



### **Flavor Bans Are Not the Solution to Current Health Care Crisis**

- Removing flavors in nicotine-containing vapor products will not address any of the serious illness issues that the CDC and FDA are reviewing since **over 80% of those tragic incidents are being tied to the use of black market THC products**, not store-bought FDA-registered and FDA-regulated nicotine vapor products (otherwise known as e-cigarettes).
- Dr. Michael Siegel, Boston University Professor of Public Health, who has made clear that there is no connection between flavored e-cigarettes and the illnesses being reported, said “CDC has hyped up the risks of vaping so much that they have literally said nothing about youth vaping of marijuana.”
- The economic impact and potential for the American vapor industry to compete with the combustible cigarette is enormous: \$24.5 billion in total economic impact; \$7.5 billion in wages generated for American workers; and \$15 billion in federal, state and local taxes generated.<sup>1</sup>
- The American vapor industry sells a wide variety of flavored e-liquids, which 10-13 million adults rely on to quit and/or reduce smoking cigarettes.
- Without flavors and a wide variety of products on the market, the licensed, FDA-registered and FDA-regulated American vapor product distribution chain will close.
- No business model would enable these vape shops to remain open if they can sell only “tobacco, mint and menthol” as has been proposed. The result is that upwards of 166,000 direct and indirect jobs would be lost.
- Most importantly, continuing down the road of banning flavors will only cause millions of adult smokers and former smokers to go back to smoking or rely on what will be a new and larger black market.

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<https://vaportechnology.org/wp-content/uploads/2019/09/Vapor-Industry-Economic-Impact-Study-by-Dunham-Associates-2019-Updated.pdf>

**Fortunately, many alternatives to a flavor ban exist to directly address youth vaping, while preserving 14,000 small businesses and preventing a significant adverse economic impact.**

VTA believes the following action steps can be taken at the state and federal level to address youth access to vapor products while maintaining the adult market place.

**1. Implement Strict Marketing Standards to prevent nicotine vapor products from being marketed to or attractive to youth.**

Rationale: VTA created the industry's first marketing standards in January 2018. Industry agrees that vapor products should not be marketed to youth. Imposing strict marketing, advertising, labeling and packaging restrictions is the only way to address the real issue. Some of the following provisions go further than other age-restricted industries and should be applied to all tobacco products, including vapor products:

- Ban print advertising except in adult-only publications or media (adults are >85% of audience).
- Ban advertising and/or sponsorship at stadiums, concerts, sporting or other public events that are not primarily targeted to adults (adults are >85% of audience)
- Ban television advertising of any tobacco products, including any vapor products.
- Ban advertising, marketing and sale of tobacco products that:
  - Use the terms “candy” or “candies” or variants in spelling, such as “kandy” or “kandeez,” “bubble gum,” “cotton candy,” and “gummi bear”, and “milkshake.”
  - Use the terms “cake” or “cakes” or variants such as “cupcake.”
  - Use packaging, trade dress or trademarks that imitate those of food such as candy, cookies, juice boxes or soft drinks.
  - Use cartoons or cartoon characters.
  - Use images or references to superheroes.
  - Use a video game, movie, video, or animated television show known to appeal primarily to minors.
- Ban advertising and marketing of tobacco products, including vapor products, that:
  - Makes any reference to the product as a smoking cessation device or as a product which may be used to help quit smoking.
  - Makes a claim of therapeutic value, as being safe or healthy for consumers, or as not producing secondhand health effects.
  - Uses health professionals to market or otherwise endorse a tobacco product, directly or indirectly.
- Ban advertising on outdoor billboards near schools and playgrounds.
- Require labels to include warnings protecting youth such as “Sales to Minors Prohibited” or “Underage Sales Prohibited” and/or “Keep Out of Reach of Children”.

**2. Point of Sale Age Verification. Require use of third-party age verification software or technology for all online sales and all brick and mortar sales.**

Rationale: Eliminate potential purchaser fraud and/or employee error and fake IDs by implementation of third-party software or technology that can verify age and identity.

- 3. Brick & Mortar Warning Signs. Tobacco product retailers must display signage indicating that (a) “Unaccompanied Minors Are Not Allowed on Premises” or (b) “Products are Not for Sale to Minors” or (c) “Underage Sale Prohibited.”**

Rationale: Warning signs deter youth. Each clear statement makes it harder for youth to access.

- 4. End “Straw Man” Sellers. Make it illegal for any person who is not a licensed tobacco product dealer to sell, barter for, or exchange any tobacco product.**

Rationale: Close to 90% of youth purchases of tobacco products come from social sources (i.e., friends, family, and adults – even strangers – who legally buy those products). Penalizing straw purchasers is a must since this is the primary point of access for underage users.

- 5. End Bulk Sales. Prohibit the retail sale of more than 2 devices or 5 packages/bottles of e-liquids in one transaction.**

Rationale: Illegal straw man sellers buy in bulk. This practice should be prohibited for both online and brick and mortar retailers to thwart illicit trade.