

Policy Priority: Restricting Flavoring Additives



Prohibit the sale of all flavored tobacco products. A comprehensive prohibition on the sale of all flavored tobacco products provides a significant public health benefit which counters the tobacco industry's marketing tactics and reduce tobacco use, especially among vulnerable populations.¹

- **A comprehensive model policy** should involve all tobacco, nicotine and e-cigarette products (including e-liquids). This policy should also prohibit menthol and mint.
- **Delay (e.g., 6 months) between bill passed and the effective date**, providing tobacco retailers time to sell their existing inventory of flavored tobacco and providing government time to plan for implementation and enforcement.¹
- **Do not prohibit or penalize the purchase, use, or possession** of flavored tobacco products. Only tobacco retailers who sell flavored tobacco products should be subject to penalty.¹



Promote health equity by prohibiting the sale of tobacco/nicotine flavored products including menthol. Menthol cigarettes and other flavored tobacco products pose a significant threat to health, especially for populations targeted by the tobacco industry, such as youth, low-income, LGBTQ, and communities of color. These groups disproportionately bear the burden of tobacco-related harms.²



Limit youth access to flavored tobacco products through tobacco retailers. Initial evidence shows a reduction in youth tobacco use in communities that have enacted laws restricting the sale of flavored tobacco. With retailer violation rates upwards of 30%, the Nevada legislature needs to regulate this kid-friendly market.

Current State of Nevada

On September 22, 2009, the Family Smoking Prevention and Tobacco Control Act (TCA) gave the U.S. Food and Drug Administration (FDA) authority over tobacco products including prohibiting cigarettes with specific characterizing flavors, other than menthol.⁵ **FDA policy is not a "ban" on flavored e-cigarettes and does not address the 1.6 million youth who continue to use flavored disposable e-cigarettes or tank devices as of 2021.**^{3,4}

In Nevada, preemption prevents local authorities from passing laws that differ from or are stricter than the state law. **Currently, the state of Nevada has no additional restrictions on tobacco flavoring beyond federal regulations.**

Nevada's current tobacco legislation:

AB59, passed in 2021, prohibits the sale of cigarettes, cigarette papers and other tobacco products, including vapor devices, to anyone under 21 years of age. It also revises provisions regarding inspection of locations that sell tobacco products and requires those inspections at least once every three years.²

AB360, passed in 2021, will become effective in 2023 to require third-party verification of age for sales completed online or by phone.²

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A Brief History

The Master Settlement in the late 1990s demonstrated the tobacco industry's **long history of marketed misinformation about health harms of tobacco use and nicotine addiction** to target specific populations such as youth, individuals with low income, LGBTQ and communities of color.²



Tobacco companies began adding menthol to cigarettes in the 1920s to make cigarettes appear less harsh and more appealing to new and current users. **Flavors such as menthol make it easier to start commercial tobacco and harder to quit.**²

Scientific evidence demonstrates that **flavored tobacco products have the greatest appeal to youth** and play a major role in initiation of tobacco/nicotine product use.⁵

E-cigs entered the U.S. marketplace in 2006-2007 and since 2014 have skyrocketed in popularity among youth.⁴

In 2018, both the U.S. Food and Drug Administration and the U.S. Surgeon General declared an "epidemic" of youth e-cigarette use. **The FDA Commissioner said "Evidence shows that minors are especially attracted to flavored e-cigarette products."**^{3,7}

Flavored cigarettes remain on the market, as do many other flavored tobacco products, such as e-cigarettes (vapes), cigars, smokeless tobacco, hookah tobacco ("shisha"), little cigars, and dissolvable tobacco products (e.g., strips and orbs), as well as flavored component parts (e.g., blunt wraps). **E-liquids for electronic cigarettes/vapes come in more than 15,500 different flavors.**¹

The Toll of Tobacco

Almost half of all teens in Nevada have tried vaping and nearly 1 in 4 high schoolers have vaped in the past 30 days.⁶



High School Students who have ever used vapor products: **43.5%**
Used in the last 30 days: **22.9%**⁶



Middle School Students who have ever used vapor products: **22.4%**
Used in the last 30 days: **12%**⁶

In the U.S. **nearly 9 in 10 African Americans youth ages 12 and older choose menthol cigarettes.**²

In the U.S. **nearly 8 out of 10 adolescent e-cigarette consumers use a flavored product**, with fruit, candy/desserts/other sweets, mint, and menthol reported as the most popular flavors.^{3,4}

Nearly 85 percent of all African Americans who smoke use menthol cigarettes.⁵

Additional Resources/Links

Policy Briefs

<http://tobaccofree-ri.org/PolicyBrief-TCLC-Guide.pdf>

<http://tobaccofree-ri.org/PolicyBrief-FlavorTrap.pdf>

<https://jacohd.org/wp-content/uploads/2020/05/policy-brief-vaping.pdf>

<https://www.chicago.gov/content/dam/city/depts/cdph/CDPH/HCPolicyBriefAug2013Menthol.pdf>

Resources

¹ https://www.changelabsolutions.org/sites/default/files/FlavoredTobaccoProducts_FactSheet_FINAL.pdf

² <https://www.publichealthlawcenter.org>

³ <https://www.fda.gov>

⁴ <https://www.cdc.gov>

⁵ <https://www.tobaccofreekids.org>

⁶ <https://www.unr.edu/public-health/research-activities/nevada-youth-risk-behavior-survey>

⁷ <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>