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SUBMITTED VIA EMAIL

North Dakota Legislative Assembly
House Industry, Business and Labor Committee

Dear Chair Louser, Vice-Chair Ostlie, and Members of the Committee:

On behalf of the American Vapor Manufacturers Association, I respectfully submit these comments opposing H.B. 1357, which seeks to prohibit the sale of vaping products and other lower-risk, smoke-free products via mail. As an organization, we understand the concerns surrounding youth access to nicotine products and want to see states take effective steps to address it. However, we believe that this can be achieved without compromising the ability of North Dakota adults to purchase legal products from lawful businesses.

As you may be aware, in March 2021, Congress passed a bill amending the 2010 Prevent All Cigarette Trafficking (PACT) Act to apply to vaping products. This law empowers both the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and state attorneys general to take action against those who violate a host of statutory requirements, including: (a) government registrations; (b) excise tax collection, remittance, and reporting; (c) shipping disclosures; and (d) face-to-face verification that the recipient of any package is 21 years of age or older.

Online sales are essentially for many adults, particularly those who are using vaping as a safer alternative to cigarette smoking. A 2022 study by the investment analysis firm Cowen & Company estimated that 20% of the U.S. sales of vaping products took place on the internet. Our data indicates a greater than average demand from rural areas of the country by age-verified adults who are primarily over the age of 35. The reason is simple; cigarettes are easily accessible at every convenience store, but high-quality vaping products are not.

Under normal circumstances, we would urge the committee to update its youth access laws to mirror federal law more closely. However, existing North Dakota law already strictly regulates the shipping of tobacco and nicotine products in a manner substantially similar to the PACT Act. This bill seeks to repeal that statute. If there is a significant problem with illegal shipments of vaping products to minors, which we do not believe has been shown, that is because current law is not being enforced.

H.B. 1357 would only serve to burden law-abiding businesses and limit the access of adult consumers to these products. We believe that enforcing existing North Dakota law and the PACT Act are the most effective way to prevent youth access to vaping products. As a result, we urge the committee to issue a 'do not pass' report.

Best,

A handwritten signature in black ink that reads "Gregory Conley". The script is fluid and cursive, with the first letters of each name being capitalized and prominent.

Gregory Conley, J.D., M.B.A.
Director of Legislative & External Affairs
American Vapor Manufacturers Association, Inc.