

CANCER BRIEF: *Flavored Tobacco*



Brief #6, Spring 2013 Big Tobacco's Latest Effort To Hook Kids

This Cancer Brief is one of a series examining cancer in New York. Each of these Briefs offers policymakers and the public information on how best to prevent or combat cancer or its impacts on patients through policy changes.

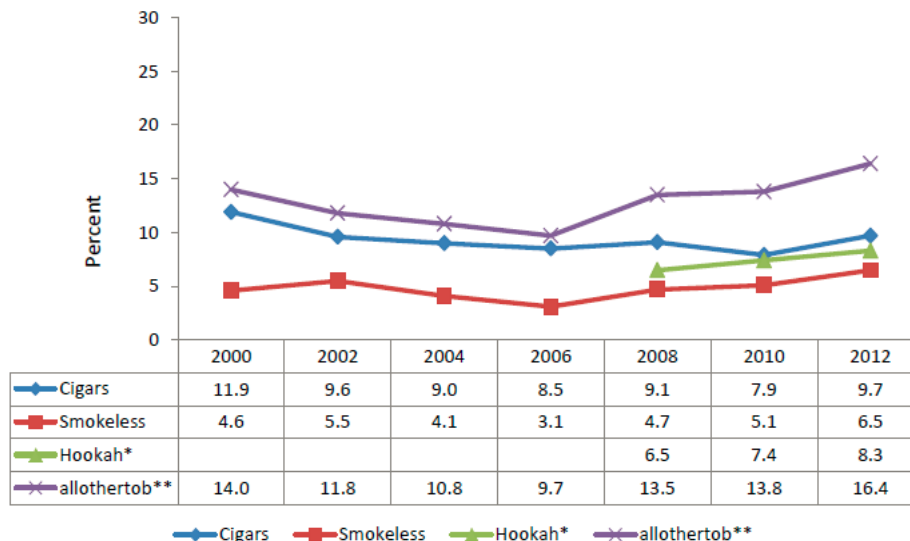
Problem: Tobacco companies are increasingly offering sweet-flavored non-cigarette tobacco products. This shift in marketing coincides with a growing use of these products by minors.

Solution: The Congress has banned cigarettes with certain characterizing flavors other than tobacco or menthol. New York City has dramatically restricted the sale of flavored, non-cigarette tobacco products. New York State should follow suit by restricting the sale of these products to tobacco stores only, thus making it far more difficult for minors to access these types of tobacco.

New York high school students are increasingly using non-cigarette tobacco products.

As seen below, the use of non-cigarette tobacco products is on the rise among New York high school students, at a time when cigarette use is decreasing.¹

Trends in other tobacco use among high school students in New York State, 2000-2012



* Hookah refers to tobacco smoked in a water pipe. The NY Youth Tobacco Survey started collecting data on Hookah use starting in 2008.
 **allothertob refers to all other tobacco products including cigars, smokeless tobacco and hookah. Cigarettes are not included.

The New York State Department of Health estimates that in 2012, 154,000 high school youth used tobacco products such as cigars, smokeless tobacco, or hookahs on one or more days in the past 30 days.²

Why the increase? It is at least partly due to changes the tobacco industry made in its marketing strategies. In 2009, Congress enacted the Family Smoking Prevention and Tobacco Control Act banning the use of flavors other than menthol in *cigarettes*.³ Internal company documents show that some tobacco manufacturers responded by introducing new lines of cigars and pipe tobacco, which are not currently regulated by U.S. Food and Drug Administration or subject to the flavoring ban and would be taxed at significantly lower rates.⁴

Tobacco companies are increasingly offering candy flavored non-cigarette tobacco products.

Tobacco companies have reacted to the federal ban on flavored cigarettes by marketing a variety of new cigar and smokeless tobacco products, many with sweet flavors and colorful packaging that attract kids. Below are some examples of these products:



Why would the industry offer candy-flavored tobacco products?

Every year roughly 400,000 smokers die from tobacco use⁵ and the industry knows it must at least replace those lost customers – plus the ones who successfully quit the addiction. The industry also knows that nearly 90 percent of those who use tobacco began before the age of 18 – the legal minimum age for purchasing.⁶ For decades, the tobacco industry has worked to devise ways to get teens to start smoking. One key way was to offer candy-flavored tobacco products. The industry is well aware of the mountain of research that shows that the younger the age, the more appealing sweets are.⁷ As a result, the industry has worked for decades to offset the nasty taste of tobacco with candy flavors.

Internal tobacco industry documents reveal a clear effort to use candy-flavored tobacco to appeal to kids.

An important function of the flavorings added to tobacco is to mask from tobacco product users, particularly new users, the harsh, toxic properties of tobacco smoke and spit tobacco. Tobacco industry internal documents uncovered during litigation show that manufacturers have long regarded flavored merchandise as “starter” products from which teenage experimenters will “graduate” to adult brands.

