



Michael Rollo, Government Relations Director, American Cancer Society Cancer Action Network  
S.24 – Ending the sale of all flavored tobacco

The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, non-partisan advocacy affiliate of the American Cancer Society advocates for public policies that reduce death and suffering from cancer which include policies aimed at reducing tobacco use.

ACS CAN supports ending the sale of all flavored tobacco products, including e-cigarettes and menthol cigarettes. We thank this committee for its time, and we appreciate Senator Lyons' work to make this critical public health issue a priority.

Ending the sale of all flavored tobacco products, including e-cigarettes and menthol cigarettes, would be a significant step in reducing tobacco use in Vermont. Removing these flavored tobacco products from the market can be a critical component to a comprehensive strategy to reduce initiation and lifelong addiction. Laws aimed at ending the sale of flavored tobacco products, including e-cigarettes and menthol cigarettes are only effective when combined with interventions to educate retailers, mobilize the community, and actively enforce the laws. These laws have the potential to reduce youth and young adult initiation of tobacco products.

Tobacco remains the leading preventable cause of death nationwide. In Vermont, it is estimated that 1,000 adults die from smoking every year.<sup>i</sup> There are 10,000 Vermont children who are alive today that will die prematurely due to smoking-related disease.<sup>ii</sup> Vermont spends \$348 million a year on health care costs directly caused by smoking.<sup>iii</sup>

Flavors are a marketing weapon the tobacco manufacturers use to target youth and young people to a lifetime of addiction. Altering tobacco products' ingredients and design, like adding flavors, can mask the harsh effects, facilitate nicotine uptake, and increase a product's overall appeal.<sup>iv</sup> Candy, fruit, mint and menthol flavorings in tobacco products are a promotional tool to lure new, young users, and are aggressively marketed with creative campaigns by tobacco companies.<sup>v</sup> Products with flavors like cherry, grape, cotton candy, and gummy bear are clearly not aimed at established, adult tobacco users and years of tobacco industry documents confirm the intended use of flavors is to target youth.<sup>vi</sup> Furthermore, youth report flavors as a leading reason they use tobacco products and perceive flavored products as less harmful.<sup>vii</sup>

Flavored e-cigarettes have proliferated on the market, with one study identifying more than 15,500 distinct flavors available to consumers – twice as many as 2014.<sup>viii</sup> **According to the 2019 Vermont Youth Risk Behavior Survey, 28% of high school students in this state now use some form of tobacco – up nearly 10% from two years ago. This stunning increase is driven predominantly by e-cigarette use, with one in every two Vermont high school students reportedly trying an e-cigarette. And current e-cigarette use has more than doubled in the last two years, with 26% of students of using these products compared to 12% in 2017.**

An effective flavor restricting law will include all tobacco products, including electronic cigarettes, and all flavors including menthol cigarettes. To ensure this bill is as strong as possible, a few important changes need to be made:

- **Insert new definition of “tobacco substitute”:**
  - We would strongly recommend changing this definition to capture new and emerging products.
    - “Electronic smoking device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

Data from the 2016-2017 PATH study, the largest national longitudinal study looking at tobacco use and its effects, found that among teens who use e-cigarettes, 97% regularly used a flavored product.<sup>ix</sup> Also, among those teens who had ever tried an e-cigarette, 96.1% used a flavor product for the first time. In 2018, among high school e-cigarette users, use of any flavored e-cigarette significantly increased from 60.9% to 67.8% and use of a menthol- or mint-flavored e-cigarette increased from 42.3% to 51.2% in just one year.<sup>x</sup> Among young adults who reported using e-cigarettes every or some days in 2013-2014, 91.6% used a flavored product.<sup>xi</sup>

So-called “little cigars” have the look and feel of a cigarette, and are smoked like a cigarette, yet are often sold individually and are available in a variety of flavors and have likely benefited the most from the cigarette flavor prohibition. In fact, in 2016, the U.S. Food and Drug Administration (FDA) sent warning letters to four tobacco manufacturers stating that they were illegally selling flavored cigarettes labeled as “little cigars.”<sup>xii</sup> Large cigars and cigarillos, which can resemble either “little cigars” or large cigars, can come in a variety of flavors. Cigars were the most popular product among black high school students.<sup>xiii</sup> Among all teen cigar users, more than 60% had smoked a flavored cigar in the past 30 days in 2014,<sup>xiv</sup> and according to another study, more than 70% of teens who have ever smoked a cigar smoked a flavored product.<sup>xv</sup>

