

S.18 – Eliminating Menthol and Flavored Tobacco

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American
Heart
Association.

Menthol addicts children.
That's why the industry uses it.

We can not have a business model that is built on addicting kids.

- Menthol is attractive to kids because it eliminates the harshness of tobacco. It allows for a deeper smoke.
- Menthol makes it harder to quit.
- Menthol makes up more than a third of industry profits. Because it gets people hooked, it fuels the sales for the rest of their products. It creates life-long, addicted customers. That's why the industry is fighting this so hard.

Broad support for eliminating menthol and flavored tobacco in Vermont



The American Heart Association along with our partners in the Coalition for a Tobacco Free Vermont, support S.18. These include such respected public health organizations as:

- American Cancer Society-Cancer Action Network
- Campaign for Tobacco Free Kids
- Vermont Medical Society
- American Academy of Pediatrics-VT Chapter
- Vermont Academy of Family Physicians
- American Lung Association

- We support the elimination of all characterizing flavors other than tobacco from all tobacco products. This is essential to reduce the appeal to youth.

Menthol and flavors have an allure that is hooking youth on tobacco products.



more than **8 in 10 youth** who have ever used tobacco products started with **flavored products**



Nearly all (97%) of youth e-cigarette users report using **flavored products**, while most report that **flavored products are a key reason for their use**

More than a quarter of Vermont high school students now vape.

All tobacco products contain nicotine, which is particularly harmful to the adolescent/ developing brain

(a disposable device/pod has as much nicotine as a pack of cigarettes)

Menthol is the only legal cigarette flavor still on the market and is hooking kids.

- In 2009, the Tobacco Control Act outlawed flavored cigarettes, but exempted menthol due to tobacco industry lobbying. This is troubling because menthol makes cigarettes easier to smoke and harder to quit.
- No flavored tobacco product contributes more to death and disease than menthol cigarettes.
- Researchers estimate that between 1990 and 2018, menthol cigarettes were responsible for 10.1 million additional new smokers, 378,000 premature deaths and nearly 3 million life years lost.

Here's the hook

Menthol creates a cooling effect, reduces the harshness of cigarette smoke, numbs the throat and suppresses coughing.

This makes it appealing to youth and leads to nicotine addiction.

More than half (54%) of youth ages 12-17 who smoke use menthol cigarettes.



Consider why you take a menthol cough drop when your throat hurts

Menthol needs to be prohibited along with other flavors or addicted youth will gravitate to it.

- If menthol isn't restricted in all tobacco products, consumers who formerly used flavored e-cigarettes will be pushed toward other mentholated tobacco products.
- Youth will gravitate to the available flavor.
- **Youth use of mint and menthol e-cigarettes increased sharply in 2019 after JUUL restricted the availability of flavors, increasing from 42.3% in 2017 to 63.9% in 2019.**

Eliminating the sale of menthol helps to ensure health equity.

- Evidence from tobacco industry documents show a concerted effort to target blacks through specific menthol advertising.
- The result - 85% of black adult smokers smoke menthol – higher than any other racial or ethnic group.



States can't wait for the FDA to act.

- The same federal legislation in 2009 that banned all other flavored cigarettes allowed the FDA to regulate or ban menthol.
- Despite taking public comment in 2013 and again in 2018, and its own report in 2013 that concluded that,

“menthol cigarettes lead to increased smoking initiation among youth and young adults, greater addiction and decreased success in quitting smoking...”

.....the FDA has repeatedly failed to act.

FDA 2020 policy was weak.



- The FDA's action in 2020 only addressed flavored pod-based e-cigarettes (not menthol).
- Open tank e-cigarettes and the flavored e-liquids used to fill these could continue to be sold. Flavored self-contained, disposable e-cigarettes were also still allowed.
- The result was youth immediately moving to disposable vape products such as PuffBar and others.

FDA's new menthol rulemaking will likely take years.



- The FDA finally issued proposed rulemaking in April 2022 to prohibit menthol cigarettes and flavored cigars after citizens petitions were filed in 2013 and again in 2021.
- This is just the first step of a lengthy rulemaking process. It could take several years for the FDA to issue regulations and there is no guarantee that the FDA will ultimately ban these products.
- The FDA committed to issuing a proposed rule but isn't obligated to issue final regulation.
- One thing that is certain, the tobacco industry will do everything it can to prevent the FDA from moving forward.

Other states are acting to protect their youth now. Vermont shouldn't wait.

- The state of Massachusetts was the first state to end the sale of menthol along with all other flavored tobacco products. The ban on flavored e-cigs was immediate upon enactment in November. The effective date for the flavored tobacco ban was June 1, 2020.
- California became the second state to enact a ban on most flavored tobacco products Aug. 28, 2020 which was further supported in a statewide referendum this past November, and effective Dec. 2022.
- Governor Hochul included in her budget proposal eliminating menthol tobacco sales as a priority. (Flavored e-cigarettes have already been prohibited.)

Data from Massachusetts is positive.

- The law is working as intended in MA.

From 2019 to 2021, youth smoking rates decreased from 4.3% to 2.9% and youth vaping rates decreased from 32% to 17.6%. Adult smoking dropped from 12.1% to 10.6%.

- A study in BMC Public Health found there were significant decreases in sales across all flavor products:

-99.83% fruit, -99.33% menthol, and -99.28% all other flavored e-cigs
-95.36% for menthol cigarettes

[The impact of two state-level approaches to restricting the sale of flavored tobacco products \(biomedcentral.com\)](https://doi.org/10.1186/s12916-021-02040-2)

- A study of sales data in neighboring states before and after implementation found the law it did not impact cross border sales and the health dept reports an increase in convenience stores.

Cost of Vermont not acting.

- The 26% of Vermont high school students who are currently vaping. (Daily use by HS students has also tripled in 4 years.)
- The increase from \$348 million to \$404 million that Vermont spends annually treated tobacco-caused diseases.
- The impact on youth and schools in Vermont:

bathrooms that are warzones, principals on guard outside of bathrooms, students anxious and disruptive in class, athletes being compromised, addicted kids who want to quit but are struggling, youth who vape are 4X more likely to smoke, young students being afraid to go to the bathrooms, and more.

Addiction isn't a choice.

We aren't taking away choice with this action. Flavored cigarettes and e-cigarettes would still be available.

- More importantly, 95% of the people making this choice as adults actually got addicted to the product when they were minors.
- We generally protect kids from choices they aren't ready for, and flavored tobacco should be treated the same way. Once you're addicted, it's hardly a "choice" at all. Especially troubling if the "decision" to become addicted was made as a teen.
- When the harm of an action and costly impact on the state outweighs the desire to provide for personal choice, lawmakers have acted previously – seatbelt requirements, prohibitions of cell phones while driving, etc. -- and need to do so now.