



**Testimony**

of

**Oxiris Barbot, MD  
Commissioner**

**New York City Department of Health and Mental Hygiene**

before the

**New York City Council Committee on Health**

on

**Intro 1345 and Intro 1362**

**January 30, 2019  
Committee Room  
New York City**

Good afternoon, Chair Levine and members of the Health Committee. I am Dr. Oxiris Barbot, Commissioner of the New York City Department of Health and Mental Hygiene. Thank you for the opportunity to testify on these important issues and have this be my inaugural appearance before this committee as Commissioner.

As the City's doctor, my highest priority is to improve the health of all New Yorkers and reduce health inequities. It is therefore fitting that today we are here to discuss the dangers of both menthol and flavored e-cigarettes – two issues of significant health risk and disparity. As a doctor, the most important advice for a long, healthy life that I can give New Yorkers is to never start smoking, and to get help quitting if they already smoke. This advice applies to all tobacco products. And as a pediatrician, I also know how especially important it is to prevent New York City's youth from becoming addicted to nicotine, which is now of grave concern because of the increasing popularity of e-cigarettes.

First, I will address e-cigarettes. Between 2001 and 2017, New York City's youth cigarette smoking rate dropped by 72 percent, from 18 percent to 5 percent. This is a testament to the serious work we have undertaken to tackle tobacco over the last two decades, making New York City a national leader in tobacco control. Together we have worked to enact bold policies specifically targeted to prevent youth initiation of tobacco and e-cigarette use, including restricting the sales of flavored tobacco products and banning the sale of e-cigarettes, cigarettes and other tobacco products to those younger than 21 years of age at local retailers. We have also updated the Smoke Free Air Act to prohibit e-cigarette use everywhere smoking is prohibited, and we have reduced the availability of these products by banning their sale at pharmacies. The recent package of laws, passed in 2017 and fully implemented in 2018, help move us towards our goal of reducing the number of smokers in New York City by 160,000 by 2020. I want to thank Speaker Johnson, Chair Levine, Councilmember Cabrera and others in the Council for their leadership in this effort.

While these laws are significant in our fight against adult and youth tobacco use, they are not enough. Despite this progress, youth e-cigarette and other tobacco product use, including cigarillo, little cigars and smokeless tobacco products, has been increasing substantially. Although e-cigarettes have been on the market for less than ten years, in 2017, over 17 percent of New York City public high school students reported vaping at least once in the past month. E-cigarette use is now more than three times as common among youth as smoking cigarettes. The rise in popularity of these products threatens decades of progress we have made in fighting youth tobacco and nicotine use.

Let me repeat: In 2001, 19 percent of public high school youth used one or more traditional nicotine products; in 2017, that number increased to 21 percent, driven primarily by e-cigarette use.

Although e-cigarettes do not contain tobacco, an estimated 99 percent of e-cigarettes contain nicotine, which can be particularly addictive for youth. The amount of nicotine in e-cigarettes varies greatly between products and is often not labelled clearly or in an easily understandable way. For example, youth may not be aware that one pod of a popular e-cigarette, JUUL, contains as much nicotine as a whole pack of cigarettes. Nicotine is one of the most addictive substances available in a consumer product. E-cigarettes also release potentially harmful chemicals that have not been fully studied to determine their health effects over time, and youth who use e-cigarettes are more likely to try cigarettes in the future. Despite claims that e-cigarettes are an effective way to quit smoking, this is not backed by sufficient scientific evidence.

Further, the e-cigarette industry is rapidly expanding. E-cigarette sales nearly doubled between 2017 and 2018, reaching over 2 billion dollars amid more than a 75 percent increase in market size. And Big Tobacco has a heavy hand in this market – we know that some tobacco companies have large investments in – or outright own – e-cigarette manufacturers. Perhaps most critically, many e-cigarette companies deploy nefarious marketing strategies long-used by Big Tobacco, including positioning these products as glamorous and targeting youth with thousands of flavors. Flavors have been identified as one of the top reasons why youth use e-cigarettes, and with options like Cotton Candy, GummiBerry and Sno-Cone the youth appeal is not surprising. Flavors are of such importance to the tobacco industry that they have introduced “concept flavors” – like Purple instead of Grape – in order to hinder flavor restriction enforcement in local jurisdictions. The proliferation of these types of flavors for both tobacco and e-cigarette products is widely believed to be an intentional effort by the tobacco industry to try to flout the laws already in place. Strong retail enforcement of these laws is needed given the deceitful steps the tobacco industry has taken in response to past efforts.

These potential harms and dangerous marketing strategies, coupled with the Surgeon General’s declaration that e-cigarettes have reached epidemic levels of use among our younger generations, are cause for alarm and immediate action. New York City now, more than ever, must act to protect our youth from these products.

Now I’d like to turn to the second issue at hand today – menthol. Among New York City youth who smoke, nearly two-thirds reported having started with menthol or another flavored tobacco product.

Menthol, like other flavors, helps conceal the harshness of tobacco and produces a more appealing product that is easier for new users, like youth, to tolerate.

But this is not just about protecting New York City's youth. There is a bigger picture here to paint, one fraught with discrimination, as well as racial and health inequity. For decades, Big Tobacco has targeted communities of color with menthol cigarette marketing campaigns. Unfortunately, I can tell you these campaigns have worked. In New York City, menthol cigarettes are used by 85 percent of Black adults who smoke and 64 percent of Latino adults who smoke. This is unfair and unjust, and is a true health equity issue – one perpetuated by Big Tobacco and ignored for decades by federal, state and local governments nationwide.

If we don't act now, we will lose ground in our fight to protect future generations and communities of color from Big Tobacco's deadly grip. The potential health impact here is very real – we know that tobacco use is a leading cause of death. And we must reach the day when smoking related and preventable diseases such as heart disease and stroke are not the key drivers of premature mortality in New York City. We estimate that over 100,000 New Yorkers may attempt to quit smoking immediately after a ban on menthol takes effect – that's over 100,000 people potentially protected from these deadly products and the dangers of smoking.

This Administration will not tolerate these discriminatory, predatory actions by the industry, and we are here to join you in taking a stand and taking action. I thank the Council for recognizing the dangers of flavored e-cigarettes and menthol products, and Chair Levine and Councilmember Cabrera for sponsoring these needed pieces of legislation. The Administration fully supports banning all flavored, including mentholated, e-cigarettes, as well as banning the sale of menthol cigarettes and other tobacco products. Doing so is a critical step in protecting our City's youth and communities of color. I look forward to working with you to pass these bills.

Thank you for the opportunity to testify. I am happy to answer questions.

**New York City Council**

**Committee on Health**

**Testimony of Matthew L. Myers**

**President, Campaign for Tobacco-Free Kids**

**In Support of Proposed Int. 1362-2019, Int. 1345-2019**

**New York, NY  
January 30, 2019**



Thank you for the opportunity to submit written testimony in support of Int 1345 and Int 1362. Actions taken by the Council over the past two decades have been instrumental in reducing smoking among New York City kids and adults and have made New York City a world leader in this regard.

The two bills, one to restrict the sale of flavored e-cigarettes and one to restrict the sale of menthol cigarettes, are critical next steps that the Campaign for Tobacco-Free Kids strongly supports. Each of these bills fills an important gap. Together, they will have an enormous impact on the effort to reduce the number of people who die from tobacco use, significantly reduce the number of young people who become addicted and dramatically reduce the death toll of tobacco on New York City's African-American population.

### **E-cigarette Use by Youth is Skyrocketing**

We are at a critical juncture in our nation's public health history. After making tremendous progress in reducing youth tobacco use over the past several decades, e-cigarettes, and Juul in particular, are threatening to undermine declines in overall youth tobacco use.

Two recent national surveys show that youth use of electronic cigarettes has skyrocketed in the United States, reaching what the FDA Commissioner and the U.S. Surgeon General have called "epidemic" levels.

- The 2018 National Youth Tobacco Survey (NYTS) showed that between 2017 and 2018, current e-cigarette use increased by 78 percent among high school students and by 48 percent among middle school students. In 2018, more than 3.6 million middle and high school students were e-cigarette users – an alarming increase of 1.5 million students in just one year.<sup>1</sup> Similarly, the 2018 Monitoring the Future survey found that youth vaping of nicotine nearly doubled in 2018 among 12<sup>th</sup> and 10<sup>th</sup> graders – *the single largest increase in youth use of any substance in the survey's 43-year history.*<sup>2</sup>
- The increase in e-cigarette use has driven a 38 percent increase in use of any tobacco product among high school students (from 19.6 percent in 2017 to 27.1 percent in 2018).<sup>3</sup>
- Data from the New York State Department of Health's Youth Tobacco Survey also show a rapid rise in e-cigarette use among high school students- between 2014 and 2018, e-cigarette use increased 160%, and now 1 in 4 New York high school students use e-cigarettes.<sup>4</sup>

According to the CDC, "The rise in e-cigarette use during 2017-2018 is likely because of the recent popularity of e-cigarettes shaped like a USB flash drive, such as JUUL; these products can be used discreetly, have a high nicotine content, and come in flavors that appeal to youths."<sup>5</sup> A study from Truth Initiative found that a quarter of youth and young adult JUUL users don't refer to JUUL use as "e-cigarette use" or "vaping," but rather as "JUULing."<sup>6</sup> Therefore, it is possible that existing surveys still may not be capturing the full spectrum of youth e-cigarette use.

