



Testimony of Elizabeth Hamlin
Director of Advocacy, Vermont
American Lung Association
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Good morning Chair Woman Lyons and members of the committee, thank you for the invitation to speak today. My name is Elizabeth Hamlin and I'm the Director of Advocacy in Vermont for the American Lung Association.

The Lung Association works on behalf of the 33 million Americans living with lung diseases including lung cancer and COPD – which are primarily caused by tobacco use and exposure to secondhand smoke.

On behalf of the Lung Association, we are pleased to speak today in support of S. 288, An act relating to banning flavored tobacco products and e-liquids with the amendments to

- Strike the possession provision
- Eliminate the e-liquid definition
- Strike the contraband section
- Adding penalty section for retailers where none exist

We also recommend the following amendment This language helps to prevent any loopholes to a flavor prohibition.

Restriction language:

It shall be unlawful for any retailer to sell or offer for sale any flavored tobacco product.

There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a tobacco retailer, manufacturer, or any employee or agent of a tobacco retailer or manufacturer:

1. makes a public statement or claim that a tobacco product imparts a taste or smell other than the taste or smell of tobacco; or

2. uses text, images, or coloring on the tobacco product's labeling or packaging to explicitly or implicitly indicate that the tobacco product imparts a taste or smell other than the taste or smell of tobacco.

We have made tremendous progress in reducing adult and youth cigarette smoking rates to all-time lows, with 5.8 percent of high school students in 2019 and 13.7 percent of adults smoking cigarettes in 2018, according to Centers for Disease Control and Prevention (CDC) surveys. However, this positive news was tempered by a dramatic and extremely troubling rise in youth use of e-cigarettes.

In new data from CDC's 2019 [National Tobacco Youth Survey \(NYTS\)](#), e-cigarette use soared by another 32 percent among high school students from 2018-2019 showing that 27.5 percent of high school users have used e-cigarettes in the last month, compared to 11.7% in 2017 and 20.8% in 2018. This equals more than 5 million middle and high school students who now use e-cigarettes.

Flavors have been consistently cited as one of the main reason's kids use e-cigarettes and flavored tobacco products more generally. From the 2019 NYTS, 71.1 percent of high school students who currently use e-cigarettes reported using flavored e-cigarettes in the past month. In a November 2019 study in the *Journal of the American Medicaid Association* using data from the 2019 NYTS, 66% of high school students who currently used e-cigarettes reported using fruit flavors and 57.7 % reported using mint or menthol flavors in the last month. Overall, according to the 2019 NYTS close to 73% of high school students who use tobacco products reported using a flavored product.

The American Lung Association has been sounding the alarm about e-cigarettes for more than a decade *and warns against the use of all e-cigarettes* as the inhalation of harmful chemicals found in e-cigarettes can cause irreversible lung damage and lung disease. The developing lungs of youth may be more at risk.

Continued progress on reducing both cigarette smoking, and other tobacco product use requires bold and swift action on the part of our federal, state and local governments. But we cannot sit here and wait for potential action from our partners on the federal level. It is imperative that Vermont acts now – as waiting for other levels of government to act may lead to not only another generation of Vermont kids addicted to tobacco products but ultimately more tobacco-caused death and disease.

We recognize, in the absence of strong federal action especially by the FDA, Vermont is being forced to make decisions to protect the health of children and adults from vaping-related public health emergencies.



The American Lung Association strongly supports ending the sale of ALL flavored tobacco products, including flavored e-cigarettes, menthol cigarettes and flavored cigars, and encourages a comprehensive evidenced-based approach to prevention and limiting access to all tobacco products.

Without a doubt, flavored tobacco products are attractive to kids, and flavors are one of the main reasons the youth use of e-cigarettes has reached epidemic levels. According to a 2018 study from the Centers for Disease Control and Prevention (CDC), one of the primary reasons teens use e-cigarettes is because candy and fruit flavors are appealing to them.

E-cigarettes are a tobacco product that produces an aerosol by heating a liquid that typically contains nicotine, flavorings, and other chemicals. E-cigarettes currently being sold have not been reviewed by the Food and Drug Administration. That means the company has not had to disclose the ingredients in their products to the FDA. But we do know that e-cigarettes include nicotine, as well as chemicals and toxins which are unsafe to inhale. Since 2016, we've had evidence that flavor additives in e-cigarettes – especially those that are based on natural plant-based extracts, are menthol-based and food-related additives such as cinnamaldehyde – are particularly toxic to lungs when they are inhaled. One study found that these additives significantly affect the lung cell viability and the respiratory barrier integrity¹. Another study found that lower concentrations of these flavor additives in e-cigarettes caused inflammation and created symptoms consistent with endothelial dysfunction². And the presence of chemicals such as diacetyl and acetyl propionyl, are associated with respiratory disease.³ The FDA must use its authority to clear the market of products that have not undergone premarket review. Absent FDA enforcing the Tobacco Control Act, local, state and federal policymakers must use every tool at their disposal to end this public health emergency.

