

**Testimony before the Colorado House Committee on Health & Insurance
Regarding Banning the Sale of Flavored Tobacco and Vapor Products
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Chairwoman Lontine, Vice-Chair Ortiz, Members of the Committee,

Thank you for your time today to discuss the issue of banning flavored sales of tobacco and vapor products. My name is Martin Cullip, International Fellow at the Taxpayers Protection Alliance's (TPA) Consumer Center. TPA is a non-profit, non-partisan organization dedicated to educating the public through the research, analysis and dissemination of information on the government's effects on the economy. TPA's Consumer Center focuses on providing up-to-date information on adult access to goods including alcohol, tobacco and vapor products. TPA also analyzes regulatory policies that affect adult access to other consumer products, including harm reduction, technology, innovation, antitrust and privacy.

As the United States continues to address youth use of age-restricted products, many lawmakers are considering regulation of vapor products. Tobacco harm reduction products such as e-cigarettes and vapes are significantly less harmful than combustible cigarettes and have helped millions of American adults quit smoking. Therefore, regulations should take account of the benefits these products can provide and take care not to deter smokers from switching to far safer alternatives.

E-Cigarettes and Tobacco Harm Reduction

The evidence of harm associated with combustible cigarettes has been understood since the 1964 U.S. Surgeon General's Report that determined that smoking causes cancer. Research overwhelmingly shows the smoke created by the burning of tobacco (rather than the nicotine) produces the harmful chemicals found in combustible cigarettes.¹ There are an estimated 600 ingredients in each tobacco cigarette, and "when burned, [they] create more than 7,000 chemicals."² As a result of these chemicals, cigarette smoking is directly linked to cardiovascular and respiratory diseases, numerous types of cancer, and increases in other health risks among the smoking population.³

For decades, policymakers and public health officials looking to reduce smoking rates have relied on strategies such as emphasizing the possibility of death related to tobacco use and implementing tobacco-related restrictions and taxes to motivate smokers to quit using cigarettes. However, there are much more effective ways to reduce tobacco use than relying on government mandates and "quit or die" approaches.

During the past 30 years, the tobacco harm reduction (THR) approach has successfully helped millions of smokers transition to less-harmful alternatives. THR methods include effective nicotine delivery systems, such as smokeless tobacco, snus, electronic cigarettes (e-cigarettes), and vaping. E-cigarettes and vaping devices have emerged as especially powerful THR tools, helping nearly three million U.S. adults quit smoking from 2007 to 2015.

In fact, an estimated 10.8 million American adults were using electronic cigarettes and vapor products in 2016.⁴ Of the 10.8 million, only 15 percent (or 1.6 million adults) were never-smokers, indicating that e-cigarettes are overwhelmingly used by current and/or former smokers.

E-Cigarettes and Vapor Products 101

E-cigarettes were first introduced in the United States in 2007 by a company called Ruyan.⁵ Soon after their introduction, Ruyan and other brands began to offer the first generation of e-cigarettes, called “cigalikes.” These devices provide users with an experience that simulates smoking traditional tobacco cigarettes. Cig-alikes are typically composed of three parts: a cartridge that contains an e-liquid, with or without nicotine; an atomizer to heat the e-liquid to vapor; and a battery.

In later years, manufacturers added second-generation tank systems to e-cigarette products, followed by larger third-generation personal vaporizers, which vape users commonly call “mods.”⁶ These devices can either be closed or open systems.

Closed systems, often referred to as “pod systems,” contain a disposable cartridge that is discarded after consumption. Open systems contain a tank that users can refill with e-liquid. Both closed and open systems utilize the same three primary parts included in cigalikes—a liquid, an atomizer with a heating element, and a battery— as well as other electronic parts. Unlike cigalikes, “mods” allow users to manage flavorings and the amount of vapor produced by controlling the temperature that heats the e-liquid.

Mods also permit consumers to control nicotine levels. Current nicotine levels in e-liquids range from zero to greater than 50 milligrams per milliliter (mL).⁷ Many users have reported reducing their nicotine concentration levels after using vaping devices for a prolonged period, indicating nicotine is not the only reason people choose to vape.

Health Effects of Electronic Cigarettes and Vapor Products

Despite recent media reports, e-cigarettes are significantly less harmful than combustible cigarettes. Public health statements on the harms of e-cigarettes include:

Public Health England (PHE): In 2015, a landmark report relying on 185 studies and produced by PHE (a leading health agency in the United Kingdom), found “that using [e-cigarettes are] around 95% safer than smoking,” and that their use “could help reducing

smoking related disease, death and health inequalities.”⁸ In 2018, the agency reiterated their findings, finding vaping to be “at least 95% less harmful than smoking.”⁹

As recent as February 2021, PHE provided the latest update to their ongoing report on the effects of vapor products in adults in the UK. The authors found that in the UK, e-cigarettes were the “most popular aid used by people to quit smoking [and] ... vaping is positively associated with quitting smoking successfully.”¹⁰

The Royal College of Physicians (RCP): In 2016, RCP found the use of e-cigarettes and vaping devices “unlikely to exceed 5% of the risk of harm from smoking tobacco.”¹¹ RCP is another United Kingdom-based public health organization, and the same public group the United States relied on for its 1964 Surgeon General’s report on smoking and health.

The National Academies of Sciences, Engineering, and Medicine: In January 2018, the academy noted “using current generation e-cigarettes is less harmful than smoking.”¹²

Cochrane Review: Researchers at the Tobacco Addiction Group analyzed studies that examined the effects of e-cigarettes in helping smokers quit. The researchers found 61 studies that had over 16,700 adults that had smoked. The studies compared the instances of quitting smoking using e-cigarettes to other nicotine replacements including nicotine replacement therapy, nicotine-free e-cigarettes, behavioral support and others. Of the available evidence, the authors found that more people “probably stop smoking for at least six months using nicotine e-cigarettes than using nicotine replacement therapy ... or nicotine-free e-cigarettes.” The authors also found that e-cigarette “may help more people to stop smoking than no support or [behavioral] support only.”¹³

Society for Research on Nicotine and Tobacco (SRNT): An article in August 2021 co-authored by 15 past presidents of the SRNT reported that “Many scientists have concluded that vaping is likely substantially less dangerous than smoking.” Furthermore, they found that “A growing body of evidence indicates that vaping can foster smoking cessation” and warned “Studies have found that policies intended to restrict e-cigarette use may have unintentionally increased cigarette smoking.”¹⁴

The Role of Flavors in Tobacco Harm Reduction

Flavors are an essential component of e-cigarettes and vital to helping many smokers cease using combustible tobacco.

A 2013 internet study concluded that flavors in e-cigarettes “appear to contribute to both perceived pleasure and the effort to reduce cigarette consumption or quit smoking.”¹⁵ The study consisted of more than 4,600 participants with a mean age of 40 years. The most commonly used flavor among survey respondents was fruit flavors, followed by sweets. A majority of respondents indicated restricting flavors would make vaping “less enjoyable.”¹⁶ A 2015 online

survey conducted by the Consumer Advocates for Smoke-Free Alternatives Association (CASAA) examined 27,343 Americans over the age of 18. Seventy-two percent of the respondents “credited tasty flavors with helping them give up tobacco.”¹⁷ Of the respondents that were still smoking, “53% say interesting flavors are helping move them toward quitting.”

A 2018 survey of nearly 70,000 American adult vapers “found flavors play a vital role in the use of electronic cigarettes and vaping devices.”¹⁸ Some 83.2 percent and 72.3 percent of survey respondents reported vaping fruit and dessert flavors, respectively, “at least some of the time.”¹⁹

A 2017 study discovered older adults “use of an e-cigarette flavored with something other than tobacco (69.3%) was ... significantly higher than the same at initiation (44.1%).”²⁰ Thus, e-cigarette users often first consume tobacco flavored e-liquids and products but then transition to other flavors, helping aid their cessation of combustible cigarettes.

Another 2017 study examined the impact of a flavor ban in electronic cigarettes and vaping devices. The authors concluded banning flavors “would result in increased choice of combustible cigarettes,” and they said they expect e-cigarette use to decline by approximately 10 percent if flavors are banned.²¹ Additionally, a 2018 “systematic review of research examining consumer preference” for flavors concluded adults “in general also preferred sweet flavors.”²²

A longitudinal study published in June of 2019 examined changes in flavor preference among 383 adult participants. The authors found that “[p]reference for tobacco and menthol or mint [flavors] decreased over time; preference for fruit remained stable, but chocolate/candy or other sweets preference significantly increased.”²³ Further the authors found that “exclusive e-cigarette users preferred sweet flavors more commonly than [poly-tobacco] users did.”

A 2020 study found an association between flavors and smoking cessation. In a cohort study of more than 17,900 participants, the authors found that “adults who began vaping nontobacco-flavored e-cigarettes were more likely to quit smoking than those who vaped tobacco flavors.”²⁴

Moreover, research by Dr. Edward Anselm, R Street Institute senior fellow and medical director of Health Republic Insurance of New Jersey, concludes the presence of flavorings in e-cigarettes greatly helps smokers quit using traditional tobacco cigarettes. Anselm also notes concerns over “flavoring as a tool to recruit children are overblown,” and he rightly points out there are no specific “kids flavors” for e-cigarettes.²⁵ There is no “evidence that suggests children are drawn to tobacco products specifically because of flavor.”

E-Cigarettes Help Smokers Quit

A 2017 study in *BMJ*'s peer-reviewed journal *Tobacco Control* examined health outcomes using “a strategy of switching cigarette smokers to e-cigarette use ... in the USA to accelerate tobacco control progress.”²⁶ The authors concluded that replacing e-cigarettes “for tobacco cigarettes would result in an estimated 6.6 million fewer deaths and more than 86 million fewer life-years lost.”

An earlier October 2020 review in the *Cochrane Library Database of Systematic Reviews* analyzed 50 completed studies which had been published up until January 2020 and represented more than 12,400 participants.

The authors found that there was “moderate-certainty evidence, limited by imprecision, that quit rates were higher in people randomized to nicotine [e-cigarettes] than in those randomized to nicotine replacement therapy.” The authors found that e-cigarette use translated “to an additional four successful quitters per 100.” The authors also found higher quit rates in participants that had used e-cigarettes containing nicotine, compared to the participants that had not used nicotine.

Notably, the authors found that for “every 100 people using nicotine e-cigarettes to stop smoking, 10 might successfully stop, compared with only six of 100 people using nicotine replacement therapy or nicotine-free e-cigarettes.”

Other reports have also noted that substitution of e-cigarettes for combustible cigarettes could save the state in health care costs.

According to the Centers for Disease Control and Prevention (CDC), it is now well known that Medicaid recipients smoke at rates of twice the average of privately insured persons. In 2013, “smoking-related diseases cost Medicaid programs an average of \$833 million per state.”²⁷

A 2015 policy analysis by State Budget Solutions examined electronic cigarettes’ effect on Medicaid spending. The author estimated Medicaid savings could have amounted to \$48 billion in 2012 if e-cigarettes had been adopted in place of combustible tobacco cigarettes by all Medicaid recipients who currently consume these products.²⁸

A 2017 study by the R Street Institute examined the financial impact to Medicaid costs that would occur should a large number of current Medicaid recipients switch from combustible cigarettes to e-cigarettes or vaping devices. The author used a sample size of “1% of smokers [within] demographic groups permanently” switching. In this analysis, the author estimates Medicaid savings “will be approximately \$2.8 billion per 1 percent of enrollees,” over the next 25 years.²⁹

Spotlight: E-Cigarette Use and Flavored Vapor Products in the UK

Despite widespread e-cigarette use and a wealth of flavors being readily available, the UK has not experienced negative consequences from light touch regulation. Furthermore, there is an appetite to de-regulate current restrictions to maximise the benefits of tobacco harm reduction which has already delivered impressive successes in driving down smoking rates.

Product Regulation in the UK

Makers of e-cigarette and vape liquid products must submit a notification to the Medicines & Healthcare products Regulatory Agency six months before they intend to put their product on the

market in Great Britain and/or Northern Ireland.³⁰ A fee is charged for each individual notification, currently £150 (\$200) per SKU.³¹

E-cigarette liquids are permitted as long as they do not contain any ingredient that poses a risk to human health in heated or unheated form, vitamins or other additives that create the impression that a tobacco product has a health benefit or presents reduced health risks, and any additives that pose a risk to health such as Diacetyl, Ethylene glycol, Formaldehyde and Acrolein.³²

E-cigarette tanks must hold a maximum of 2ml of e-liquid, the maximum bottle size of e-liquid containing nicotine is restricted to 10ml, the highest strength nicotine e-liquid permitted is 20mg/ml. All nicotine-containing e-liquids must be packaged in child-resistant bottles and the packaging must indicate that the product contains nicotine, and that nicotine is an addictive substance.

Regulation is dictated by The Tobacco and Related Products Regulations 2016 (TRPR)³³ which, in turn, was drafted in compliance with the European Union Tobacco Products Directive.³⁴ In 2018 the UK government's Science and Technology Committee recommended that some of the provisions of the TRPR be revisited³⁵ and all its recommendations were accepted. Now that the UK has left the European Union, a parliamentary inquiry has also recommended that liberalising regulation of reduced risk products would be advantageous to public health.³⁶

E-Cigarette Flavors in the UK

Flavors are integral to the appeal of low-risk alternatives to cigarettes. Many consumers emphasise their exit from smoking is maintained by the more pleasant taste of smoke-free products confirming a break from combustible tobacco. Regulation of flavors should proceed with great care for unintended consequences (driving people back to smoking or inhibiting switching).

Not every smoker experimenting with vaping is sufficiently determined to persevere if the experience is not to their satisfaction compared with smoking. A large proportion of former smokers using e-cigarettes in the UK are "accidental quitters;" those who tried vaping on a whim, and it attracted them away from smoking specifically because of the better taste. Many consumers emphasise their exit from smoking is maintained by preferring non-tobacco flavors in smoke-free products.

Youth Vaping in the UK

The ready availability of flavors has not led to problematic youth vaping in the UK. Instead, the focus on vaping as a smoking cessation option for adults and endorsement by medical authorities has taken away the glamour and rebelliousness for youth. In June 2021, the UK tobacco control organization Action on Smoking and Health's (ASH) latest survey of *Use of e-cigarettes among young people in Great Britain* reports that young never-smokers do not take up vaping because they find flavors and packaging attractive.³⁷ More than 88 percent of 11–17-year-olds have never

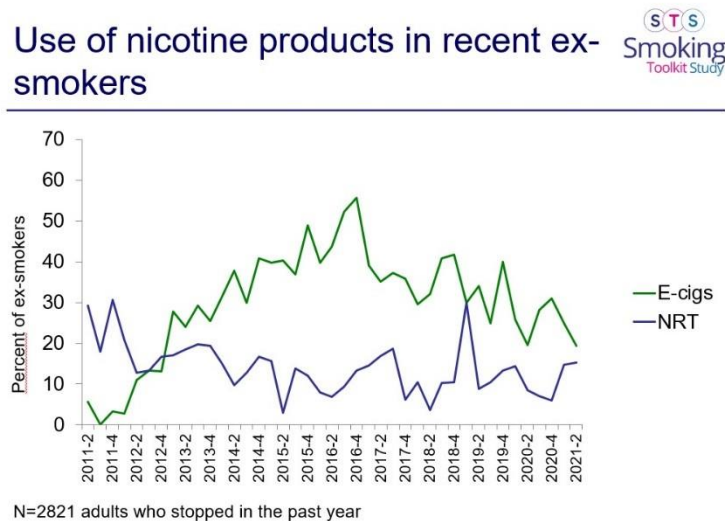
tried or are unaware of e-cigarettes. Only 0.7 percent of 11–18-year-olds who regularly use e-cigarettes were not former smokers.

Liberal vape regulations has resulted in vaping being an almost exclusively adult behaviour. Vape products are displayed in the health aisle of some supermarkets. The latest survey of e-cigarette use amongst adults³⁸ by the influential UK anti-smoking charity Action on Smoking and health (ASH) found that “the peak ages for current e-cigarette use in 2021 are among 35-44 year olds (10.1%) followed by 45-54 year olds (8.6%), and then 25-34 year olds (8.1%). The lowest vaping rates by age are 5% for young adults aged 18-24.” Adults over 55, the oldest age group, have a higher vaping rate (5.4 percent) than the youngest adults.