### **Youth E-cigarette Users Struggle with Nicotine Addiction**

The number of youth now using e-cigarettes is alarming and raises serious concerns that e-cigarettes could be an entryway to nicotine addiction. Though there is insufficient research on the long-term effects of using e-cigarettes in general, the use of such products raises concerns because they contain nicotine. Nicotine is a highly addictive drug and young people are especially vulnerable to nicotine addiction.

Nicotine can have lasting damaging effects on adolescent brain development. The brain continues to develop through the early to mid-twenties. According to the Surgeon General, “because the adolescent brain is still developing, nicotine use during this critical period can disrupt the formation of brain circuits that control attention, learning, and susceptibility to addiction.”<sup>7</sup> Because of these risks, the Surgeon General found that, “The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe.”<sup>8</sup>

JUUL Labs produces the JUUL device and JUULpods, which are inserted into the JUUL device. According to JUUL Labs, all JUULpods contain flavorings and 0.7mL e-liquid with 5% nicotine by weight<sup>1</sup>, which they claim to be the equivalent amount of nicotine as a pack of cigarettes, or 200 puffs. The company claims that the nicotine in JUUL is from “nicotine salts found in leaf tobacco, rather than free-base nicotine,” which they claim “accommodate cigarette-like strength nicotine levels.”<sup>9</sup> According to a 2018 Surgeon General advisory on e-cigarette use among youth, nicotine salts allow users to inhale high levels of nicotine more easily and with less irritation than e-cigarettes that use free-base nicotine. As a result, it could be easier for young people to initiate the use of nicotine with these products.<sup>10</sup> Experimenting with a product that contains high concentrations of nicotine, like JUUL, can quickly result in dependence.<sup>11</sup>

There is mounting evidence that large numbers of youth are not just experimenting, they are becoming addicted. The NYTS found that nearly 28 percent of current high school e-cigarette users and 16 percent of middle school e-cigarette users – more than 900,000 middle and high school students – used the products on at least 20 days in the past month.<sup>12</sup>

These statistics are confirmed by parents and pediatricians across the country. E-cigarette use, especially Juul, has permeated schools and the daily life of hundreds of thousands of youth. It is clear that large numbers of teen e-cigarette users are struggling with nicotine addiction and withdrawal. In November, the New York Times profiled Matt Murphy from Reading, MA who had his first Juul when he was 17. He described the euphoric head rush of nicotine as “love at first puff”. He quickly became addicted to Juul’s intense nicotine hits. He became so dependent on the Juul that he nicknamed the device his “11th finger.”<sup>13</sup> He is not alone. The problem is so bad that two weeks ago, FDA convened a public hearing to gather input on how to help youth addicted to the nicotine in e-cigarettes. No one is quite sure how to help these youth quit. Int 1362 will prevent these kids from ever getting hooked.

### **Youth E-Cigarette Users Are At Increased Risk of Smoking Cigarettes**

Evidence continues to build that for young people, using e-cigarettes increases the likelihood of smoking cigarettes.

- In 2016, the Surgeon General concluded that while more research is needed, evidence from several longitudinal studies suggests that e-cigarette use is “strongly associated” with the use of other tobacco products among youth and young adults, including conventional cigarettes.<sup>14</sup>
- Last year, the National Academies of Science, Engineering & Medicine (NASEM) released a comprehensive report which found that there was substantial evidence that e-cigarette use increases risk of ever using cigarettes among youth and young adults. The NASEM report also concluded, “There is moderate evidence that e-cigarette use increases the frequency of subsequent combustible tobacco cigarette use” among youth and young adults.<sup>15</sup>

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<sup>1</sup> Virginia Tobacco and Mint flavors are also sold in 3% nicotine strength varieties.

- In addition, several studies find that the link between e-cigarette use and smoking initiation was stronger for those who had *lower* risk factors for smoking at baseline.<sup>16</sup>

### Flavored E-Cigarettes Have Fueled the Popularity of These Products Among Kids

E-cigarettes didn't become popular with kids by accident. E-cigarette makers have introduced products with thousands of flavors that appeal to young people and engaged in the kind of marketing that mirrors what the cigarette industry did for decades. The 2016 Surgeon General Report on e-cigarettes concluded that, **"E-cigarettes are marketed by promoting flavors and using a wide variety of media channels and approaches that have been used in the past for marketing conventional tobacco products to youth and young adults."**<sup>17</sup>

In recent years, there has been an explosion of sweet-flavored e-cigarettes. As of 2017, there were more than 15,500 unique e-cigarette flavors available online, including many kid-friendly flavors like gummy bear, cotton candy, and peanut butter cup.<sup>18</sup> Research shows that flavored products are not only popular among youth, but may play a role in initiation and uptake of tobacco products.

- Data from FDA's 2013-2014 Population Assessment of Tobacco and Health (PATH) survey found that 81 percent of youth aged 12-17 who had ever used e-cigarettes had used a flavored e-cigarette the first time they tried the product, and that 85.3 percent of current youth e-cigarette users had used a flavored e-cigarette in the past month.<sup>19</sup>
- Moreover, 81.5 percent of current youth e-cigarette users said they used e-cigarettes "because they come in flavors I like."<sup>20</sup>
- While the methodology is not comparable to the PATH study, the 2018 NYTS found that 67.8 percent of high school e-cigarette users had used a flavored e-cigarette in the past month, an increase from 60.9 percent in 2017. Current use of menthol or mint flavored e-cigarettes among high school e-cigarette users also increased from 42.3 percent in 2017 to 51.2 percent in 2018.<sup>21</sup>
- The 2013-2014 National Adult Tobacco Survey found that use of flavored e-cigarettes was highest among young adults (ages 18-24), compared to those over age 25, and that flavored e-cigarettes were most popular among adults who were never cigarette smokers.<sup>22</sup>
- A national phone survey found that youth (ages 13-17) were more likely to report interest in trying an e-cigarette offered by a friend if it were flavored like fruit, candy or menthol, compared to tobacco. This study also found that youth believed that fruit-flavored e-cigarettes were less harmful than tobacco-flavored e-cigarettes.<sup>23</sup>

The use of flavors in e-cigarette products is of even greater concern because e-cigarettes are the subject of extensive advertising campaigns, and there is evidence that young people are exposed to significant amounts of e-cigarette advertising. By mimicking the tobacco industry's strategies, including celebrity endorsements, slick TV and magazine advertisements, and sports and music sponsorships, e-cigarette advertising has effectively reached youth and young adults. The 2016 NYTS found that 78.2 percent of middle and high school students—20.5 million youth—had been exposed to e-cigarette advertisements from at least one source, an increase from 68.9 percent in 2014.<sup>24</sup> Another study found that 82 percent of 12-17 year olds and 88 percent of 18-21 year olds reported seeing e-cigarette advertising in 2015.<sup>25</sup>

When JUUL was first launched in 2015, the company used colorful, eye-catching designs and youth-oriented imagery and themes, such as young people dancing and using JUUL. JUUL's original marketing



campaign included billboards, YouTube videos, advertising in Vice Magazine, launch parties and a sampling tour. There is no doubt that these marketing efforts reached teens in New York City. One of JUUL's earliest launch parties took place in New York City, while Times Square flashed a large digital billboard promoting JUUL.<sup>26</sup> Posts on social media platforms like Twitter and Instagram also fueled JUUL's popularity among youth.<sup>27</sup>

Examples of e-cigarette flavors and JUUL marketing can be found in the Appendix.

The Campaign for Tobacco-Free Kids urges the Council to support Chairman Levine's bill to restrict the sale of flavored e-cigarettes and that the bill be amended to include menthol flavored e-cigarettes.

### **Menthol Cigarettes Increase Youth Tobacco Use and Use Among African-Americans**

While e-cigarette use justifiably gets a lot of attention, no single product contributes more to the death and disease caused by tobacco use than menthol cigarettes. The scientific evidence leaves no doubt that menthol cigarettes increase the number of people, particularly kids, and especially African-American kids, who try the product, become addicted and die a premature death as a result. Passing Councilman's Cabrera's bill (Int-1345) to restrict the sale of menthol cigarettes is one of the most important things you can do to protect the health of New York City kids.

Menthol cigarettes pose a tremendous public health threat. A 2013 Food and Drug Administration (FDA) report on the health impact of menthol cigarettes determined that menthol cigarettes lead to increased smoking initiation among youth and young adults, greater addiction and decreased success in quitting smoking.<sup>28</sup> Further, FDA's Tobacco Products Scientific Advisory Committee's<sup>2</sup> concluded, "Removal of menthol cigarettes from the marketplace would benefit public health in the United States."<sup>29</sup> They projected that by 2020, about 17,000 premature deaths will be attributable to menthol cigarettes and about 2.3 million people will have started smoking because of menthol cigarettes.<sup>30</sup>

Menthol is a chemical compound that cools and numbs the throat, reducing the harshness of cigarette smoke, making menthol cigarettes more appealing to youth who are initiating tobacco use.<sup>31</sup> Tobacco companies have long known that menthol cigarettes reduce the harshness of their products and make them easier to use by new users, almost all of whom are under age 18.<sup>32</sup> FDA's Tobacco Products Scientific Advisory Committee concluded that menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking. Further, they found that people who initiate smoking using menthol cigarettes are more likely to become addicted and become long-term daily smokers.<sup>33</sup>

Just like other flavored tobacco products, youth smokers are more likely to use menthol cigarettes than any other age group. Half (50.1%) of youth who have ever tried smoking initiated with menthol flavored cigarettes.<sup>34</sup> Over half (54 percent) of current youth smokers ages 12-17 continue to use menthol cigarettes, compared to less than one-third of smokers ages 35 and older.<sup>35</sup> Prevalence of menthol use is even higher among African American youth: seven out of ten African-American youth smokers smoke menthol cigarettes.<sup>36</sup>

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<sup>2</sup> TPSAC is a group of scientific experts charged with advising the Commissioner of Food and Drugs on safety, dependence, and health issues relating to tobacco. See <https://www.fda.gov/advisorycommittees/committeesmeetingmaterials/tobaccoproductsScientificAdvisoryCommittee/default.htm> for more details.

