

LC 455: Prohibiting the Sale of Flavored Tobacco and Closing the Regulatory Gap for Synthetic Nicotine

Oregon can protect a new generation of young people from addiction to nicotine by prohibiting the sale of flavored tobacco and regulating synthetic nicotine products.

Flavored tobacco and synthetic nicotine products continue an “epidemic” of youth tobacco use

Despite three decades of steady declines in cigarette smoking, nicotine addiction among youth remains a serious and growing concern, primarily due to increasing popularity of flavored tobacco products such as e-cigarettes.

Tobacco use remains the leading cause of preventable death in Oregon and the U.S. Each year, tobacco use kills over 8,000 Oregonians and costs almost \$5.7 billion in medical expenses and lost productivity. Reducing smoking and nicotine addiction will save thousands of lives and billions of dollars in Oregon.

Evidence shows that flavored tobacco products lead to increased smoking initiation, greater addiction, and decreased quit success. Young people will access flavored products directly from retail outlets if they are available. It is imperative to remove flavored tobacco products and flavored synthetic nicotine products from store shelves in Oregon.

Enticing flavors and colorful packaging are key strategies to encourage youth to use tobacco products, by making them seem less harmful and more appealing. Flavors make it easier for kids to start using tobacco products, and then the addictive nicotine makes it hard to stop. That’s why nine out of ten adults who smoke started smoking before turning 18.

In Oregon, three out of four 11th graders who use tobacco started with an e-cigarette or vaping product. 84% of Oregon youth who use e-cigarettes report using flavored products, often kid-friendly flavors such as cherry, banana split, cotton candy, or mint. Youth and young adults use flavored tobacco products at higher rates than adults 25 years and older. In a study of Oregon 16- to 20-year-olds who vape flavored products, mint and menthol were most often used (57%) followed by sweet candy-like flavors (50%).

Federal regulations have prohibited flavored cigarettes since 2009, except for menthol. The cooling sensation of menthol makes it easier to initiate smoking and harder to quit. Tobacco industry documents reveal that Black/African American communities, youth, and LGBTQ+ communities have all been aggressively targeted with tailored marketing campaigns and price promotions for menthol cigarettes. These practices have led to the burden of menthol cigarette use falling most heavily on youth and Black and African American communities. In Oregon,

among people who smoke, 19% of all adults smoke menthol cigarettes, compared to 45% of 11th graders and 51% of Black/African American adults.

Also, a new wave of nicotine products is emerging. A growing number of e-cigarette and other nicotine products manufacturers have switched to using synthetic nicotine – created in a laboratory and not derived from the tobacco leaf – to evade U.S. Food and Drug Administration (FDA) regulation and continue marketing their products to kids. For example, Puff Bar was one of the most popular e-cigarette brands among youth in 2021. It uses synthetic nicotine in Strawberry Banana, Cool Mint, Watermelon, Pink Lemonade, Juicy Apples and other flavors. Chemically identical to tobacco leaf nicotine, synthetic nicotine is highly addictive, and should be included in policies to prevent youth nicotine addiction. Additionally, new oral nicotine products, both tobacco derived and synthetic nicotine, are increasing in popularity and are also currently exploiting this regulatory loophole.

Prohibiting flavored tobacco and synthetic nicotine products will improve public health and advance health equity

This legislative concept will:

- ▶ Prohibit all flavored tobacco products, reducing the appeal to youth, decreasing the likelihood of experimentation and nicotine dependence, and increasing the number of individuals who attempt to quit, and
- ▶ Establish consistent regulation of tobacco products containing synthetic nicotine.

Both measures will improve health and save lives.

Prohibiting the sale of flavored tobacco products – including menthol cigarettes, little cigars, smokeless tobacco, and Inhalant Delivery Systems (IDS) such as e-cigarettes and vaping devices – will get appealing flavored products out of the hands of Oregon youth.

Nationally, a ban of menthol cigarettes alone is estimated to save between 300,000 and 600,000 lives by 2050. One year after a flavored tobacco sales ban in Massachusetts, sales data showed a 96% drop in menthol sales and a 95% drop in other flavored tobacco sales. While sales of unflavored tobacco products increased by 10%, there was still an overall 25% drop in tobacco product sales.

Banning the sale of flavored tobacco products, including menthol, may also stop tobacco companies from marketing these addictive products to people with low incomes, Black/African American, American Indian and Alaska Native, and LGBTQIA+ communities. Restricting flavored tobacco products is an important step to reverse the unjust burden and shortened lifespan experienced by many Oregonians.

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