E-Cigarettes Are the Most Successful Smoking Cessation Aid in the UK

The Smoking Toolkit Study conducted by University College London has tracked e-cigarette use since 2011 in England and found that vaping is the most successful quitting aid for smokers.³⁹

This tallies with evidence which repeatedly shows vaping to be more effective in helping smokers to quit than traditional nicotine replacement therapy.⁴⁰

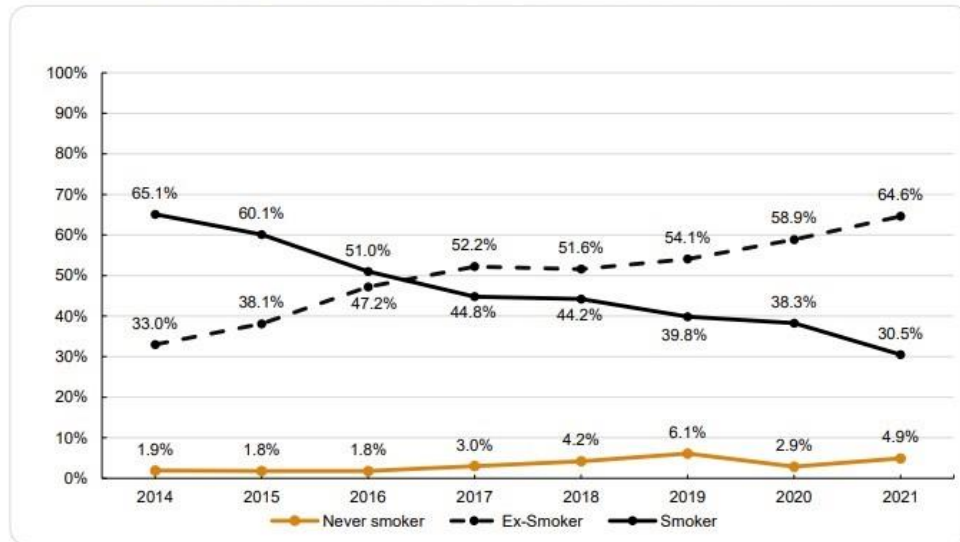


Dual Use of Vaping and Smoking in the UK

Unless a smoking cessation method is 100 percent effective immediately, there will be continued smoking in the period between attempting to quit and successfully quitting smoking. Dual use is a transitional phase in the migration from smoking to vaping. It is the heaviest smokers – and therefore the hardest to reach – that stay in the dual use phase before switching entirely. The latest survey by ASH into *Use of e-cigarettes among adults in Great Britain*, published in June, charts the progress of how dual use leads to full switching to safer products.⁴¹ In 2021, the UK

had 3.6m vapers, two-thirds of whom are ex-smokers who have fully switched, which has increased from 33 percent in 2014.

Figure 1: The population of adult e-cigarette users, Great Britain 2021



Unweighted base: GB adult vapers 2014, n=498; 2015, n=614; 2016, n=667; 2017, n=669; 2018, n=738; 2019, n=854; 2020, n=787, 2021, n=826).

Conclusion & Policy Recommendations:

When seeking to regulate tobacco harm reduction products such as e-cigarettes and vape, it is important to distinguish them from far more harmful combustible tobacco. There is no need to re-invent the wheel on vaping regulations. Instead, Colorado should look at regulations in other jurisdictions for regulatory regimes which address concerns, and which are working efficiently. Lawmakers should resist the temptation to harshly regulate safer products within a coherent tobacco control program which is risk-proportionate to support adult smokers in switching to alternatives while educating the public to prevent uptake by non-smokers.

- E-cigarettes and vapor products are significantly less harmful than combustible cigarettes and should be regulated so that potential benefits to public health can be realized.
- Flavors are essential in helping smokers quit smoking and remain smoke-free. Although youth use of any age-restricted product deserves to be addressed, policies must not limit adult access to tobacco harm reduction products.
- Local flavor bans in the United States have failed to reduce youth vapor product use, and worse, have led to an increase in combustible cigarette use.
- Colorado should look to emulate regulations in countries which have experienced considerable declines in smoking rates as smokers move to safer nicotine alternatives.

- Rather than banning flavors, Colorado’s public health system ought to examine the case of the UK. Many UK consumers have found traditional approaches to smoking cessation not to work as an attractive and palatable alternative to extremely harmful combustible tobacco, but since 2012 the UK has achieved a historically low smoking prevalence due to vaping.
- UK authorities are considering allowing vaping products to be made available on prescription to further maximize the number of smokers switching.
- Colorado should mirror the UK’s sensible regulation of vaping to deliver similarly significant public health benefits as in the UK, especially for the hardest-to-reach smokers.
- It is important that smokers are afforded every possible way to quit smoking. Safer nicotine delivery devices such as e-cigarettes are available in the UK with an array of flavors to suit all tastes and displayed in medical aisles of supermarkets.
- In the UK, the focus on vaping as a smoking cessation option for adults and endorsement by medical authorities has taken away the glamour for youth. The latest study of e-cig use by tobacco control organization Action on Smoking and Health estimates that only 0.7 percent of 11–18-year-olds who regularly use e-cigarettes were not former smokers.
- UK regulations have led to an environment where vaping is seen as predominantly an adult behavior. The peak age for current e-cigarette use in the UK is 35-54 year olds.
- As vaping products are less harmful than combustible cigarettes, policymakers should seek to incentivize smokers to use them, as the NHS and other health institutions in the UK do, and not subject them to restrictions which would deter switching.
- Colorado should fund robust tobacco control programs that utilize comprehensive education and prevention strategies to deter youth from e-cigarette use.

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**Lindsey Stroud, Director
Consumer Center
Taxpayers Protection Alliance
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Chairwoman Lontine, Vice-Chair Ortiz, Members of the Committee:

Thank you for your time today to discuss the issue of banning flavored sales of tobacco and vapor products. My name is Lindsey Stroud, and I am Director of The Taxpayers Protection Alliance's (TPA) Consumer Center. TPA is a non-profit, non-partisan organization dedicated to educating the public through the research, analysis and dissemination of information on the government's effects on the economy. TPA's Consumer Center focuses on providing up-to-date information on adult access to goods including alcohol, tobacco and vapor products, as well as regulatory policies that affect adult access to other consumer products, including harm reduction, technology, innovation, antitrust and privacy.

Introduction and Summary Points:

Per the *Legislative Declaration*, this proposal is an effort to address youth use of tobacco and vapor products. While such efforts are laudable, policymakers should refrain from excessive prohibition when addressing such issues. Rather than punish adult former smokers, Colorado lawmakers ought to fund robust tobacco control programs, including education and prevention.

Despite alarmism, electronic cigarettes are effective tobacco cessation products that have helped thousands of Coloradan adults quit combustible cigarettes and flavors are essential in this use. Although youth use of vapor products is concerning, lawmakers must refrain from alarmist efforts that would restrict access to flavors. Rather than prohibition, lawmakers ought to invest already-existing tobacco monies to fund robust tobacco control programs including cessation efforts, education, and youth prevention campaigns.

- Among current high school e-cigarette users, flavors are not the most commonly-cited reason for use.
- In 2019, among current high school e-cigarette users in Colorado, only 18.4 percent reported using e-cigarettes because of flavors. Conversely, 45.5 percent reported using e-cigarettes because friends or family members used them.
- This is similar to other state youth surveys on tobacco and vapor product use that overwhelmingly cite "friends/family" and "curiosity" as reasons for e-cigarette use.
- Combustible cigarette use among Coloradan high schoolers are at record lows. In 2019, 5.3 percent reported current use of cigarettes, a 71.7 percent decrease from 2005.

- Nationally, current vapor product use among high school students has declined by 41.8 percent since 2020 and by 58.9 percent since 2019 when 27.5 percent reported using e-cigarettes on at least one occasion in the 30 days prior to the survey.
- Colorado spends very little of existing tobacco monies on tobacco control programs.
- In 2020, the Centennial State collected \$140 million in state cigarette excise taxes and \$82.4 million in tobacco settlement payments, yet allocated only \$21.4 million (9.6 percent) to tobacco control. In 20 years, for every \$100 the state received in tobacco-related payments, it spent \$8.20 funding tobacco control programs.
- Colorado tobacco and vapor product retailers do a good job in not selling to minors. Between 2011 and 2021, the FDA issued only 2,406 violations to Colorado tobacco product retailers, which was only 8.1 percent of all FDA inspections. Further, only 16.2 percent of violations resulted in sales of e-cigarettes to minors.
- The vapor industry has been an economic boon to Colorado, generating \$366.7 million in economic activity in 2021 while generating 1,125 direct vaping-related jobs and contributed more than \$23 million in state taxes.
- E-cigarettes' market emergence is associated with low young adult smoking rates. In 2020, among current smokers in Colorado, only 15.8 percent current smokers were 18 to 24 years old – a 49.4 percent decrease from 2010. Further, since 2016, smoking rates among young adults have decreased by 49 percent.
- Policymakers should be wary of the effects of flavor bans as localized flavor bans have led to an increase in youth combustible cigarette use. In 2018, San Francisco, Calif., banned the sale of flavored e-cigarettes. In fact, in 2019, 18.6 percent of San Francisco high school students reported ever trying e-cigarettes – an 11.4 percent increase from 2017's rate of 16.7 percent.

Youth Use of Tobacco and Vapor Products is Declining

The legislation seeks to address youth tobacco and vapor product use and is attempting to protect children “from dangerous products like cigarettes, tobacco products, and nicotine products.”

While addressing youth use of any age-restricted product is laudable, the legislation fails to take in consideration that youth use of combustible cigarettes and other tobacco products is at record lows. Moreover, vaping rates have increasingly decreased among youth since 2019.

Unfortunately, the legislation is relying on statistics from 2019, and state-specific data from the 2021 Healthy Kids Colorado Survey (HKCS) and the Centers for Disease Control and Prevention's Youth Risk Behavior Survey (YRBS), will not be published until later this year.

In 2019, according to the 2019 HKCS, among high school students, 45.9 percent reported ever using a vapor product and 25.9 percent reported current use, defined as using a vapor product on at least one occasion in the 30 days prior to the survey. While ever-use of vapor products increased by 3.8 percent from 44.2 percent in 2017, current use decreased by 4.1 percent from 27 percent of high school students being defined as current vapers in 2017.

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The proposed legislation taxes note of the 2019 HKCS youth e-cigarette use, but ignores current combustible cigarette use among Colorado teens, which is at record lows.

In 2019, according to the YRBS, 5.3 percent of Colorado high school students reported using combustible cigarettes in the 30-days prior to the survey.¹ This is a 71.7 percent decrease from 18.7 percent in 2005. Further, daily cigarette use has decreased by 75.6 percent from 4.5 percent of high school students reporting daily smoking in 2005 to 1.1 percent in 2019.

(See Supplemental Graphs 1.1)

Further, while the legislation utilizes a 2020 CDC report on e-cigarette use among middle school and high school students, yet ignores more recent studies which have found vapor use has declined between 2020 and 2020.

In 2021, according to the National Youth Tobacco Survey, an estimated 11.3 percent of high school students and 2.8 percent of middle school students reported having used a vapor product on a least one occasion in the month prior to the survey.² Further, only 3.1 percent of high school students and less than one percent of middle schoolers reported daily e-cigarette use. The rate of decline is remarkable: among high school students, vaping rates have declined by 41.8 percent since 2020 and by 58.9 percent since 2019, when 27.5 percent reported using e-cigarettes.

(See Supplemental Graph 1.2)

Like Other State Surveys, Flavors Are Not Driving Reason for Colorado Youth E-Cigarette Use

If lawmakers want to address youth use of vapor products, they should understand the reasoning why youth use such products. According to numerous state-level youth surveys, including Colorado's HKCS, flavors are not the number one reason why youth use e-cigarettes and vapor products.

According to the 2019 HKCS, among high school students that were current e-cigarette users, nearly half (45.5 percent) reported using such products because a friend and/or family member had used them. Conversely, only 18.4 percent responded they had used e-cigarettes because of flavors.

(See Supplemental Graph 1.3)

This is similar to findings in other state youth surveys. In 2019, among all Connecticut high school students, 5.2 percent reported using e-cigarettes because of "flavors," 18.2 percent cited "other," and 12.9 percent reported using e-cigarettes because of friends and/or family.³

In 2017, among Hawaiian high school students that had ever used e-cigarettes, 26.4 percent cited flavors as a reason for e-cigarette use, compared to 38.9 percent that reported "other."⁴

Among highschoolers in Maryland that used e-cigarettes, when asked about the “main reason” for using e-cigarettes only 3.2 percent responded “flavors.”⁵ Conversely, 13 percent reported because “friend/family used them,” 11.7 percent reported “other,” and 3.8 percent reported using e-cigarettes because they were less harmful than other tobacco products.

In 2019, among all Montana high school students, only 7 percent reported using vapor products because of flavors, compared to 13.5 percent that reported using e-cigarettes because of “friend or family member used them.”⁶ Further, 25.9 percent of Montana high school students reported using vapor products for “some other reason.”

In 2019, among all students, only 4.5 percent of Rhode Island high school students claimed to have used e-cigarettes because they were available in flavors, while 12.5 cited the influence of a friend and/or family member who used them and 15.9 percent reported using e-cigarettes “for some other reason.”⁷

In 2019, among high school students that were current e-cigarette users, only 10 percent of Vermont youth that used e-cigarettes cited flavors as a primary reason for using e-cigarettes, while 17 percent of Vermont high school students reported using e-cigarettes because their family and/or friends used them.⁸

In 2019, among all Virginia high school students, only 3.9 percent reported using e-cigarettes because of flavors, 12.1 used for some other reason, and 9.6 used them because of friends and/or family members.⁹

(See Supplemental Graph 1.4)

Vapor Product Emergence Correlates to Significant Declines in Young Adult Smoking Rates

Electronic cigarettes and vapor products were first introduced to the U.S. in 2007 “and between 2009 and 2012, retail sales of e-cigarettes expanded to all major markets in the United States.”¹⁰ Moreover, between September 2014 and May 2020, e-cigarette sales in the U.S. increased by 122.2 percent.¹¹

Examining data from the CDC’s Behavioral Risk Factor Surveillance Survey (BRFSS) finds that e-cigarettes’ market emergence has coincided with a significant reduction in smoking rates among young adults.

In 1998, among current adult smokers, 30.1 percent were 18 to 24 years old. In 2008, this had decreased by 25.9 percent to 22.3 percent of adult smokers in Colorado being between 18 to 24 years old.

In the years after e-cigarette's market emergence in the early 2010s, smoking rates among current smokers aged 18 to 24 years decreased by 49.4 percent. Indeed, in 2010, among current smokers in Colorado, 15.8 percent were between 18 to 24 years old. In 2020, only eight percent of current smokers were 18 to 24 years old.

Interestingly, e-cigarettes' market emergence was associated with a larger decline in average annual percent decreases. Between 1998 and 2008, the percentage of current smokers aged 18 to 24 years old decreased on average by 1.2 percent each year. Between 2010 and 2020, annual percentage decreases average at four percent.

Further, since 2016, when the U.S. surgeon general issued an alarm about youth e-cigarette use, smoking rates among adults aged 18 to 24 years in the Centennial State have decreased by 49 percent, with an average annual decrease of 14.4 percent.

(See Supplemental Graph 1.5)

Adult Vaping Rates

Despite providing annual data on cigarette and smokeless tobacco use, the CDC's BRFSS only reports on adult e-cigarette use for 2016 and 2017.

In 2017, according to the BRFSS, 5.3 percent of Colorado adults were current e-cigarette users. Similar to income status among smokers, lower income persons are more likely to use vapor products. In 2017, among current adult e-cigarette users, 16.2 percent reported household incomes of \$24,999 or less per year. Conversely, only 4.1 percent reported earning \$50,000 a year or more.

Economic Impact of Vaping in Colorado

In 2021, according to the analysis by the Vapor Technology Association, the industry created 1,125 direct vaping-related jobs in Colorado. These jobs generated more than \$48.4 million in wages.¹² Moreover, the industry has created hundreds of secondary jobs in the Centennial State, bringing the total economic impact in 2021 to \$366.7 million. In the same year, Colorado received more than \$23 million in state taxes attributable to the vaping industry.

Unfortunately, efforts by anti-vaping organizations and policymakers have negatively impacted vape shops in the Centennial State. The number of employees in the vaping industry has decreased by 13.7 percent from 1,303 in 2018 to 1,125 in 2021, representing a loss of \$11.6 million in wages.¹³ Further, state tax collections in 2020 were down 10.8 percent from 2018's level of \$25.8 million. Overall, the economic output from the vaping industry in Colorado was reduced from \$413 million in 2018 to \$366.7 million in 2021, a 11.2 percent decrease.