## **Menthol Cigarettes Have a Devastating Impact on the Health of African Americans and Are a Major Cause of Tobacco-Related Health Disparities**

Nationally, sales of menthol cigarettes increased from 2011 to 2015, at a time when overall cigarette sales have been gradually decreasing.<sup>37</sup> Data from the Federal Trade Commission (FTC) show that in 2016, menthol cigarettes comprised 35 percent of the U.S. market, the highest proportion on record since FTC began collecting this data in 2001.<sup>38</sup> The continued availability of menthol cigarettes threatens the progress we have made in reducing adult smoking, particularly among African Americans. Prevalence of menthol use is highest among African Americans - 85 percent of all African-American smokers smoke menthol cigarettes, compared to 29 percent of Whites.<sup>39</sup>

Both TPSAC's and FDA's own scientific analyses conclude that menthol cigarettes are associated with increased nicotine dependence and reduced success in smoking cessation.<sup>40</sup> The impact is greatest for African Americans, who predominantly smoke menthol cigarettes. African Americans generally have higher levels of nicotine dependence as a consequence of their preference for mentholated cigarettes.<sup>41</sup> While research shows that African American smokers are highly motivated to quit smoking and are more likely than White smokers to have made a quit attempt and used counseling services in the previous year, they are less likely than White smokers to successfully quit smoking.<sup>42</sup> Data from the 2015 National Health Interview Survey show that, among smokers who made a quit attempt in the past year, only 4.9 percent of African Americans remained abstinent after 6 months, compared to 7.1 percent of Whites.<sup>43</sup>

Smoking kills 45,000 African American each year.<sup>44</sup> Lung cancer is the second most common cancer in both African-American men and women, but it kills more African Americans than any other type of cancer.<sup>45</sup> While the gap has been narrowing, from 2011-2016 the average incidence rate of lung and bronchial cancers was still 15 percent higher in African-American men compared to white men and the average death rate was 18 percent higher in African-American men compared to white men.<sup>46</sup> If current smoking rates persist, an estimated 1.6 million black Americans alive today under the age of 18 will become regular smokers, and about 500,000 will die prematurely from a tobacco-related disease.<sup>47</sup> In 2011, TPSAC estimated that by 2020, 4,700 excess deaths in the African American community will be attributable to menthol in cigarettes, and over 460,000 African Americans will have started smoking because of menthol in cigarettes.<sup>48</sup>

### **The Tobacco Industry Targets African Americans and Youth with Menthol Cigarette Marketing**

It's no "accident" that African Americans and youth smoke menthol at higher rates than other demographic groups. It is a direct result of a decades-long marketing campaign by the tobacco industry. The tobacco industry's "investment" in the African-American community has had a devastating impact.

Decades of research and the tobacco industry's internal documents demonstrate that the industry employed campaigns and strategies to aggressively target African Americans. Dating back to the 1950s, the tobacco industry has targeted these communities with marketing for menthol cigarettes through sponsorship of community and music events, targeted magazine advertising, youthful imagery, and marketing in the retail environment. Many of these efforts targeted African American neighborhoods in big cities like New York City. For example, R.J. Reynolds sponsored the "Salem Summer Street Scenes" festivals, during which they estimated reaching at least half of African Americans in Memphis, Detroit, Chicago, New York, and Washington, D.C.<sup>49</sup> Lorillard introduced the Newport Pleasure Van program in 1979 in New York, expanding to cities across the United States to distribute free samples and coupons. Newport continued the Pleasure Vans through 1994, by which time it had successfully gained dominance of the menthol market.<sup>50</sup>

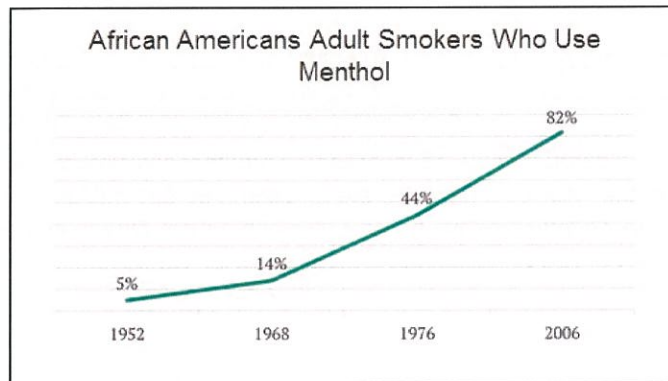
The tobacco industry has used popular African American magazines like *Ebony* and *Jet* to advertise menthol cigarettes to African Americans since the 1960s, and this practice continues today. From 1998 to 2002, *Ebony*, a magazine tailored to the African American culture, was 9.8 times more likely than *People* to contain ads for menthol cigarettes.<sup>51</sup> An assessment of menthol cigarette ads run from June 2012 to February 2013 found that the tobacco industry spent an estimated \$31 million on menthol cigarette direct mail, email, print and online advertisements in just a 9-month period. During this time, 61 percent of Newport print ads featured at least one African-American model. These ads ran in twenty publications including *Jet*, *Ebony*, and *Essence*, which have predominantly African-American readership.<sup>52</sup>



Images courtesy of Stanford Research Into the Impact of Advertising (SRITA) and TrinketsandTrash.Org.

In magazines and other marketing materials, the industry used advertisements characterized by slogans, relevant and specific messages, or images that have a great appeal among those in the black community or depict African Americans in an appealing light.<sup>53</sup> In 2004, Brown & Williamson started an ad campaign for their KOOL brand cigarettes clearly aimed at youth—and African-American youth, in particular. The KOOL Mixx campaign featured images of young rappers, disc jockeys and dancers on cigarette packs and in advertising. The campaign also included radio giveaways with cigarette purchases and a Hip-Hop disc jockey competition in major cities around the country. The themes, images, radio giveaways and music involved in the campaign all clearly have tremendous appeal to youth, especially African-American youth. Attorneys General from several states, including New York, promptly filed motions against Brown & Williamson for violating the Master Settlement Agreement.<sup>54</sup>

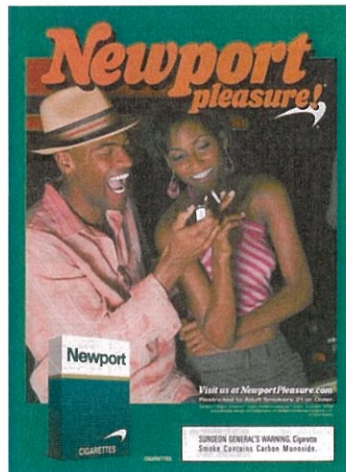
The overwhelming preference for menthol cigarettes among African Americans seen today is no coincidence. The tobacco industry deliberately targeted the African American community to create this disparity. Just 5 percent of African-Americans smoked menthol cigarettes in the early 1950's, by 1968 the number had risen to 14 percent, and today the number is now well over 80 percent.<sup>55</sup> Make no mistake this is a crisis that is the direct result of the conscious decisions of the major tobacco companies.



Slide Courtesy of Phillip S. Gardiner

[http://www.acbhcs.org/tobacco/docs/conference/Dr\\_Gardiner\\_Tob\\_Industry\\_AA\\_Me](http://www.acbhcs.org/tobacco/docs/conference/Dr_Gardiner_Tob_Industry_AA_Me)

This targeting continues today: magazine advertisements continue to target African Americans and menthol cigarettes continue to be heavily advertised, widely available, and priced cheaper in certain African American communities, making them more appealing, particularly to price-sensitive youth.<sup>56</sup> Nationally, Newport cigarettes (the most popular menthol brand among African Americans) are significantly less expensive in neighborhoods with higher proportions of African Americans.<sup>57</sup> A wealth of research indicates that African-American neighborhoods have a disproportionate number of tobacco retailers, more price discounts for tobacco products, pervasive tobacco marketing, and in particular, more marketing of menthol products.<sup>58</sup>



**Current marketing strategies: Menthol marketing and price promotion strategies at the point of sale. 2016 magazine advertising for Newport cigarettes. Images courtesy of CounterTobacco.Org and TrinketsandTrash.Org**

This is why Councilman Cabrera's bill is so important. You can do something about this – Councilman Cabrera's bill will help prevent and reduce the destructive impact caused by menthol cigarettes. New York City can continue its leadership in the tobacco control movement by joining the over two dozen communities across the country that have restricted the sale of menthol cigarettes.

