The Economic Fallout of PMTA Registry Bills and Flavor Bans: Tax Revenue Losses and Business Closures

American Vapor Manufacturers Association is an advocacy group targeted at helping vapor manufacturers navigate both state and federal regulations. We ask that you support HB 5329. Tobacco control policies, such as flavor bans aim to reduce vaping rates, particularly among youth. However, evidence from states like Massachusetts, New York, California, Alabama, Louisiana, and Oklahoma reveals a significant downside: these measures often erode state tax revenue and drive substantial business closures, especially in the vape retail sector. The combination of restrictive product registries, outright bans on flavored products, and high compliance costs amplifies these effects, shifting sales to illicit markets or neighboring states and leaving small businesses unable to adapt. A simple exemption for over 21 establishments can allow adults to not return to cigarettes, limit illicit sales, and protect state tax revenue. This paper examines these impacts, drawing on state-specific data through February 26, 2025.

Tax Revenue Losses from Flavor Bans

Flavor bans, which typically prohibit all but tobacco-flavored tobacco products and e-cigarettes, have consistently reduced legal taxable sales, undermining state budgets. The following examples illustrate this trend:

- **Massachusetts**: After its June 2020 flavor ban, Massachusetts saw cigarette tax stamp sales plummet by 20.8% in the first year, translating to an estimated $135 million annual loss in cigarette tax revenue. Combined with a surge in smuggling (from 19.9% to 37.6% of consumption by 2021), the state lost an additional $224 million yearly. Neighboring New Hampshire reported a 22% cigarette sales spike, highlighting cross-border leakage. The later 75% vape excise tax (2023) suggests an attempt to recoup earlier vaping revenue losses, but the ban's initial blow to collections was stark. After the June 2020 flavor ban, cigarette tax stamp sales dropped 20.8% in the first year (June 2020–May 2021), per the 2021 Tax Foundation report. This suggests fewer legal cigarette purchases. Smuggling rose sharply (19.9% to 37.6% of consumption by 2021), implying that some smokers continued or increased consumption via untaxed channels.

- **New York**: Implementing its flavor ban in May 2020, New York faced smuggling rates climbing to 43.5% of consumption by 2022, costing $400-$500 million annually in lost tobacco taxes. While a 10-20% cigarette sales bump post-ban (per a 2023 Yale study) may have offset some e-cigarette revenue declines ($27 million in FY 2021-2022), cross-border shopping to Pennsylvania and illicit markets diluted overall gains. The state's high $5.35 cigarette tax couldn't fully counter these evasions, pointing to a net revenue hit. A 2023 Yale study highlighted a 10-20% increase in cigarette sales in flavor-ban states like New York (ban effective May 2020). This rise coincided with the flavor ban, suggesting former vapers might have turned to cigarettes. This is hard data that these registry bills being pushed by Big Tobacco have the effect of increasing smoking rates.

- **California**: Since its flavor ban took effect in 2023, California's tax-paid cigarette sales dropped 15% from December 2022 to September 2023, suggesting a $150-$200 million annual cigarette tax shortfall. While vaping tax losses are less clear due to the ban's recency, cross-border sales to Nevada and Arizona likely grew, mirroring trends elsewhere. The state's $1.2 billion tobacco revenue projection for 2024-2025 may reflect enforcement efforts or prior tax hikes, but early data signals a decline. The state is struggling to make its MSA payments due to tax loss to other states.

These cases underscore a broader pattern: flavor bans shrink the legal market, driving consumers to untaxed alternatives. A 2023 *Tobacco Control* study estimated e-cigarette sales drops of 30-40% in ban states, with proportional tax revenue losses unless offset by cigarette substitution—which often fails to fully compensate due to smuggling and out-of-state purchases.

Comparative Impact and Verdict

- **Tax Revenue**: Massachusetts faced the largest revenue loss ($224 million annually from smuggling alone), followed by New York ($400-$500 million) and California ($150-$200 million). Bans shifted sales beyond state taxing power, proving costlier than anticipated.

- **Business Closures**: Louisiana tops the list with 100+ closures (25% of vape shops), followed by Oklahoma (80-100, 20-30%) and Alabama (50-75, 15-25%). PMTA registries disproportionately hit rural, independent retailers unable to adapt.

Conclusion

Flavor bans and prohibition laws demonstrably harm state economies by slashing tax revenue and triggering widespread vape shop closures. Massachusetts, New York, and California illustrate how bans erode taxable sales, while Alabama, Louisiana, and Oklahoma show prohibitions devastating effects on small businesses—worsened by high compliance costs. Policymakers must weigh these fiscal and entrepreneurial losses against public health goals, as the data suggests a steep economic price for restrictive tobacco policies.

Sincerely,

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