(See Supplemental Graph 1.6)

Robust Tobacco Control Funding – Not Bans – to Address Youth Tobacco and Vapor Product Use

Between 2000 and 2020, Colorado collected an estimated \$2.9 billion in cigarette taxes.¹⁴ During the same 20-year period, the Centennial State increased the tax rate on cigarettes twice. The last tax increase raised the rate by \$0.64, to \$0.84 per pack.

The increase did lead to an immediate 79.2 percent increase in cigarette tax revenue the year after the tax was imposed, but this has steadily declined in the long-term. Since 2007 cigarette tax revenue declined on average by 2.7 percent annually. In 2020, Colorado collected \$140 million in cigarette tax revenue, a 32.1 percent decrease from the \$206.1 million in cigarette tax revenue that was collected in 2006.

In the mid-1990s, Colorado sued tobacco companies to reimburse Medicaid for the costs of treating smoking-related health issues. And, in 1998 with 45 other states, the Centennial State reached “the largest civil litigation settlement in U.S. history” through the Master Settlement Agreement (MSA).¹⁵

Under the MSA, states receive annual payments – in perpetuity – from the tobacco companies, while relinquishing future claims against the participating companies. Between 2000 and 2020, Colorado collected \$1.966 billion in MSA payments.¹⁶

Tobacco taxes and tobacco settlement payments are justified to help offset the costs of smoking, as well as prevent youth initiation. Like most states, Colorado spends very little of existing tobacco moneys on tobacco control programs – including education and prevention.

Between 2000 and 2020, Colorado allocated only \$403 million in state funds towards tobacco control programs.¹⁷ This is 13.7 percent of what the state collected in cigarette taxes in the same 20-year time span and 20.5 percent of MSA payments. In total, in 20 years, Colorado allocated only 8.2 percent of what the state received in tobacco taxes and settlement payments towards tobacco education and prevention efforts. In essence, for every \$100 received in tobacco-related taxes and settlement payments, the state spent \$8.20 funding tobacco control programs.

If lawmakers truly care about youth use of age-restricted products, especially tobacco products, they ought to invest more funding in robust tobacco control programs. In 2020, Colorado dedicated only \$21.4 million in state funding to such programs, that amounts to just \$17.12 per person under the age of 18.

(See Supplemental Graph 1.7)

Colorado Retailers Do Good Job Not Selling to Minors

The U.S. Food and Drug Administration (FDA) regularly performs tobacco compliance checks in which the agency uses a minor to attempt to purchase tobacco products including cigars, cigarettes, e-cigarettes, and smokeless tobacco.¹⁸

From January 2011 to December 2021, FDA conducted 29,651 inspections in tobacco retailers located in the Centennial State. Only 2,406, or 8.1 percent, resulted in the sales of tobacco products to minors.

Of these, 1,557 (64.7 percent of violations and 5.3 percent of inspections) were sales of cigarettes, 390 (16.2 percent of violations and 1.3 percent of inspections) were sales of e-cigarettes and vapor products, 243 (10.1 percent of violations and 0.8 percent of inspections) were sales of smokeless tobacco products, and 192 (eight percent of violations and 0.6 percent of inspections) were sales of cigars.

Of retailers with “vape” in their retail name, the FDA conducted inspections on 107 such retailers, including standalone vape shops and vape and tobacco stores. Of the inspections, 18 resulted in sales to minors. E-cigarette violations made-up 16.8 percent of retail vape shop inspections, 4.6 percent of all e-cigarette violations in the state, 0.7 percent of all retail violations and 0.06 percent of all inspections.

(See Supplemental Graphs 1.8)

Flavor Bans Lead to Increased Combustible Cigarette Use

Flavor bans have had little effect on reducing youth e-cigarette use and may lead to increased combustible cigarette rates, as evidenced in San Francisco, California.¹⁹

In April 2018, a ban on the sale of flavored e-cigarettes and vapor products went into effect in San Francisco and in January, 2020, the city implemented a full ban on any electronic vapor product. Unfortunately, these measures have failed to lower youth tobacco and vapor product use.

Data from an analysis of the 2019 Youth Risk Behavior Survey show that 16 percent of San Francisco high school students had used a vapor product on at least one occasion in 2019 – a 125 percent increase from 2017 when 7.1 percent of San Francisco high school students reported using an e-cigarette.²⁰ Daily use more than doubled, from 0.7 percent of high school students in 2017, to 1.9 percent of San Francisco high school students reporting using an e-cigarette or vapor product every day in 2019.

Worse, despite nearly a decade of significant declines, youth use of combustible cigarettes seems to be on the rise in Frisco. In 2009, 35.6 percent of San Francisco high school students reported

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ever trying combustible cigarettes. This figure continued to decline to 16.7 percent in 2017. In 2019, the declining trend reversed and 18.6 percent of high school students reported ever trying a combustible cigarette. Similarly, current cigarette use increased from 4.7 percent of San Francisco high school students in 2017 to 6.5 percent in 2019.

An April 2020 study in *Addictive Behavior Reports* examined the impact of San Francisco's flavor ban on young adults by surveying a sample of San Francisco residents aged 18 to 34 years.²¹ Although the ban did have an effect in decreasing vaping rates, the authors noted "a significant increase in cigarette smoking" among participants aged 18 to 24 years old.

(See Supplemental Graph 1.7)

Other municipal flavor bans have also had no effect on youth e-cigarette use.²² For example, Santa Clara County, California, banned flavored tobacco products to age-restricted stores in 2014. Despite this, youth e-cigarette use *increased*. In the 2015-16 California Youth Tobacco Survey (CYTS), 7.5 percent of Santa Clara high school students reported current use of e-cigarettes. In the 2017-18 CYTS, this *increased* to 10.7 percent.

Further, studies have found that banning flavors in e-cigarettes leads to subsequent combustible cigarette use. A 2018 study published in *Tobacco Control* found that banning flavored "e-cigarettes alone would likely increase the choice of cigarettes in smokers."²³ A July, 2021 survey in *Nicotine & Tobacco Research* found that one-third (33.2 percent) of survey respondents would "likely switch to [combustible] cigarettes" if flavors were banned in e-cigarettes.²⁴

In August 2021, an article in *American Journal of Public Health (AJPH)* co-authored by 15 past presidents of the Society for Research on Nicotine and Tobacco (SRNT). This prime academic global organization involved with nicotine and tobacco evidence-based research warned that: "Because both youth and adult smokers find e-cigarette flavors attractive, banning all (or most) flavors risks reducing smokers' use of e-cigarettes to quit smoking at the same time that it reduces youth vaping."²⁵

Health Effects of Electronic Cigarettes and Vapor Products

Despite recent media reports, e-cigarettes are significantly less harmful than combustible cigarettes. Public health statements on the harms of e-cigarettes include:

Public Health England (PHE): In 2015, a landmark report relying on 185 studies and produced by PHE (a leading health agency in the United Kingdom), found "that using [e-cigarettes are] around 95% safer than smoking," and that their use "could help in reducing smoking related disease, death and health inequalities."²⁶ In 2018, the agency reiterated their findings, finding vaping to be "at least 95% less harmful than smoking."²⁷

As recent as February 2021, PHE provided the latest update to their ongoing report on the effects of vapor products in adults in the UK. The authors found that in the UK, e-

cigarettes were the “most popular aid used by people to quit smoking [and] ... vaping is positively associated with quitting smoking successfully.”²⁸

The Royal College of Physicians (RCP): In 2016, RCP found the use of e-cigarettes and vaping devices “unlikely to exceed 5% of the risk of harm from smoking tobacco.”²⁹ RCP is another United Kingdom-based public health organization, and the same group which was the first to highlight the link between smoking and lung cancer, and other tobacco related diseases, in 1962.

The National Academies of Sciences, Engineering, and Medicine: In January 2018, the academy noted “using current generation e-cigarettes is less harmful than smoking.”³⁰

Cochrane Review: Researchers at the Tobacco Addiction Group analyzed studies that examined the effects of e-cigarettes in helping smokers quit. The researchers found 61 studies that had over 16,700 adults that had smoked. The studies compared the instances of quitting smoking using e-cigarettes to other nicotine replacements including nicotine replacement therapy, nicotine-free e-cigarettes, behavioral support and others. Of the available evidence, the authors found that more people “probably stop smoking for at least six months using nicotine e-cigarettes than using nicotine replacement therapy ... or nicotine-free e-cigarettes.” The authors also found that e-cigarette “may help more people to stop smoking than no support or [behavioral] support only.”³¹

Society for Research on Nicotine and Tobacco (SRNT): An article in August 2021 co-authored by 15 past presidents of the SRNT reported that “Many scientists have concluded that vaping is likely substantially less dangerous than smoking”. Furthermore, they found that “A growing body of evidence indicates that vaping can foster smoking cessation” and warned “Studies have found that policies intended to restrict e-cigarette use may have unintentionally increased cigarette smoking”.³²

Menthol Bans Have Little Effect on Smoking Rates, Lead to Black Markets, Lost Revenue and Will Create Racial Tension

Beyond e-cigarettes, policymakers’ fears about the role of menthol and flavorings in cigarettes and cigars are overblown and banning these products will likely lead to black markets.

Data from the National Health Interview Survey (NHIS) finds nearly a third of all American adult smokers smoke menthol cigarettes. In a 2015 NHIS survey, “of the 36.5 million American adult smokers, about 10.7 million reported that they smoked menthol cigarettes,” and white menthol smokers “far outnumbered” the black and African American menthol smokers.³³

Although lawmakers believe banning menthol cigarettes will deter persons from smoking those, such a ban will likely lead to black markets. A 2012 study featured in the journal *Addiction*

found a quarter of menthol smokers surveyed indicated they would find a way to purchase, even illegally, menthol cigarettes should a menthol ban go into place.³⁴ Further, there is little evidence that smokers would actually quit under a menthol ban. A 2015 study in *Nicotine & Tobacco Research* found only 28 percent of menthol smokers would give up cigarettes if menthol cigarettes were banned.³⁵

Moreover, there is no evidence to suggest that menthol cigarettes lead to youth tobacco use. Analysts at the Reason Foundation examined youth tobacco rates and menthol cigarette sales.³⁶ The authors of the 2020 report found that states “with more menthol cigarette consumption relative to all cigarettes have *lower* rates of child smoking.” Indeed, the only “predictive relationship” is between child and adult smoking rates, finding that “states with higher rates of adult use cause higher rates of youth use.”

Lawmakers should take note that menthol sales bans will strain minority communities. Although white Americans smoke more menthol cigarettes than black or African Americans, “black smokers [are] 10-11 times more likely to smoke” menthol cigarettes than white smokers.³⁷

Given African Americans’ preference for menthol cigarettes, a ban on menthol cigarettes would force police to further scrutinize African Americans and likely lead to unintended consequences.

A 2015 analysis from the National Research Council examined characteristics in the illicit tobacco market.³⁸ The researchers found that although lower income persons were less likely to travel to purchase lower-taxed cigarettes, “having a higher share of non-white households was associated with a lower probability of finding a local tax stamp” and “neighborhoods with higher proportions of minorities are more likely to have formal or informal networks that allow circumvention of the cigarette taxes.”

Lawmakers in Colorado should reexamine the case of Eric Garner, a man killed in 2014 while being arrested for selling single cigarettes in the city. In a 2019 letter to the New York City council, Garner’s mother, as well as Trayvon Martin’s mother, implored officials to “pay very close attention to the unintended consequences of a ban on menthol cigarettes and what it would mean for communities of color.”³⁹ Both mothers noted that a menthol ban would “create a whole new market for loosies and re-introduce another version of stop and frisk in black, financially challenged communities.”

Conclusion & Summary Points

Despite alarmism, electronic cigarettes are effective tobacco cessation products that have helped thousands of Coloradan adults quit combustible cigarettes and flavors are essential in this use. Although youth use of vapor products is concerning, lawmakers must refrain from alarmist

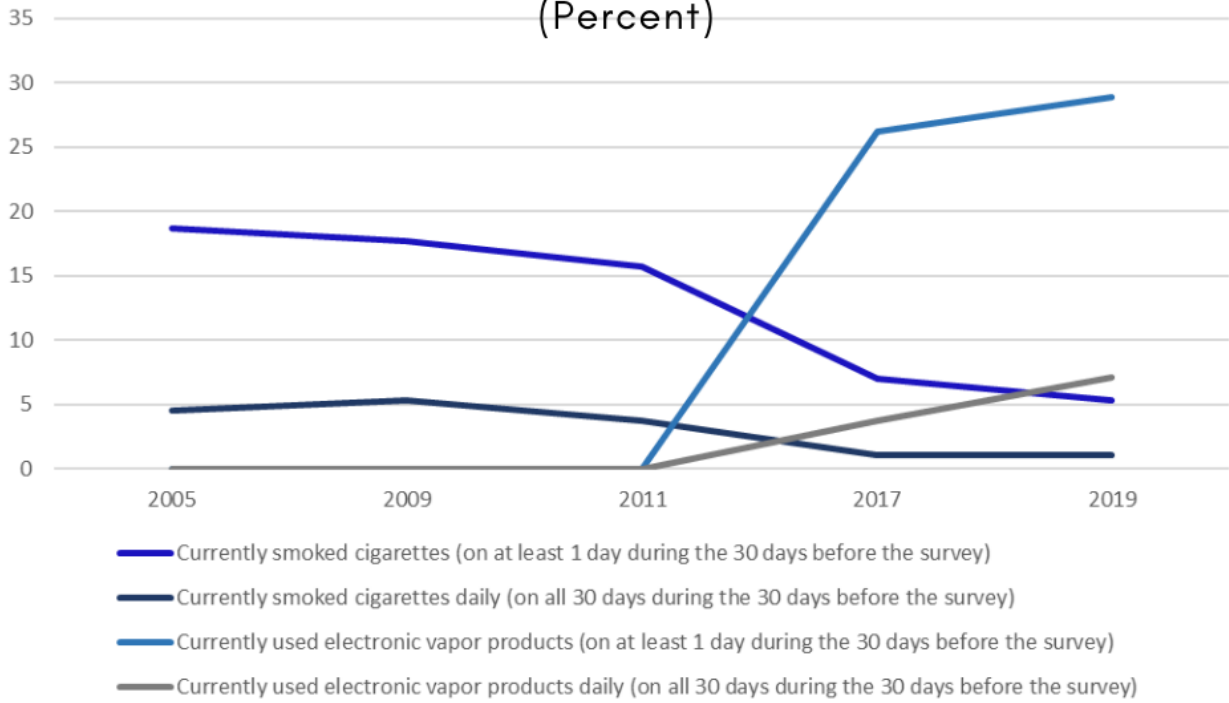
efforts that would restrict access to flavors. Rather than prohibition, lawmakers ought to invest already-existing tobacco monies to fund robust tobacco control programs including cessation efforts, education, and youth prevention campaigns.

- Among current high school e-cigarette users, flavors are not the most commonly-cited reason for use.
- In 2019, among current high school e-cigarette users in Colorado, only 18.4 percent reported using e-cigarettes because of flavors. Conversely, 45.5 percent reported using e-cigarettes because friends or family members used them.
- This is similar to other state youth surveys on tobacco and vapor product use that overwhelmingly cite “friends/family” and “curiosity” as reasons for e-cigarette use.
- Combustible cigarette use among Coloradan high schoolers are at record lows. In 2019, 5.3 percent reported current use of cigarettes, a 71.7 percent decrease from 2005.
- Nationally, current vapor product use among high school students has declined by 41.8 percent since 2020 and by 58.9 percent since 2019 when 27.5 percent reported using e-cigarettes on at least one occasion in the 30 days prior to the survey.
- Colorado spends very little of existing tobacco monies on tobacco control programs.
- In 2020, the Centennial State collected \$140 million in state cigarette excise taxes and \$82.4 million in tobacco settlement payments, yet allocated only \$21.4 million (9.6 percent) to tobacco control. In 20 years, for every \$100 the state received in tobacco-related payments, it spent \$8.20 funding tobacco control programs.
- Colorado tobacco and vapor product retailers do a good job in not selling to minors. Between 2011 and 2021, the FDA issued only 2,406 violations to Colorado tobacco product retailers, which was only 8.1 percent of all FDA inspections. Further, only 16.2 percent of violations resulted in sales of e-cigarettes to minors.
- The vapor industry has been an economic boon to Colorado, generating \$366.7 million in economic activity in 2021 while generating 1,125 direct vaping-related jobs and contributing more than \$23 million in state taxes.
- E-cigarettes’ market emergence is associated with low young adult smoking rates. In 2020, among current smokers in Colorado, only 15.8 percent current smokers were 18 to 24 years old – a 49.4 percent decrease from 2010. Further, since 2016, smoking rates among young adults have decreased by 49 percent.
- Localized flavor bans have led to an increase in youth combustible cigarette use. In 2018, San Francisco, Calif., banned the sale of flavored e-cigarettes. In fact, in 2019, 18.6 percent of San Francisco high school students reported ever trying e-cigarettes – an 11.4 percent increase from 2017’s rate of 16.7 percent.