- <sup>1</sup> Centers for Disease Control and Prevention (CDC), "Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students—United States, 2011-2018," *Morbidity and Mortality Weekly Report (MMWR)*, 67(45): 1276-1277. [https://www.cdc.gov/mmwr/volumes/67/wr/mm6745a5.htm?s\\_cid=mm6745a5\\_w](https://www.cdc.gov/mmwr/volumes/67/wr/mm6745a5.htm?s_cid=mm6745a5_w). Current use defined as any use in the past month.
- <sup>2</sup> University of Michigan, Monitoring the Future Study, 2018. <http://monitoringthefuture.org/data/18data/18drtbl3.pdf>
- <sup>3</sup> Centers for Disease Control and Prevention (CDC), "Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students—United States, 2011-2018," *Morbidity and Mortality Weekly Report (MMWR)*, 67(45): 1276-1277. [https://www.cdc.gov/mmwr/volumes/67/wr/mm6745a5.htm?s\\_cid=mm6745a5\\_w](https://www.cdc.gov/mmwr/volumes/67/wr/mm6745a5.htm?s_cid=mm6745a5_w). Current use defined as any use in the past month.
- <sup>4</sup> New York State Department of Health, Bureau of Tobacco Control, "Electronic Cigarette Use by Youth Increased 160% Between 2014 and 2018," *StatShot* Vol. 12, No. 1/Jan 2019.
- <sup>5</sup> Centers for Disease Control and Prevention (CDC), "Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students—United States, 2011-2018," *Morbidity and Mortality Weekly Report (MMWR)*, 67(45):1276-1277. [https://www.cdc.gov/mmwr/volumes/67/wr/mm6745a5.htm?s\\_cid=mm6745a5\\_w](https://www.cdc.gov/mmwr/volumes/67/wr/mm6745a5.htm?s_cid=mm6745a5_w). Current use defined as any use in the past month.
- <sup>6</sup> Truth Initiative, "Monitoring the Future reveals good and bad news underscoring need for education and regulation," December 14, 2017, <https://truthinitiative.org/news/monitoring-future-reveals-good-and-bad-news-underscoring-need-education-and-regulation>.
- <sup>7</sup> CDC, Office of the Surgeon General, "Health Care Professionals: Educate Your Young Patients About the Risks of E-cigarettes," [https://e-cigarettes.surgeongeneral.gov/documents/SGR\\_E-Cig\\_Health\\_Care\\_Provider\\_Card\\_508.pdf](https://e-cigarettes.surgeongeneral.gov/documents/SGR_E-Cig_Health_Care_Provider_Card_508.pdf)
- <sup>8</sup> CDC, Office of the Surgeon General, "Know the Risks: E-Cigarettes and Young People, Frequently Asked Questions," [https://e-cigarettes.surgeongeneral.gov/documents/2016\\_SGR\\_ECig\\_FAQ\\_508.pdf](https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_ECig_FAQ_508.pdf)
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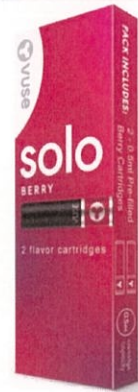
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# APPENDIX





# 15,500 E-Cigarette Flavors and Counting



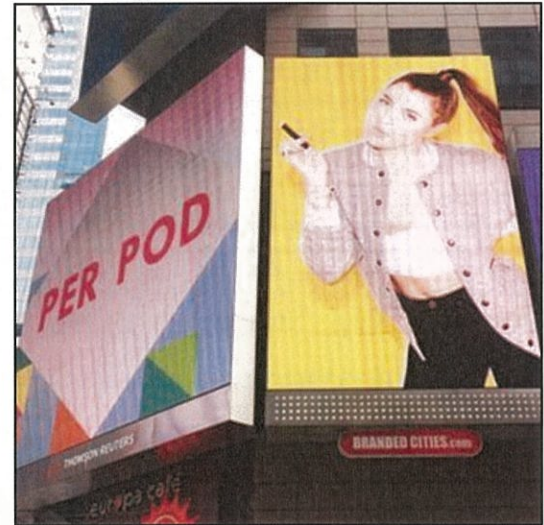


# E-Cigarette Flavors





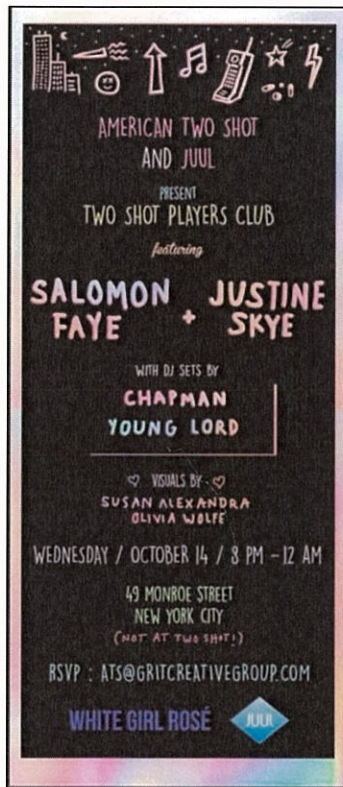
# Billboards



Times Square, New York City, <https://www.spencer-pederson.com/work-1/2017/2/23/juul-go-to-market>



# Music Event Sponsorship



Promoted on Twitter October 14, 2015

<https://twitter.com/DonaldDDiva/status/654373868103012352>



## Events – NYC Pride

**JUUL** **JUUL** ✓  
@JUULvapor Follow ▾

This weekend #JUUL is at @BEERFIELDSNY and @NYCPride. Later this summer we'll be in the Hamptons and LA. Details: [juulvapor.com/events/](http://juulvapor.com/events/)

5:57 PM - 26 Jun 2015

🗨️ ↻ ❤️ ✉️

June 26, 2015

<https://twitter.com/JUULvapor/status/614568242237968384>



# Events – Launch Party

SPONSORED

## Last Week's Invite-Only Party with Phantogram Was (Literally) Smokin'



Anna Schumacher for PAX Labs  
6/05/15 3:55pm • Filed to: JUUL

26.4K 5

All around us, vapor drifts in sultry wisps from the clusters of effervescent fashion types, blazered tech aficionados, and Bushwick hipsterati who have gathered in Chelsea's Jack Studio to celebrate the launch of **JUUL Vapor**, a new e-cigarette from PAX Labs.

June 5, 2015 <https://studioatgizmodo.kinja.com/last-nights-invite-only-party-with-phantogram-was-lite-1709286886>

TobaccoFreeKids.org >

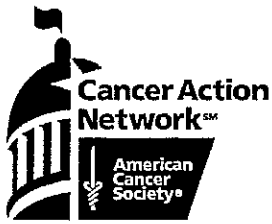


## Events – Launch Party



June 4, 2015

<https://twitter.com/JUULvapor/status/606656253885038592>



American Cancer Society  
Cancer Action Network  
132 West 32<sup>nd</sup> Street  
New York, NY 10001  
212-237-3853  
fightcancer.org  
bill.sherman@cancer.org

**Testimony of American Cancer Society Cancer Action Network  
to the New York City Council Health Committee**

**January 30, 2019 • New York, NY**

Chair Levine and members of the Health Committee, thank you for the opportunity to testify today. My name is Bill Sherman and I am the Managing Director for Government Relations at the American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, nonpartisan, advocacy affiliate of the American Cancer Society. I am pleased to be able to speak in support of Int 1345-2019 and Int 1362-2019.

Every year in New York City over 40,000 people are diagnosed with cancer. Even though US cancer death rates have decreased by 26 percent from 1991 to 2015, not all Americans have benefited equally from the advances in prevention, early detection, and treatments that have helped achieve these lower rates. Significant differences persist in cancer incidence, survival, morbidity, and mortality among specific populations in the US.

Lung and bronchus cancer is the single largest cause of cancer death in New York City. While the lung and bronchus cancer death rate has declined significantly since 1990 due to reductions in smoking, we continue to see disparities by gender, race/ethnicity, and socio-economic status.

Non-Hispanic Black males have the highest cancer incidence and mortality rates compared to all other racial/ethnic group. This is incredibly significant when you examine who is using menthol cigarettes as I will discuss later in my testimony.

Smoking remains the leading cause of preventable death in the United States, New York State and New York City.<sup>1</sup> Each year more than 12,000 people in New York City die from illnesses related to tobacco use.<sup>2</sup>

Smoking not only causes cancer, it can damage nearly every organ in the body, including the lungs, heart, blood vessels, reproductive organs, mouth, skin, eyes, and bones. Smoking accounts for about 30 percent of all cancer deaths in the United States,<sup>3</sup> including about 80 percent of all lung and bronchus cancer deaths.<sup>4</sup> The impact of tobacco use goes beyond health. The annual health care costs in New York State directly caused by smoking are \$10.39 billion.<sup>5</sup>

Last year we reached a landmark in New York City's efforts to continue reducing smoking rates with new laws taking effect that raised the minimum prices for cigarettes and all other tobacco products, capped the number of tobacco and e-cigarette retailers citywide, created a retail license for e-cigarettes, increased the fee for a cigarette retail dealer license, required all residential buildings to create and



disclose a smoking policy, prohibited smoking, including the use of e-cigarettes in common areas of multiple unit dwellings, and prohibited the sale of tobacco products at pharmacies. But more needs to be done.

