



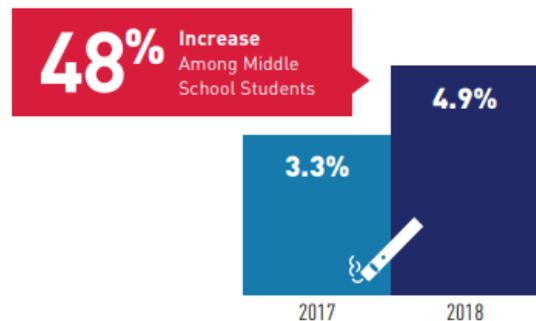
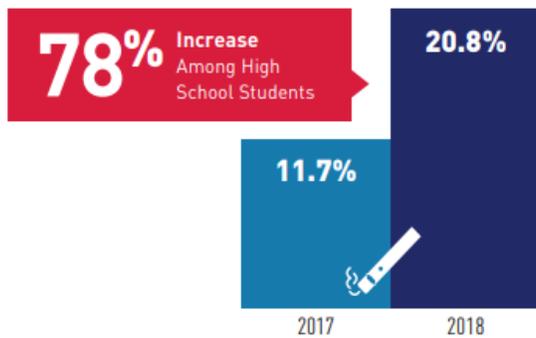
IN BRIEF

SB 38 will prohibit the retail sale of flavored tobacco products – including flavored electronic cigarettes – in retail stores and vending machines to halt an upswing in youth nicotine consumption.

SURGE IN YOUTH TOBACCO USE

Citing an alarming rise in e-cigarette use among youth the U.S. Food and Drug Administration (FDA) and the U.S. Centers for Disease Control and Prevention released a report in November 2018 showing that more than 3.6 million middle and high school students are using e-cigarettes. This is an increase of 1.5 million compared to 2017 and almost 13 times higher than the number of youth using e-cigarettes in 2011.¹

The stunning growth between 2017 and 2018 amounted to a 78 percent increase in e-cigarette use by high school students and a 48 percent increase by middle school students. By 2018, 1 in 5 high school students were using e-cigarettes and 1 in 20 middle school students were doing the same.² The year-over-year spike in e-cigarette use also drove up use of tobacco products overall to almost 4.9 million students in 2018, erasing what had been a decline in youth tobacco use.³



FDA – National Youth Tobacco Survey

HEALTH IMPACTS

Flavored e-cigarettes are falsely marketed as a “safe tobacco alternative”, yet they pose a significant public health risk, particularly to youth. One vape pod from JUUL, a leading e-cigarette manufacturer, is equivalent to the nicotine in 20 cigarettes.⁴ Exposure to nicotine during adolescence can harm brain development and predispose youth to future tobacco use.⁵

Flavored tobacco products are often a gateway to harder nicotine use. 80 percent of young people who have ever used tobacco started with a flavored product.⁶ Flavored cigarettes, except for menthol, are banned under Federal Law, but these rules do not apply to other tobacco products like e-cigarettes, cigars, and cigarillos. As a result, a variety of flavored tobacco products like cotton candy, bubble gum, and mango are widely available. These products often mimic popular candies, drinks, or snack in both packaging and flavor, making them particularly appealing to youth.

A 2017 study found that kids who use e-cigarettes are more likely to begin smoking traditional cigarettes as well as increase the frequency and intensity of smoking and vaping.⁷ “These results bolster findings for vaping as a one-way bridge to cigarette smoking among adolescents,” said the authors of the study.⁸ “To the best of our knowledge, the risk for future cigarette smoking is currently one of the strongest, scientific-based rationales for restricting youth access to e-cigarettes.”⁹

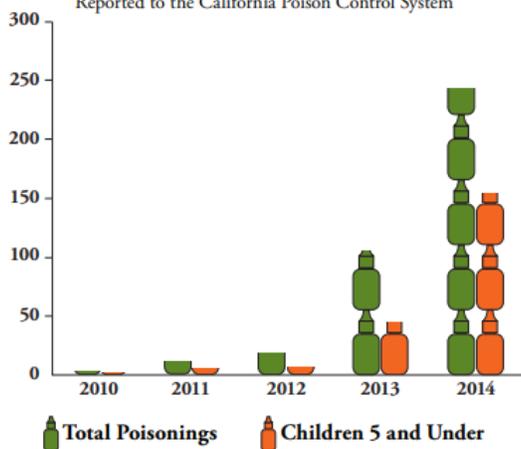
“These results bolster findings for vaping as a one-way bridge to cigarette smoking among adolescents,” - Richard Miech, MPH, PhD, University of Michigan

The California Department of Public Health warns that the danger posed by e-cigarettes is not limited to their nicotine content. E-cigarette aerosol contains at least 10 chemicals on California’s Proposition 65 list of substances known to cause cancer, birth defects or other reproductive harm.