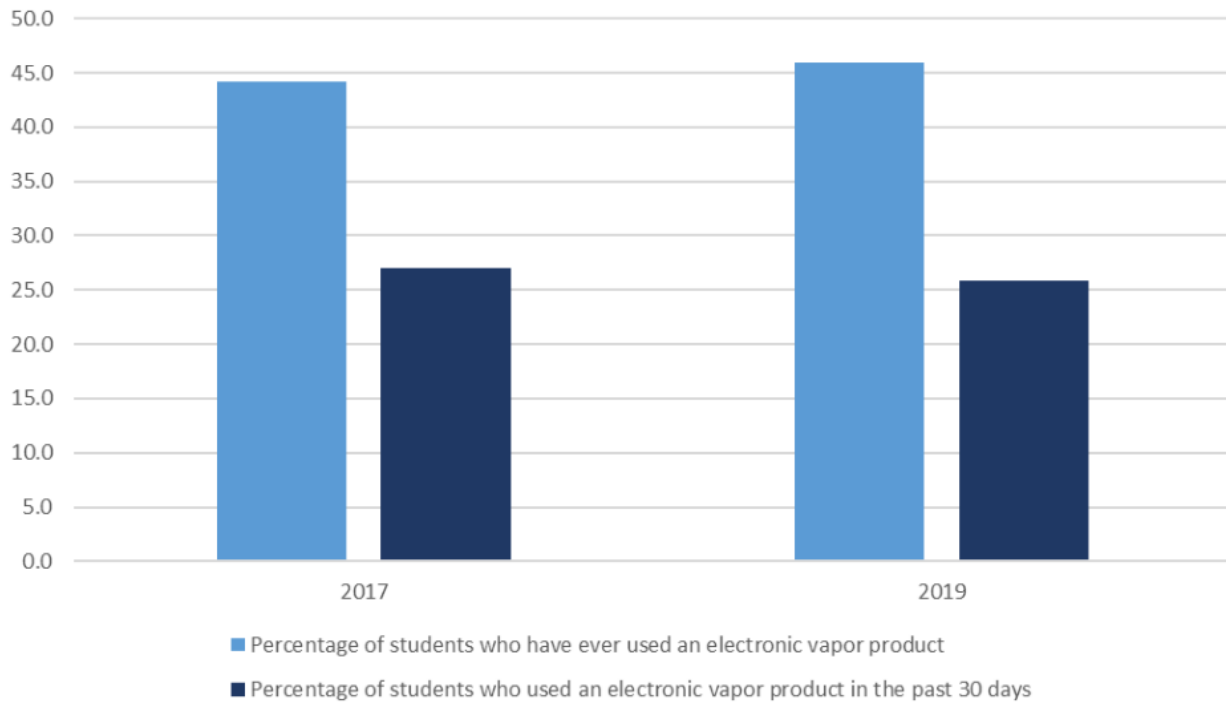
Supplemental Graphs

1.1 Colorado Tobacco and Vapor Use, High School Students

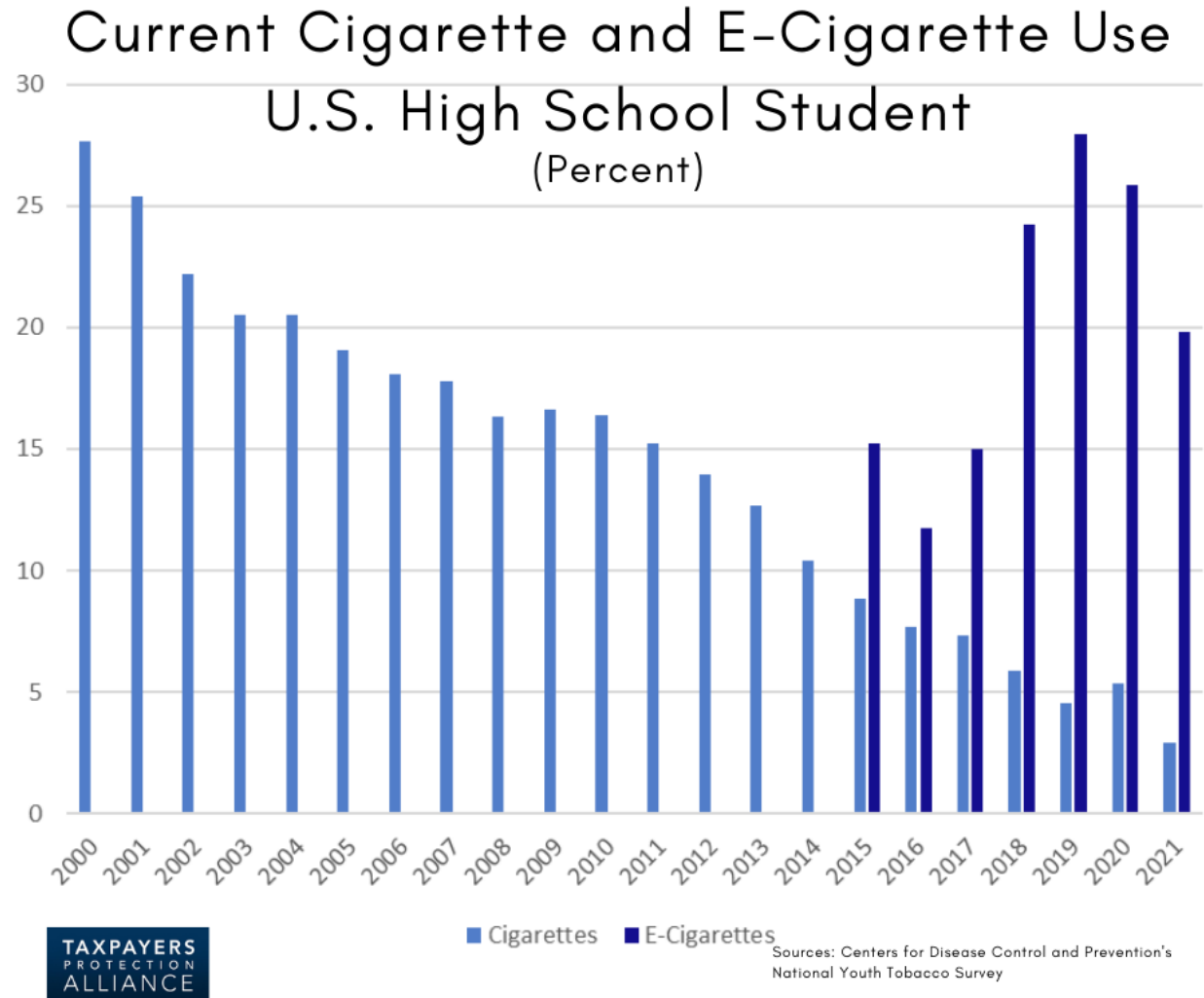
Colorado HS Student Tobacco and Vapor Use (Percent)



Colorado HS Student Vapor Use (Percent)

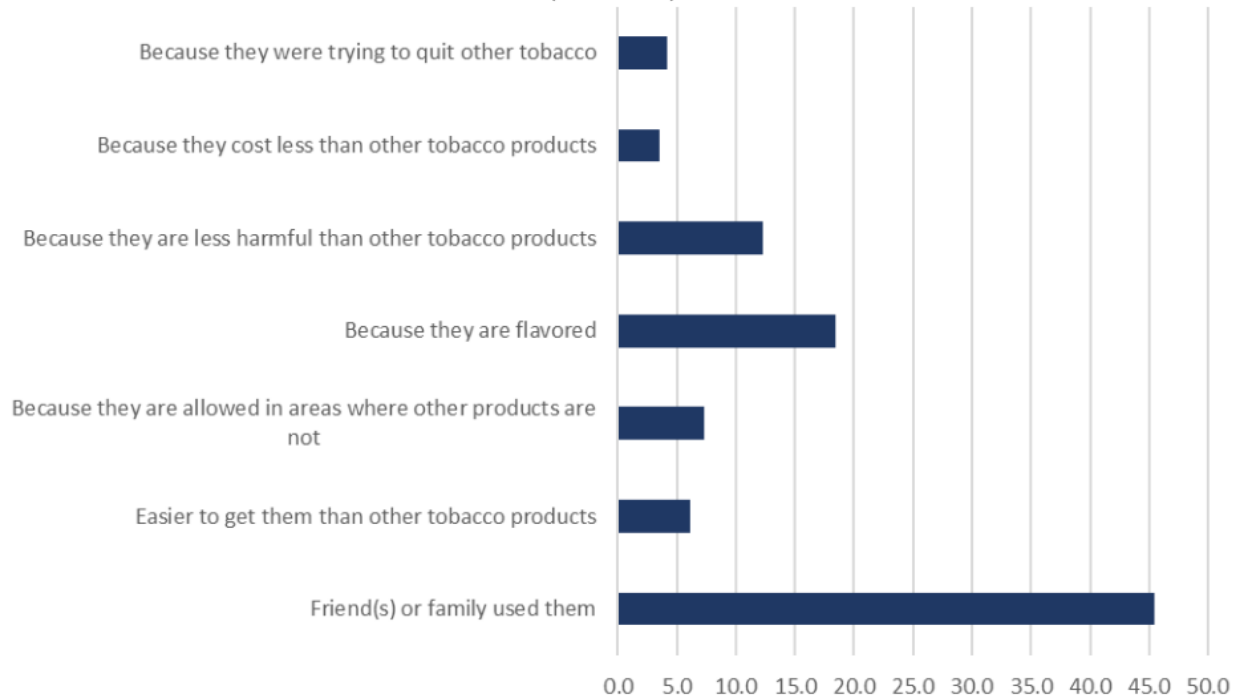


1.2 National Youth Tobacco and Vapor Use



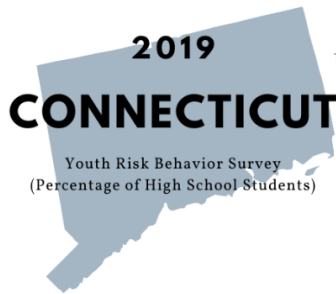
1.3 Reasons for E-Cigarette Use, Colorado High School Students

Reasons for E-Cigarette Use, HS Students (Percent)

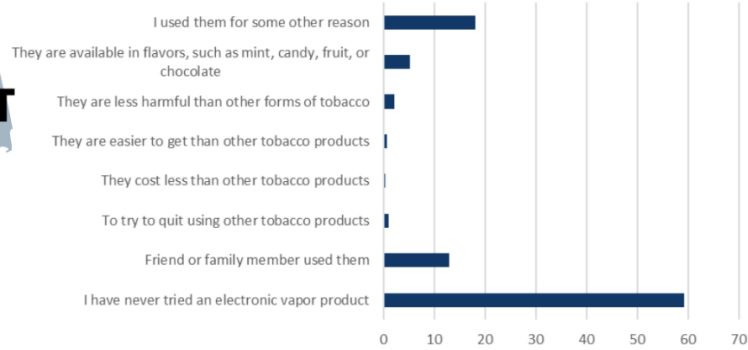


1.4 Reasons for E-Cigarette Use, State Surveys

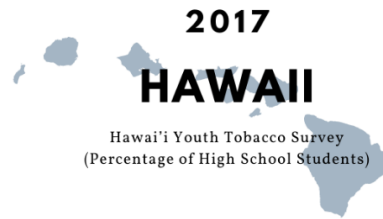
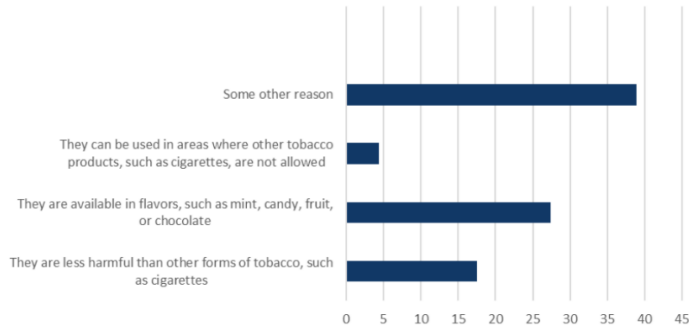
**TAXPAYERS
PROTECTION
ALLIANCE** **REASONS FOR E-CIG USE**



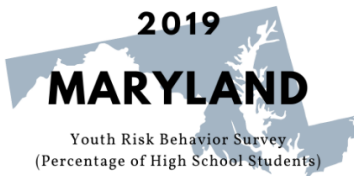
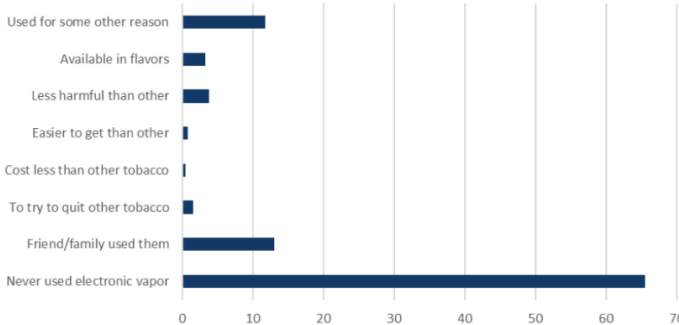
What is the main reason you have used electronic vapor products?



Reasons for e-cigarette use (among ever e-cigarette users, choose all that apply):



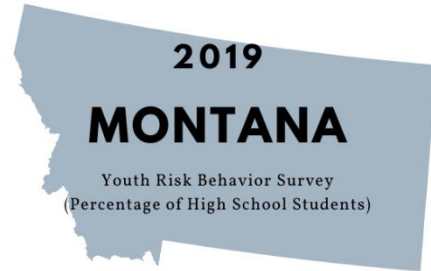
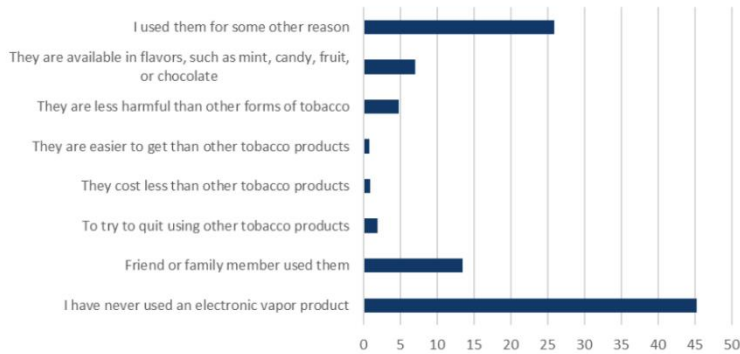
What is the main reason you have used electronic vapor products?



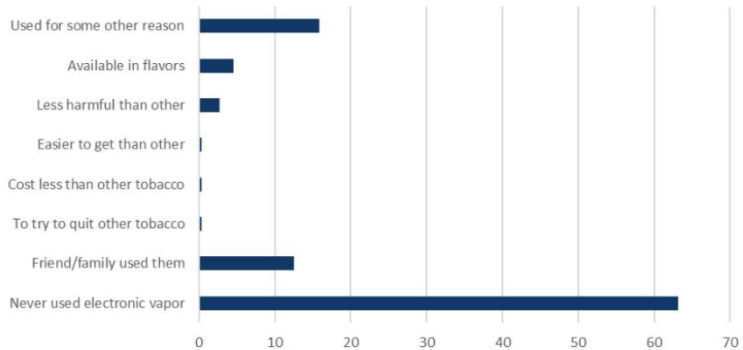
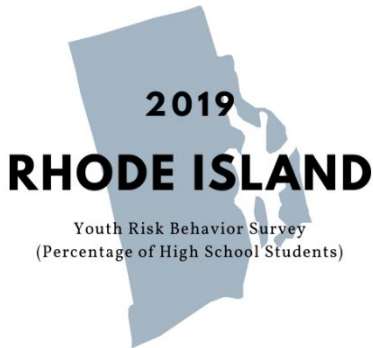
Source: World Health Organization

REASONS FOR E-CIG USE

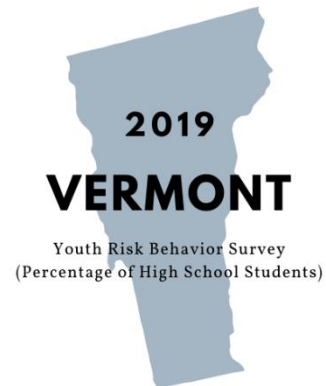
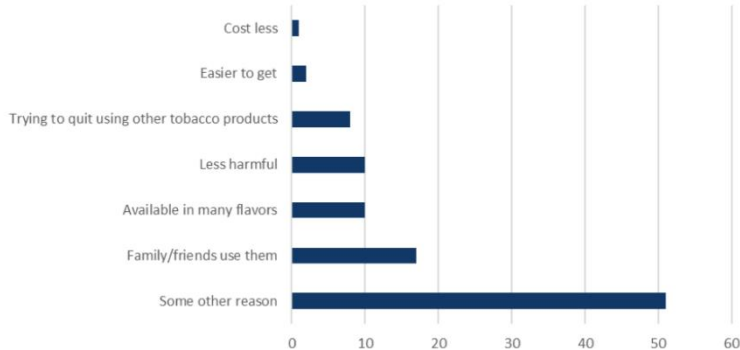
What is the main reason you have used electronic vapor products? (Select only one response.)