### **Flavored Tobacco Products**

The 2009 Family Smoking Prevention and Tobacco Control Act implemented a federal prohibition of characterizing flavors other than tobacco or menthol in cigarettes. The prohibition included candy-and fruit-flavors. Additionally, in 2009 a New York City law was adopted that restricted the sale of most forms of flavored tobacco products to certain adult-only venues. The legislation covers most flavors like the products I am showing you today. However, the federal and city laws exempt “tobacco, menthol, mint or wintergreen flavors” and all flavored electronic cigarettes.

Why does this matter? While cigarette smoking rates have declined significantly in recent years, the use of electronic cigarettes has been skyrocketing, especially among youth. According to the CDC’s National Youth Tobacco Survey during the one-year period between 2017 and 2018 e-cigarette use among high school students increased by 78 percent. Over 3 million high school students used e-cigarettes in 2018. A full 68 percent of high school e-cigarette users used flavored products.<sup>6</sup>

During the same time e-cigarette use among middle school children jumped 48 percent. Over 570,000 middle school kids used an e-cigarette in 2018.

Flavors in all tobacco products are the lure to initiating youth to a lifetime of nicotine addiction. In fact, flavors are frequently listed as one of the top three reasons why children start using e-cigarettes.<sup>7, 8</sup> Furthermore, kids whose first tobacco product was flavored are more likely to become tobacco users than those whose first product was tobacco flavored.<sup>9</sup>

Among all ages the use of any flavored e-cigarette went up among current users from 60.9 percent to 67.8 percent, and menthol use increased from 42.3 percent to 51.2 percent.<sup>10</sup>

ACS CAN strongly recommends implementing evidence-based policies to prevent the initiation and use of all tobacco products. The use of products containing nicotine in any form among youth is unsafe and can harm brain development. Furthermore, evidence indicates that many young people who use e-cigarettes also smoke cigarettes.<sup>11</sup> There is some evidence that young people who use e-cigarettes may be more likely to smoke cigarettes in the future. Using nicotine in adolescence may also increase risk for future addiction to other drugs.

Recent spikes in the use of e-cigarettes makes clear that more must be done to regulate tobacco products and the industry's deceptive marketing practices, particularly with the use of flavors to attract children to their products.

The exemption for mint, wintergreen and menthol is so troubling because menthol makes cigarettes easier to smoke and harder to quit.<sup>12</sup> The chemical compound creates a cooling effect, reduces the harshness of cigarette smoke and suppresses coughing. Those effects may make menthol cigarettes more appealing to young, inexperienced smokers. Research shows menthol flavor is more likely to addict

youth and makes it more difficult to for adults to quit.<sup>13</sup> Many people who smoke think menthol cigarettes are less harmful. In fact, there is no evidence that cigarettes, cigars, or smokeless tobacco products that have menthol are safer than other tobacco products. This myth has been perpetuated via a decades long campaign by the tobacco industry.<sup>14</sup>

There are huge disparities in menthol cigarette use in New York City by borough and income level. While 74.1 percent of people who smoke in the Bronx use menthol cigarettes, only 36.6 percent of people who smoke in Manhattan use menthol cigarettes. Some 58.5 percent of New Yorkers at the lowest income level smoke menthol cigarettes while only 29.4 percent of New Yorkers at the highest level of income smoke menthol cigarettes.<sup>15</sup>

At the same time there is a huge racial and ethnic disparity in menthol cigarette use in New York City. While 84.8 percent of Black adults who smoke and 63.8 percent of Latino adults who smoke use menthol cigarettes, only 22.6 percent of White adults who smoke use menthol cigarettes in New York City.<sup>16</sup> This disparity among race and ethnicity is not accidental.

Tobacco companies have exploited and specifically targeted minority communities, particularly African-Americans, with intense advertising and promotional efforts. A wealth of research indicates that African-American neighborhoods have a disproportionate number of tobacco retailers, pervasive tobacco marketing, and more marketing of menthol products.<sup>17</sup>

The disparities in menthol cigarette use in New York City are contributing to the negative health disparities that exists in New York City and must be addressed.

### **ACS CAN Recommends**

It is time for New York City to fully restrict the sale of all flavored tobacco products, including electronic cigarettes, and including menthol, mint and wintergreen. By passing both Int 1345-2019 and Int 1362-2019 we can reduce the use of tobacco products, especially among children, reduce the death and disease associated with its use and make progress toward achieving health equity.

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<sup>13</sup> Ibid

<sup>14</sup> Ibid

<sup>15</sup> New York City Department of Health and Mental Hygiene, 2009 and 2015 NYC Community Health Surveys

<sup>16</sup> Ibid

<sup>17</sup> Lee, JGL, et al, "A Systematic Review of Neighborhood Disparities in Point-of-Sale Tobacco Marketing," American Journal of Public Health, published online ahead of print July 16, 2015.



**American Heart Association**  
122 East 42<sup>nd</sup> Street, 18<sup>th</sup> Floor | New York, NY 10168  
[www.heart.org](http://www.heart.org)

**Testimony of the American Heart Association**

**Before the New York City Council Committee on Health**  
**Oversight - Banning the Sale of Flavored E-Cigarette/Vaping Products in New York City.**  
January 30, 2019

Robin Vitale, Vice President, Health Strategies  
American Heart Association  
New York City

Good afternoon, Chair Levine and members of the Council Committee on Health. My name is Robin Vitale and I serve as the Vice President of Health Strategies for the American Heart Association in New York City. Our mission, to be a relentless force for a world of longer, healthier lives, motivates my testimony today in support of the Council's efforts to further strengthen the city's fight against tobacco addiction.

*In 1998, as part of the Master Settlement Agreement, the tobacco industry said it would look for ways to prevent young people from smoking. Yet, these companies keep finding clever ways of doing the exact opposite. Candy-flavored cigarettes are one such method. Studies have shown that flavored cigarettes are much more popular among younger smokers than older smokers. Since such data show flavored cigarettes to be much more appealing to youth, these products must be banned from sale in New York City. We must protect our impressionable youth from the dangers of smoking, even when it's dressed up in the cloak of appealing flavors.*

These words are not new. I shared them on behalf of the American Heart Association nearly a decade ago when New York City first proposed restricting the sale of flavored tobacco. At that time, it would have been difficult to predict the tidal wave of products that would deluge our country with the introduction of electronic cigarettes. The devices weren't even relevant enough to be specifically exempted from the law, although the current language provides that loophole. The bigger debate at the time was focused on the exemption of certain characterizing flavors, notably mint, wintergreen or menthol. Ten years ago, our focus was on addressing the growth of flavors aimed at attracting our youth. Thus, menthol and all flavors of electronic cigarettes have been allowed to proliferate in our city over the past ten years.

Since banning the sale of flavored cigarettes in 2009, evidence has shown a significant impact on youth usage of non-flavored combustible cigarettes. Unfortunately, other products have had a dramatic increase.<sup>1</sup> According to the latest National Youth Tobacco Survey, the number of high school students who reported using e-cigarettes increased 78 percent between 2017 and 2018 to 3.05 million (or 20.8

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<sup>1</sup> <https://doi.org/10.1016/j.amepre.2016.11.019>

percent). The survey also found that among high school users, there was a significant increase in current flavored e-cigarette use within the past year, from 60.9 percent to 67.8 percent. Research shows youth and young adults identify flavors as a primary reason for e-cigarette use.<sup>2</sup> Additionally, evidence indicates youth who first try a flavored tobacco product have a higher likelihood of current tobacco use compared to those who first try an unflavored product.<sup>3</sup>

In research conducted by the American Heart Association's Tobacco Regulation and Addiction Center (A-TRAC), 30 percent of teenage users said e-cigarettes taste better, have a bolder flavor and have a less burnt taste than other tobacco products; 42 percent said the ability to try many flavors sets e-cigarettes apart from other tobacco products; and 26 percent said flavors in advertisements and marketing caught their attention. The research also found that a majority of teen users prefer no nicotine (39 percent) or a low level of nicotine (20 percent) in e-cigarettes, suggesting that youth use e-cigarettes for the flavor, not the nicotine. Yet, the flavors lure kids into starting an addictive and dangerous habit.<sup>4</sup>

Arguably, the most important flavor to ban, in both e-cigarettes and other forms of tobacco, is menthol, mint and wintergreen. Studies show that menthol cigarettes increase initiation, especially among youth. Of youth and young adult smokers, over half smoke menthol.<sup>5</sup> Menthol also has a disproportionate impact on minorities including African Americans, who have been targeted by industry advertising to bear a greater burden of addiction to menthol cigarettes.<sup>6</sup> Menthol cigarettes are smoked by 74.6% of black smokers compared to 21% of white smokers.<sup>7</sup>

The American Heart Association applauds the Council's intention to address these gaps in city law. The two proposals being considered – a ban on the sale of flavored electronic cigarettes and inclusion of menthol in the existing restriction – will further the city's progress against tobacco addiction. In order to reflect the stated purpose of the bills, amendments are recommended by the American Heart Association. The definition for 'characterizing flavor' in Intro 1362 should include 'menthol, mint and wintergreen' in the list of prohibited flavors. And Intro 1345 should also include cigarettes in the list of items in order to comprehensively ban the sale of menthol in all nicotine delivery forms.

With these updates to the proposed legislation, the American Heart Association looks forward to the quick passage of these bills as welcome additions to the city's efforts to protect our young people from a lifetime of nicotine addiction.