Smokeless tobacco companies have a long history of using flavorings, such as mint, cherry, apple, and honey, and other product manipulation to gradually get new, young users addicted to “starter” products, keep them using, and shift them on to more potent smokeless tobacco products. In 2014, almost 60% of middle and high school students who used smokeless tobacco had used a flavored

product in the last month.<sup>xvii</sup> According to another study, more than 70% of teens who had ever used smokeless tobacco used a flavored product the first time.<sup>xviii</sup>

For waterpipe or hookah use, more than 60% of current middle and high school users used a flavored product,<sup>xix</sup> and almost 90% of those surveyed who had ever smoked hookah used a flavored product the first time in 2014.<sup>xx</sup> What's troubling, is that the flavorings used in waterpipe tobacco, the sweet aromas and use of water make users misperceive this practice as safer than cigarette smoking.<sup>xxi</sup> In fact, hookah tobacco and smoke are as dangerous as cigarettes, and contain carcinogens and other substances that can cause cancer and other diseases.<sup>xxii</sup> An hour-long waterpipe or hookah session typically involves 200 puffs of smoke, whereas smoking a single cigarette typically involves 20 puffs of smoke.

Long before cigarette companies started adding fruit, candy, and alcohol flavorings to cigarettes, they were manipulating levels of menthol to addict new, young smokers. Menthol acts to mask the harsh taste of tobacco with a minty flavor and by reducing irritation at the back of the throat with a cooling sensation. Additionally, menthol may enhance the delivery of nicotine. Knowing that youth who experience less negative physiological effects of smoking are more likely to continue smoking regularly, the tobacco industry has spent decades manipulating its menthol brand-specific product line to appeal to youth and, in particular, African Americans. The FDA's preliminary scientific investigation on menthol cigarettes concluded that the weight of the evidence supports menthol cigarette smoking with increased initiation and progression to smoking, increased dependency, and reduced cessation success, particularly among African American smokers.<sup>xxiii</sup> Among youth in 2014, menthol use was high overall (53.6%), and even higher for non-Hispanic black students (70.5%).<sup>xxiv</sup>

To understand a consequence to limiting the flavor prohibition to only cigarettes and exempting menthol flavoring, an analysis evaluated youth tobacco use before and after the prohibition.<sup>xxiv</sup> The analysis found a decrease in the likelihood of being a smoker (17.1%) and fewer cigarettes smoked (59%) associated with the flavor prohibition, but also a 45% increase in the probability that the youth smoker used menthol cigarettes. Furthermore, the flavor prohibition was associated with increases in both cigar use (34.4%) and pipe use (54.6%). This suggests that youth smokers, in the absence of flavored cigarettes are substituting with menthol cigarettes or cigars and pipe tobacco, for which the flavor prohibition does not apply.

**The aggressive use of flavors and marketing tactics by the tobacco industry, rapid increased use of flavored products by youth and young adults, and under regulation of these products requires the public health community to take action to protect youth and young adults, and the public health at-large.**

As of January 1, 2021, 5 states and at least 300 localities have enacted flavor restrictions. It's time for Vermont to join them.

Ending the sale of flavored tobacco will make it harder for the tobacco industry to target youth and young adults with enticing flavors. This legislation is one part of a comprehensive tobacco control strategy that includes regular and significant tobacco tax increases, implementing comprehensive smoke-free laws, and fully funding best practice tobacco prevention and cessation programs to reduce youth initiation and help tobacco users quit. We urge your support.

---

<sup>1</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in Vermont. Updated January 15, 2020.  
[https://www.tobaccofreekids.org/facts\\_issues/toll\\_us/vermont](https://www.tobaccofreekids.org/facts_issues/toll_us/vermont)

Michael Rollo, Government Relations Director, American Cancer Society Cancer Action Network  
S.24 – Ending the sale of all flavored tobacco