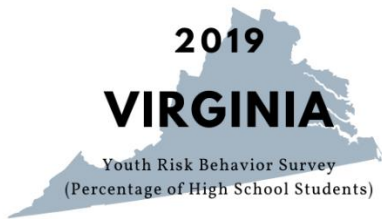


What is the main reason you have used electronic vapor products?

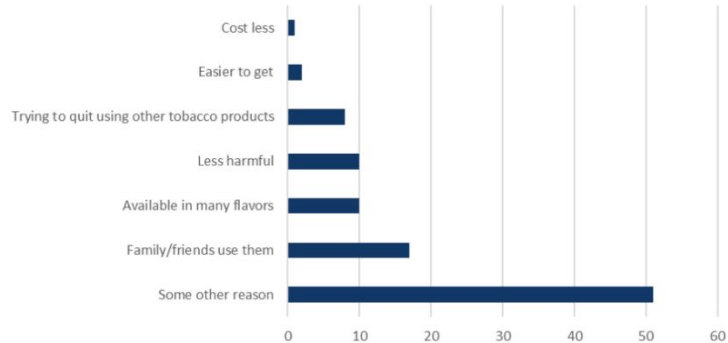


Primary Reason for Using Electronic Vapor Products (Among Current Users)





Primary Reason for Using Electronic Vapor Products (Among Current Users)



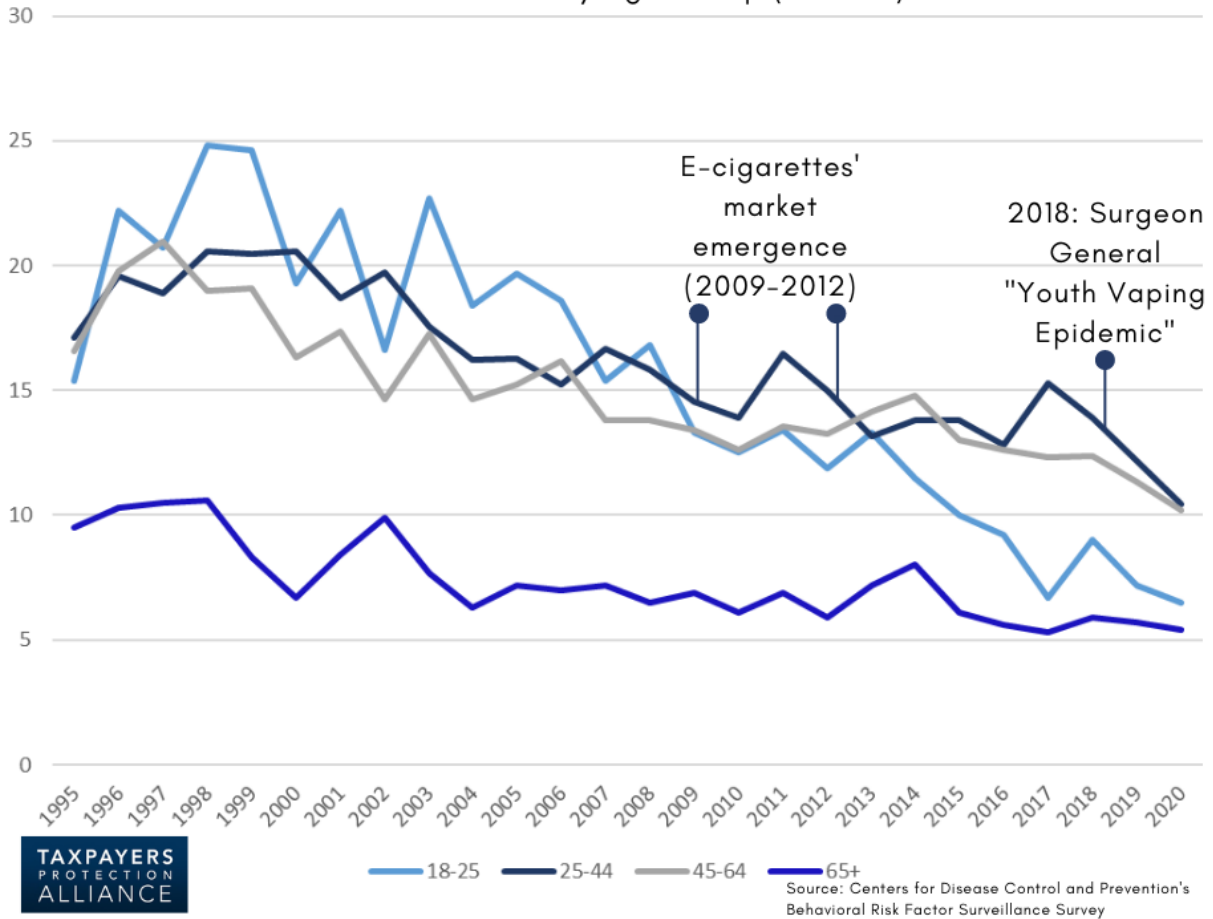
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1.5 Young Adult Smoking Rates and E-Cigarettes

E-CIGARETTES EMERGENCE LED TO SIGNIFICANT DECREASE IN SMOKING RATES AMONG YOUNG ADULTS

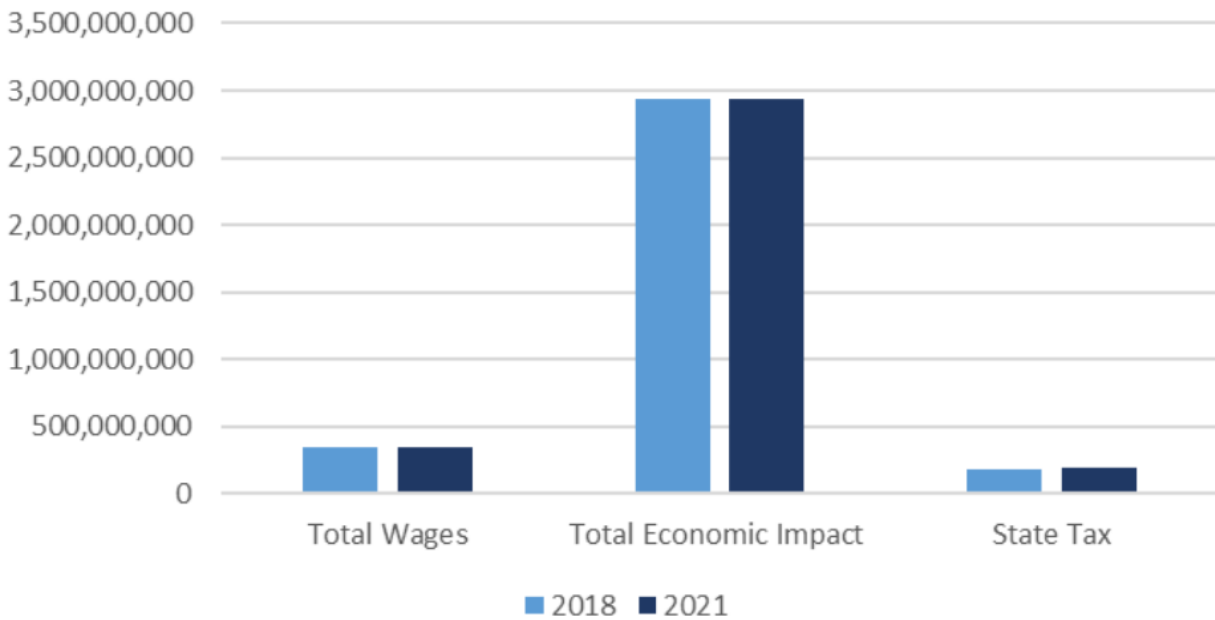
Current Smokers by Age Group (Percent)



1.6 Economic Impact of Vaping, Colorado

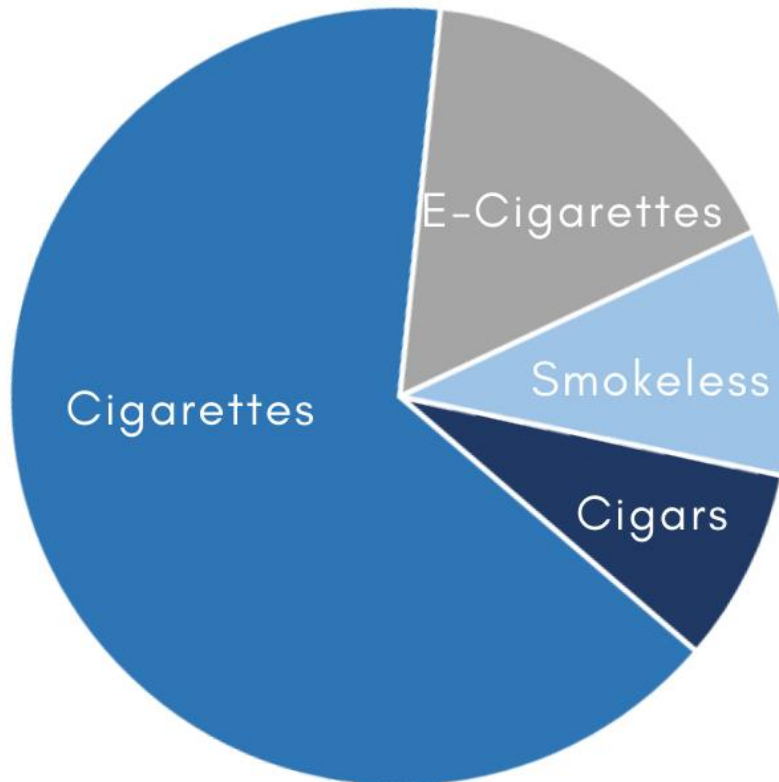
Vape Shop Economics

(Dollars, in millions)



1.7 FDA Compliance Checks

**TOBACCO & VAPE RETAILERS FDA COMPLIANCE
INSPECTIONS VIOLATIONS
2011-2021**

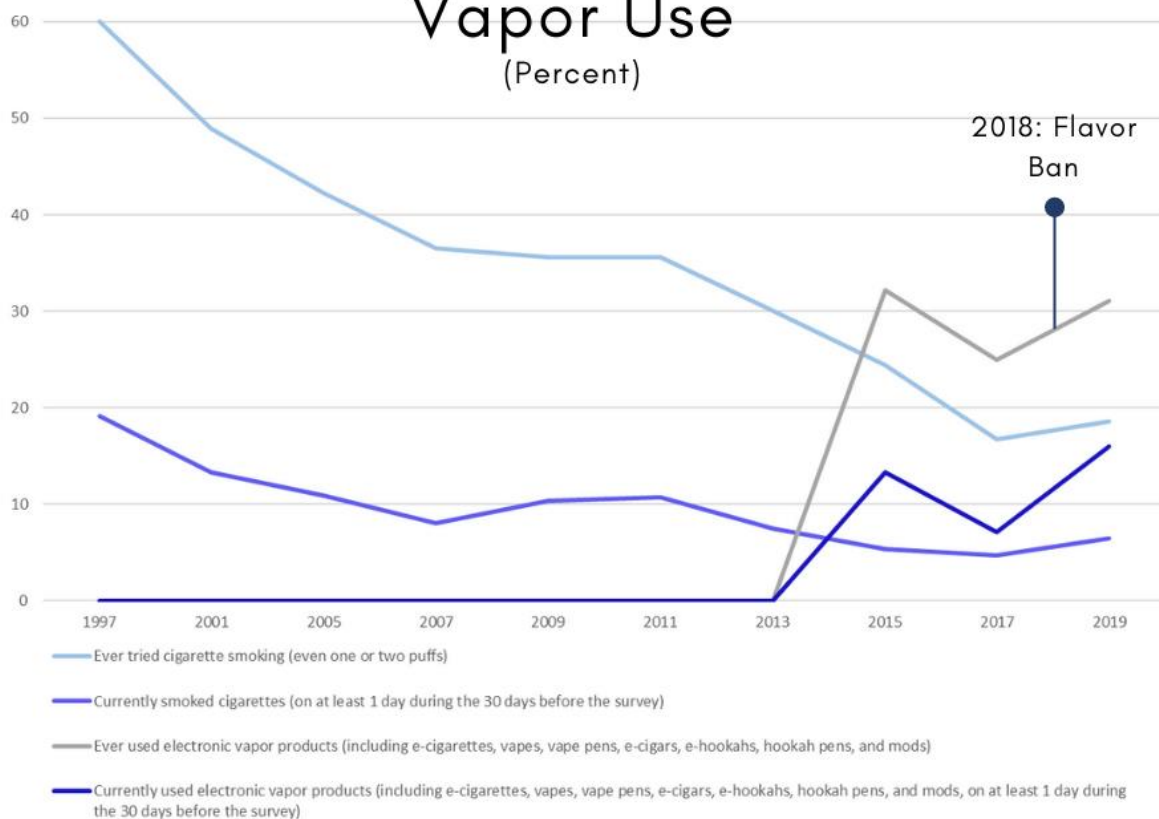


**"VAPE" IN RETAIL NAME
FDA COMPLIANCE INSPECTIONS
2016-2021**



1.8 San Francisco Youth Tobacco Use & Flavor Ban Effects

San Francisco HS Student Tobacco & Vapor Use (Percent)



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<https://ajph.aphapublications.org/doi/10.2105/AJPH.2021.306416>

**Taxpayers Protection Alliance, 1101 14th Street, NW., Suite 1120, Washington, D.C. 20005
(202) 930-1716, www.protectingtaxpayers.org**

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March 16, 2022

Dear Madam Chair and Members of the House Health & Insurance Committee:

On behalf of the Colorado Community Health Network (CCHN), I am writing in support of House Bill 22-1064 Prohibit Flavored Tobacco Regulator Synthetic Nicotine.

CCHN is the membership association for Colorado's 20 Federally Qualified Health Centers, also known as Community Health Centers (CHCs). Colorado's CHCs operate more than 230 clinic sites across the state and are the health care home to more than 847,000 Coloradans. Located in high-need urban and rural areas, CHCs provide high-quality and accessible primary care, including medical, behavioral, and oral health services to all patients regardless of insurance status or ability to pay.

Colorado CHCs have been at the frontlines responding to the public health crisis of COVID-19, caring for any Coloradan who walks through the door. Meanwhile, another public crisis has been looming; flavored tobacco and nicotine products are attracting and addicting Colorado children at high rates. Tobacco addiction that starts young can last for a lifetime, contributing to significant health issues later in life and high costs to the state's health care system.

HB22-1064 would ban the sale of all flavored tobacco and nicotine products in Colorado. These products significantly increase the risk of young people becoming addicted to tobacco. This bill is a critical and thorough solution to help end this public health crisis in Colorado and reduce health care costs in the long-term.

On behalf of Colorado's CHCs and the one in seven Coloradans they serve, I urge you to support HB22-1064.

Thank you,

Alice Steiner
Senior Manager, Policy & Advocacy
Colorado Community Health Network
asteiner@cchn.org

Madame Chair and members of the committee, my name is Murray Wallace, I am a Secondary Quality Health and Quality Physical Education teacher in St. Vrain Valley School District, Boulder County and the President of the Society of Health and Physical Educators (SHAPE) Colorado and I am writing in support of House Bill 1064.

As a member of the education profession, specifically tasked with providing preventative healthcare to our future generations, I fully support banning flavored tobacco products. As President of SHAPE Colorado and a representative of health educators and physical educators throughout the state, we support the banning of flavored tobacco through this bill.

The effects of tobacco products on health outcomes are clear. These flavored tobacco products are clearly designed to a specific target audience, young people, who have yet to develop the executive function to make sound decisions, especially considering a health outcome that will be discovered later in life, and probably when it is too late. We as adults are supposed to be leaving a legacy for future generations. Hopefully, we will make smart decisions to protect them from the future harmful effects of all tobacco products.

