



**IN BRIEF**

SB 793 will prohibit the retail sale of flavored tobacco products – including flavored electronic cigarettes – to address an unprecedented surge in youth nicotine consumption.

**SURGE IN YOUTH TOBACCO USE**

Citing an alarming rise in e-cigarette use among youth the U.S. Food and Drug Administration (FDA) and the U.S. Centers for Disease Control and Prevention released a report in November 2018 showing that more than 3.6 million middle and high school students are using e-cigarettes. This is an increase of 1.5 million compared to 2017 and almost 13 times higher than the number of youth using e-cigarettes in 2011.<sup>1</sup>

The stunning growth between 2017 and 2018 amounted to a 78 percent increase in e-cigarette use by high school students and a 48 percent increase by middle school students. By 2018, 1 in 5 high school students were using e-cigarettes and 1 in 20 middle school students were doing the same.<sup>2</sup> The year-over-year spike in e-cigarette use also drove up use of tobacco products overall to almost 4.9 million students in 2018, erasing decades of declining youth tobacco use.<sup>3</sup>

The disturbing rates of teen e-cigarette use continued to rise in 2019 with the overwhelming majority of youth citing use of popular fruit and menthol or mint flavors.<sup>4</sup> According to data released by FDA and CDC, there are now 5.3 million young Americans who vape regularly, an increase of 1.7 million youth compared to 2018.<sup>5</sup>

used tobacco started with a flavored product.<sup>6</sup> Flavored cigarettes, except for menthol, are banned under Federal Law, but these rules do not apply to other tobacco products like e-cigarettes, cigars, and cigarillos. As a result, a variety of flavored tobacco products like cotton candy, bubble gum, and mango are widely available. These products often mimic popular candies, drinks, or snacks in both packaging and flavor, making them particularly appealing to youth.

*Candy or Tobacco?*



Image Source: Campaign for Tobacco Free Kids

Flavors mask the naturally harsh taste of tobacco, making these products easier to use and more appealing to youth.<sup>7</sup> Not only are flavored tobacco products more appealing, but the presence of flavors in tobacco products like menthol make it more difficult for users to quit.<sup>8</sup>

Prohibiting the sale of flavored products, including menthol, is also a social justice issue. Targeted marketing to communities of color, low income communities, and LGBTQ communities adds to the health disparities in populations already impacted by social inequities. African American neighborhoods have disproportionately higher numbers of tobacco retailers and tobacco marketing, particularly of menthol products.<sup>9</sup>

Flavored e-cigarettes are falsely marketed as a “safe tobacco alternative,” yet they pose a significant public health risk, particularly to youth. One vape pod from JUUL, a leading e-cigarette manufacturer, is equivalent to the nicotine in 20 cigarettes.<sup>10</sup> Exposure to nicotine during adolescence can harm brain development and predispose youth to future tobacco use.<sup>11</sup>

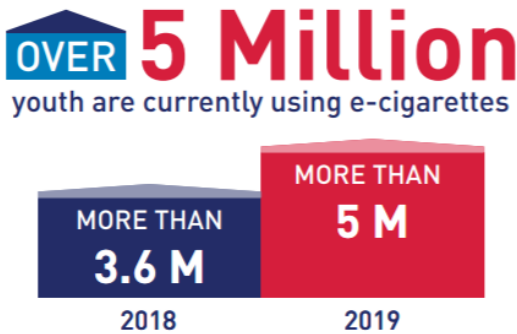


Image Source: FDA - 2019 National Youth Tobacco Survey

**HEALTH IMPACTS**

Flavored tobacco products are a gateway to harder nicotine use. 80 percent of young people who have ever

Each JUUL pod delivers the same amount of nicotine as 20 cigarettes.

*Image Source: Campaign for Tobacco Free Kids*

Kids who use e-cigarettes are more likely to begin smoking traditional cigarettes as well as increase the frequency and intensity of smoking and vaping.<sup>12</sup> “These results bolster findings for vaping as a one-way bridge to cigarette smoking among adolescents,” said the authors of the study.<sup>13</sup> “To the best of our knowledge, the risk for future cigarette smoking is currently one of the strongest, scientific-based rationales for restricting youth access to e-cigarettes.”<sup>14</sup>

***“These results bolster findings for vaping as a one-way bridge to cigarette smoking among adolescents.” - Richard Miech, MPH, PhD, University of Michigan***

A growing body of evidence suggests that teens are more likely to use flavored e-cigarettes than adults. One model even found that for every adult who quits smoking using e-cigarettes, 80 additional youth initiate daily tobacco use through e-cigarettes.<sup>15</sup>

The American College of Cardiology found that compared with nonusers, e-cigarette users were 56 percent more likely to have a heart attack and 30 percent more likely to suffer a stroke. E-cigarette users were also twice as likely to suffer from depression, anxiety, and other emotional problems.<sup>16</sup> The first long-term study on the health effects of using e-cigarettes found

that they significantly increase the risk of developing chronic lung disease.<sup>17</sup>

**NICOTINE'S EFFECTS on the ADOLESCENT BRAIN & BODY**

- NICOTINE is as **addictive** as HEROIN.
- NICOTINE **changes the adolescent brain & impairs cognitive function**, including working memory, processing speed, emotions, and impulse control.
- NICOTINE and other chemicals in JUULs/vapes are linked to **cancer, lung disease, and heart disease** & may damage other vital organs.

