supporting this legislation.



ROCKVILLE, MARYLAND

MEMORANDUM

November 1, 2019

TO: Nancy Navarro, President, County Council

FROM: Richard S. Madaleno, Director, Office of Management and Budget *RSM*
Michael Coveyou, Acting Director, Department of Finance *mc*

SUBJECT: FEIS for Bill 32-19, Health and Sanitation – Flavored Electronic Cigarettes –
Resolution to adopt Bill 32-19 as a Board of Health Regulation

Please find attached the Fiscal and Economic Impact Statements for the above-referenced legislation.

RSM:cm

cc: Andrew Kleine, Chief Administrative Officer
Fariba Kassiri, Deputy Chief Administrative Officer
Debbie Spielberg, Special Assistant to the County Executive
Dale Tibbitts, Special Assistant to the County Executive
Lisa Austin, Office of the County Executive
Barry Hudson, Director, Public Information Office
David Platt, Department of Finance
Dennis Hetman, Department of Finance
Raymond Crowel, Department of Health and Human Services
Monika Coble, Office of Management and Budget
Estela Gomes, Office of Management and Budget
Lindsay Lucas, Office of Management and Budget
Chrissy Mireles, Office of Management and Budget

Fiscal Impact Statement
Bill 32-19, Health and Sanitation - Flavored Electronic Cigarettes –
Resolution to adopt Bill 32-19 as a Board of Health Regulation

1. Legislative Summary

Bill 32-19 would prohibit an electronic smoking devices manufacturer from distributing flavored electronic cigarettes to certain retail stores in the County.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Bill 32-19 will not have an impact on County revenues or expenditures. The Department of Health and Human Services, Montgomery County's Department of Police, Alcohol Beverage Services, and the Department of Permitting Services all advise that enforcing the bill's provisions can be handled within existing resources and personnel.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Not applicable.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

No additional expenditures related to the County's information technology systems are expected.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Not applicable.

7. An estimate of the staff time needed to implement the bill.

No additional staff time is needed to implement the bill's provisions.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

9. An estimate of costs when an additional appropriation is needed.

Not applicable.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

The Department of Health and Human Services, Montgomery County's Department of Police, Alcohol Beverage Services, and the Department of Permitting Services all advise that enforcing the bill's provisions can be handled within existing resources and personnel.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Clark R. Beil, Senior Administrator, Department of Health and Human Services

Neil A. Shorb, Director, Montgomery County's Department of Police

John Martin Utermohle, Chief of Administrative Services, Alcohol Beverage Services

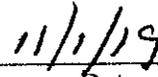
Barbara Suter, Management and Budget Manager, Department of Permitting Services

Estela Gomes, Fiscal and Policy Analyst, Office of Management and Budget

Lindsay Lucas, Fiscal and Policy Analyst, Office of Management and Budget



Richard S. Madaleno, Director
Office of Management and Budget



Date

Economic Impact Statement
Bill 32-19, Health and Sanitation – Flavored Electronic Cigarettes

Background:

Bill 32-19 would:

- (1) prohibit an electronic smoking devices manufacturer from distributing flavored electronic cigarettes to certain retail stores in the County; and
- (2) generally amend County law regarding smoking, electronic cigarettes, and health and sanitation.

Bill 32-19 would prohibit an electronic smoking devices manufacturer from distributing flavored electronic cigarettes to certain retail stores in the County. The Bill's goal is to address a rapid rise in e-cigarette use among youth, the associated health concerns, and to reduce access to e-cigarette products for County youth.

1. The sources of information, assumptions, and methodologies used.

- September 2019 (FY20) Selected Operations Summaries, Montgomery County Division of Treasury
- Bloomberg Businessweek, "Juil's Wildly Successful, Very Silicon Valley Business has a Serious Bug", Lauren Etter, Ben Elgin, and Ellen Huet; 10/14/2019

According to a study published this month in the New England Journal of Medicine, one in nine U.S. high school seniors say they now vape almost daily¹. The 2018 National Youth Tobacco Survey showed that an estimated 3.6 million middle and high school students used e-cigarettes, an increase of more than 70% from the previous year. Opposition has recently catalyzed against e-cigarette brands as mysterious killer vapes have heightened anxiety about the unknown long-term health risks associated with vaping particularly among youth.