A memorandum prepared by US Smokeless Tobacco’s marketing department depicts its “graduation strategy” in a chart. The plan is to begin users with flavored Skoal and Happy Days brand products, and gradually “promote” them to the full-nicotine, tobacco flavored Copenhagen brand. It describes:

“Three products of three different tastes and strengths of nicotine: a) High nicotine, strong tobacco flavor...b) Medium strength of nicotine...using a Happy Days product [Happy Days comes in three flavors “natural,” “sweet” and “mint”]... c) Low nicotine, sweet product [Skoal]...Do we flavor this product with honey, chocolate or vanilla?”⁸

In addition to mint, Skoal today is sold in peach, cherry, apple, vanilla and berry flavors. These efforts have been tremendously successful. And as seen in the chart on page 1, the use of smokeless tobacco by New York high school students has more than doubled between 2006 and 2012.

If anything, cigars, especially “little cigars,” provide even more egregious examples of this marketing strategy. Swisher Sweets come in cherry, strawberry, peach and grape flavors. Captain Black little cigars are sold in “Tahitian Cherry,” and “Madagascar Vanilla” varieties. And then there’s HBI International, which produces wrappers in more than 30 flavors including *Milk Chocolate, Peaches & Cream, Mango, Bubblegum and Chocolate Chip Cookie Dough*.

Industry documents have previously revealed clear patterns of designing flavored cigarettes to target youth. Advisors to one company developed concepts for a “youth cigarette,” including cola and apple flavors, and a “sweet flavor cigarette,” stating:

“It’s a well-known fact that teenagers like sweet products. Honey might be considered.”⁹

A memo from another company instructed workers to:

“make a cigarette which is obviously youth oriented. This could involve cigarette name, blend, flavor and marketing technique.... for example, a flavor which would be candy-like but give the satisfaction of a cigarette.”¹⁰

And these new efforts are paying off: A recent report by the U.S. Centers for Disease Control and Prevention indicated that the total consumption of cigarettes decreased by 32.8% from 2000 to 2011, whereas non-cigarette combustible tobacco, which includes cigars and loose tobacco, increased by 123%. Additionally, the percentage of combustible tobacco consumption composed of loose tobacco and cigars increased from 3.4% in 2000 to 10.4% in 2011. These results are of importance because youths are known to have higher rates of cigar use than adults.¹¹

New York City has responded to the Congressional loophole by passing a local law that restricts the sale of candy-flavored non-cigarette tobacco products in order to reduce its allure and availability to minors.

The City of New York acted to close the federal loophole allowing the sale of non-cigarette, flavored tobacco products with its law restricting the sale of such products to tobacco-only businesses.¹² Earlier

this year, a legal challenge to the City's power to enact such a law was rejected by federal courts and the law is now in effect.¹³

Recommendation: New York State should enact a law similar to New York City's restricting the sale of candy-flavored tobacco products. Despite the federal ban on flavored cigarettes, flavored cigars and smokeless tobacco products continue to inappropriately attract new, young, users. A restriction on the sale of all flavored tobacco is a much-needed step to protect children and to reduce their risk of nicotine addiction and the subsequent lethal effects of tobacco. New York City has enacted such a restriction and the state should too. Governor Cuomo and state lawmakers must support passage of such life-saving legislation.

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¹ New York State Department of Health, Bureau of Tobacco Control, "Use of Tobacco Products Other than Cigarettes among High School Students," StatShot Vol.6, No.4/April 2013.

² *Ibid.*

³ U.S. Public Law 111-31.

⁴ U.S. Congress, Committee on Energy & Commerce (Democrats), "Ranking Member Waxman Releases New Tobacco Documents And Calls on FDA to Protect Youth by Closing Tobacco Loopholes," see: <http://democrats.energycommerce.house.gov/index.php?q=news/ranking-member-waxman-releases-new-tobacco-documents-and-calls-on-fda-to-protect-youth-by-closi> .

⁵ U.S. Centers for Disease Control and Prevention, "Smoking and Tobacco Use: Fast Facts," see: http://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/.

⁶ U.S. Centers for Disease Control and Prevention, "Preventing Tobacco Use Among Youth and Young Adults: Fact Sheet," see: <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/factsheet.html>.

⁷ For an example of such research, see: De Graaf, C, Zandstra, E., "Sweetness Intensity and Pleasantness in Children, Adolescents, and Adults," *Physiology & Behavior*, Vol. 67, No. 4, pp. 513-520, 1999

⁸ Connolly, G., "The marketing of nicotine addiction by one oral snuff manufacturer," *The British Medical Journal*, Tobacco Control, 1995, 4:73-79, see: <http://tobaccocontrol.bmj.com/content/4/1/73.full.pdf>. See footnote 15 in article.

⁹ Marketing Innovations, "Youth Cigarette - New Concepts," Memo to Brown & Williamson, September 1972, Bates No. 170042014.

¹⁰ R.J. Reynolds Inter-office Memorandum, May 9, 1974, Bates No. 511244297-4298.

¹¹ U.S. Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report, "Current Tobacco Use Among Middle and High School Students — United States, 2011, August 10, 2012 / 61(31); 581-585, see: http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6131a1.htm?s_cid=mm6131a1.htm_w.

¹² A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the regulation of tobacco products. Enactment date: 10/28/2009, Law number: 2009/069.

¹³ *U.S. Smokeless Tobacco Manufacturing Co. et al. v. City of New York*, No. 11-5167-cv, 2013 WL 676078 (2d Cir. Feb. 26, 2013).