



DON'T DEFER THE PROTECTION OF MICHIGAN'S KIDS TO FDA: STATE ACTION IS NEEDED TO REVERSE YOUTH E-CIGARETTE CRISIS

Youth e-cigarette use is a public health crisis. In Michigan, 14% of high school students are current e-cigarette users.¹ E-cigarettes are addicting a new generation of Michigan youth, endangering their health and threatening to reverse decades of hard-fought progress in reducing youth tobacco use. Only the elimination of all flavored e-cigarettes can end the worsening youth e-cigarette crisis and stop e-cigarette companies from luring and addicting kids with flavored products.

The FDA's Premarket Review Process is Not a Substitute for State Action

By September 9, 2020, all e-cigarette manufacturers were required to submit a premarket tobacco product application (PMTA) to the FDA in order to stay on the market. To date, the FDA has reported that it has acted on over 99% of the applications and has issued marketing denial orders (MDOs) for over one million flavored e-cigarette products. However, FDA has failed to take sufficient enforcement action to remove products that are illegally on the market. While the FDA has authorized 23 tobacco-flavored e-cigarettes, 80.6% of e-cigarettes sales in the U.S. and 92.7% of e-cigarette sales in Michigan are for flavored products—not a single one of which is authorized.² Michigan should act quickly to prohibit the sale of all flavored e-cigarettes to fully protect kids and close these gaps left by the FDA.

The FDA Has Failed to Clear the Market of Flavored E-Cigarettes

In September 2019, President Trump promised to clear the market of flavored e-cigarettes, but the FDA's February 2020 enforcement policy left flavored e-cigarettes widely available. While the policy restricted some flavors in pod-based e-cigarettes, it left thousands of kid-friendly e-cigarettes on the market, including flavored disposable e-cigarettes, flavored e-liquids that can be used in refillable devices, and menthol pod-based products.



Youth use data show that the FDA missed the opportunity to make far greater progress in reducing youth e-cigarette use as kids quickly migrated to the flavored products that were exempt from the policy:

- In 2023, nearly 90% of U.S. youth e-cigarette users reported using flavored e-cigarettes.³
- Youth are using a wider range of flavored e-cigarette devices. This is further evidence that playing whac-a-mole and cracking down on only some flavored products and brands will not end the public health crisis.
- In 2023, 60.7% of youth e-cigarette users reported using disposable e-cigarettes. Among current youth users of flavored disposable e-cigarettes, the most popular flavor types are fruit (70.5%) and candy, desserts, and other sweets (39.8%).⁴

E-cigarette sales data from Michigan also show that FDA action has done nothing to curb skyrocketing sales of e-cigarettes in Michigan, particularly of flavored products that are popular among kids:⁵

- From February 2, 2020, to December 31, 2023, sales of all flavored e-cigarettes in Michigan increased by 622.3% (from 183.0 thousand to 1321.5 thousand units); their unit share increased from 57.4% to 92.7%.
- From February 2, 2020, to December 31, 2023, disposable e-cigarette sales increased by 1659.8% (from 71.7 thousand to 1262.1 thousand); unit share increased from 22.5% to 88.5%. As of December 2023, 98.4% of sales of disposable e-cigarettes were for flavored products.

Michigan Must Take Action to Eliminate Loopholes in the FDA’s Policy

The FDA stood by for more than a decade while Big Tobacco hooked a generation of kids on e-cigarettes. The FDA’s February 2020 guidance and premarket review process have prioritized the e-cigarette industry over the health of America’s kids, falling far short of clearing the market of flavored e-cigarettes. Urgent action is needed to reverse the youth e-cigarette epidemic and Michigan’s kids can’t wait for FDA to act.

Don’t defer the safety of Michigan’s kids to the FDA

Michigan legislators need to take action

Support the “Protect MI Kids” (SB 647-654) bill package today

¹ 2021 Youth Risk Behavior Survey.

² CDC Foundation & Information Resources, Inc., “Monitoring U.S. E-Cigarette Sales: National Trends” and “Monitoring U.S. E-Cigarettes Sales: State Trends,” <https://www.cdcfoundation.org/programs/monitoring-e-cigarette-use-among-youth> Data from Information Resources, Inc. (IRI), which includes e-cigarette sales data from convenience stores, gas stations and other retail store chains. Sales from the internet and tobacco-specialty stores, including vape shops, are not included.

³ Birdsey J., et al. “Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023,” *MMWR*, 72(44): 1173–1182, November 3, 2023, <https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm>.

⁴ Birdsey J., et al. “Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023,” *MMWR*, 72(44): 1173–1182, November 3, 2023, <https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm>.

⁵ CDC Foundation & Information Resources, Inc., “Monitoring U.S. E-Cigarette Sales: State Trends,” <https://www.cdcfoundation.org/programs/monitoring-e-cigarette-use-among-youth>, Data from Information Resources, Inc. (IRI), which includes e-cigarette sales data from convenience stores, gas stations and other retail store chains. Sales from the internet and tobacco-specialty stores, including vape shops, are not included.