The most prominent e-cigarette brand is Juul with more than \$1 billion in annual revenue and 70% of the U.S. vape market according to market researcher IRI. Juul currently faces multiple investigations by the U.S. Food and Drug Administration, the Federal Trade Commission, a congressional inquiry, and a criminal probe by the Department of Justice. San Francisco recently banned the sale and distribution of e-cigarettes and this month Kroger Co. joined Walmart Inc. and other retailers in announcing it would stop selling e-cigarettes. Last week Juul said it was suspending sales of most nicotine pod flavors nationwide. Pending a review by the FDA, fruit and dessert flavors, which the company was selling to people over the age of 21 through its website, are no longer available in the United States. The company will continue to sell mint, menthol and tobacco flavor pods in stores and online for now though Health and Human Services Secretary Alex Azar said last month that the Trump administration intends to ban all flavors of vaping products except tobacco-flavor.

Juil began with a goal to save millions of lives a year by helping smokers switch to a seemingly healthier alternative. However, through their efforts to perfect the delivery of nicotine, promoted by Instagram marketing, much of the decade's antismoking gains were being undone and vaping became a fact of life for teens. Bloomberg Businessweek in a cover story this month on the company notes "Achieving verb status is a hallmark of next-level success for any Silicon Valley company, and Juul has reached other such milestones as it became the world's third-most-valuable startup, worth \$38 billion after raising \$12.8 billion last December...but the biggest chunk of the money didn't come from Silicon Valley venture capitalists; it came from Altria Group Inc., the Marlboro maker formerly known as Philip Morris, which

¹ Miech, Richard. (2019) "Trends in Adolescent Vaping, 2017-2019" NEJM.org

Economic Impact Statement
Bill 32-19, Health and Sanitation – Flavored Electronic Cigarettes

received a 35% stake... Big Tobacco's replacement project was beginning to look like a standard tobacco company." Locally, Maryland Comptroller Peter Franchot announced last week the launch of a task force to examine the effects of vaping and e-cigarettes, as more people across the country are becoming affected.

2. A description of any variable that could affect the economic impact estimates.

The number of retail stores within 1.0 mile of any elementary, middle, or high school, library, park, playground, or recreational facility in the County distributing flavored electronic cigarettes will affect economic impact estimates. According to the latest Selected Operation Summary from the Department of Finance's Division of Treasury there are currently 37 registered retailers in the County, up 27% from 29 in FY19.

3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

The Bill is not anticipated to have a discernable effect on employment, savings, investment, incomes, and property values in the County but is projected to considerably alter the current trajectory of exponential growth in the e-cigarette tax which is estimated to grow 88% this year over 2018. Total collections in 2019 are estimated to be approximately \$1.3 million or .02% of the County's \$5.8 billion FY20 approved operating budget.

	2016 Actual	2017 Actual	2018 Actual	2019 Prelim. Final
E-Cigarettes	\$372,931	\$483,415	\$698,169	\$1,317,692
annual growth rate:		29.6%	44.4%	88.7%

The Council packet notes that while there is a potential health impact from e-cigarettes there is also a lack of data on the potential economic impacts including the effects on income and health care. The largest anticipated economic effect from the legislation will be on the revised revenue and earnings estimates of e-cigarette makers and distributors in the County. Given the multiple national measures to alter access to e-cigarettes, investigations, lawsuits, and concerns regarding the severe unknown associated health risks of vaping, the e-cigarette industry is expected to be structurally altered over the coming years to barely resemble the distribution networks and growth rates that it knew as recently as last year. The economic impact of this shift to the County is expected to be minimal with declines expected in the e-cigarette tax that currently comprise .02% of the FY20 operating budget.

4. If a Bill is likely to have no economic impact, why is that the case?

See number 2.

5. The following contributed to or concurred with this analysis:

David Platt, Dennis Hetman, and Robert Hagedoorn, Finance.

Economic Impact Statement
Bill 32-19, Health and Sanitation – Flavored Electronic Cigarettes

Michael Coveyou

Michael Coveyou, Acting Director
Department of Finance

10/30/19

Date

Testimony of Adam Zimmerman
Montgomery County Council
November 5, 2019

Good evening.

My name is Adam Zimmerman. I am a ten-year Rockville resident. Thank you for the opportunity to testify.