One of the most effective policies that Vermont can implement to address the youth e-cigarette epidemic is the restriction of the sale of all flavored tobacco products. Recognizing that almost all tobacco users begin their use during their adolescence or young adulthood, tobacco companies have spent billions of dollars marketing their products and making them more attractive to young people. For decades, the tobacco industry has used flavors to attract youth. Indeed, the industry's decades-long conspiracy to deceive the public includes many documents that demonstrate the industry's understanding of the role flavors play in tobacco use initiation. We must counter their attempts to addict the next generation of nicotine addicted youth to their products.

¹ Fetterman, J.L., et al. (2018). Flavorings in Tobacco Products Induce Endothelial Cell Dysfunction. *Arterioscler, Thrombosis, and Vascular Biology*. Retrieved from <http://atvb.ahajournals.org/content/early/2018/06/13/ATVBAHA.118.311156>

² Fetterman, J.L., et al. (2018). Flavorings in Tobacco Products Induce Endothelial Cell Dysfunction. *Arterioscler, Thrombosis, and Vascular Biology*. Retrieved from <http://atvb.ahajournals.org/content/early/2018/06/13/ATVBAHA.118.311156>

³ Farsalinos, K.E., et al. (2014). Evaluation of Electronic Cigarette Liquids and Aerosols for the Presence of Selected Inhalation Toxins. *Nicotine & Tobacco Research*. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4892705/>

When considering legislation to address flavored tobacco products, it is important that the proposal is comprehensive - addressing all flavors and all products. While most flavored cigarettes are prohibited federally, menthol is not. The American Lung Association strongly supports menthol cigarettes being removed from the marketplace and has been calling for such action since 2011. In April 2013, the American Lung Association and our partners submitted a formal citizen petition to the FDA, requesting that the Commissioner “prohibit menthol as a characterizing flavor of cigarettes.”⁴ In it, our organizations cited the FDA’s Tobacco Products Scientific Advisory Committee (TPSAC) report, which concluded:

1. Menthol cigarettes have an adverse impact on public health in the United States;
2. Menthol cigarettes offer no public health benefits.
3. Menthol cigarettes increase the likelihood of addiction and the degree of addiction in youth smokers.

Menthol is not only a flavoring, but a chemical with complex, drug-like properties that can impact smoking initiation, addiction and cessation. Menthol has cooling and anesthetic properties which reduce the harshness of cigarette smoke for new smokers. Menthol also reduces airway pain and irritation and can suppress coughing, which can mask the early warning symptoms of smoking-induced respiratory problems. Use of menthol cigarettes by youth also makes it more likely that youth will go on to become regular smokers. While overall cigarette sales have been declining, the proportion of smokers using menthol cigarettes has been increasing, and over half of kids who smoke cigarettes use menthol cigarettes.

The health disparities the use of menthol cigarettes has caused is also very troubling. The sale and marketing of menthol cigarettes disproportionately burdens the African-American community as a result of decades of targeted marketing to the African-American community by the tobacco industry⁵. The use of menthol is more common among youth, female smokers, LGBT smokers⁶, those with mental illness and racial and ethnic minorities, especially African-Americans. Nearly 9 in 10 African-American smokers (88.5 percent) aged 12 years old and older use menthol cigarettes⁷.

⁴ American Lung Association and other health groups. (2013). Citizens Petition to the Division of Dockets Management at the Food and Drug Administration re Menthol in Cigarettes. Retrieved from <http://www.lung.org/assets/documents/advocacy-archive/menthol-citizen-petition.pdf>

⁵ Too Many Cases, Too Many Deaths: Lung Cancer in African Americans, American Lung Association. <https://www.lung.org/assets/documents/research/ala-lung-cancer-in-african.pdf>

⁶ Menthol cigarette smoking among lesbian, gay, bisexual, and transgender adults.

Fallin A1, Goodin AJ2, King BA3. <https://www.ncbi.nlm.nih.gov/pubmed/25245795>

⁷ <https://truthinitiative.org/news/6-key-takeaways-new-fda-plan-e-cigarettes-flavored-tobacco-products>

We appreciate the opportunity to join you this morning and your attention to addressing the crisis before us. With a vision of a world free of lung disease, the American Lung Association is working to eliminate the use of all tobacco products. We support strong tobacco prevention policies that are proven to reduce tobacco rates. A comprehensive approach, including policies discussed today restricting the sale of flavored tobacco products is needed to realize this vision and address the youth e-cigarette epidemic and prevent today's youth from being the next generation of kids addicted to nicotine. We strongly support the legislation before you today, S. 288, with amendments. The Lung Association believes that the most effective way to protect our youth is through a comprehensive policy measure that would include all flavors and all tobacco products, including but not limited to menthol cigarettes, cigars and smokeless products.

Again, thank you for your time and the opportunity to address the Committee in support of S. 288 with suggested amendments.

Please contact Elizabeth.Hamlin@lung.org (518) 545-5045, with any questions or concerns.