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<sup>2</sup> [https://www.cdc.gov/mmwr/volumes/67/wr/mm6745a5.htm?s\\_cid=mm6745a5\\_w](https://www.cdc.gov/mmwr/volumes/67/wr/mm6745a5.htm?s_cid=mm6745a5_w)

<sup>3</sup> <https://pathstudyinfo.nih.gov/UI/HomeMobile.aspx>

<sup>4</sup> [https://professional.heart.org/professional/ResearchPrograms/A-TRAC/UCM\\_459406\\_A-TRAC-Home.jsp](https://professional.heart.org/professional/ResearchPrograms/A-TRAC/UCM_459406_A-TRAC-Home.jsp)

<sup>5</sup> [https://tobaccocontrol.bmj.com/content/25/Suppl\\_2/ii14](https://tobaccocontrol.bmj.com/content/25/Suppl_2/ii14)

<sup>6</sup> <https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2015.302777>

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# NYC SMOKE-FREE



**Public Health Solutions**

Testimony of **Deidre Sully, MPH**  
**Director**

**Public Health Solutions' NYC Smoke-Free**  
Before the

**New York City Council Health Committee**  
Committee Room, City Hall

Regarding

**Int. 1345**

**A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the sale of flavored cigarettes**

**Int. 1362**

**A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the sale of flavored electronic cigarettes**

January 30, 2019

Deidre Sully, Director  
Public Health Solutions' NYC Smoke-Free at 40 Worth Street, 5<sup>th</sup> Floor, New York, NY 10013  
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[nycsmokefree.org](http://nycsmokefree.org) | [healthsolutions.org](http://healthsolutions.org)

Good morning and thank you Council Member Levine and members of the Health Committee for the invitation to comment on these two bills.

My name is Deidre Sully, and I am the Director of Public Health Solutions' NYC Smoke-Free program. Public Health Solutions supports vulnerable New York City families and the communities that surround them in achieving optimal health and building pathways to reach their full potential. We focus on a wide range of public health issues that overwhelmingly affect the ability of underserved New Yorkers to live their healthiest lives. Our work is centered on food and nutrition, health insurance, maternal and child health, reproductive and sexual health, tobacco control, and HIV/AIDS. For more than 20 years, NYC Smoke-Free has worked to protect the health of New Yorkers through tobacco control policy, advocacy, and education. We partner with community members, legislators, and health advocates to support local efforts to end the devastating tobacco epidemic throughout New York City (NYC). NYC Smoke-Free uses a two-pronged approach, engaging both high school students and community members at large, to mobilize a wide range of New Yorkers to raise awareness about the dangers of secondhand smoke exposure and support voluntary policies that provide everyone with the smoke-free protections they need to lead a healthy life.

### **Intro 1345 – Ending the Sale of Menthol Flavored Tobacco Products**

Overall smoking rates in NYC have declined over the last 15 years; however the use of menthol cigarettes has remained significantly disproportionate among smokers. The cooling effect of menthol flavoring masks the harsh taste and strength of tobacco, triggering deeper and longer inhalation and increased addiction. Even more so than other flavors, menthol is especially appealing for young smokers, making initiation easier and cementing addiction quicker. Years of use of menthol cigarettes also makes it harder for those who are trying to quit.

For decades, the tobacco industry has employed predatory and aggressive marketing campaigns using menthol to target vulnerable and/or underserved populations, ensuring a constant supply of customers. Despite the successes NYC has made in tobacco control and cessation, some sub-populations have not reaped the benefits of the policies put in place to optimize public health.<sup>1</sup> The pervasive marketing of menthol to marginalized communities is well-documented.<sup>2</sup> African American smokers in particular have been left far behind the curve as the national average is of menthol use rate is a staggering 85%.<sup>3</sup> A 2011 study concluded that *Ebony* magazine was almost 10 times more likely than *People* magazine to contain an advertisement for menthol cigarettes. A 2013 study found that black children were three times more likely to recognize advertisements for Newport, the most popular menthol brand among

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<sup>1</sup> Nationwide, Latinos (46.9 %) and Asian Americans (38%) smoke menthol cigarettes, compared to White smokers (28.9 %). Andrea C. Villanti et al., Changes in the Prevalence and Correlates of Menthol Cigarette Use in the USA, 2004–2014, 25 *Tobacco Control* ii14-ii20 (2016), <http://tobaccocontrol.bmj.com/content/tobaccocontrol/early/2016/10/11/tobaccocontrol-2016-053329.full.pdf>.

<sup>2</sup> For example, approximately 71% of all young LGBT smokers use menthol cigarettes. National Youth Advocacy Coalition, *Coming Out about Smoking: A Report from the National LGBTQ Young Adult Tobacco Project* (2010), [http://lgbttobacco.org/files/Coming\\_Out\\_About\\_Smoking\\_NYAC.pdf](http://lgbttobacco.org/files/Coming_Out_About_Smoking_NYAC.pdf).

<sup>3</sup> Community Health Survey, 2015, NYC Department of Health and Mental Hygiene

that group, than other children.<sup>4</sup> Tobacco use is the most preventable cause of death in the U.S., yet the continued sale of menthol has prevented a positive impact on mortality and morbidity rates for those groups that have been targeted.

Int. 1345 will address significant tobacco use disparities that exist among smokers in NYC. Other jurisdictions have adopted similar restrictions.<sup>5</sup> The inclusion of menthol as a prohibited flavor closes a decade-old gap that has for too long created space for increased health inequities among specific populations.

### **Intro 1362 – Ending the Sale of Flavored Electronic Cigarette and Vaping Products**

The use of e-cigarettes and other similar vaporizing products is strongly linked to the use of other tobacco products, including cigarettes, cigars, hookah, and smokeless tobacco—especially among youth. As a fairly new product, there is no long-term research into the health effects of using e-cigarettes.

Studies have shown that youth who use e-cigarettes are more likely to try conventional smoking.<sup>6</sup> Despite a long-term decline in cigarette use among youth, use is increasing dramatically – between 2014 and 2018, the use of e-cigarettes increased 160% among high school students across New York State.<sup>7</sup> According to the 2017 the NYC Youth Risk Behavior Survey, 45,000 high school students reported using e-cigarettes or other vaping products.<sup>8</sup> This is not by accident. E-cigarettes and other ENDS are branded and marketed to appeal to a younger target market, using the same marketing practices from the days of “Joe Camel” and the “Marlborough Man”. E-cigarette and tobacco company tactics include savvy media placements with celebrity endorsements, fun product designs that resemble toys (i.e., JUUL), and enticing flavors that include menthol, mint, wintergreen, candy apple, cherry, and many others.

While scientists are still learning about the long term health effects of e-cigarettes, according to the U.S. Surgeon General, the use of e-cigarettes is unsafe for children, teens, and young adults. According to the CDC, “The use of certain USB-shaped e-cigarettes is especially dangerous among youth because these products contain extremely high levels of nicotine, which can harm the developing adolescent brain.”<sup>9</sup> The e-cigarette aerosol that users breathe from the device and exhale can contain harmful and potentially harmful substances, including nicotine, ultrafine particles that can be inhaled deep into the

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<sup>4</sup> See generally Campaign for Tobacco-Free Kids, “Marketing Menthol: the History of Tobacco Industry Targeting of African Americans,” accessible at <https://www.tobaccofreekids.org/assets/factsheets/0400.pdf>. See Truth Initiative, “Tobacco is a social justice issue: racial and ethnic minorities” (Feb. 3, 2017), accessible at <https://truthinitiative.org/news/tobacco-social-justice-issue-racial-and-ethnic-minorities>.

<sup>5</sup> See Public Health Law Center, “U.S. Sales Restrictions on Flavored Tobacco Products” (Sept. 2019), accessible at <https://publichealthlawcenter.org/sites/default/files/resources/US-Sales-Restrictions-Flavored-Tobacco-Products-2018.pdf>.

<sup>6</sup> “E-Cigarettes and Future Cigarette Use”, *Pediatrics*, 2016 (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4925085/>)

<sup>7</sup> E-cigarette use rate among NYS high school students increased from 10.5% to 27.4%. Bureau of Tobacco Control StatShot Vol 12, No. 1/Jan 2019. NYS Dept. of Health

<sup>8</sup> Youth Risk Behavior Survey, 2017, NYC Department of Health and Mental Hygiene

<sup>9</sup> Centers for Disease Control, “Sales of JUUL e-cigarettes skyrocket, posing danger to youth,” (Oct. 2, 2018), accessible at: <https://www.cdc.gov/media/releases/2018/p1002-e-Cigarettes-sales-danger-youth.html>.



lungs, flavoring such as diacetyl, a chemical linked to a serious lung disease, volatile organic compounds ,cancer-causing chemicals, and heavy metals such as nickel, tin, and lead.<sup>10</sup>

We have achieved great success in the years since NYC's Smoke-Free Air Act, however, we must be vigilant about keeping up with the tobacco industry's ever-morphing predatory practices to maintain their profit. This includes Big Tobacco's move to e-cigarettes, dispensing millions of dollars to specifically market and appeal to youth. We must continue to thwart their efforts and prohibit any attempt to repeat history or normalize any form of addiction.