Since August 2016, it has been illegal in the United States to sell e-cigarettes to anybody under age 18, and retailers have been required to verify the age of anyone under 27 purchasing a tobacco product.

Nevertheless, over the past few years, youth e-cigarette use in the United States has exploded.

- High school students: 12 percent in 2017; 21 percent in 2018; 28 percent in 2019.
- Middle school students: 0.6 percent in 2017; 5 percent in 2018; 9 percent in 2019.
- Overall, 5 million middle and high school students use e-cigarettes today.

Here in Montgomery County, this Council has taken strong action in recent years, from raising taxes on e-cigarettes; to ensuring e-cigarettes are included in smoke-free laws; to suing Juul for relentlessly and insidiously marketing to children.

But we must do more. Vaping rates locally mirror national averages. MCPS students have been hospitalized after vaping in schools. Both the county and state have been affected by the severe vaping-associated lung illnesses sweeping the country—nearly 2,000 cases to date nationwide, hundreds of which are kids under age 18.

I applaud each member of the Council for supporting the legislative package before us tonight, but I particularly want to commend Councilmember Albornoz for his outstanding leadership protecting kids from e-cigarettes. As we write in our co-authored Washington Post op-ed:

“We must act swiftly and decisively in response to these alarming numbers. It took decades before we realized the full harm associated with kids using cigarettes. With respect to e-cigarettes, we cannot afford a ‘wait and see’ approach—we know enough about the dangers to act now. We strongly support this package—not just as an elected official and a smoke-free advocate, but as proud Montgomery County residents and parents of young children.”

Under the package being considered tonight:

- Vape shops would no longer be located, and e-cigarettes no longer sold at any retailer, near our schools.
- E-cigarettes would no longer be distributed to individuals under age 21.
- And flavored e-cigarettes—which are driving the epidemic; 97 percent of kids who use e-cigarettes use flavors—would no longer sold near schools, libraries, parks, playgrounds, or recreational facilities. This includes mint and menthol, the two flavors used by nearly two-thirds of high school students who use e-cigarettes and—not coincidentally—the two flavors which Juul has refused to stop selling.

This legislation utilizes the full range of the County's authority to regulate where and by whom e-cigarettes are sold.

The health and human services committee should strengthen it further—for example, by extending the ban on manufacturers distributing both flavored *and* non-flavored e-cigarettes to retailers to a full mile from any elementary, middle or higher school; and shortening the timeframe under which vape shops can no longer operate near any school from 24 months to 18 months, if not less.

The Council should pass *unanimously*, and the county executive should sign immediately, the full package before the end of the year.

E-cigarettes are not healthy—not a single e-cigarette product or brand has been certified by the FDA as healthier than regular cigarettes.

E-cigarettes are not safe— one Juul pod contains as much nicotine as 20 cigarettes, which can harm kids' brain development.

E-cigarettes are not harmless—kids who use e-cigarettes are more likely to use regular tobacco products as well.

To avoid losing a new generation of kids to nicotine addiction, Montgomery County must once again assert its national leadership. Passing this package would do exactly that.

Thank you.

Email Viewer

Message	Details	Attachments	Headers
Source			

[HTML](#)

From: "Hank Prensky" <hprensky@rcn.com>
 Date: 11/7/2019 12:33:43 AM
 To: "County.Council@montgomerycountymd.gov" <County.Council@MontgomeryCountyMD.gov>
 Cc: "mdgasp@aol.com" <mdgasp@aol.com>
 Subject: 32-19

Please pass Bill 32-19 to BEGIN controlling the insanity of "vaping" (or, more properly, a very efficient drug-delivery system for nicotine, which may have limited use for adults actively involved in seeking to end their addiction to cigarettes as a delivery system for nicotine).

Cheers,

Hank

Hank Prensky
 7921 Sligo Creek Pkwy
 Takoma Park MD 20912
 301-455-4427
 Hank@TakomaHomes.com

Close

17

Email Viewer

Message	Details	Attachments	Headers
Source			

[HTML](#)

From: "HARVEY EISEN" <heisen9929@aol.com>
 Date: 11/7/2019 9:16:41 AM
 To: "county.council@montgomerycountymd.gov" <County.Council@MontgomeryCountyMD.gov>
 Cc:
 Subject: Bill 32-19

I strongly support this bill. Vaping is dangerous, addictive, attractive to young people, and businesses that sell it should not be anywhere near our schools.

