

Policies to End the Sale of Flavored Tobacco Products Must Be Comprehensive

For decades, tobacco companies have used flavors, in cigarettes, cigars, e-cigarettes, hookah, to lure and target youth and young people and expose them to a lifetime of nicotine addiction, disease, and premature death. Flavors, especially menthol, are known to improve the ease and use of a product by masking the tobacco's harsh effects.

Tobacco products with flavors like menthol, cotton candy, pineapple, mint, and chocolate milkshake are clearly not aimed at adults who use tobacco. Tobacco industry documents confirm the intended use of flavors has been to target new youth users. According to the 2021 National Youth Tobacco Survey, among middle and high school students who used tobacco products, 79.1% reported using a flavored tobacco product.ⁱ



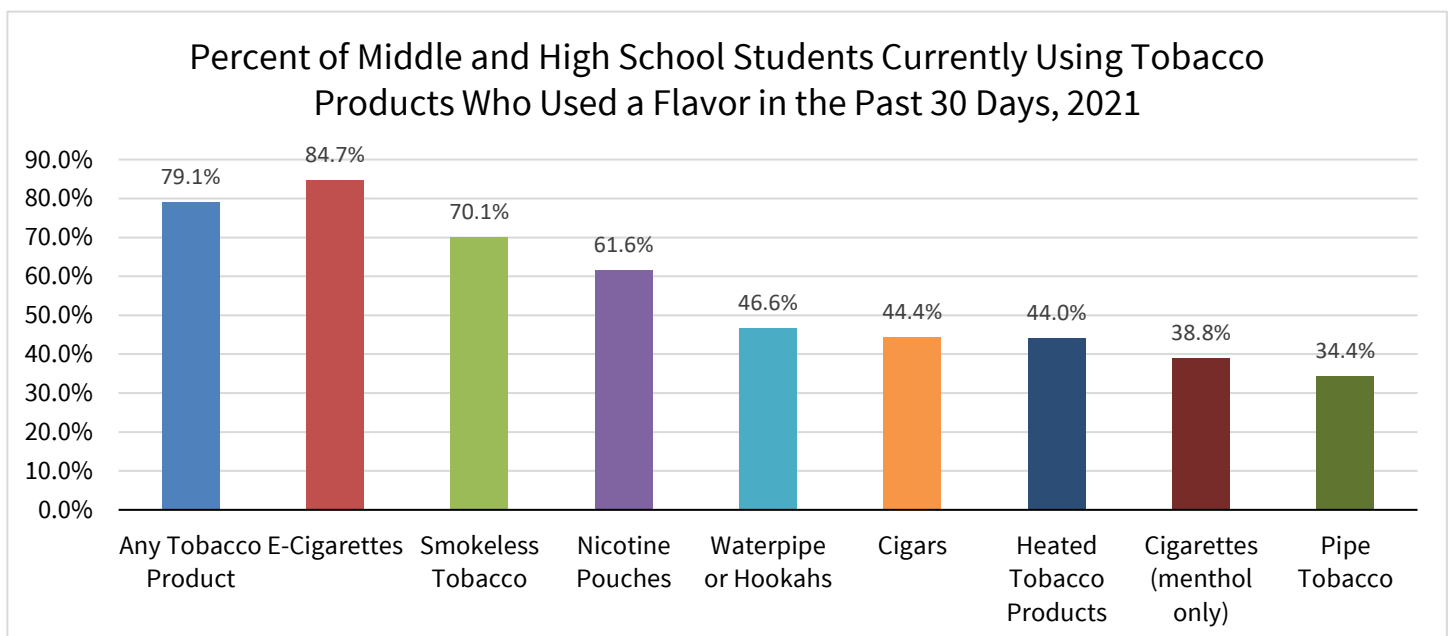
Flavors are a marketing weapon tobacco companies use to target youth and young people to a lifetime of addiction.

The **2021** National Youth Tobacco Survey found that among middle and high school students who used any tobacco product, **79.1%** reported using a flavored tobacco product and e-cigarettes were the most commonly used flavored tobacco product.



