

YES ON 31

PROTECT KIDS

FROM CANDY-FLAVORED TOBACCO



Frequently Asked Questions

What is Proposition 31 and why is it on the ballot?

In 2020, the California Legislature passed SB 793, a bill which ended the sale of candy-flavored flavored tobacco products in California, including minty-menthol cigarettes. Each year, 6,800 California kids become new daily smokersⁱ and 4 out of 5 kids who have used tobacco started with a flavored product.ⁱⁱ The bill was passed to protect children from getting hooked on candy-flavored tobacco products.

In an attempt to overturn SB 793, out-of-state tobacco companies filed and qualified a referendum for California's November 2022 statewide ballot. A "yes" vote on Proposition 31 will uphold the state's bipartisan and overwhelmingly popular law ending the sale of candy-flavored cigarettes, cheap sweet cigars, and minty menthol cigarettes and a "no" vote will repeal it. The implementation of SB 793 is suspended pending the outcome of the Proposition 31.

Smoking is on the decline, do we really need to take candy-flavored tobacco off the shelves in California?

The fact is youth e-cigarette use remains at epidemic levels with more than 2 million middle and high school kids still using e-cigarettes. Kids clearly prefer candy-flavored e-cigarettes and use a variety of flavors. According to the 2021 National Youth Tobacco Survey, 84.7% of youth e-cigarette users use flavored e-cigarettes, a 20% increase since 2019.

Ending the sale of all candy-flavored and minty-menthol flavored nicotine products is a necessary step towards keeping our kids safe.

Aren't there already laws in place to limit the sale of tobacco to minors?

Unfortunately, experience has shown that even with strong youth access laws, youth are still able to obtain flavored tobacco products through circles like groups of friends. And with candy flavors like sour apple, fruity pebbles and sugar cookie, and minty menthol (the original candy-flavored cigarette), it's clear that Big Tobacco is targeting youth for these products.

According to the 2018 National Youth Tobacco Survey, 72.6% of middle and high school e-cigarette users under 18 report obtaining e-cigarettes from social sources—primarily friends.ⁱⁱⁱ These restrictions have no impact on youth who are accessing e-cigarettes from sources who can buy them legally.

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What impact will ending the sale of candy-flavored tobacco have on California's economy?

Smoking is extremely costly for California businesses and taxpayers. Tobacco use costs approximately \$13.3 billion in health care costs each year, including \$3.6 billion in Medi-Cal expenditures.^{iv} Upholding the law and ending the sale of candy-flavored tobacco would save more than \$800 million in health care costs each year.^v

Ending the sale of candy-flavored tobacco will help youth avoid a lifelong addiction to smoking, and employers will benefit by having a healthier and more productive workforce. A study from [The Ohio State University](#) estimated that employers pay an extra \$6,000 per year for each employee who smokes. This estimate takes into account the costs of absenteeism, lost productivity, smoke breaks and health care costs^{vi}

Finally, most of the money spent on flavored tobacco products (80.4%) is exported from California to out-of-state tobacco manufacturers and farmers. Keeping these revenues in state will result in \$580 million in economic activity and a net increase of more than 3,000 jobs.^{vii}

What products are included in California's statewide law ending the sale of candy-flavored tobacco?

California's statewide law ends the sale of the vast majority of California's flavored tobacco products, including candy-flavors. There are currently some exemptions for certain products, like premium cigars and pipe tobacco used by elderly Californians, though dozens of California cities and counties have taken even tougher stances towards Big Tobacco.

Will ending the sale of flavored tobacco hurt retailers such as convenience stores?

First, ending the sale of flavored tobacco is just that, a policy to take *candy-flavored* tobacco off the shelves. It is geared toward stopping kids from ever starting to smoke and facing a lifetime of nicotine addiction. Tobacco-flavored tobacco products will still be available for retailers to sell to smokers.

