By: LaMantia S.R. No. 79

R E S O L U T I O N

WHEREAS, In January 2020, the Food and Drug Administration issued industry guidance outlining its enforcement priorities regarding e-cigarettes, vapes, and other electronic nicotine delivery system products; and

WHEREAS, This guidance emphasized the agency's focus on enforcing regulations against all flavored, cartridge-based ENDS products, but it unintentionally created a loophole, exempting all disposable vaping products from enforcement for nearly three years; and

WHEREAS, Since January 2020, a significant influx of illicit disposable vaping products has entered the United States; these originate primarily in China and mostly feature flavors designed to appeal to children; and

WHEREAS, According to the Centers for Disease Control and Prevention's National Youth Tobacco Survey, youth consumption of disposable vaping products has surged by an alarming 2,188 percent since 2019; a substantial majority of disposable vaping products introduced to the market have either entered after the FDA's regulatory submission cutoff date of August 8, 2016, or have failed to comply with the FDA's regulatory pathways designed to ensure that products available in stores promote public health and safety; the urgency of this matter is reinforced by the fact that, in 2021, 46 percent of high school e-cigarette users vaped at least 20 days a month, and over 30 percent reported vaping every day; and

WHEREAS, The continued rise in youth vaping is a serious public health concern that demands immediate attention and action; much-needed measures include the publication of a directory of disposable vapor products that can be sold subject to FDA enforcement discretion, allowing retailers to remove all illegal disposable vapor products from shelves, as well as the allocation of resources for federal enforcement across all jurisdictions and at all ports and border control points of entry; now, therefore, be it

RESOLVED, That the Senate of the 88th Texas Legislature, 3rd Called Session, hereby urge the Food and Drug Administration to provide clear enforcement guidance regarding the distribution and sales of disposable vapor products; and, be it further

RESOLVED, That the Secretary of the Senate forward official copies of this resolution to the President of the United States, to the Speaker of the House of Representatives and the President of the Senate of the United States Congress, to the Commissioner of the FDA, and to all the members of the Texas delegation to Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.