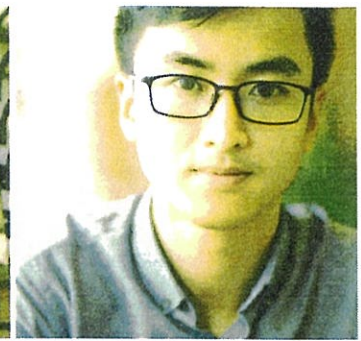
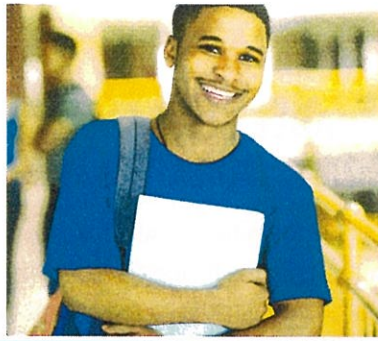
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**Public Health Solutions' NYC Smoke-Free** works to end the devastating tobacco epidemic and protect the health of all New Yorkers through tobacco control policy, advocacy, and education. For over 20 years, NYC Smoke-Free – formerly the NYC Coalition for a Smoke-Free City – has led community efforts to establish and expand smoke-free protections in New York City. We believe every New Yorker has the right to breathe clean, smoke-free air where they live, work, and play. For more information, please visit [www.NYCSmokeFree.org](http://www.NYCSmokeFree.org)

**Public Health Solutions** - the largest public health nonprofit organization in New York City, improves health among New York City's most vulnerable populations by tackling social, physical, and environmental factors that impact New Yorkers' ability to thrive. Today, PHS serves 200,000+ New Yorkers annually, and we support the work of more than 200 community-based nonprofit organizations. We implement innovative, cost-effective population-based health programs; conduct research providing insight on effective public health interventions; and provide services to government and other nonprofits to address public health issues. Together with our colleagues in the social services sector, government, philanthropy and policy organizations, we are thought leaders and cutting-edge public health professionals in New York City and New York State. To learn more, please visit us at <http://www.healthsolutions.org>.

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<sup>10</sup> Centers for Disease Control, "Quick Facts on the Risks of E-cigarettes for Kids, Teens, and Young Adults," accessible at: [https://www.cdc.gov/tobacco/basic\\_information/e-cigarettes/Quick-Facts-on-the-Risks-of-E-cigarettes-for-Kids-Teens-and-Young-Adults.html](https://www.cdc.gov/tobacco/basic_information/e-cigarettes/Quick-Facts-on-the-Risks-of-E-cigarettes-for-Kids-Teens-and-Young-Adults.html).



# MENTHOL CIGARETTES: A PUBLIC HEALTH HAZARD

**Public Health Solutions (PHS)** is the largest public health nonprofit serving New York City. With two million New Yorkers living at or below the poverty line, PHS is at the forefront of tackling crucial public health issues, including food and nutrition, health insurance access, maternal and child health, reproductive health, and HIV/AIDS prevention.

For decades, the tobacco industry has used menthol cigarettes to target vulnerable populations, including youth, African Americans, and the LGBT community. NYC Smoke-Free, a program of Public Health Solutions, works to curb menthol cigarette use by educating communities about their harmful impact on health — which is often overlooked. For more information, visit [nycsmokefree.org](http://nycsmokefree.org)

## THE ALLURE OF MENTHOL CIGARETTES

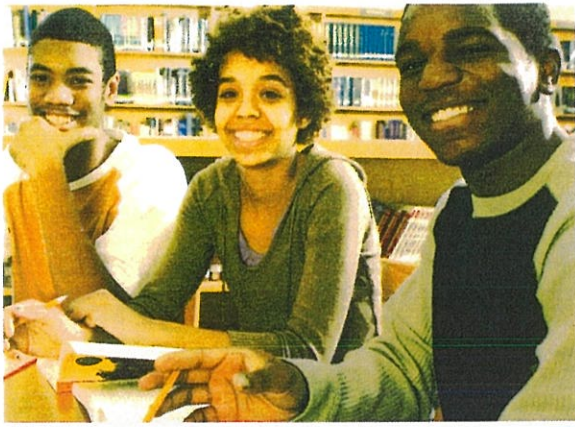
Menthol is a chemical compound extracted from the peppermint, or corn mint, plant that can also be created synthetically. Due to its minty flavor and cooling effect on the mouth and throat, menthol reduces the harshness of cigarette smoke, giving a false sense of “safe smoking”. As a result, menthol cigarettes are an increasingly popular choice among smokers and a common starter tobacco product for young people.

- Menthol cigarettes represent 25% of all cigarettes sold in the U.S.
- More than half of all youth smokers use menthol cigarettes — compared to less than one third of smokers over 25
- Youth menthol smokers have a greater urgency to smoke their first cigarette of the day than traditional cigarette smokers

## MENTHOL CIGARETTES ARE A PUBLIC HEALTH CONCERN

Despite being considered less harsh than traditional cigarettes, menthol cigarettes are deadly and highly addictive. Menthol smokers are more nicotine dependent and less likely to quit than smokers who use traditional cigarettes. Further, those who smoke menthol cigarettes do so earlier in the morning and more frequently at night.

- Menthol cigarettes contain 30-70% more toxins than non-menthol cigarettes, including tar and nicotine
- Menthol cigarette smokers have lower rates of quitting than traditional cigarette smokers and have higher rates of relapsing when they do quit



## VULNERABLE COMMUNITIES ARE DISPROPORTIONATELY IMPACTED

Vulnerable communities nationwide have been the target of aggressive marketing campaigns focused on menthol cigarettes. Tactics include direct-mail promotions, sponsorships at events and bars within specific communities, and campaigns that use community language and slang. Combined with the allure of mentholated tobacco products, these marketing tactics set vulnerable populations up for a lifetime of addiction. We work to drive policies that cut smoking imagery in movies and strengthen youth rating regulations.

### MENTHOL CIGARETTE USE AMONG AFRICAN AMERICANS



**85%**  
OF AFRICAN AMERICANS SMOKERS IN NYC USE MENTHOL CIGARETTES — COMPARED TO 22% OF WHITE SMOKERS IN NYC



**70%**  
OF AFRICAN AMERICAN SMOKERS IN HIGH SCHOOL AND MIDDLE SCHOOL USE MENTHOL CIGARETTES



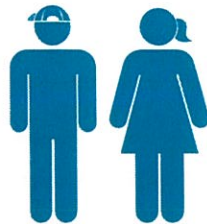
**460,000+**  
AFRICAN AMERICANS ESTIMATED WILL HAVE STARTED SMOKING BECAUSE OF MENTHOL CIGARETTES BY 2020



**22%** OF MENTHOL CIGARETTE USERS ARE WHITE



**36%** OF MENTHOL CIGARETTE USERS ARE LGBT



**57%** OF MENTHOL CIGARETTE USERS ARE YOUTH



**64%** OF MENTHOL CIGARETTE USERS ARE LATINO

Want to learn more about our programs? Visit [healthsolutions.org](http://healthsolutions.org) for locations and contact information.

[www.nycsmokefree.org](http://www.nycsmokefree.org)



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## T2019-3592. Oversight - Banning the Sale of Flavored E-Cigarette/Vaping Products in New York City

Dr. David Abrams, Ph.D.

I'm Dr. David Abrams, a professor at NYU Global Public Health.

I speak for myself and I have no financial disclosures.

I urge you to oppose a ban on flavored e-cigarettes. Millions of smokers have already quit with vaping.<sup>i</sup>

And many cite flavors as vital in switching completely from inhaling toxic tobacco smoke.<sup>ii</sup>

Scientists change their minds when new evidence is available. I know this first hand: I was wrong about opposing e-cigarettes early on.

I shared the concerns of many here.

But as I reviewed the mounting research, the evidence clearly shows vaping – while not harmless – presents a fraction of the risk of smoking.<sup>iii</sup> I changed my mind.

We don't know everything about vaping. But we know more than enough to recommend smokers switch completely.<sup>iv</sup>

But smokers who don't know vaping is less harmful are less likely to switch. Fewer than one in five understands vaping is less harmful than smoking.<sup>v</sup> I fear flavor bans will worsen confusion.

Nearly a million NYC residents still smoke.<sup>vi</sup> And two Americans will have died early from smoking as I delivered this testimony.<sup>vii</sup>

I, too, want to protect youth. NYC is already doing so, having banned flavored cigars and purchase of all tobacco to those under 21.

Parental smoking is a *major* risk factor for youth smoking. This bill would make it harder for smokers to quit, unintentionally *increasing* risk for youth.<sup>viii</sup> This may seem counterintuitive, but if policymakers could rely on intuition, you wouldn't need science or scientists like me.

Don't place barriers between smokers and vaping products that could save their lives and protect their children from smoking. *(over for bio, references and email)*

=====

**Bio:** David B Abrams PhD,

Professor of Social and Behavioral Sciences.

NYU Global Public Health, New York University. Email: [DA94@nyu.edu](mailto:DA94@nyu.edu)

Dr. David B. Abrams holds a B.Sc. (Hons.) in Psychology and Computer Science from the University of the Witwatersrand, South Africa (1974) and a Ph.D. in Clinical Health Psychology from Rutgers University (1981). He is a licensed clinical psychologist specializing in addictions, nicotine use and chronic disease prevention. Prior to joining NYU in 2017, Dr. Abrams was Professor and Founding Director, Centers for Behavioral and Preventive Medicine, Warren Alpert Medical School at Brown University. He then directed the Office of Behavioral and Social Sciences Research (OBSSR) across all 27 Institutes and Centers at the National Institutes of Health. (NIH). From 2008-2017, Before joining NYU last year, Dr. Abrams was founding Director of The Schroeder National Institute of Tobacco Research and Policy Studies at Truth Initiative/American Legacy Foundation and Professor, The Johns Hopkins Bloomberg School of Public Health and Sidney Kimmel Comprehensive Cancer Center at Johns Hopkins Medicine.

