



**BIG CITIES
HEALTH COALITION**

POLICY PRIORITIES | Regulating Tobacco and Nicotine

Over the years, cigarettes have been the leading cause of preventable death in the United States, accounting for one in five fatalities.

[That's more](#) than HIV, drug and alcohol use, motor vehicle injuries, and firearm-related incidents combined.

[More than 16 million Americans](#) also live with a disease caused by smoking, including stroke, heart disease, cancer, and emphysema.

While traditional cigarettes still pose a significant health challenge in the U.S., the market has rapidly changed in the past several years, with a focus on vaping products that appeal to youth and minorities.

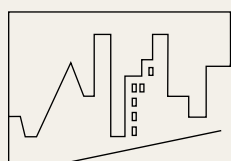
In 2009, Congress passed the [Family Smoking Prevention and Tobacco Control Act](#) (TCA), which gave the U.S. Food and Drug Administration (FDA) authority to regulate tobacco products using a public health standard. The TCA prohibited certain characterizing flavors, but notably left menthol in the marketplace.

Tobacco companies have aimed menthol cigarette marketing at Black communities for decades. [Researchers estimate](#) that removing menthol cigarettes from the market would prevent up to 654,000 smoking related deaths over time, including more than 238,000 smoking-related deaths among Black Americans.

Despite the TCA's prohibition, the market for flavored tobacco products has only grown, particularly as vaping has become popular. Even after FDA instituted an enforcement policy to reduce youth access to flavored e-cigarettes in January 2020, thousands of flavored products [remain available](#) at more than 100,000 locations across

the country. In the rapidly evolving tobacco market, menthol cigarettes and other tobacco products (smokeless tobacco, cigarillos, and vaping products) are [aggressively marketed](#) to appeal to new customers, targeting youth in particular with flavors that play a key role in enticing new users to a lifetime of addiction.

In December 2016, a [report](#) by the Surgeon General concluded that e-cigarette use by young people is a public health concern, noting that 18 year olds now use e-cigarettes more than regular cigarettes. Two years later, the Surgeon General [officially declared](#) youth e-cigarette use an epidemic. This report noted the nicotine salts in certain popular e-cigarettes allow users to inhale more easily and with less irritation. Certain e-cigarettes available in the U.S. have a nicotine level so high that [in some countries](#) they are illegal for consumers of any age. In 2021, [2 million youth](#) – that is, 11.3% of high school students and 2.8% of middle school students – were active e-cigarette users.



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The Big Cities Health Coalition (BCHC) is a forum for the leaders of America's largest metropolitan health departments to exchange strategies and jointly address issues to promote and protect the health and safety of their residents. Collectively, BCHC's 35 member jurisdictions directly impact more than 61 million people, or one in five Americans. [bigcitieshealth.org](https://www.bigcitieshealth.org)

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One in four students [reported daily use](#) of e-cigarettes, and most active youth e-cigarette users [used flavored products](#) (85%).

E-cigarettes are not just a public health concern among youth, but also among adults. A 2019–2020 outbreak of e-cigarette (vaping) product use-associated lung injuries (EVALI) led to a total of 2,807 hospitalized EVALI cases have been [reported to CDC](#) from all 50 states, the District of Columbia, and two U.S. territories (Puerto Rico and U.S. Virgin Islands), including 68 confirmed deaths in 29 states and the District of Columbia. Laboratory sample analyses [have showed](#) that vitamin E acetate, an additive in some THC-containing e-cigarette, or vaping, products, is strongly linked to the EVALI outbreak.

The need to reduce tobacco use and vaping have only grown since the appearance of COVID-19. CDC, FDA, and NIH have indicated that tobacco smoking and vaping can suppress the immune system and increase the risk for developing lung and heart disease and infections, putting smokers at [increased risk](#) of contracting COVID-19 and associated complications.

Even as the federal government ramps up its age restrictions, e-cigarette regulations, and flavor enforcement, [loopholes remain](#). Big city health departments across the country have been leaders in this space for years, filling gaps in federal regulations, using innovative and comprehensive policy levers to reduce tobacco use and save countless lives.

POLICY RECOMMENDATIONS

- ▶ Congress should do everything in its power to ensure FDA uses its full authorities under the TCA to regulate all tobacco and nicotine products and support the Agency in fully implementing comprehensive flavor restrictions.
- ▶ FDA should also be encouraged to include combustible tobacco products – such as hookah and pipe tobacco and vaping products – in flavor restrictions.
- ▶ Congress should authorize FDA to collect user fees on electronic nicotine delivery systems (ENDS) to allow a fair distribution of tobacco user fee assessments to all regulated tobacco products, including ENDS.
- ▶ FDA should work with partners at the state and local level to eliminate enforcement practices on flavor restrictions that target individuals, especially youth, and appropriately shift enforcement to manufacturers, distributors, wholesalers, importers and retailers who manufacture, distribute, or sell such products within the U.S. that are not in compliance with applicable requirements.
- ▶ Congress should encourage FDA to fully implement proposed graphic warnings for cigarette packages and advertisements that will better educate the public about the dangers of tobacco use.
- ▶ FDA should issue a rule to reduce nicotine in cigarettes to nonaddictive levels.



COLUMBUS MAYOR ANDREW GINTHER (AT PODIUM) & HEALTH COMMISSIONER MYSHEIKA ROBERTS (LEFT) EXPRESS SUPPORT FOR FLAVORED TOBACCO RESTRICTIONS (DEC. 2022)

Across the US, big cities – and their surrounding counties – have led the charge to implement restrictions on flavored tobacco products, including Alameda Co. (Oakland), Boston, Chicago, Columbus, Long Beach, Los Angeles Co., Minneapolis, Multnomah Co. (Portland), New York, San Diego Co., San Francisco, Santa Clara Co. (San Jose), and Washington, DC, as of summer 2023. With support from the health department, Cleveland’s mayor is also pursuing restrictions. Many local flavor restrictions include menthol; some have exempted cigars and hookah tobacco.