We are emerging, hopefully, from a pandemic in which the worst outcomes overwhelmingly affected people with underlying health conditions. The sad fact is that so many of these health conditions are actually preventable, yet we continue to allow sales and marketing of many products we know to be the cause of many of these health outcomes in the hope of some false economic gain. The economic gains supposedly achieved pale in insignificance to the ultimate long term economic cost of providing health care “solutions” to preventable conditions in the future.

I am a little disappointed that we talk of economic impact without considering the future economic impact resulting from the poor health and chronic illness caused by many of these products. Should we ignore the future costs of days of work missed health care costs and the non-economic costs that ruins lives far beyond that of simply the user. Prevention is the cheapest and most effective form of healthcare, and if products are unavailable, that is a first, and easiest step in prevention. The data supports that the use of these products is prevalent amongst high school age children and younger adults, and clearly points to a successful marketing campaign aimed at these demographics. This is the first step on a road to lifetime use, oh how I wish we spent as much time and money focusing on lifetime physical activity and health.

I urge you to support this bill. Use of vapor products is becoming increasingly widespread in schools and amongst young people. As health and physical educators, we are already fighting a tide of poor nutrition, reliance on pharmaceuticals, physical inactivity, and genuinely “fake news” about health behaviors. Please ban flavored tobacco products so we don’t add another thing to the list. Again, I as an individual and as a representative of Quality Health and Physical Educators around the state support this bill.

Thank You

Yours Faithfully

Murray Wallace

President SHAPE Colorado

House Health & Insurance

03/16/2022 01:30 PM

HB22-1064 Prohibit Flavored Tobacco Regul Synthetic Nicotine

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Sukhbir Dhillon Against Self	<p>Dear Representative,</p> <p>I am writing you today to ask you to oppose HB22-1064. As a 7-Eleven Franchisee, I am an independent business owner and HB22-1064 could be very damaging to my business. I am a responsible retailer, and I strongly support keeping age-restricted products out of the hands of Colorado's youth.</p> <p>To that end, I follow strict company and store policies around the sale of tobacco and vape products to minors. I take my responsibility to the community and the wellbeing of my business very seriously, and I take great care to ensure my employees follow these regulations as well.</p> <p>Some of the policies we have in place include:</p> <ul style="list-style-type: none">• Tobacco products are always located behind the counter• Our point-of-sale software requires all age-restricted products to scan a valid ID• We use an e-verification system to scan ID cards to ensure accuracy• Sales associates are required to participate in our internal training program and must complete and pass the test with a 100% score prior to operating the register• We conduct "Mystery Shopper" visits monthly at all store locations for age-restricted products <p>Point-of-sale software has proven to reduce failure rates for age-verification close to 0%. In fact, there is a pilot study that proves compliance failure rates fell from 36.8% to 0.2% after implementing an age-verification software at the point-of-sale.</p> <p>I would respectfully ask the Legislature and the State of Colorado to turn the focus on compliance without pursuing a full flavor ban. Penalties should be focused on those who do not follow the law, not on law-abiding business owners.</p> <p>Please vote no on HB22-1064.</p>
Pam Jacobs Against Self	<p>I urge you to consider the harm this Bill will do to thousands of adults in Colorado. There are effective public policies in place that both reduce youth vaping while still allowing responsible adults to use flavored vaping products to quit smoking more harmful cigarettes.</p> <p>Our family run Colorado small business opened in 2015. We will go out of business and my family, as well as, our employees will be jobless if</p>

	<p>this legislation is not amended or passed. Please consider amending HB 1064 to include an Age Restricted Amendment. Approximately 96% of our sales are flavored vaping products. If you remove 96% of sales from any business, the business will cease to exist.</p> <p>HB 20-1001 raised the age to use nicotine products to 21. We allow vaping in our retail shop thus, per said Bill, no one under 21 can enter our shop. This requirement, as well as, checking the ID's of everyone who enters allows us complete control in not allowing underage to purchase anything in our shop or step into our shop.</p> <p>We are a small family run vaping store who empowers adults to quit smoking more harmful cigarettes. Since opening nearly 7 years ago, we have helped over 4,500 adults quit combustible cigarettes by way of a variety of flavors. Ask any adult who vapes how important flavors provide and help them in not going back to cigarettes. The last thing they want is something that smells or tastes like a cigarette or any tobacco flavor. They do not want a flavor such as tobacco which reminds them of a cigarette. These adults want flavor choices.</p> <p>Small vaping stores should be treated similar to marijuana shops and liquor stores. We want to be highly regulated to prevent youth from being able to purchase our products.</p> <p>Flavor bans shutdown responsible small businesses. Flavor bans do not solve the youth vaping issue. Flavor bans do not work. Flavor bans make the problem worse. Flavor bans shutdown responsible small businesses. Flavor bans do not solve the youth vaping issue. A new study published in February 2022 by JAMA Pediatrics, research by Assistant Professor Ruoyan Sun of the University of Alabama at Birmingham's School of Public Health shows that the majority of young adults and adolescents in the United States are using cannabis vaping not nicotine vaping.</p> <p>Please vote NO or amend HB 22-1064 and allow adults to use flavored vaping products to quit smoking cigarettes and stay alive.</p> <p>Thank you for your service to the people of Colorado.</p>
<p>Michael Jacobs Against Self</p>	<p>I am a Colorado resident who votes. I, also was able to quit combustible tobacco products by vaping many flavored nicotine products. I urge you to consider the harm this Bill will do to thousands of Colorado adults like myself. Please allow responsible adults to use flavored vaping products to quit smoking more harmful cigarettes.</p> <p>My immediate family runs a Colorado small business that opened in 2015. They will go out of business and my family, as well as, their employees will be jobless if this legislation is passed or not amended. Please consider amending HB 1064 to include an Age Restriction.</p>

	<p>Approximately 96% of their sales are flavored vaping products. If you remove 96% of sales from any business, the business will cease to exist.</p> <p>HB 20-1001 raised the age to use nicotine products to 21. Vaping is allowed in their retail shop thus, per said Bill, no one under 21 can enter their shop. This requirement, as well as, checking the ID's of everyone who enters allows them to have complete control in not allowing underage to purchase anything in the shop or step foot into their shop.</p> <p>They are a small family run vaping store who empowers adults to quit smoking more harmful cigarettes. Since opening nearly 7 years ago, they have helped over 4,500 adults quit combustible cigarettes by way of a variety of flavors. Ask any adult who vapes how important flavors provide and help them in not going back to cigarettes. The last thing I or any other adult vaper wants is something that smells or tastes like a cigarette or any tobacco flavor. These adults and myself want flavor choices.</p> <p>Small vaping stores should be treated similar to marijuana shops and liquor stores. They can be highly regulated to prevent youth from being able to purchase flavored products.</p> <p>Flavor bans shutdown responsible small businesses, do not solve youth vaping issues, do not work, and make the problem worse. A new study published in February 2022 by JAMA Pediatrics, research by Assistant Professor Ruoyan Sun of the University of Alabama at Birmingham's School of Public Health shows that the majority of young adults and adolescents in the United States are using cannabis vaping not nicotine vaping.</p> <p>Please vote NO or amend HB 22-1064 and allow adults to use flavored vaping products to quit smoking cigarettes, stay alive, and reduce health care cost.</p> <p>Thank you for your consideration in helping me and other adults stay alive with flavors.</p>
<p>Lindsey Jacobs-Truman Against Self</p>	<p>I urge you to consider the harm this Bill will do to thousands of adults in Colorado. There are effective public policies in place that both reduce youth vaping while still allowing responsible adults to use flavored vaping products to quit smoking more harmful cigarettes.</p> <p>Our family run Colorado small business opened in 2015. We will go out of business and my family, as well as, our employees will be jobless if this legislation is passed or not amended. Please consider amending HB 1064 to include an Age Restriction. Approximately 96% of our sales are flavored vaping products. If you remove 96% of sales from any business, the business will cease to exist.</p>

	<p>HB 20-1001 raised the age to use nicotine products to 21. We allow vaping in our retail shop thus, per said Bill, no one under 21 can enter our shop. This requirement, as well as, checking the ID's of everyone who enters allows us complete control in not allowing underage to purchase anything in our shop or step into our shop.</p> <p>We are a small family run vaping store who empowers adults to quit smoking more harmful cigarettes. Since opening nearly 7 years ago, we have helped over 4,500 adults quit combustible cigarettes by way of a variety of flavors. Ask any adult who vapes how important flavors provide and help them in not going back to cigarettes. The last thing they want is something that smells or tastes like a cigarette or any tobacco flavor. They do not want a flavor such as tobacco which reminds them of a cigarette. These adults want flavor choices.</p> <p>Small vaping stores should be treated similar to marijuana shops and liquor stores. We want to be highly regulated to prevent youth from being able to purchase our products.</p> <p>Flavor bans shutdown responsible small businesses. Flavor bans do not solve the youth vaping issue. Flavor bans do not work. Flavor bans make the problem worse. Flavor bans shutdown responsible small businesses. A new study published in February 2022 by JAMA Pediatrics, research by Assistant Professor Ruoyan Sun of the University of Alabama at Birmingham's School of Public Health shows that the majority of young adults and adolescents in the United States are using cannabis vaping not nicotine vaping.</p> <p>Please vote NO or amend HB 22-1064 and allow adults to use flavored vaping products to quit smoking cigarettes and stay alive.</p> <p>Thank you for your service to the people of Colorado.</p>
<p>Christopher Roche Against Self</p>	<p>I am a Colorado resident who votes. I, also was able to quit combustible tobacco products by vaping many flavored nicotine products. I urge you to consider the harm this Bill will do to thousands of Colorado adults like myself. Please allow responsible adults to use flavored vaping products to quit smoking more harmful cigarettes.</p> <p>My family runs a Colorado small business that opened in 2015. They will go out of business and their family, as well as, their employees will be jobless if this legislation is passed or not amended. Please consider amending HB 1064 to include an Age Restriction. Approximately 96% of their sales are flavored vaping products. If you remove 96% of sales from any business, the business will cease to exist.</p>

	<p>HB 20-1001 raised the age to use nicotine products to 21. Vaping is allowed in their retail shop thus, per said Bill, no one under 21 can enter their shop. This requirement, as well as, checking the ID's of everyone who enters allows them to have complete control in not allowing underage to purchase anything in the shop or step foot into their shop.</p> <p>They are a small family run vaping store who empowers adults to quit smoking more harmful cigarettes. Since opening nearly 7 years ago, they have helped over 4,500 adults quit combustible cigarettes by way of a variety of flavors. Ask any adult who vapes how important flavors provide and help them in not going back to cigarettes. The last thing I or any other adult vaper wants is something that smells or tastes like a cigarette or any tobacco flavor. These adults and myself want flavor choices.</p> <p>Small vaping stores should be treated similar to marijuana shops and liquor stores. They can be highly regulated to prevent youth from being able to purchase flavored products.</p> <p>Flavor bans shutdown responsible small businesses, do not solve youth vaping issues, do not work, and make the problem worse. A new study published in February 2022 by JAMA Pediatrics, research by Assistant Professor Ruoyan Sun of the University of Alabama at Birmingham's School of Public Health shows that the majority of young adults and adolescents in the United States are using cannabis vaping not nicotine vaping.</p> <p>Please vote NO or amend HB 22-1064 and allow adults to use flavored vaping products to quit smoking cigarettes, stay alive, and reduce health care cost.</p> <p>Thank you for your consideration in helping me and other adults stay alive with flavors.</p>
<p>Levi Griswold Against Self</p>	<p>I am a Colorado resident who votes. I, also was able to quit combustible tobacco products by vaping many flavored nicotine products. I urge you to consider the harm this Bill will do to thousands of Colorado adults like myself. Please allow responsible adults to use flavored vaping products to quit smoking more harmful cigarettes.</p> <p>Also, I am employed by a Colorado small vaping business that opened in 2015. They will go out of business and I will be jobless if this legislation is passed or not amended.</p>

	<p>Approximately 96% of the shop’s sales are flavored vaping products. If you remove 96% of sales from any business, the business will cease to exist. If, they are required to close because of this Bill, many of us will be unemployed. HB 20-1001 raised the age to use nicotine products to 21. Vaping is allowed in the retail shop thus, per said Bill, no one under 21 can enter their shop. This requirement, as well as, checking the ID’s of everyone who enters allows this business to have complete control in not allowing underage to purchase anything in the shop or step foot into the shop. They are a small family run vaping store who empowers adults to quit smoking more harmful cigarettes. Since opening nearly 7 years ago, they have helped over 4,500 adults quit combustible cigarettes by way of a variety of flavors. Ask any adult who vapes how important flavors are in keeping them off of cigarettes. The last thing I or any other adult vaper wants is something that smells or tastes like a cigarette or any tobacco flavor. These adults and myself want flavor choices. Small vaping stores should be treated similar to marijuana shops and liquor stores. They can be highly regulated to prevent youth from being able to purchase flavored products. Flavor bans shutdown responsible small businesses, do not solve youth vaping issues, do not work, and make the problem worse. A new study published in February 2022 by JAMA Pediatrics, research by Assistant Professor Ruoyan Sun of the University of Alabama at Birmingham’s School of Public Health shows that the majority of young adults and adolescents in the United States are using cannabis vaping not nicotine vaping. Please vote NO or amend HB 22-1064 and allow adults to use flavored vaping products to quit smoking cigarettes, stay alive, and reduce health care cost. Thank you for your consideration in helping me and other adults stay alive with flavors.</p>
<p>Jesse Truman Against</p>	<p>I am a Colorado resident who votes. I, also was able to quit chewing tobacco products by vaping many flavored nicotine products. I urge you</p>

<p>Self</p>	<p>to consider the harm this Bill will do to thousands of Colorado adults like myself. Please allow responsible adults to use flavored vaping products to quit smoking more harmful cigarettes and other forms of tobacco.</p> <p>My immediate family runs a Colorado small business that opened in 2015. They will go out of business and my family, as well as, their employees will be jobless if this legislation is passed or not amended. Please consider amending HB 1064 to include an Age Restriction. Approximately 96% of their sales are flavored vaping products. If you remove 96% of sales from any business, the business will cease to exist.</p> <p>HB 20-1001 raised the age to use nicotine products to 21. Vaping is allowed in their retail shop thus, per said Bill, no one under 21 can enter their shop. This requirement, as well as, checking the ID's of everyone who enters allows them to have complete control in not allowing underage to purchase anything in the shop or step foot into their shop.</p> <p>They are a small family run vaping store who empowers adults to quit smoking more harmful cigarettes. Since opening nearly 7 years ago, they have helped over 4,500 adults quit combustible cigarettes by way of a variety of flavors. Ask any adult who vapes how important flavors provide and help them in not going back to cigarettes. The last thing I or any other adult vaper wants is something that smells or tastes like a cigarette or any tobacco flavor. These adults and myself want flavor choices.</p> <p>Small vaping stores should be treated similar to marijuana shops and liquor stores. They can be highly regulated to prevent youth from being able to purchase flavored products.</p> <p>Flavor bans shutdown responsible small businesses, do not solve youth vaping issues, do not work, and make the problem worse. A new study published in February 2022 by JAMA Pediatrics, research by Assistant Professor Ruoyan Sun of the University of Alabama at Birmingham's School of Public Health shows that the majority of young adults and adolescents in the United States are using cannabis vaping not nicotine vaping.</p> <p>Please vote NO or amend HB 22-1064 and allow adults to use flavored vaping products to quit smoking cigarettes, stay alive, and reduce health care cost.</p> <p>Thank you for your consideration in helping me and other adults stay alive with flavors.</p>
<p>Austin Jacobs Against</p>	<p>I urge you to consider the harm this Bill will do to thousands of adults in Colorado. There</p>

