The Washington Post
Democracy Dies in Darkness

Trump's vaping crackdown could help Juul by ending the decade's biggest small-business success story

By **Andrew Van Dam**

September 23, 2019 at 4:03 p.m. EDT

In the national conversation, vape shops are often punchlines or villains. But in the data, they are something else: a miraculous small-business success story.

Mom-and-pop vape shops are the fastest-growing retail segment of the past decade, as well as the one with the highest share of employees at small businesses. But a government ban on flavored vapes and increased regulation could wipe them out and leave an opening for Big Tobacco and big tech to dominate the fast-growing industry.

Tobacconists — the broader category that includes vape shops — have lapped every other retail segment since 2009, thanks to an explosion of tiny businesses, Labor Department data show.

Two thirds of vape-shop workers are employed by the 93 percent of businesses with fewer than 10 employees — a higher rate than for any other retail segment.

Yelp's vast databases, which allow us to break out segments not yet tracked by the government, agree. Since the end of 2012, vape shops have been the fastest-growing large retail segment tracked by the online review site. The shops are concentrated in the West and South, Yelp data show, with Nevada and Oklahoma competing for the title of vapingest state.

The entire industry has come under increased scrutiny in recent weeks as an unidentified lung illness, thought to be vaping-related, has killed at least 7 people and sickened more than 500. Investigators have focused on black-market products containing THC, the active ingredient in marijuana, but they are casting a wide net.

In response to alarm over those mystery illnesses, as well as to broader concerns about vaping's growing appeal to high school students, the Trump administration has announced plans to ban all flavored vaping liquids, or juices. The federal ban may not kick in for months, but the governors of two large states — Michigan and New York — have announced similar bans. Those will hit much sooner.

Vape shops in those states are reeling. Customers are racing to stock up on flavored liquids while store owners and employees ponder an uncertain future. Vape juice refills, which e-cigarettes heat to the point of vaporization, make up the bulk of these shops' businesses, multiple managers said — and their adult customers overwhelmingly prefer flavored options.

On the surface, Da Vape Escape in Iron Mountain, Mich., plays to stereotype. Goofy head-shop-meets-heavy-metal imagery festoons its Facebook page, and its website lists faux edgy flavors such as Alien Piss (blue raspberry lemonade) and Your Mom (sweet tangy strawberry yogurt topped with nectarine).

But in this town of about 7,000 residents on the Upper Peninsula, the shops are a pillar of the community, manager Ryan Brown said. They contribute to local events and even helped rehabilitate the disc golf course. The flavored-juice ban, though, could yank that pillar right out. "It's going to affect our town," he said. "They rely on mom-and-pop stores to keep these mining towns going when the mines are gone. Imagine how much tax revenue they're going to lose."

The impending flavored-juice bans are just the first major hurdle facing the country's thousands of mom-and-pop vape shops. In May of next year, the Food and Drug Administration will require approval for vape liquids already on the market, an approval that its site says could cost between $117,000 and $466,000. The date has been moved several times by FDA officials and a court ruling, but vape shop employees still know it by heart — they say it will mark the vape-pocalypse.

Most agree regulation is necessary, but expensive barriers like these will tilt the balance of the industry toward the big-money players, said Travis Pritchard, manager at Vaporz in Whitesboro, N.Y. "After the mom-and-pop stores are essentially flushed out of New York, the only devices you'll find are Juuls," he said. Juul, a svelte device available in many convenience stores and bodegas, is based in San Francisco. Its largest investor is Marlboro maker Altria.

Rules that make running a vape shop more expensive will accelerate a classic cycle in which a few major players muscle out their small-business competition as an industry matures, University of Notre Dame economist Benjamin

Pugsley said. "When you have regulations that are increasing the entry cost of any particular industry, that tends to favor the large incumbents," he said.

Vape shops already previewed the process once, in August 2016, when the FDA began regulating e-cigarettes and associated itemsas tobacco products. The change coincided with a sharp drop in vape-shop employment. The industry later resumed its growth, albeit at a slower pace.

Hints of vaping's future may be seen in beer's past. In 1873, when transportation challenges limited competition and regulation was light, there were more than 4,000 breweries in the United States, according to figures from the book "American Breweries II" provided by the Brewers Association.

But the rise of lager-style beers, railroads and refrigeration, combined with expensive technological advancements such as pasteurization and bottling, squeezed out smaller brewers. In 1920, Prohibition dealt a death blow to many of the operations that remained.

"Smaller-scale producers are less likely to be diversified, less likely to have capital reserves, less likely to be able to use influence to move into other markets or find exceptions," said Bart Watson, chief economist at the Brewers Association. "The companies that survived were the ones that were able to rapidly shift markets and weather the storm." He pointed out that Yuengling, for example, entered the ice cream business during the lean years.

Those bigger players swung back into the industry when Prohibition ended, because they were positioned to navigate costly state and local regulations that proliferated in the wake of repeal. It consolidated their advantage. By 1978, there were 89 brewers in the country.

In that same year, regulations finally eased. President Jimmy Carter signed a bill that legalized home brewing. In the years that followed, states relaxed their brewpub bans, Watson said. There were more than 1,500 U.S. breweries by the years that followed, states relaxed their brewpub bans, Watson said. There were more than 1,500 U.S. breweries by the year 2000, and by 2018 there were 7,450.

There is an important caveat, however. A few enormous corporations still sell six out of every seven U.S. beers, leaving about 7,447 craft brewers to split the remaining 14 percent of the market.

“These regulatory decisions that were made a long time ago have very long historical trajectories,” Watson said.

Heavyweights like Anheuser-Busch InBev (41 percent of the market) and Molson Coors (23.5 percent) have also elbowed into the craft beer boom, snapping up smaller brewers and distributing their beverages under myriad craft labels.

We are seeing echoes of that in the vaping industry. Late last year, Altria sought to regain lost ground with a $12.8 billion investment in Juul. It also acquired 45 percent of a Canadian marijuana firm.

Vape-shop managers like Pritchard and Brown say they got into the industry to help people stop smoking. Cigarette smoking causes more than 480,000 deaths a year, according to the Centers for Disease Control and Prevention. At vape shops, customers often taper to lower and lower nicotine concentrations, until they are vaping a zero-nicotine product. Eventually, some will quit.

But while adult smokers seem to have benefited from the vaping boom, officials point to a worrying spike in teen use. A 2018 survey found 37.3 percent of high school seniors had vaped at some point in the prior year, up from 27.8 percent in 2017. Only 3.6 percent of them reported smoking cigarettes daily.

Brown said age restrictions and better enforcement could keep flavored vape juices out of kids’ hands without threatening his mission and livelihood.

“I know the governor is worried about kids,” Brown said. “What about my kids? I’ve got two kids at home. I’m going to lose my job if they ban flavored vape juice.”

Andrew Van Dam
Andrew Van Dam covers data and economics. He previously worked for the Wall Street Journal, the Boston Globe and the Idaho Press-Tribune. Follow