

NATIONAL REVIEW

E-Cigarettes and The FDA: First, Do No Harm

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The FDA has taken aim at a fresh collection of pleasures of which it disapproves, including e-cigarettes.

As the *Wall Street Journal* noted, this included (my emphasis added):

Banning [e-cigarette] sales to anyone under 18, requiring package warning labels, and making all products—**even those currently on the market**—subject to government approval....

The most troubling measure for e-cigarette industry players is the FDA approval process. Many of the small vape shops, device manufacturers and liquid nicotine producers are concerned that they won't be able to afford the FDA's approval process, which could cost anywhere from \$2 million to \$10 million per item, according to the regulatory consulting company SciLucent LLC.

Interestingly, Britain's Royal College of Physicians (a pioneer, incidentally, of anti-smoking efforts in the UK) recently came out with a report advocating a rather different approach.

The New York Times:

[It summarized] the growing body of science on e-cigarettes and finds that their benefits far outweigh the potential harms. It concludes resoundingly that, at least so far, the devices are helping people more than harming them, and that the worries about them — including that using them will lead young people to eventually start smoking traditional cigarettes — have not come to pass.

“This is the first genuinely new way of helping people stop smoking that has come along in decades,” said John Britton, director of the U.K. Center for Tobacco and Alcohol Studies at the University of Nottingham, who led the committee that produced the report. E-cigarettes, he said, “have the potential to help half or more of all smokers get off cigarettes. That's a huge health benefit, bigger than just about any medical intervention.”

From the FDA:

[T]he U.S. Food and Drug Administration [has] finalized a rule extending its authority to all tobacco products, including e-cigarettes, cigars, hookah tobacco and pipe tobacco, among

others. This historic rule... allows the FDA to improve public health and protect future generations from the dangers of tobacco use through a variety of steps, including restricting the sale of these tobacco products to minors nationwide.

So e-cigarettes are a ‘tobacco product’? #science

FDA:

“We have more to do to help protect Americans from the dangers of tobacco and nicotine, especially our youth. As cigarette smoking among those under 18 has fallen, the use of other nicotine products, including e-cigarettes, has taken a drastic leap....”

The ‘for the children’ boilerplate was to be expected, but check out the reference to the dangers of *nicotine*. If the jihad against e-cigarettes is to make any pretense of a scientific basis, nicotine has to be demonized. Certainly nicotine, which (like so much else) is addictive, is not entirely harmless (it can raise blood pressure, for example, at least in the short-term) and there are some specific perils associated with liquid nicotine (keep it away from small children, please). But, *if divorced from tobacco*, nicotine simply does not present a significant health risk. The Royal College of Physicians report states that the long-term effects of nicotine are likely to be minimal.

Back to the FDA:

While there has been a significant decline in the use of traditional cigarettes among youth over the past decade, their use of other tobacco products continues to climb. A recent survey supported by the FDA and the Centers for Disease Control and Prevention shows current e-cigarette use among high school students has skyrocketed from 1.5 percent in 2011 to 16 percent in 2015 (an over 900 percent increase) and hookah use has risen significantly. In 2015, 3 million middle and high school students were current e-cigarette users, and data showed high school boys smoked cigars at about the same rate as cigarettes.

Notice the characteristically dishonest attempt to conflate cigars and hookahs (no laughing in the back there) with e-cigarettes, an entirely different, far, far safer product. The British report states that e-cigarettes are only 5 percent as harmful as traditional cigarettes, and even that (I suspect) may be too cautious. Yes, it would be better if high schools students neither smoked nor vaped, but if the rise in their vaping has contributed to the fall in their smoking that’s something to be celebrated.

And yet it’s not. I blogged about this topic [last year](#), noting comments critical of the CDC’s sour response to vaping from *Overlawyered*’s Walter Olson (*Overlawyered* is a must-read, incidentally) and the *New York Times*’ Joe Nocera. Mr. Olson, a polite sort, described CDC boss Thomas Frieden as being “in denial” about the good news that vaping’s popularity represents. I thought that was too kind:

That’s not the case. Frieden is many things, but he is not a fool. What he is, however, is an absolutist, a moral crusader, pur et dur, who enjoys wielding the power that the nanny state has given him, and, of course, the opportunity to show his own (as he sees it) superior virtue.

There can be no compromise with tobacco or even (in isolation, far safer) with nicotine, at least if the latter is associated with pleasure rather than the weaning process represented by patches or gum.

And if that cost lives, well, it's a regrettable, but necessary sacrifice in the name of the greater crusade: no omelet without breaking eggs, as the saying goes.

Speaking of which, in a report written in response to the news that California, a state never slow to infantilize its residents, has raised the vaping age to 21, the *Daily Caller* noted this:

Although supporters of raising the vaping age may believe it will prevent young adults from taking up e-cigarettes or smoking, the policy runs the risk of doing the exact opposite. Published in *Preventative Medicine*, Weill Cornell Medicine investigators found there was an 11.7 percent increase in teen cigarette use after states introduced new age restrictions for e-cigarettes between 2007 and 2013.

...The study backs up research published in 2015 showing the drive to ban people under 18 from buying and using e-cigarettes had the opposite effect policy makers intended. Smoking rates among 12 to 17-year-olds actually rose in states that banned e-cigarette sales to minors, according to the study's author Abigail Friedman of the Yale School of Public Health.

Boosting tobacco smoking at the expense of vaping will boost government revenues and shorten lives. The FDA will be thus making death and taxes just that bit more inevitable.

What was it that someone once said about the nine most terrifying words in the English language?