<p>Self</p>	<p>are effective public policies in place that both reduce youth vaping while still allowing responsible adults to use flavored vaping products to quit smoking more harmful cigarettes.</p> <p>Our family run Colorado small business opened in 2015. We will go out of business and my family, as well as, our employees will be jobless if this legislation is passed or not amended. Please consider amending HB 1064 to include an Age Restriction.</p> <p>Approximately 96% of our sales are flavored vaping products. If you remove 96% of sales from any business, the business will cease to exist.</p> <p>HB 20-1001 raised the age to use nicotine products to 21. We allow vaping in our retail shop thus, per said Bill, no one under 21 can enter our shop. This requirement, as well as, checking the ID's of everyone who enters allows us complete control in not allowing underage to purchase anything in our shop or step into our shop. We are a small family run vaping store who empowers adults to quit smoking more harmful cigarettes. Since opening nearly 7 years ago, we have helped over 4,500 adults quit combustible cigarettes by way of a variety of flavors. Ask any adult who vapes how important flavors provide and help them in not going back to cigarettes. The last thing they want is something that smells or tastes like a cigarette or any tobacco flavor. They do not want a flavor such as tobacco which reminds them of a cigarette. These adults want flavor choices.</p> <p>Small vaping stores should be treated similar to marijuana shops and liquor stores. We want to be highly regulated to prevent youth from being able to purchase our products. Flavor bans shutdown responsible small businesses. Flavor bans do not solve the youth vaping issue. Flavor bans do not work. Flavor bans make the problem worse. Flavor bans shutdown responsible small businesses. Flavor bans do not solve the youth</p>
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	<p>vaping issue. A new study published in February 2022 by JAMA Pediatrics, research by Assistant Professor Ruoyan Sun of the University of Alabama at Birmingham's School of Public Health shows that the majority of young adults and adolescents in the United States are using cannabis vaping not nicotine vaping. Please vote NO or amend HB 22-1064 and allow adults to use flavored vaping products to quit smoking cigarettes and stay alive.</p> <p>Thank you for your service to the people of Colorado.</p>
<p>Hailee Wiest Against Self</p>	<p>I am a Colorado resident who votes. I, also was able to quit combustible tobacco products by vaping many flavored nicotine products. I urge you to consider the harm this Bill will do to thousands of Colorado adults like myself. Please allow responsible adults to use flavored vaping products to quit smoking more harmful cigarettes.</p> <p>My immediate family runs a Colorado small business that opened in 2015. They will go out of business and my family, as well as, their employees will be jobless if this legislation is passed or not amended. Please consider amending HB 1064 to include an Age Restriction. Approximately 96% of their sales are flavored vaping products. If you remove 96% of sales from any business, the business will cease to exist.</p> <p>HB 20-1001 raised the age to use nicotine products to 21. Vaping is allowed in their retail shop thus, per said Bill, no one under 21 can enter their shop. This requirement, as well as, checking the ID's of everyone who enters allows them to have complete control in not allowing underage to purchase anything in the shop or step foot into their shop.</p> <p>They are a small family run vaping store who empowers adults to quit smoking more harmful cigarettes. Since opening nearly 7 years ago, they have helped over 4,500 adults quit combustible cigarettes by way of a variety of flavors. Ask any adult who vapes how important flavors provide and help them in not going back to cigarettes. The</p>

	<p>last thing I or any other adult vaper wants is something that smells or tastes like a cigarette or any tobacco flavor. These adults and myself want flavor choices.</p> <p>Small vaping stores should be treated similar to marijuana shops and liquor stores. They can be highly regulated to prevent youth from being able to purchase flavored products. Flavor bans shutdown responsible small businesses, do not solve youth vaping issues, do not work, and make the problem worse. A new study published in February 2022 by JAMA Pediatrics, research by Assistant Professor Ruoyan Sun of the University of Alabama at Birmingham’s School of Public Health shows that the majority of young adults and adolescents in the United States are using cannabis vaping not nicotine vaping. Please vote NO or amend HB 22-1064 and allow adults to use flavored vaping products to quit smoking cigarettes, stay alive, and reduce health care cost.</p> <p>Thank you for your consideration in helping me and other adults stay alive with flavors.</p>
<p>Alice Steiner For Colorado Community Health Network</p>	<p>March 16, 2022</p> <p>Dear Madam Chair and Members of the House Health & Insurance Committee:</p> <p>On behalf of the Colorado Community Health Network (CCHN), I am writing in support of House Bill 22-1064 Prohibit Flavored Tobacco Regulator Synthetic Nicotine.</p> <p>CCHN is the membership association for Colorado’s 20 Federally Qualified Health Centers, also known as Community Health Centers (CHCs). Colorado’s CHCs operate more than 230 clinic sites across the state and are the health care home to more the 847,000 Coloradans. Located in high-need urban and rural areas, CHCs provide high-quality and accessible primary care, including medical, behavioral, and oral health services to all patients regardless of insurance status or ability to pay.</p> <p>Colorado CHCs have been at the frontlines responding to the public health crisis of COVID-19, caring for any Coloradan who walks through the door. Meanwhile, another public crisis has been looming; flavored</p>

	<p>tobacco and nicotine products are attracting and addicting Colorado children at high rates. Tobacco addiction that starts young can last for a lifetime, contributing to significant health issues later in life and high costs to the state's health care system.</p> <p>HB22-1064 would ban the sale of all flavored tobacco and nicotine products in Colorado. These products significantly increase the risk of young people becoming addicted to tobacco. This bill is a critical and thorough solution to help end this public health crisis in Colorado and reduce health care costs in the long-term.</p> <p>On behalf of Colorado's CHCs and the one in seven Coloradans they serve, I urge you to support HB22-1064.</p> <p>Thank you,</p> <p>Alice Steiner Senior Manager, Policy & Advocacy Colorado Community Health Network asteiner@cchn.org</p>
<p>Alaine West For Self</p>	<p>Madame Chair and members of the committee, my name is Alaine West, and I am a middle school teacher at Grand Mesa Middle School in Mesa County. I am here today in support of House Bill 1064. I am a first year teacher, and my plan time is crucial to not only my success, but the success of my students and my community. In recent months, I have had to give up much of my plan time as well as the time between classes that I would ordinarily use to set up the classroom in order to supervise bathrooms in an effort to discourage tobacco vaping and write incident reports related to student tobacco use. In my experience, these incidents have always included flavored tobacco products. Flavored vapes such as Cotton Candy, Banana, and Whipped Cream are appealing to children. That is the crucial piece of testimony I would like to provide: that these students are children, many not even teenagers yet. According to the 2016 Surgeon General's report, using nicotine in adolescence can harm the parts of the brain that control attention, learning, mood, and impulse control by changing the way that synapses are formed in the brain. When we allow these adolescents to continue to have access to flavored tobacco products, they permanently hinder their brains' capabilities. These children are the future of our great state, and we owe it to them, to each other, and to ourselves to take flavored tobacco products out of their reach. Thank you for your time.</p>
<p>Constance Keller Against Self</p>	<p>I'm 46 years old. I have Lupus SLE, Sjogrens, Asthma, cancer survivor, and a heart valve condition.</p>

	<p>Like a lot of young adults, I picked up smoking cigarettes which quickly made me addicted to smoking for over 23 years. As years went by, I grew more ill and doctors were telling me smoking cigarettes was the worst thing I was doing for my health. But I was too addicted to quit smoking. I felt like the withdrawals from smoking cigarettes was WORSE than what I felt with my many health conditions. So I felt stuck. Handcuffed to the toxins that were speeding up all of my health issues and closer to death, with each carton.</p> <p>Then my husband and I had friends over for dinner and games, and our friend showed us his vape pen. We talked for hours about how it works, and how the toxins and tar that are in cigarettes were NOT in vape. I was skeptical, like anything that you don't try for yourself - you think "sure, okay." But I loved the flavors, they definitely tasted and smelled better than cigarettes so I thought maybe I would vape in places where stinky cigarette smoke won't be offensive to people.</p> <p>My first flavor that I vaped was a maple pancakes flavor. I started noticing I was vaping the delicious pancakes vape more than I was smoking. And I was getting nicotine without the super dangerous tars and toxins in cigarettes.</p> <p>I started to see that I could quit smoking without the nightmare withdrawals that many get from quitting smoking cold turkey.</p> <p>I tried other flavors like strawberry milkshake flavors, donuts, cinnamon bun, lemon bars...the only flavor that I couldn't stomach was tobacco flavor. It tasted worse than the smell of cigarettes. I knew if that was my only flavor option, I would never have quit smoking.</p> <p>Everywhere we went, when we would vape, people would pick up on the sweet scents of pastries or fruity scents which made us feel better about not stinking like cigarette smoke everytime we smoked.</p> <p>Vaping saved my life. Literally. And if it hadn't been for the delicious flavors of pastries and fruits and candies, I would have never weened off of smoking to the point of quitting and saving my life.</p> <p>As one that has lived, because of sweet flavors of vaping, I ask you to please not take the flavors away from others who will also save their lives by choosing maple pancakes over tar.</p> <p>We want baking flavors, sweet flavors, flavors that reward us for quitting smoking, not ones that trigger our old bad habits with smoking.</p> <p>Thank you</p>
<p>Matthew Branson Against Centennial Vapor</p>	<p>My name is Matt Branson and I own 2 vape shop here in Colorado. I was shocked to find out Colorado was seriously considering this proposal to BAN flavors of tobacco products, even extending this ban to stores who ONLY sell products to adult customers 21+ years of age and older.</p> <p>I would like to propose a 2 step process which I sincerely believe will help solve the problem of underage people gaining access to vape/flavored tobacco:</p> <p>STEP 1: REQUIRE THE USE OF ID SCANNERS IN ALL COLOADO STORES SELLING TOBACCO PRODUCTS</p>

	<p>As mentioned above, we know we only sell to consumers 21 years and older because we use ID scanner technology which uses a database to verify the ID is authentic.</p> <p>This technology is not new, but it IS a foolproof way of ensuring minors are UNABLE to purchase our products. This is the same technology used in any bar or marijuana dispensary. First things first, ensure/mandate that all vape shops in Colorado use this technology! To ensure compliance, (along with the "secret shopper" operations) the Tobacco Division can even perform random audits wherein they check point-of-sale software daily sales reports against the scanned ID's for any given day. (This is how we self-regulate to ensure compliance within our own company).</p> <p>Banning flavors isn't the way to keep kids from getting the product (which I will get to), but unfortunately this bill will quite certainly decimate our entire industry. Our customers are NOT people who have decided to take up a nicotine addiction for FUN! They use these products as a safer alternative to traditional cigarettes.</p> <p>STEP 2 (SOLUTION): TACKLE THE PROBLEM WHERE IT EXISTS!</p> <p>You have stated that the very reason you started this bill was because you got an email from your daughter's school indicating that there was a social media text thread enticing kids to buy vape products in the park. I would hope that with the help of the millions of dollars in sales and license tax revenue generated from this industry, that we could:</p> <p>Implement a simple yet effective sting operation wherein we would hire an investigator from the tobacco division to monitor these types of social media posts/solicitations so that we can</p> <p>Alert local law enforcement to ARREST the individuals who are ACTUALLY trying to profit off of selling these products to kids in the park!</p>
<p>Suzanne McDonald Against Self</p>	<p>To the Honorable Members of Colorado's House Health & Insurance Committee</p> <p>As the President of Core-Mark International's Denver Operating Company, I am writing to oppose HB22-1064. Flavored tobacco products should not be banned for the following reasons:</p> <ul style="list-style-type: none"> • This issue couldn't come at a worse time for our communities, state, and nation. Record inflation unseen since the early 1980's, workforce and supply shortages, skyrocketing gas, fuel, and food prices are hitting everyone and we're feeling the pain. • Banning flavored products will take away ~24% of my revenue stream in Colorado. I'd be forced to raise prices, or potentially, I'd have to eliminate jobs at my distribution center, where today I employ 226 individuals that are Colorado Residents. • This would impact my ability to serve the 1,067 Retailers in the State of Colorado that I currently do business with, and in turn, impact their ability to serve their Customers. • Three recent scientific studies now conclude that banning flavored tobacco products leads to an increase in cigarette smoking by underage

	<p>individuals and young adults. This creates a new health problem that needs to be avoided by lawmakers.</p> <ul style="list-style-type: none"> • Banning the sale of flavored traditional tobacco products could shift sales of these products from law-abiding retailers to potentially illegal sources who do not check IDs. • If traditional flavored tobacco products are not removed from proposed sales ban, adult customers will drive to a neighboring state to buy their preferred products, and will also purchase gasoline, grocery items and beverages while there. The result would be losses far greater than the current and significant declines in gasoline and other product sales. • The FDA has taken regulatory action and banned almost 7 million flavored electronic cigarette and flavored nicotine liquid products. In addition, the FDA announced that it will be publish a proposed regulation by April of this year banning the sale of menthol cigarettes and all flavored cigars. With the FDA taking these actions, the need for this state flavor ban bill is negated. <p>Thank you again for opposing HB22-1064. Sincerely, Suzanne McDonald Division President, Denver</p>
<p>Dawn Owens Against Self</p>	<p>Thank you for taking the time to listen to my comments.</p> <p>My Name is Dawn and I own a convenience store in Loveland. There has never been a more challenging time running a convenience store than right now. Staffing difficulties and inflation are just two of many issues that store owners like me face. Profit margins on products are already thin, and getting thinner with inflation. The sale of tobacco products is keeping my store profitable.</p> <p>There are already a sizeable number of Loveland residents who travel weekly to the Wyoming border to make their tobacco purchases due to the fact that tobacco products are so much cheaper to buy in that state. So far, the convenience factor has most of my customers willing to pay the higher taxes for their purchases. I have no doubt that if my customers are no longer able to buy their preferred products in Colorado, they will travel to Wyoming to get what they want. Tobacco sales make up over a third of my sales. My store is not unique. Many stores rely on tobacco sales to stay profitable. There is simply no way to make up for that lost revenue if a flavor ban passes. My options will be to cut hours, lay off staff, or close my doors. My store is sole source of income and my biggest investment. A flavor ban wouldn't just destroy my income, and the income of my employees, it would also destroy my investment. I couldn't sell my store for the same price I paid for it. Again, I am not unique. Many store owners are in the same situation I am in.</p> <p>I am like all store owners in Colorado, we don't want kids using these products either. My staff is vigilant in asking for ID for all adult</p>

	<p>products. We are gatekeepers who insure that kids don't get their hands on products that aren't suppose to have. And we take that role seriously. But we do want to sell a legal product to our adult customers. Its what keeps our businesses afloat.</p> <p>So on behalf of other small independent store owners in Colorado, and their employees, I beg you to vote NO on a tobacco flavor ban. Don't punish us for choosing to do business in Colorado.</p> <p>Thank you. Dawn Owens</p>
<p>Twyla Rains Against Self</p>	<p>Member of the Health and Insurance Committee, my name is Twyla and I am a store owner in Salida. As a lifelong Salida resident, I am proud to be a part of my hometown's business community. As the owner of small specialty store, I rely on the sale of flavored tobacco to keep my business open. I run my store with a small staff that I think of as family. We have spent years building a loyal customer base for my small business. It is a lot of long hours and constant worry, but we are still open. Even in this challenging economy.</p> <p>I take my role as a business owner in Salida seriously. We make sure to ask for identification for everyone who comes into our store asking to buy tobacco. I don't want the kids in my community to use tobacco either. We are always striving to be responsible. We owe it not only to the kids in Salida, but also for their parents.</p> <p>However, my business does sell tobacco to adults who want to buy it. To be blunt, a flavor ban would devastate my store. I would definitely have to lay off staff, and there is a large chance I would have to close. My customers are great, but they don't stop into my store because they are giving to charity.</p> <p>And finally, I have been following this issue very closely for awhile now. I know the federal government has recently banned the sale of millions of flavored vape nicotine products. Doesn't this address the issue of not enticing kids? I am sure you agree with me that this action will reduce teen vaping. Can't we give this action time to work? It doesn't affect my customers or my business but does address youth vaping. I don't see the need for a Colorado flavor ban if the actions of the federal government are going to accomplish the goal of lowered youth vaping anyway. A statewide flavor ban would only punish my adult customers and my store.</p> <p>So I ask the committee to please think of me and my store when they vote. Please vote NO on a flavor ban. Let me stay in business.</p>
<p>Charlie Lecavalier Against Self</p>	<p>I am a Colorado resident who votes. I, also was able to quit combustible tobacco products by vaping many flavored nicotine products. I urge you to consider the harm this Bill will do to thousands of Colorado adults like myself. Please allow responsible adults to use flavored vaping products to quit smoking more harmful cigarettes.</p>

	<p>Also, I am employed by a Colorado small vaping business that opened in 2015. They will go out of business and I will be jobless if this legislation is passed or not amended. Approximately 96% of the shop's sales are flavored vaping products. If you remove 96% of sales from any business, the business will cease to exist. If, they are required to close because of this Bill, many of us will be unemployed.</p> <p>HB 20-1001 raised the age to use nicotine products to 21. Vaping is allowed in the retail shop thus, per said Bill, no one under 21 can enter their shop. This requirement, as well as, checking the ID's of everyone who enters allows this business to have complete control in not allowing underage to purchase anything in the shop or step foot into the shop.</p> <p>They are a small family run vaping store who empowers adults to quit smoking more harmful cigarettes. Since opening nearly 7 years ago, they have helped over 4,500 adults quit combustible cigarettes by way of a variety of flavors. Ask any adult who vapes how important flavors are in keeping them off of cigarettes. The last thing I or any other adult vaper wants is something that smells or tastes like a cigarette or any tobacco flavor. These adults and myself want flavor choices.</p> <p>Small vaping stores should be treated similar to marijuana shops and liquor stores. They can be highly regulated to prevent youth from being able to purchase flavored products.</p> <p>Flavor bans shutdown responsible small businesses, do not solve youth vaping issues, do not work, and make the problem worse. A new study published in February 2022 by JAMA Pediatrics, research by Assistant Professor Ruoyan Sun of the University of Alabama at Birmingham's School of Public Health shows that the majority of young adults and adolescents in the United States are using cannabis vaping not nicotine vaping.</p> <p>Please vote NO or amend HB 22-1064 and allow adults to use flavored vaping products to quit smoking cigarettes, stay alive, and reduce health care cost.</p> <p>Thank you for your consideration in helping me and other adults stay alive with flavors.</p>
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March 14, 2022

Re: Support HB22-1064, Oppose HB22-1136

Dear Members of the House Health & Insurance Committee:

The Colorado Foundation for Universal Health Care is a non-profit, non-partisan 501(c)(3) organization dedicated to improving health care for all Coloradans. We believe that health care is a human right which requires that access be without financial and other barriers. We support legislation that makes health care more just and more accessible, while also realizing that the entire health care system needs fundamental reform to make it truly universal.