Harvey Eisen
 5225 Pooks Hill Road
 Bethesda MD 20814

Close

From: Navarro's Office, Councilmember [Councilmember.Navarro@montgomerycountymd.gov]
Sent: Thursday, November 07, 2019 9:20:24 AM
To: Council President
Subject: FW: Bill 32-19

From: Heather Tawney <twinkle417@yahoo.com>
Sent: Thursday, November 07, 2019 9:18 AM
To: Glass's Office, Councilmember <Councilmember.Glass@montgomerycountymd.gov>; Albornoz's Office, Councilmember <Councilmember.Albornoz@montgomerycountymd.gov>; Friedson's Office, Councilmember <Councilmember.Friedson@montgomerycountymd.gov>; Hucker's Office, Councilmember <Councilmember.Hucker@montgomerycountymd.gov>; Jawando's Office, Councilmember <Councilmember.Jawando@montgomerycountymd.gov>; Katz's Office, Councilmember <Councilmember.Katz@montgomerycountymd.gov>; Navarro's Office, Councilmember <Councilmember.Navarro@montgomerycountymd.gov>; Rice's Office, Councilmember <Councilmember.Rice@montgomerycountymd.gov>; Riemer's Office, Councilmember <Councilmember.Riemer@montgomerycountymd.gov>
Subject: Bill 32-19

[EXTERNAL EMAIL]

Dear Council Members,

I am writing today to request that you vote in favor of Bill 32-19 to help protect the children of Montgomery County from becoming addicted to vaping products. These are the new version of tobacco products that have kept millions addicted and ruined the health of so many communities for years. The Vape sellers are saying that they are saving lives by helping people get off tobacco. However, they're just trading one addiction for another. Back when cigarettes came out....they claimed they were healthy too. We all know how that went. Isn't it better to be on the side of caution when it comes to children and the areas they pass through in the county?

Vape shop owners are small business owners and entrepreneurs and yes it is important to consider them. However, not at the expense of the children and adults of the county. These business owners will have the opportunity to start a new business that doesn't compromise the health of the community peddling highly addictive substances.

In conclusion, please Vote in favor of Bill 32-19.

Enjoy your day!
Heather Tawney

"Sometimes your joy is the source of your smile, but sometimes your smile can be the source of your joy."
-Thich Nhat Hahn

Email Viewer

Message	Details	Attachments	Headers
Source			

[HTML](#)

From: "LaTanya Lowe" <shavon20901@yahoo.com>
 Date: 11/7/2019 9:40:24 AM
 To: "County.Council@MontgomeryCountyMD.gov" <County.Council@MontgomeryCountyMD.gov>
 Cc: "LaTanya Lowe" <shavon20901@yahoo.com>
 Subject: Please Support Bill 32-19

Good Morning!

As a proud Montgomery County home owner and parent of elementary and middle school aged children, I implore you to support Bill 32-19, that prohibits manufacturers from distributing flavored e-cigarettes to any retail stores located within one mile of an elementary school, middle school, high school, park, playground, or recreation facility in the county.

In this day and age, we must attentively protect the safety and innocence of our children from as many detrimental drawbacks and hurts of society that we can. I have seen and read that vaping harms people and targets our youth. I don't know about you, but I certainly cannot and will not live without my children, nor do I want any of my children's health to be impacted, due to this new fad of "vaping", which clearly promotes addiction and could potentially lead to other recreational drug usage as well as death.

Below, please see a passage from an article entitled: 5 Vaping Facts You Need to Know from the John Hopkins Medicine website:

"Among youth, e-cigarettes are more popular than any traditional tobacco product. In 2015, the U.S. surgeon general reported that e-cigarette use among high school students had increased by 900 percent, and 40 percent of young e-cigarette users had never smoked regular tobacco.

According to Blaha, there are three reasons e-cigarettes may be particularly enticing to young people. First, many teens believe that vaping is less harmful than smoking. Second, e-cigarettes have a lower per-use cost than traditional cigarettes. Finally, vape cartridges are often formulated with flavorings such as apple pie and watermelon that appeal to younger users.

