

Flavored E-cigarette and Menthol Cigarette Bans

Overview:

While a bill banning flavored tobacco products and e-liquids was vetoed in the spring of 2024, the issues presented during this process can be used to create a roadmap in years to come.

Those who **support restricting sales of flavored e-cigarettes** intend to reduce public health impacts and resulting costs. Tobacco use is the #1 preventable cause of death in Vermont and results in 1,000 deaths per year. Preventing the next generation from addiction to nicotine can save lives and improve the health and vibrancy of communities. It is estimated that [80% of COPD is due to tobacco use](#) and generates 1.5 million emergency department visits annually across the country. In Vermont, nearly [one-third of all cancer deaths](#) can be attributed to smoking.

Tobacco use disproportionately affects certain populations such as LGBTQ individuals, people of color, youth, low-income communities and individuals with mental health conditions, and many of these groups have historically been targeted by the tobacco industry. For example, in major cities like Washington D.C., there are up to [10 times more tobacco advertisements in Black neighborhoods](#) than other neighborhoods. In Vermont, it is estimated that the tobacco industry [spends \\$15.8 million each year](#) in marketing.

Those who **oppose restrictions of sales for flavored e-cigarettes** express concerns over reductions in Vermont tax revenue, loss of sales to small businesses, reductions in consumer choice, increases in illicit sales/smuggling and online sales, increased sales at border states, and concerns that such bans may have a small impact on youth consumption.

While some tobacco industry advocates have described vaping as a safer alternative or harm reduction practice to smoking, it should be noted that leading [U.S. health authorities have not found evidence](#) supporting claims that e-cigarettes can be used for tobacco cessation, and not enough time has passed to fully understand the health impacts of vape products.

Quick Facts: Vaping

- E-cigarette usage has been drastically increasing among youth. [As of 2019](#), 7% of Vermont high school students smoked, but if e-cigarette use is included, 18% of Vermont youths used some form of tobacco product. [A third of Vermont high school students](#) were currently using e-cigarettes in 2022, two times the rate in 2017. Use [more than doubled](#) among this age group, from 12% to 26%, between 2017 and 2019.
- The CDC's 2023 National Youth Tobacco Survey showed that [90% of youth](#) who use e-cigarettes are using flavored products.

- Youth are [twice as impressionable](#) to tobacco marketing strategies as compared to adults, and it is estimated that a third of youth smoking experimentation can be attributed to tobacco advertising.
- [According to the World Health Organization](#), e-cigarette use increases traditional cigarette use, particularly among non-smoking youth, by nearly three times.

Quick facts: Menthol Cigarettes

- In 2022, the FDA released information detailing [plans to ban menthol cigarettes](#) across the country.
- [Tobacco industry documents](#) show a concerted effort to target African Americans through specific advertising efforts. Menthol cigarette use [is more prevalent](#) among persons of color who smoke than among white persons who smoke, and is more common among lesbian, gay, bisexual, and transgender smokers than among heterosexual smokers. [85% of Black adult smokers](#) use menthol cigarettes, and of Black youths 12–17 years of age who smoke, [7 out of 10](#) use menthol cigarettes.
- Menthol cigarettes are [harder to quit](#) and easier to consume than other cigarettes. [Studies have shown](#) that a ban on menthol cigarettes could lead to significant reductions in cigarette usage.
- [68% of Vermonters polled in 2023](#) supported a flavored tobacco and e-cigarette ban and 79% of those polled expressed concern about youth being targeted by the tobacco industry with flavored products.

Estimated Cost Savings of the Ban

- Vermont spends more than \$400 million annually to treat tobacco-caused illnesses, including more than \$90 million each year in Medicaid expenses. This translates into a tax burden each year of over \$1,000 per Vermont household. Smoking-related productivity losses add another \$576 million in additional costs each year.
- The Vermont Department of Health specifically [estimated in 2024](#) that each 1% reduction in smoking creates cost-savings of \$8.3 million for the state.
- Between 2021-2022, there was a 2% decrease in smoking among Medicaid members, which provided \$16.6 million cost savings to VT Medicaid in 2023, and had a larger financial impact to the state than lost tobacco tax revenue.
- In 2024, The Vermont Department of Health (VDH) provided a [cost-benefit analysis of the flavored tobacco ban bill](#), which was projected to save the state millions annually given the savings to the medical system of care. VDH highlighted that the annual tobacco-associated cancer healthcare costs of \$188 million overshadow annual tobacco tax revenue of \$75 million.

Information from other states

Massachusetts imposed a flavored tobacco ban in 2019, leading to a [decrease in youth vaping rates](#) and a [decrease in menthol usage](#) without impacting the number of tobacco retailers across the state. Specifically, high school student self-reported rates [dropped by almost 40%](#) from 2019-2021 following the ban. In addition, the rates of middle schoolers reporting as having ever used vaping products [decreased significantly by over 31%](#).

- It should be noted that declines occurred in areas without the ban as well. For example, New Hampshire current-usage vaping rates among highschoolers [declined 52% from 2019-2021](#).
- Similar legislation has since recently passed in the years following 2019 in California, Rhode Island, New Jersey and New York. A [case study](#) on the impact of bans in each of these states showed that the estimated quit-rate in Vermont for such a ban would be 9 percent. The case study also included student interview findings that highlighted the following effects of the ban:
 - Most users attempted to quit multiple times
 - Students shared they were more likely to turn to the illicit marketplace than use unflavored products or travel cross-border to purchase products

Recent Vermont Legislation

- [Act 135 \(2014\)](#) extended secondhand smoke workplace laws to include restaurants, bars, hotels, motels, public spaces, schools, childcare facilities, state-owned hospitals, and motor vehicles with passengers under the age of 18. These laws extend to e-cigarettes. It established a 25-foot smoking buffer zone around state buildings. The purpose was to provide protections for individuals working in these spaces. The law also required all liquid nicotine products to have child-resistant packaging.
- [Act 108 \(2016\)](#) restricts the consumption of e-cigarettes and other vaping products anywhere tobacco smoking is prohibited.
- [Act 22 \(2019\)](#) prohibited online sales (and sales generally) of e-cigarettes to Vermont to anyone other than a licensed wholesale dealer. This expanded upon previous language prohibiting online sales of other cigarette products.
- [Act 27 \(2019\)](#) prohibits the sale of tobacco products to individuals under the age of 21, mirroring federal law changes in 2019. This changed prior law that allowed sales to individuals over the age of 18.
- [Act 28 \(2019\)](#) created a tax rate of e-cigarettes, specifically 92% of their wholesale price, the rate that was previously set for other tobacco products.

Next Steps

Continue to monitor the efforts of advocates in Vermont to introduce legislation to address flavored products including the [Flavors Hook Kids](#) campaign and the [Coalition for Tobacco Free VT](#).