*Image Source: Parents Against Vaping E-Cigarettes*

## CURRENT LAW

Flavored cigarettes, except for menthol, are banned under Federal Law, but these rules do not apply to other tobacco products.

In 2016, California enacted the Stop Tobacco Access to Kids Enforcement Act, which regulates e-cigarettes in the same manner as other tobacco products and prohibits the sale of any tobacco products to a person under 21 years of age.

On January 2, 2020 the FDA announced a plan to restrict the sale of flavored cartridge-based e-cigarettes. Unfortunately, The Trump Administration’s policy exempts all menthol and tobacco flavored e-cigarettes and only restricts flavors in some cartridge-based e-cigarettes, leaving flavored e-liquids in every imaginable flavor widely available.

While there is no state law restricting the sale of flavored tobacco products, nearly 80 California local governments have taken action to restrict youth access to flavored tobacco products.

## THE SOLUTION

Under SB 793, retail stores and vending machines in California would be prohibited from selling flavored tobacco products. The legislation covers flavored e-cigarettes, e-hookahs, e-pipes, and other vaping devices as well as flavored smokable and nonsmokable tobacco products, such as cigars, cigarillos, pipe tobacco, chewing tobacco, snuff, and tobacco edibles.

SB 793 would also prohibit the sale of “flavor enhancer,” e-liquids sold separately from e-cigarettes to enhance or add candy, fruit, menthol, or other flavors. Flavor enhancers are used to make DIY vape juices and undermine local and federal tobacco control policies.

Tobacco retailers that violate the law would face a civil penalty of \$250 per violation.

SB 793 creates a threshold for restrictions and prohibitions regarding tobacco product sales and would not prevent local jurisdictions from taking further steps.

## **SUPPORT**

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- Lieutenant Governor Eleni Kounalakis (Cosponsor)
- State Superintendent of Public Instruction, Tony Thurmond (Cosponsor)
- American Cancer Society Cancer Action Network (Cosponsor)
- American Heart Association (Cosponsor)
- American Lung Association (Cosponsor)
- Campaign for Tobacco Free Kids (Cosponsor)
- Common Sense (Cosponsor)
- African American Tobacco Control Leadership Council
- African Communities Public Health Coalition
- Alameda County Tobacco Education Coalition
- American Academy of Pediatrics, California Chapter
- American College of Cardiology, California Chapter
- Americans for Nonsmokers' Rights
- Anti-Vaping Alliance
- Association of California Healthcare Districts
- Association of California School Administrators
- Association of Northern California Oncologists
- Bay Area Community Health Advisory Council
- Black Arts Los Angeles, Inc
- Black Caucus of Health Workers
- Breast Cancer Prevention Partners
- BREATHE California of Los Angeles County
- BREATHE California, Sacramento Region
- Butte County Department of Public Health
- California Academy of Child and Adolescent Psychiatry
- California Academy of Family Physicians
- California Academy of Preventive Medicine
- California Alliance of Boys and Girls Clubs
- California Alliance of YMCAs
- California Black Health Network
- California Children's Hospital Association
- California Dental Association
- California Emergency Nurses Association
- California LGBTQ Health and Human Services Network
- California Medical Association
- California Optometric Association
- California Pan-Ethnic Health Network
- California School Boards Association
- California School-Based Health Alliance
- California School Nurses Organization
- California Society of Addiction Medicine
- California State Parent Teacher Association
- CALPIRG
- Change for Justice
- City and County of San Francisco
- City of Alameda
- City of Berkeley
- City of Beverly Hills
- City of Encinitas
- City of Laguna Niguel
- City of Oakland
- City of Oceanside
- City of Orinda
- City of Palo Alto
- City of Redwood City
- City of San Jose
- City of San Leandro
- City of San Pablo
- Community Action Service Advocacy
- Community Coalition
- Coalition of Lavender-Americans on Smoking and Health
- Coastal Communities Drug Free Coalition
- County Health Executives Association of California
- County of Alameda
- County of Contra Costa
- County of Lake Health Services Department
- County of Los Angeles
- County of San Bernardino
- County of San Diego
- County of San Mateo
- County of Santa Clara
- County of Solano
- CVS Health
- Cynthia Perry Ray Foundation
- Emphysema Foundation of America
- Equality California
- First 5 Association of California
- Flavors Addict Kids – Livermore
- The G.R.E.E.N. Foundation
- Green Technical Education and Employment
- Health Access
- Health Officers Association of California
- International Youth Tobacco Control
- Kaiser Permanente
- L.A. Families Fighting Flavored Tobacco
- Latino Coalition for a Health California
- Los Angeles Unified School District