Both youths and adults find the lack of smoke appealing. With no smell, e-cigarettes reduce the stigma of smoking.

"What I find most concerning about the rise of vaping is that people who would've never smoked otherwise, especially youth, are taking up the habit," says Blaha. "It's one thing if you convert from cigarette smoking to vaping. It's quite another thing to start up nicotine use with vaping. And, it often leads to using traditional tobacco products down the road." -

<https://www.hopkinsmedicine.org/health/wellness-and-prevention/5-truths-you-need-to-know-about-vaping/> Michael Joseph Blaha, M.D., M.P.H.

20

|
|
|
| | |
|
|
|
| |

Michael Joseph Blaha, M.D., M.P.H., Professor of Medicine | Johns Hopkin...

Dr. Michael J. Blaha MD MPH is Associate Professor of Cardiology and Epidemiology and presently serves as the Di...

|
|
|

Again, for the sake of our children, please support Bill 32-19, so that there is less of a threat of children being addicted to "vaping" and nicotine, which perpetuates long term illness, pulls on our community, and even accelerates death. Our children don't deserve to be enticed with "flavored health issues" and "scentless addiction" which leads to an early grave, so very close to the very establishments meant to educate and protect our invaluable children and their futures.

Thank you for your time, concern, and understanding.

Most Kind Regards,
LaTanya Lowe

Gaithersburg, MD

L. Shavon Lowe

Close



October 11, 2019

The Honorable Gabe Albornoz, Chairman and
Members of the Health and Human Services Committee (HHS)
Montgomery County Council
Council Office Building
100 Maryland Ave, 6th Floor
Rockville, MD 20850

Dear Chairman Albornoz and Members of the Health and Human Services Committee (HHS),

We, the below signed organizations, deeply appreciate your commitment to the county's health and your resolve to address the growing epidemic of e-cigarette use among our youth. We agree that this epidemic demands strong and immediate action, which the Council has already taken.

We do, however, have some concerns regarding the proposed e-cigarette legislative package. Some legislation we would support with amendments. Because the county is preempted from taking the strongest possible action, and because proposed statewide legislation would accomplish the same goals and has a good chance of passage in 2020, we would recommend holding off on some of the legislation in the package.

Of the bills proposed, we can support **Bill No. 29-19 Health and Sanitation—Electronic Cigarettes—Distribution** if amended to include all tobacco retailers, not just e-cigarette retailers. All forms of tobacco are dangerous and protect kids from this addiction in all its forms is essential. All tobacco products and all tobacco retailers should be regulated in the same strict manner.

Since the Council intends to limit e-cigarette distribution near schools, the best practice would be to limit the total number of tobacco retailers and where those tobacco retailers can be located.

We also support **Bill No. 31-19 Health and Sanitation—Electronic Cigarettes—Distributions, Use, and Possession**, with amendments. The legislation does not currently mirror the State provisions that went into effect on October 1st, 2019. Specifically, the tobacco product definition should be updated, impose fines on the retailer not the clerk, and remove the purchase, use, and possession provisions on youth.

Compliance with the law should be the responsibility of the retailer, and penalties for violations should not fall on the youth attempting to purchase tobacco.

The evidence shows penalizing youth for the purchase, use, and possession of tobacco products is not effective at reducing tobacco use. Penalties for youth for purchase, use, and possession



may divert attention from more effective tobacco control strategies and relieve the tobacco industry of responsibility for its marketing practices and retailer's irresponsible sale to underage persons. For those adolescents who do smoke, what they need most is access to evidence-based cessation resources, not fines. What has been proven effective is a dedicated enforcement entity conducting active enforcement, including graduated fines for retailers when in violation with potential for license suspension and revocation, licensing of all retailers, unannounced compliance checks on retailers, and signage.

We recommend you hold off on moving forward with **Bill No. 32-19 Health and Sanitation—Flavored Electronic Cigarettes**, as the county is not able expand the proposal to restrict the sale of all flavored tobacco products, including but not limited to menthol cigarettes and flavored cigars due to preemption. Without a comprehensive prohibition, we do not believe this legislation will be as effective as intended and will not end the epidemic.

