



E-CIGARETTES: STOPPING A NEW EPIDEMIC

LEGISLATIVE OVERVIEW SERIES: 2021 PUBLIC HEALTH SPOTLIGHT

Introduction

HARMFUL NICOTINE PRODUCTS

Electronic cigarettes (e-cigarettes) are devices that often resemble cigarettes, cigars, or pipes, and deliver nicotine, flavors, or other substances in the form of a vapor or aerosol. Use of these devices—commonly referred to as “vaping”—has become exceedingly popular despite the documented health risks. Most e-cigarettes contain nicotine, which is highly addictive, harmful to adolescent brain development, a health danger for pregnant women, and toxic to fetuses.¹ E-cigarette aerosol can also contain cancer-causing chemicals, heavy metals like lead, and volatile organic compounds. Evidence shows that even e-cigarettes without nicotine are harmful to the lungs. Juuls, e-cigarettes shaped like USB flash drives, contain among the highest nicotine content of any e-cigarette on the U.S. market.

BY THE NUMBERS

E-Cigarettes¹

In 2020, **77.8%** of high school students (3.02 million students) reported current e-cigarette use.

Among students currently using e-cigarettes, **8 in 10** use flavored products.

From 2019 to 2020, disposable e-cigarette use increased approximately **1,000%** among high school users and approximately **400%** among middle school users.

INCREASED COVID-19 RISK

The COVID-19 pandemic has amplified the need for strong prevention and cessation policies for vaping with research showing that e-cigarette use is associated with a higher risk of COVID-19 diagnosis in youth and young adults.² Although 2020 data from CDC and FDA showed a decline in e-cigarette use among high school and middle school students since 2019, an estimated 3.6 million students still use a wide variety of e-cigarette products, including flavored products that are still legally on the market in most U.S. jurisdictions.³

Legislative Trends

AGE OF SALE

In December 2019, the federal government increased the minimum age to purchase tobacco products from 18 to 21. As a result, states and territories are required to have a minimum age of sale of 21 to receive federal substance abuse prevention and treatment block grants. Prior to the federal change, 19 states, the District of Columbia, Guam, and Palau had already established 21 as their minimum age for tobacco sales. In 2020, 14 additional states adopted laws raising the minimum age of tobacco sales to 21, for a current total of 33 states and three territories.

FLAVORED PRODUCTS

Regulating the sale of flavored tobacco and vaping products can reduce youth access to e-cigarettes. In 2020, California ended the sale of all flavored tobacco products, including e-cigarettes, becoming the second state to do so after Massachusetts. However, enforcement of California’s policy is currently on hold until a ballot referendum to potentially recall the policy can take place in November 2022. New Jersey, New York, and Rhode Island also ended the sale of flavored e-cigarettes, including menthol flavoring, this year. Florida’s legislature passed a bill to end flavored e-cigarette sales, but it was vetoed by the governor.

PRICE INCREASES

Increasing the price of tobacco products is an evidence-based method of reducing overall tobacco use.⁴ States can regulate e-cigarette prices by applying a percentage price increase based on the sale price, pricing e-cigarettes and vapor products at the same rates as combustible cigarettes, and imposing a per milliliter price increase on liquid nicotine or consumable material.

CLEARING THE AIR

NINETEEN STATES, THREE TERRITORIES, AND OVER 970 MUNICIPALITIES HAVE EXPANDED SMOKE-FREE AIR LAWS TO PROHIBIT E-CIGARETTE USE.⁵



An ad valorem tax, or a tax based on the value of the e-cigarette product, increases over time with inflation and removes the need for further legislative action. In 2020, Utah and Wyoming imposed price increases on e-cigarettes and consumable materials through legislative action. Also this year, voters in Colorado and Oregon approved ballot measures to impose price increases on e-cigarette and consumable materials.