Gentzke AS, Wang TW, Cornelius M, et al. Tobacco Product Use and Associated Factors Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021. MMWR Surveill Summ 2022;71(No. SS-5):1-29. DOI: <http://dx.doi.org/10.15585/mmwr.ss7105a1>.

In fact, a 2022 CDC study reported the most used flavors of e-cigarettes among middle and high school students who were currently using e-cigarettes were fruit (69.1%), candy, desserts, or other sweets (38.3%), mint (29.4%), and menthol (26.6%).ⁱⁱ Importantly, menthol is derived from mint products and can be found naturally or developed synthetically.ⁱⁱⁱ Despite the premarket review requirement that all tobacco products obtain authorization by the U.S. Food and Drug Administration (FDA) to be marketed and sold, thousands of flavored tobacco products remain illegally on the market.



Flavored Tobacco Products Cannot Meet the Public Health Standard

The Family Smoking Prevention and Tobacco Control Act (TCA) of 2009 granted the FDA the authority to regulate the manufacture, marketing, sale, and distribution of tobacco products for the first time. One of the most powerful provisions of the law included the requirement that all new tobacco products, including the majority of e-cigarettes and some cigars, smokeless tobacco, hookah and pipe tobacco, undergo premarket review by FDA to determine if they are “appropriate for the protection of the public health,” otherwise known as the public health standard. All tobacco products must receive a marketing order from FDA before the product can be sold legally.

ACS CAN believes no flavored tobacco product can meet the standard of “appropriate for the protection of the public health” and therefore any flavored tobacco product should be denied premarket review. There is extensive evidence that the tobacco industry adds flavors to tobacco products to target youth, communities of color, individuals who identify as LGBTQ+ and others with its deadly products.

ACS CAN’s Position

There is no public health benefit to including flavors in tobacco products. Therefore, no flavored product should be exempt from any comprehensive tobacco control policy. All tobacco products are unsafe, including those the FDA determines can be sold. Therefore, tobacco control policies to end the sale of menthol cigarettes and all other flavored tobacco products, must be comprehensive meaning:

- ❖ Effective policies to end the sale of flavored tobacco products need to include all tobacco products, all flavors and all retailers.
- ❖ Effective policies to end the sale of flavored tobacco products must not exempt or exclude specific types of tobacco products nor exempt or exclude specific flavors – these policies must include all products and all flavors.
- ❖ Effective policies to end the sale of flavored tobacco products cannot exempt or exclude any flavored tobacco product that may receive a marketing granted order by the FDA, as no flavored tobacco product can meet the public health standard.

The tobacco industry has a history of using litigation to avoid and delay regulations enacted to safeguard the public. Therefore, comprehensive policies to end the sale of flavored tobacco products must include all tobacco products, all flavors, and all tobacco retailers to withstand legal challenges. Eliminating the sale of all flavored tobacco products is the only way to maximize the public health impact by preventing the industry from luring children into a lifetime of addiction.

ACS CAN urges lawmakers to protect public health, not Big Tobacco’s profits, by passing comprehensive tobacco control policies that apply to all tobacco products.

References

ⁱ Gentzke AS, Wang TW, Cornelius M, et al. Tobacco Product Use and Associated Factors Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021. *MMWR Surveill Summ* 2022;71(No. SS-5):1–29. DOI: <http://dx.doi.org/10.15585/mmwr.ss7105a1>.

ⁱⁱ Cooper M, Park-Lee E, Ren C, Cornelius M, Jamal A, Cullen KA. Notes from the Field: E-cigarette Use Among Middle and High School Students — United States, 2022. *MMWR Morb Mortal Wkly Rep* 2022;71:1283–1285. DOI: <http://dx.doi.org/10.15585/mmwr.mm7140a3>.

ⁱⁱⁱ Tobacco Products Scientific Advisory Committee. Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations pdf icon[PDF–15.3 MB]external icon. Rockville, MD: US Department of Health and Human Services, Food and Drug Administration; 2011.