- Lucile Packard Children's Hospital Stanford
- Medical Oncology Association of Southern California
- Parents Against Teens Vaping E-Cigarettes (PAVE)
- Providence St. Joseph Health
- Public Health Advocates
- Public Health Institute
- Riverside County Black Chamber of Commerce
- San Bernardino County District Advocates for Better Schools
- San Diego Unified School District
- San Francisco Bay Area Pediatric Nurse Practitioner Association
- San Marcos Prevention Coalition
- San Mateo County Office of Education
- San Mateo County Tobacco Education Coalition
- Santa Clara County Tobacco Education Coalition
- Santa Cruz County Tobacco Education Coalition

- Santa Clara County Office of Education
- Sierra Club
- Siskiyou County Public Health
- Thirdhand Smoke Research Center
- Tobacco and Vape Free Orange County Coalition
- Tobacco Education and Research Oversight Committee
- USC Health, Emotion, and Addiction Laboratory
- Vista Community Clinic
- Wellness & Prevention Center

## **FOR MORE INFORMATION**

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<sup>1</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. DOI: <http://dx.doi.org/10.15585/mmwr.mm6745a5>

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> U.S. Department of Health and Human Services. *Press Release*. “Trump Administration Combating Epidemic of Youth E-Cigarette Use with Plan to Clear Market of Unauthorized, Non-Tobacco-Flavored E-Cigarette Products.” 11 Sep 2019. <https://www.hhs.gov/about/news/2019/09/11/trump-administration-combating-epidemic-youth-ecigarette-use-plan-clear-market.html>

<sup>5</sup> Cullen KA, Gentzke AS, Sawdey MD, et al. e-Cigarette Use Among Youth in the United States, 2019. *JAMA*. Published online November 05, 2019. doi:<https://doi.org/10.1001/jama.2019.18387>

<sup>6</sup> California Department of Public Health. The Truth about Flavored Tobacco Info Graphic.

<https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/Policy/FlavoredTobaccoAndMenthol/FinalFlavoredTobaccoInfographic.pdf>

<sup>7</sup> King, B. A., et al. “Flavored Cigar Smoking Among U.S. Adults: Findings From the 2009-2010 National Adult Tobacco Survey.” *Nicotine & Tobacco Research*, vol. 15, no. 2, 2012, pp. 608–614., doi:10.1093/ntr/nts178.

<sup>8</sup> Delnevo, Cristine D, et al. “Smoking-Cessation Prevalence Among U.S. Smokers of Menthol Versus Non-Menthol Cigarettes.” *American Journal of Preventative Medicine*, vol. 41, no. 4, Oct. 2011, pp. 357–365., [www.sciencedirect.com/science/article/pii/S0749379711004624?via=ihub](http://www.sciencedirect.com/science/article/pii/S0749379711004624?via=ihub).

<sup>9</sup> Lee, Joseph G. L., et al. “A Systematic Review of Neighborhood Disparities in Point-of-Sale Tobacco Marketing.” *American Journal of Public Health*, vol. 105, no. 9, Sept. 2015, doi:10.2105/ajph.2015.302777.

<sup>10</sup> Truth Initiative. “6 Important Facts about JUUL.” *Truth Initiative*, Truth Initiative, 29 Aug. 2018, [truthinitiative.org/news/6-important-facts-about-juul](http://truthinitiative.org/news/6-important-facts-about-juul).

<sup>11</sup> Goriounova, N. A., and H. D. Mansvelder. “Short- and Long-Term Consequences of Nicotine Exposure during Adolescence for Prefrontal Cortex Neuronal Network Function.” *Cold Spring Harbor Perspectives in Medicine*, vol. 2, no. 12, 2012, doi:10.1101/cshperspect.a012120.

<sup>12</sup> Miech, Richard, et al. “E-Cigarette Use as a Predictor of Cigarette Smoking: Results from a 1-Year Follow-up of a National Sample of 12th Grade Students.” *Tobacco Control*, vol. 26, no. e2, Jun. 2017, doi:10.1136/tobaccocontrol-2016-053291.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Soneji, Samir S., et al. “Quantifying Population-Level Health Benefits and Harms of e-Cigarette Use in the United States.” *Plos One*, vol. 13, no. 3, 2018, doi:10.1371/journal.pone.0193328.

<sup>16</sup> “E-Cigarettes Linked to Heart Attacks, Coronary Artery Disease and Depression.” 7 Mar. 2019, [www.acc.org/about-acc/press-releases/2019/03/07/10/03/ecigarettes-linked-to-heart-attacks-coronary-artery-disease-and-depression](http://www.acc.org/about-acc/press-releases/2019/03/07/10/03/ecigarettes-linked-to-heart-attacks-coronary-artery-disease-and-depression).

<sup>17</sup> Bhatta, Dharma N., and Stanton A. Glantz. “Association of E-Cigarette Use With Respiratory Disease Among Adults: A Longitudinal Analysis.” *American Journal of Preventive Medicine*, 2019, doi:10.1016/j.amepre.2019.07.028.