Nationally and in California, calls to poison control centers have increased dramatically for exposure to e-cigarette liquids. Among children ages 0 to 5 years old, e-cigarette poisonings increased from 7 in 2012 to 154 in 2014. By the end of 2014, e-cigarette poisonings to young children tripled in one year, making up more than 60 percent of all e-cigarette poisoning calls.¹⁰

E-Cigarette Poisonings, 2010-2014

Reported to the California Poison Control System



CDPH – State Health Officer’s Report on E-Cigarettes

CURRENT LAW

Flavored cigarettes, except for menthol, are banned under Federal Law, but these rules do not apply to other tobacco products.

In 2016, California enacted the Stop Tobacco Access to Kids Enforcement Act, which regulates e-cigarettes in the same manner as other tobacco products and prohibits the sale of any tobacco products to a person under 21 years of age.

While there is no state law restricting the sale of flavored tobacco products, twenty-six California local governments have taken action to restrict youth access to flavored tobacco products.¹¹

THE SOLUTION

Under SB 38, retail stores and vending machines in California would be prohibited from selling flavored tobacco products. The legislation covers flavored e-cigarettes, e-hookahs, e-pipes and other vaping devices as well as all flavored smokable and nonsmokable tobacco products, such as cigars, cigarillos, pipe tobacco, chewing tobacco, snuff, and tobacco edibles.

Violators would face civil penalties ranging from \$400 to \$600 for the first incident to \$5,000 \$6,000 for a fifth violation in a five-year period.

SB 38 creates a threshold for restrictions and prohibitions regarding tobacco product sales and would not prevent local jurisdictions from taking further steps.

SUPPORT

- American Cancer Society Cancer Action Network (Co-Sponsor)
- American Heart Association (Co-Sponsor)

- American Lung Association (Co-Sponsor)
- African American Tobacco Control Leadership Council
- Alameda County Tobacco Control Coalition
- American Academy of Pediatrics, California
- American College of Cardiology, California Chapter
- American College of Emergency Physicians, California Chapter
- Association of California Health Care Districts
- Association of Northern California Oncologists
- Breathe California
- California Dental Association
- California Medical Association
- California Optometric Association
- California Pan-Ethnic Health Network
- California Society of Addiction Medicine
- California State PTA
- Campaign for Tobacco Free Kids
- The Cancer Journey
- City of Emeryville
- City of Oakland
- City of Palo Alto
- City of San Leandro
- City of San Pablo
- County Health Executives Association
- Families Uniting Locally to Solve Tobacco Proliferation
- Flavors Hook Kids – Livermore
- Health Access
- Institute for Health Promotion and Disease Prevention Research
- Kaiser Permanente
- Medical Oncology Association of Southern California
- Public Health Institute
- San Francisco Bay Area Physicians for Social Responsibility
- Santa Clara County
- Sierra Club California
- Silicon Valley Leadership Group
- University of Southern California (USC) Health, Emotion, and Addiction Laboratory
- USC Tobacco Center on Regulatory Science

FOR MORE INFORMATION

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¹ Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students — United States, 2011–2018. MMWR Morb Mortal Wkly Rep 2018;67:1276–1277. DOI: <http://dx.doi.org/10.15585/mmwr.mm6745a5>

² Ibid.

³ Ibid.

⁴ Truth Initiative. "6 Important Facts about JUUL." *Truth Initiative*, Truth Initiative, 29 Aug. 2018, truthinitiative.org/news/6-important-facts-about-juul.

⁵ Goriounova, N. A., and H. D. Mansvelde. "Short- and Long-Term Consequences of Nicotine Exposure during Adolescence for Prefrontal Cortex Neuronal Network Function." *Cold Spring Harbor Perspectives in Medicine*, vol. 2, no. 12, 2012, doi:10.1101/cshperspect.a012120.

⁶ California Department of Public Health. The Truth about Flavored Tobacco Info Graphic.

<https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/Policy/FlavoredTobaccoAndMenthol/FinalFlavoredTobaccoInfographic.pdf>.

⁷ Miech, Richard, et al. "E-Cigarette Use as a Predictor of Cigarette Smoking: Results from a 1-Year Follow-up of a National Sample of 12th Grade Students." *Tobacco Control*, vol. 26, no. e2, Jun. 2017, doi:10.1136/tobaccocontrol-2016-053291.

⁸ Ibid.

⁹ Ibid.

¹⁰ Chapman, Ron. *State Health Officer's Report on E-Cigarettes*. California Department of Public Health, Jan. 2015.

<https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/Media/NewsAndPressReleases/StateHealthEcigreport.pdf>.

¹¹ American Lung Association. *Matrix of Local Ordinances Restricting Sale of Flavored Tobacco*, Nov. 2018. <https://center4tobaccopolicy.org/wp-content/uploads/2018/11/Matrix-of-Local-Ordinances-Restricting-Flavored-Tobacco-2018-11-14.pdf>