HB22-1064 Prohibit Flavored Tobacco Regulate Synthetic Nicotine

We support this bill as a reasonable public health measure that prohibits retailers from selling, offering for sale, advertising for sale, displaying, or marketing in the state any flavored tobacco product, and defines a flavored product as a product imparting a taste or smell other than the taste or smell of tobacco. Let's not disguise tobacco as something enticing and sweet.

HB22-1136 Ultrasound Video Demonstration in Sex Education

While seemingly educational, like the viral so-called transparency bills that are being floated nationwide requiring schools and teachers to post their lesson plans and book lists, this bill is an obvious attempt to put the camel's nose under the tent and then proceed to legislate a right wing curriculum for our public schools in a patently partisan manner. We urge a vote against this bill because it represents undue political interference in the educational process.

Yours truly,

Colorado House Committee on Health and Insurance
Testimony: HB22-1064
Guy Bentley, Director of Consumer Freedom, Reason Foundation
March 16, 2022

Chair Lontine, members of the committee, thank you for allowing me the opportunity to submit testimony on HB22-1064.

My name is Guy Bentley, and I'm the director of consumer freedom at the Reason Foundation, a 501(c)3 nonprofit think tank. The consumer freedom project analyzes and promotes policy solutions that improve public health while avoiding unintended consequences and protecting consumer choice.

The intention behind HB22-1064 to limit tobacco use, especially among youth, is to be applauded. However, the evidence on the success of such prohibitions should raise significant concern that the ban will promote further inequalities in the criminal justice system, push sales and tax revenue to other states, increase the illicit tobacco trade, and fail to improve public health in Colorado.

Case Studies: Massachusetts, Canadian Provinces, and the European Union

Massachusetts' ban on flavored tobacco products went into effect in June of 2020. A preliminary analysis conducted by Reason Foundation which compared cigarette sales in Massachusetts the year prior to the ban and the year following the ban's implementation found that, in total, there was a net increase in cigarette sales of 7.2 million packs for Massachusetts and its bordering states.¹ These figures underestimate cross-border trade because they do not account for lost sales of flavored e-cigarettes, smokeless tobacco, or cigars. There was also an increase of non-menthol cigarette sales in Massachusetts of 15.6 million packs as consumers switched brands.

Furthermore, according to a study published by the *Journal of Law and Economics*, Canadian provinces' menthol prohibition has significantly increased non-menthol cigarette smoking among youths, resulting in no overall net change in youth smoking rates.² As for adult smokers, the study discovered, provincial menthol bans shifted smokers' cigarette purchases away from grocery stores and gas stations to First Nations reserves (where the menthol bans do not apply).

¹ Reason's analysis is awaiting journal publication.

² Christopher Carpenter, Hai V. Nguyen. "Intended and Unintended Effects of Banning Menthol Cigarettes." *The Journal of Law and Economics*. August 2021.
<https://www.journals.uchicago.edu/doi/abs/10.1086/713978>

The world's largest experiment in menthol prohibition is the European Union, which includes 27 countries and a population of 447 million people. The EU ban became effective in May of 2020. Prior to the ban Poland had the largest menthol cigarette market in the EU, making up 28 percent of total sales. An analysis funded by the Norwegian Cancer Society in partnership with the Polish Ministry of Health found there was no statistically significant decline in cigarette sales.³ These results are important not just because they demonstrate an immediate economic impact on jurisdictions that introduce prohibition but, thanks to cross-border trade and the substitution of non-menthol cigarettes, any health benefits are severely limited. In other words, the loss in tax revenue is unlikely to be made up by lower healthcare costs.

Public Health and Disparate Impacts

Advocates for the prohibition of menthol cigarettes correctly observe that a disproportionate number of Black smokers choose menthol products. In Colorado, some hope the ban will dramatically reduce the state's smoking rate. While these populations are more likely to use a menthol product while White smokers are more likely to use a non-menthol product, smoking prevalence is, in fact, lower among Black youth and adults.

Black non-Hispanic youth are less likely to smoke than their White peers.⁴ In Colorado, 4.3 percent of White high schoolers smoked in 2019.⁵ For Black Colorado high schoolers, the numbers were so low as to not be statistically significant. These data conform to Reason Foundation's study published in 2020 showing that states with higher menthol cigarette use tend to have lower, not higher, youth smoking rates.⁶ From a public health standpoint, as Black adults and youth smoke at lower rates than non-Hispanic Whites, it's hard to ascertain why non-menthol cigarettes, which are equally dangerous, will not be subjected to prohibition and menthol products will be.

Because menthol cigarettes are overwhelmingly the choice of minority smokers, prohibition will necessarily lead to a concentration of the illicit tobacco market in minority communities. The American Civil Liberties Union and other civil rights groups warn prohibition could

³ Liber, Alex C. and Stoklosa, Michal J. and Levy, David and Sánchez-Romero, Luz María and Cadham, Christopher J. and Pesko, Michael. "A Bite-Style Model to Evaluate Poland's Menthol Cigarette Ban." Available at SSRN: <https://ssrn.com/abstract=3946277>

⁴ Gentzke AS, Wang TW, Jamal A, et al. Tobacco Product Use Among Middle and High School Students — United States, 2020. <https://www.cdc.gov/mmwr/volumes/69/wr/mm6950a1.htm>

⁵ Centers for Disease Control and Prevention. "High School Youth Risk Behavior Survey: Colorado Results." 2019. <https://nccd.cdc.gov/youthonline/app/Results.aspx?LID=CO>

⁶ Guy Bentley and Jacob Rich. "Does Menthol Cigarette Distribution Affect Child or Adult Cigarette Use?." Reason Foundation. January 30, 2020. <https://reason.org/policy-study/does-menthol-cigarette-distribution-affect-child-or-adult-cigarette-use/>

disproportionately impact people of color, trigger criminal penalties, and prioritize criminalization over public health and harm reduction.⁷ The National Organization of Black Law Enforcement Executives (NOBLE), Grand Council of Guardians (GCGNY), National Association of Black Law Enforcement Officers (NABLEO), and Law Enforcement Action Partnership (LEAP) have argued that prohibitions of all kinds disproportionately affect communities of color, and this is especially the case when it comes to banning menthol cigarettes.⁸

Food and Drug Administration Review and Tobacco Harm Reduction

Last year, the Food and Drug Administration authorized an e-cigarette as “appropriate for the protection of public health” for the first time. The FDA is also currently reviewing e-cigarette product applications that contain reams of data on safety, efficacy, and potential threats to youth. If the FDA finds that any product is a net harm to public health, it will be removed from the market. But if the product is deemed to be net beneficial, it will be authorized for sale as appropriate for the protection of public health.

If Colorado chooses to ban these products prior to the FDA concluding its review, it would limit consumer access to products the FDA may deem as a positive for public health. According to a survey conducted by the International Tobacco Control Policy Evaluation Project 57 percent of vapers said they would continue vaping if flavors were banned, but half said they would find a way to get their preferred flavor. Of most concern was the finding that close to one in five vapers said they would stop vaping and smoke instead.⁹

While prohibiting e-cigarette flavors other than tobacco may seem an attractive solution to the problem of youth vaping, policymakers should recognize that, according to the 2021 National Youth Tobacco Survey (NYTS), 89 percent of high schoolers are not using e-cigarettes at all and 95 percent are not using them frequently. Youth vaping has also fallen to its lowest point in

⁷ American Civil Liberties Union. “Coalition Concerns with Blanket Prohibition on Menthol and Other Flavored Tobacco within H.R. 2339, Reversing the Youth Tobacco Epidemic Act.” <https://www.aclu.org/letter/coalition-letter-criminal-justice-concerns-hr-2339-reversing-youth-tobacco-epidemic-act>

⁸ Franklin, Neil. “Ban on Menthol Cigarettes Would Have Unintended Consequences.” *City Limits*. December 2, 2019. <https://citylimits.org/2019/12/02/opinion-ban-on-menthol-cigarettes-would-have-unintended-consequences/>

⁹ Gravely, Shannon et al. “Responses to potential nicotine vaping product flavor restrictions among regular vapers using non-tobacco flavors: Findings from the 2020 ITC Smoking and Vaping Survey in Canada, England and the United States.” *Addictive Behaviors*. Volume 125. February 2022. <https://www.sciencedirect.com/science/article/pii/S0306460321003373?via%3Dihub>

seven years.¹⁰ Furthermore, data released by the Centers for Disease Control and Prevention (CDC) shows flavors are not the leading reason why youth initiate vaping. According to the CDC, the primary reason youth initiate vaping is curiosity, followed by use by a friend or family member. Availability in flavors, such as mint, candy, fruit, or chocolate comes as a very distant third.¹¹ Banning flavored tobacco products may also induce perverse outcomes contrary to the promotion of public health among adolescents.

In 2018, San Francisco banned the sale of all flavored tobacco products, including e-cigarettes with flavors other than tobacco. Yale University's Abigail Friedman found that after the ban was enacted, San Francisco area youth had double the odds of smoking compared to similar jurisdictions with no tobacco flavor ban.¹² "While neither smoking cigarettes nor vaping nicotine are safe per se, the bulk of current evidence indicates substantially greater harms from smoking, which is responsible for nearly one in five adult deaths annually. Even if it is well-intentioned, a law that increases youth smoking could pose a threat to public health," said Friedman.

According to a 2020 study by researchers at Yale School of Public Health, the use of e-cigarette flavors is positively associated with smoking cessation outcomes for adults but not associated with increased youth smoking.¹³ The prestigious Cochrane Review concluded e-cigarettes are more effective than traditional nicotine replacement therapies for helping smokers quit.¹⁴ Prohibition of flavored e-cigarettes, which are overwhelmingly the choice of adult vapers, risks fueling illicit markets, forcing the closure of Colorado vape shops, and driving vapers back to smoking. Thank you for your time. I would be happy to answer any questions.

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¹⁰ Park-Lee E, Ren C, Sawdey MD, et al. Notes from the Field: E-Cigarette Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021.

https://www.cdc.gov/mmwr/volumes/70/wr/mm7039a4.htm?s_cid=mm7039a4_w

¹¹ Wang TW, Gentzke AS, Creamer MR, et al. "Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019." *MMWR Surveill Summ* 2019;68(No. SS-12):1–22. https://www.cdc.gov/mmwr/volumes/68/ss/ss6812a1.htm#T6_down

¹² Friedman AS. "A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California." *JAMA Pediatr*. Published online May 24, 2021. doi:10.1001/jamapediatrics.2021.0922

<https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248>

¹³ Abigail S. Friedman, PhD; SiQing Xu, BS. "Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation." *JAMA*. June 5, 2020.

<https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2766787>

¹⁴ Cochrane Review. "Updated Cochrane Review shows electronic cigarettes can help people quit smoking." October 14, 2020.

<https://www.cochrane.org/news/updated-cochrane-review-shows-electronic-cigarettes-can-help-people-quit-smoking>

BANNING MENTHOL CIGARETTES AND FLAVORED TOBACCO:
MAKING THE WAY FOR DISPARATE POLICE CONTACT WITH OUR MOST
VULNERABLE COMMUNITIES

House Bill 22-1064

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I am a former police captain, a social advocate, a professor of criminal justice, and the mother, sister, and aunt of young Black men. A vast amount of my time is spent pondering, studying, and remarking on police reform issues both nationally and abroad. Many of these are issues that cause a disparate impact when members of the Black community are involved in police encounters. Through these lenses, I register my objection to House Bill 22-1064.

In 2009, the Family Smoking Prevention and Control Act gave the Food and Drug Administration (FDA) the authority to regulate tobacco products. FDA research found that the use of menthol cigarettes impacts people of color, as it tends to be their choice of cigarette. The idea of banning menthol cigarettes to stem smoking in the Black community gained traction. Unfortunately, public policy experts did not adequately weigh the disparate impact the ban would have on communities of color by increasing police encounters. In 28 years in law enforcement, I observed how even the best-intentioned laws seemed to impact disadvantaged communities the most. From the Supreme Court's support of pretextual stops to the racial inequities in crack cocaine sentencing, our communities of color are being adversely affected, and its citizens amassing arrests, criminal records, and jail time for minor offenses. This stresses community financial and mental health resources, and places families on a downward spiral difficult to recover from.

Police officers are retiring in record numbers in the country due to discontent, feeling overworked, and low morale. They do not need another well-meaning but ineffective law on the books to add to the list of tasks police officers must handle each day. In addition, dealing with minor cases concerning illegal cigarettes lends itself to a slow-down in courts due to bureaucracy, and adds to already monumental prison overcrowding of those convicted. If district attorneys refuse to prosecute these minor cases to ease their movement through the court system, that will also lead to more police discontent, as officers see one case after another being dismissed.

Colorado's 2020 policing reform legislation is some of the most progressive state policing reform law in the country and appropriately so, as incidents such as the deaths of George Floyd

and Elijah McClain highlights the need for comprehensive laws that will hold law enforcement accountable for criminal and unethical actions. Indeed, the decriminalization of marijuana has not stopped unethical police contact in this country, and a flavored tobacco ban will not stop unethical police contact either. We do not need more tragic incidents created through the over-policing of a group of people.

For instance, in 2021 in Ocean City, Maryland, several Black teens were arrested for vaping in an unauthorized area on the beach's boardwalk. The arrest led to an outcry from the community and local politicians, and a lawsuit from the family of the teens, for the excessive use of force by the officers involved. This was for a minor violation of vaping. No one should endure a violent stop by police for "smoking while black" for vaping, or just because an adult prefers a menthol cigarette or flavored cigar.

Colorado is already dealing with an increasing illegal trade due to the legalization of cannabis, and retailers in Colorado have joined the argument that flavor bans will ease the path to an underground economy that will sell to minors and increase youth cigarette use, causing even more work for the police, and potential disparate police encounters with youth as well. Instead, retailers advocate for methods such as increasing the age to 21 to purchase tobacco products, and stiffening penalties for stores that sell to minors.

Massachusetts tried a flavor and menthol ban on smoking products in 2019. It has not yielded the results desired. Lawmakers recently introduced legislation to have the menthol ban in Massachusetts reversed, after they found that those products were being illegally trafficked from out of state instead of being sold by licensed retailers in-state, who were losing revenue. There has also been no regional reduction in menthol cigarette consumption.

Finally, we know from history that prohibition in this country has never worked. It did not work with the proscription of alcohol in the 1920's, and the gradual legalization of marijuana across the country holds that prohibition has not worked with marijuana either. Outlawing a subset of a product that is used by choice by adults is unlikely to work with flavored and menthol tobacco products. Black people will continue to use a product that has been deemed illegal, while all other subsets of tobacco will continue to be legal to use, resulting in a disparate impact by an unjust criminal justice system, under the guise of public health advocacy.

I ask that House Bill 22-1064—which would create a ban on the sale of all flavored tobacco and nicotine products including menthol cigarettes—be abandoned, and that the approach to the problem of smoking in the Black community be backed by sound public health policy, community education, harm reduction, and sufficient resources. Tobacco use concerns should be addressed in a humane, responsible, and educated way, designed to empower communities, not to criminalize them for making a choice that others take for granted.