However, tobacco isn't the primary reason that customers shop at convenience stores. A 2015 national industry report found that 49% go to purchase a drink, 35% to purchase food or snack and 17% for other reasons such as buying tobacco, accessing an ATM or using the bathroom.^{viii}

What's more, nationally convenience stores and gas stations do not generate as much gross profit for stores from tobacco as from foodservice. In 2019, tobacco products made up 34% of convenience store sales, but only 17% of gross profit dollars. By contrast, foodservice made up 25% of store sales and 39% of gross profit dollars.^{ix}

How does California's policy interact with the FDA's ban on e-cigarettes and their recent announcement about a menthol ban?

California is once again leading the nation on stopping Big Tobacco from preying on our children with candy-flavored nicotine. This measure sets the gold standard for protecting kids with a

comprehensive policy that ends the sale of candy-flavored tobacco including minty-sweet menthol cigarettes (the original candy flavor). We need California to keep leading immediately because each year thousands of kids are getting hooked on flavored tobacco. In 2020, the FDA restricted some flavored products from the marketplace, but left flavored e-liquids and disposable cigarettes widely available in every imaginable flavor. A piecemeal approach won't protect our kids.

The FDA has indicated it intends to prohibit the sale of menthol cigarettes. The FDA's announcement was the first step in what will be a long rule-making process at the federal level. California's bipartisan law ending the sale of most flavored tobacco products would be in line with federal policy on menthol, but would happen more quickly and offer more immediate protections for kids and at risk communities.

How does California's policy interact with local policies that end the sale of flavored tobacco?

California currently has more than 100 local jurisdictions that have passed some measure to end the sale of candy-flavored tobacco and/or menthol cigarettes. SB 793 consolidates what is currently a patchwork system of city and county ordinances into a statewide policy dealing with most flavored products. While some jurisdictions could choose to be even tougher against Big Tobacco, the vast majority of flavored tobacco products in the state would be treated the same. This would create a more level playing field for businesses selling tobacco products.

Won't this just create an illicit market for flavored products?

No, and research from Canada, which ended the sale of menthol cigarettes in 2017, proves it. According to a University of Waterloo study, stopping the sale of menthols in Canada did not lead to a high level of illicit menthol cigarette purchasing. Fewer than 10 percent of menthol smokers reported still smoking a menthol brand after the products were taken off the shelves.^x

ⁱ Campaign for Tobacco Free Kids, April 2021, <https://www.tobaccofreekids.org/problem/toll-us/california>

ⁱⁱ Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.

ⁱⁱⁱ Liu, ST, et al., "Youth Access to Tobacco Products in the United States, 2016-2018," *Tobacco Regulatory Science*, 5(6): 491-501, 2019.

^{iv} Chaloupka, F. J. and Glantz, S.A. Potential Effects of a Ban on the Sale of Flavored Tobacco Products in California, University of Illinois at Chicago, 2021. <https://tobacconomics.org/files/research/671/ca-flavor-ban-and-revenues-3-29-21.pdf>.

^v Chaloupka, F. J. and Glantz, S.A. Potential Effects of a Ban on the Sale of Flavored Tobacco Products in California, University of Illinois at Chicago, 2021. <https://tobacconomics.org/files/research/671/ca-flavor-ban-and-revenues-3-29-21.pdf>.

^{vi} Ohio State University, 2013, <https://tobaccofree.osu.edu/research/study-companies-pay.html>

^{vii} Chaloupka, F. J. and Glantz, S.A. Potential Effects of a Ban on the Sale of Flavored Tobacco Products in California, University of Illinois at Chicago, 2021. <https://tobacconomics.org/files/research/671/ca-flavor-ban-and-revenues-3-29-21.pdf>.

^{viii} Oller, S., Preliminary report from the National Association of Convenience Stores State of the Industry Summit, CSP Daily News, May 2018

^{ix} "SOI 2020: Category Breakdown," CSP Daily News, May 19, 2020, <https://www.cspdailynews.com/general-merchandise/soi-2020-category-breakdown>

^x https://www.eurekalert.org/pub_releases/2021-04/uow-cbo040521.php