Looking Ahead

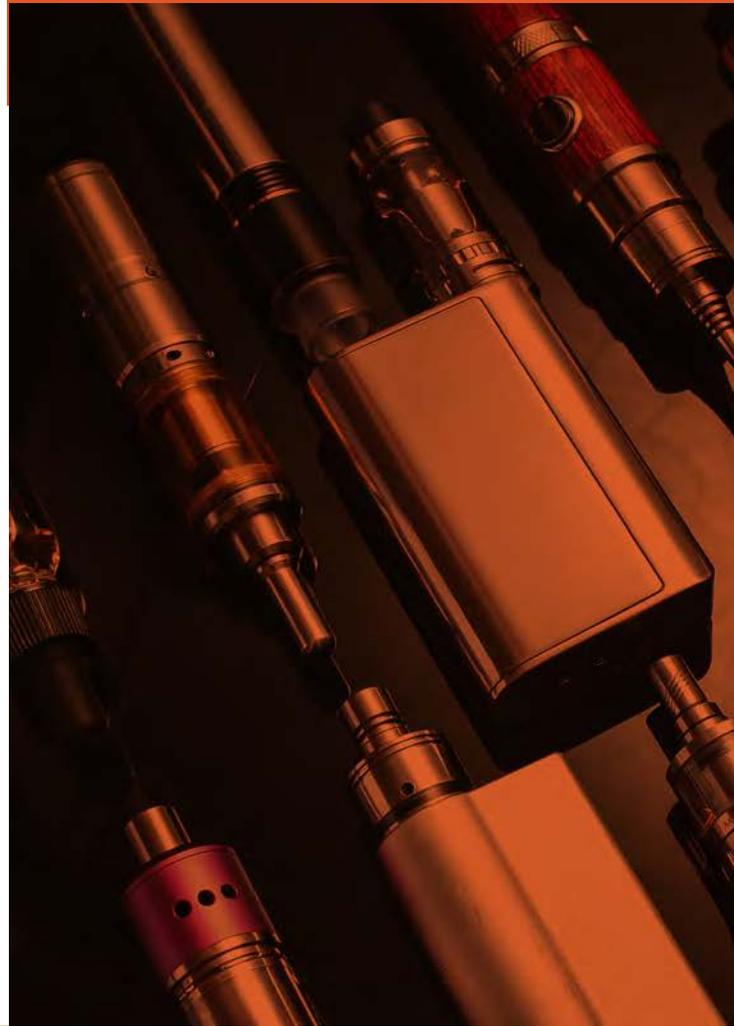
ASTHO expects states to continue adopting laws aimed at reducing youth access to e-cigarettes, including:

- **Sales restrictions on products with specific nicotine concentrations (i.e., restrictions on nicotine concentrations above a set mg/ml).**
- **Required nicotine absorption disclosures to allow consumers to be better informed of product contents.**
- **Prohibitions on the bulk sale of e-cigarette products, which would help prevent the resale of these products to those under the legal purchase age.**
- **Prohibitions on online e-cigarettes sales.**
- **Incorporating e-cigarettes in the definition of tobacco products to make enforcement consistent and so they are included in evidence-based policies, such as clean indoor air laws.**

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2. Gaiha SM, Cheng J, Halpern-Felsher B. "Association Between Youth Smoking, Electronic Cigarette Use, and COVID-19." *J. Adolesc. Health.* 2020;67(4):519-523. Available at <https://doi.org/10.1016/j.jadohealth.2020.07.002>. Accessed 12-22-2020.
3. Wang TW, Neff LJ, Park-Lee E, et al. "E-cigarette Use Among Middle and High School Students — United States, 2020." *Morb Mortal Wkly Rep.* 2020;69:1310-1312. Available at <http://dx.doi.org/10.15585/mmwr.mm6937e1>. Accessed 12-4-2020.
4. Community Preventive Services Task Force. "Reducing Tobacco Use and Secondhand Smoke Exposure: Interventions to Increase the Unit Price for Tobacco Products, Task Force Finding and Rationale Statement" 2014. Available at: <http://www.thecommunityguide.org/tobacco/RRincreasingunitprice.html>. Accessed on 2-10-2021.
5. American Nonsmokers' Rights Foundation. "States and Municipalities with Laws Regulating Use of Electronic Cigarettes." 2021. Available at: <https://no-smoke.org/wp-content/uploads/pdf/ecigslaws.pdf>. Accessed on 2-10-2021.

GROWING POPULARITY

E-cigarette use by youth is a growing concern among state and federal policy-makers. It is also a public health issue that FDA claims has "hit epidemic proportions." E-cigarettes are now the most popular tobacco products among youth and young adults.



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