95% of smokers begin before the age of 21. Right here in Maryland, while 14.4% of adults across the city still smoke, 13.9% of MD high school students use e-cigarettes. We know that most current smokers were enticed to begin this deadly addiction as youth, and most report beginning with a flavor.

As a result of targeted marketing, while the use of traditional cigarettes has declined, the sale of menthol cigarettes has steadily increased, especially among young people and new smokers. Menthol makes it easier to start smoking by masking the harshness of tobacco smoke. As a result, over half of youth smokers use menthol cigarettes; among African American youth smokers, seven out of ten use menthol cigarettes. In addition, there are now over 250 different cigar flavors, and cigars surpass cigarettes in popularity among high school boys nationwide.

In addition to youth, African Americans have been heavily targeted with menthol cigarette marketing. Quitting menthol cigarettes is particularly difficult, so those who initiate with menthol are more likely to become addicted and less likely to quit. Leaving menthol cigarettes in our community is a matter of social justice and leaves those already most impacted by health disparities vulnerable to the aggressive marketing of the tobacco industry.

Cities across the country have already acted to prohibit the sale of all flavored tobacco products. Over 50 communities in California, Colorado, Minnesota, Massachusetts and New York have done so.

Unfortunately, the Council is preempted from adding menthol cigarettes and flavored cigars to the legislation, so we ask that the Council hold off on introducing legislation and instead support a statewide bill being introduced in 2020 led by Del. Dereck E. Davis (D-25) and Attorney General Brian Frosh. The statewide bill, which is supported by our national public health organizations and a vast coalition of state-based groups, will restrict the sale of all flavored tobacco products, including but not limited to e-cigarettes, menthol cigarettes, and flavored cigars.



While we share in your fight against the growing epidemic and commend your intentions, we would support some of the proposed legislation with amendments, but recommend the Council hold off on other bills due to pending 2020 Statewide efforts, and as a result of limitations on the county due to preemption.

We look forward to continuing to work with the County Council on proven tobacco control interventions and to improve the health of all residents.

Sincerely,

American Cancer Society Cancer Action Network (ACS CAN)

American Heart Association (AHA)

American Lung Association (ALA)

CC: *Members of the Montgomery County Council*

Montgomery County Delegation (MD General Assembly)



**WMDA/CAR Service Station
and Automotive Repair Association**

November 4, 2019

Members of Montgomery County Council

RE: 29-19 and 32-19

WMDA members who sell electronic smoking devices are already enforcing age 21 tobacco and OTP (other tobacco products) which includes electronic smoking devices and basically all accessories used with tobacco or OTP. We are the best defense for identifying underage buyers an employee many county residents.

To ban the sale of electronic smoking devices within 0.5 of a school or flavored device within 1 mile of any school, playground, park, or recreational facility does not make sense when you have 21 years of age requirement to buy the product.

Montgomery County is not an island and there will be a robust black market in tobacco and OTP with age 21 statewide. Lets not enhance that market by putting sales into the hands of individuals who check no I.D. and collect no tax revenue.

Our members agree that these products need to be controlled and the age restriction does that. Please don't pick winners and looser based on store locations.

Please give 29-19 and 32-19 Unfavorable Reports.

Kirk McCauley
Director of Government Affairs
WMDA/CAR
kmccauley@wmda.net
301-775-0221 Cell



*Extra
Testimony*

To: Montgomery County Council
From: Ellen Valentino
Date: November 5, 2019
Re: 29-19 and 32-19 Retailer Prohibition Vape

The number of young people who are vaping has increased dramatically and MAPDA shares the concern of the Montgomery County Council on this issue. Understandably, the Montgomery County Council wants to take a stand to prevent underage vaping.

This legislation will not achieve the goal you want to accomplish and misses an opportunity for real change. At best, driving consumers to other retail establishments not affected by the ban only serves to pick winners and losers among the retail community.

At worst, this ban will foster a black market for vaping devices and supplies. As retailers, we have a responsibility to check ID; failure to do so comes with a significant penalty and threat of loss of license. Criminals selling on the street and distributing to underage individuals are operating unchecked. This legislation will most definitely exacerbate that practice and make it even more lucrative.

Instead of a ban that hurts legitimate consumers and retail businesses, we urge you to consider legislation that includes strong penalties for use and possession of vape products by individuals under the age of 21. We believe that policy will move the needle on prevention.