- 
- <sup>ii</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in Vermont. Updated January 15, 2020. [https://www.tobaccofreekids.org/facts\\_issues/toll\\_us/vermont](https://www.tobaccofreekids.org/facts_issues/toll_us/vermont)
- <sup>iii</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in Vermont. Updated January 15, 2020. [https://www.tobaccofreekids.org/facts\\_issues/toll\\_us/vermont](https://www.tobaccofreekids.org/facts_issues/toll_us/vermont)
- <sup>iv</sup> FDA Guidance for Industry and FDA Staff, “General Questions and Answers on the Ban of Cigarettes that Contain Certain Characterizing Flavors (Edition 2)” (“FDA Guidance on Characterizing Flavors”).
- <sup>v</sup> Delnevo, C, et al., “Preference for flavoured cigar brands among youth, young adults and adults in the USA,” Tobacco Control, epub ahead of print, April 10, 2014. King, BA, et al., “Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students,” Journal of Adolescent Health 54(1):40-6, January 2014.
- <sup>vi</sup> Carpenter CM, Wayne GF, Pauly JL, Koh HK, Connolly GN. New cigarette brands with flavors that appeal to youth: tobacco marketing strategies. Health Affairs. 2005; 24(6): 1601-1610.
- <sup>vii</sup> Corey, CG, Ambrose BK, Apelberg BJ, King, BK. Flavored Tobacco Product Use Among Middle and High School Students – United States, 2014. MMWR, October 2, 2015; 64(38): 1066-1070.
- <sup>viii</sup> Zju, S-H, et al. Evolution of Electronic Cigarette Brands from 2013-2014 to 2016-2017: Analysis of Brand Websites. Journal of Medical Internet Research. 2018 Mar; 20(3) e80.
- <sup>ix</sup> FDA Draft Guidance for Industry, Modifications to Compliance Policy for Certain Deemed Tobacco Products. March 2019.
- <sup>x</sup> Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students — United States, 2011–2018. MMWR Morb Mortal Wkly Rep 2018;67:1276–1277.
- <sup>xi</sup> U.S. Department of Health and Human Services. E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.
- <sup>xii</sup> <https://www.fda.gov/newsevents/newsroom/pressannouncements/ucm532563.htm>.
- <sup>xiii</sup> Centers for Disease Control and Prevention. Tobacco Use Among Middle and High School Students—United States, 2011–2018. Morbidity and Mortality Weekly Report, 2019;68(6):157–164.
- <sup>xiiii</sup> Corey, CG, Ambrose BK, Apelberg BJ, King, BK. Flavored Tobacco Product Use Among Middle and High School Students – United States, 2014. MMWR, October 2, 2015; 64(38): 1066-1070.
- <sup>xv</sup> Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.
- <sup>xvii</sup> Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.
- <sup>xviii</sup> Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.
- <sup>xix</sup> Corey, CG, Ambrose BK, Apelberg BJ, King, BK. Flavored Tobacco Product Use Among Middle and High School Students – United States, 2014. MMWR, October 2, 2015; 64(38): 1066-1070.
- <sup>xx</sup> Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.
- <sup>xxi</sup> Morris DS, Fiala SC, Pawlak R. Opportunities for Policy Interventions to Reduce Youth Hookah Smoking in the United States. Prev Chronic Dis 2012;9:120082. Akl EA, Gaddam S, Gunukula SK, Honeine R, Jaoude PA, Irani J. The Effects of Waterpipe Tobacco Smoking on Health Outcomes: A Systematic Review. International Journal of Epidemiology 2010;39:834–57. Smith JR, Edland SD, Novotny TE, et al. Increasing hookah use in California. Am J Public Health. Oct 2011;101(10):1876-1879.
- <sup>xxii</sup> Knishkowsky, B., Amitai, Y. Water-Pipe (Narghile) Smoking: An Emerging Health Risk Behavior. Pediatrics. 2005;116:113–119. WHO study group on tobacco product regulation. Advisory note on water pipe tobacco smoking: health effects, research needs and recommended actions by regulators, 2005. El-Hakim Ibrahim E., Uthman Mirghani AE. Squamous cell carcinoma and keratoacanthoma of the lower lips associated with "Goza" and "Shisha" smoking. International Journal of Dermatology. 1999;38:108-110.
- <sup>xxiii</sup> FDA. Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes. <https://www.fda.gov/media/86497/download>
- <sup>xxiv</sup> Corey, CG, Ambrose BK, Apelberg BJ, King, BK. Flavored Tobacco Product Use Among Middle and High School Students – United States, 2014. MMWR, October 2, 2015; 64(38): 1066-1070.
- <sup>xxv</sup> Corey, CG, Ambrose BK, Apelberg BJ, King, BK. Flavored Tobacco Product Use Among Middle and High School Students – United States, 2014. MMWR, October 2, 2015; 64(38): 1066-1070.
- <sup>xxv</sup> Courtemanche CJ, Palmer MK, Pesko MF. Influence of the Flavored Cigarette Ban on Adolescent Tobacco Use. Am J Prev Med. 2017;52(5):e139–e146. doi:10.1016/j.amepre.2016.11.019.