Dr. Abrams has published over 280 scholarly peer reviewed articles and he has been a Principal Investigator on numerous NIH grants and NIH Centers of Research Excellence. He is lead author of *The Tobacco Dependence Treatment Handbook: A Guide to Best Practices*, a winner of a book of the year award. He also received The Joseph Cullen Memorial Award from the American Society for Preventive Oncology for lifetime contributions to tobacco control; the Research Laureate Award, American Academy of Health Behavior; Distinguished Alumni Award, Rutgers University. Dr. Abrams served on the Board of Scientific Advisors (BSA) of the National Cancer Institute (NCI); and was President of the Society for Behavioral Medicine and recipient of their Distinguished Scientist and Distinguished Research Mentor Awards. Throughout his over 40 year career, Dr. Abrams has specialized in tobacco and nicotine use and saving lives from chronic preventable diseases.

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<sup>i</sup> <https://www.bmj.com/content/358/bmj.j3262>

<sup>ii</sup> Farsalinos, K. E., Romagna, G., Tsiapras, D., Kyrzopoulos, S., Spyrou, A., & Voudris, V. (2013). Impact of Flavour Variability on Electronic Cigarette Use Experience: An Internet Survey. *International Journal of Environmental Research and Public Health*, 10(12), 7272–7282.  
<http://doi.org/10.3390/ijerph10127272>

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<sup>iv</sup> <https://www.cancer.org/healthy/stay-away-from-tobacco/e-cigarette-position-statement.html>

<sup>v</sup> <https://hints.cancer.gov/view-questions-topics/question-details.aspx?nq=1&qid=1282>

<sup>vi</sup> <https://www1.nyc.gov/site/doh/about/press/pr2018/pr045-18.page>

<sup>vii</sup> [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/health\\_effects/tobacco\\_related\\_mortality/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/tobacco_related_mortality/index.htm)

<sup>viii</sup> <https://www.ncbi.nlm.nih.gov/pubmed/15993005>



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Dear Council Member Levine and Honorable Committee On Health,

January 30, 2019

I am a New York State Licensed Marriage and Family Therapist who has been proudly serving the LGBT community for most of the past two decades. I was honored to receive a Commissioner Special Recognition Award through the New York State Department of Health in 2016 for my commitment to PrEP Education and communicating empirically driven information to my communities and clients. It is from that experience that I ask you to consider the role of flavored nicotine products as a harm-reduction strategy for all adults, and not prohibit the sales and distribution of very low-risk alternatives to smoking tobacco.


LGBT individuals have smoking rates more than double that of our heterosexual counterparts (1). And although approximately 14 percent of the U.S. population smokes cigarettes (2), that number is nearly tripled among people living with HIV (3). It is now estimated that people living with HIV who smoke are six to 13 times more likely to die from lung cancer than from traditional AIDS-related causes (4). The CDC states it is expected that more than 30,000 LGBT lives will be lost this year from smoking cigarettes alone (5).

Meanwhile, a review by Public Health England stated that by de-coupling nicotine from smoking tobacco, vaping may reduce the risk of serious tobacco-related health problems like lung cancer by 95 percent (6). An analysis by New York University's College of Global Public Health estimated that 6.6 million American lives could be saved in the next ten years if cigarette smokers switched to vaping (7). Even the American Cancer Society now (cautiously) recognizes the role of e-cigarettes in helping some smokers quit (8).

To be clear, I'm not against policy changes that may prevent children and adults from starting to smoke or vape in the first place. But I do take issue with denying adults, who already consume nicotine, access to using Harm-Reduction tools to help save lives.

Flavored E-cigarettes do need to be regulated and prevented from getting into the hands of children, but banning all flavored vaping products for adults just doesn't make sense. It is quite possible to prevent nicotine addiction in children and help adults stay alive at the same time. I appeal to The Committee On Health to consider empirically based sensible policies when creating rules or regulations regarding flavored nicotine and tobacco products. I hope we can discuss this concern in more depth in the near future.

With much respect,

  
Damon L. Jacobs  
New York State LMFT #000455

Sources:

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3. HIV.GOV: <https://www.hiv.gov/hiv-basics/staying-in-hiv-care/other-related-health-issues/smoking>
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8. American Cancer Society: <https://www.cancer.org/healthy/stay-away-from-tobacco/e-cigarette-position-statement.html>



January 29, 2019

To: City Council Speaker, Corey Johnson; Health Committee members: Chair Mark Levine, Council Member Keith Powers, Council Member Mathieu Eugene, Council Member Alicka Ampry-Samuel, Council Member Inez Barron; and Council Member Fernando Cabrera, Council Member Helen Rosenthal, Council Member Carlina Rivera, Council Member Diana Ayala, Council Member Andrew Cohen, and Council Member Brad S. Lander

Re: Written testimony to be read and entered into record for public Health Committee hearing, January 30, 2019 on "Local Law to amend section 17-713 of title 7: prohibiting the sale of flavored electronic cigarettes." (T2019-3592; Int 1345-2019; Int 1362-2019)

Dear Council Members of the City of New York,

The New York State Vapor Association (NYSVA.org) is the registered trade association in New York State and New York City, representing the state's 700 independent vape shops, their more than 2600 employees, and their more than 100,000 customers who rely on access to vapor products to help keep them from smoking. We do not receive any funding whatsoever from tobacco companies or any other large corporation.

70 independent vape shops are currently licensed in New York City to sell vapor products. NYSVA estimates that in the city, they represent a \$53.9M industry, with flavored e-liquid a \$35M market. With 89% of sales coming from e-liquid, and 80% of that from flavors other than tobacco or menthol, a flavor ban would immediately close the shops --whose sole purpose is to help their customers quit smoking-- when purchases move online, to neighboring counties, or worse.

While most vapers would return to smoking, a habit which kills 50% of the population that smoke cigarettes, it will also be the beginning of an illegal market for e-liquid, with no regulation, industry standards or taxes. And, do-it-yourself will put dangerous non-diluted nicotine in homes and encourages use of readily available cooking flavors that are not safe for vaping.

As the cited scientific evidence indicates in the NYSVA presentation attached (exhibit A), flavors are critical for adult smokers to transition from combustible tobacco to help distant themselves from tobacco and menthol flavors once they stop smoking, because flavors help them avoid relapse triggers.

There is an underage use problem, and it is important to note that of teens that vape, 74% indicate they get vapor products from family and friends. Teens have smoked for generations, and it was never because cigarettes taste good. They vape or smoke for the nicotine buzz, and banning flavors will not stop that.



NYSVA has input to provide this committee to help you defeat this problem. Many of these solutions have been drafted into the Governor's proposed Executive Budget that came out this month.

Among them are:

- ▶ Better control of fake IDs (i.e., ID scanners at point of sale)
- ▶ Stricter fines and penalties for those selling to minors
- ▶ Only arms-length sale after loss of license
- ▶ Mandatory NYS-approved training for all employees selling vapor products
- ▶ Stricter marketing restrictions at points of sale for non-age-restricted establishments
- ▶ Make vape shops age-restricted to keep minors from entering them

We also suggested age-verifying software for online sales, a separate vapor license from tobacco license to better identify and enforce exactly who is selling these products, better parent education, and more.

We hope you will allow us to help you draft the right legislation for NYC to address the problem of youth vaping. Most of our members are ex-smokers who take the task of helping adults switch to a much less harmful product very seriously, and we don't want to see another generation become addicted to nicotine. We are hopeful that a balance between adults who need them and minors who shouldn't use them can be met with a common sense approach.

Sincerely,

Cheryl L Richter  
Executive Director  
New York State Vapor Association, Inc.  
cheryl@nysva.org  
914-517-3550  
www.nysva.org

We are writing to voice our opposition to Local Law to amend section 17-713 of title 7: prohibiting the sale of flavored electronic cigarettes.





New York State  
**VAPOR ASSOCIATION**

**TRUTH > LIFE > New York JOBS**

**Representing the TRUTH about VAPING**

7109 Rte 22, West Chazy NY 12992



New York State  
**VAPOR ASSOCIATION**  
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Representing the **TRUTH** about **VAPING**

# Regulating Vaping to Save Lives

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A COMMON SENSE APPROACH

# Vapor Products- The Goal of Eliminating Death from Smoking

---

- ▶ Vapor Products have the **potential to disrupt the 120-year dominance of the cigarette** and challenge the field on how the tobacco pandemic could be reversed if nicotine is decoupled from lethal inhaled smoke.<sup>1</sup>
- ▶ Delays in harm minimization may impede the end of smoking rather than encourage smokers to switch to safer nicotine delivery products.<sup>1</sup>
- ▶ Studies suggest that daily users of e-cigarettes for a month or more are **six times more likely to have quit smoking** cigarettes two years later<sup>2</sup>
- ▶ E-cigarettes appear to be effective when used by smokers as **an aid to quitting smoking**<sup>2</sup>
- ▶ E-cigarettes and quitting smoking - among smokers, e-cigarette use is **likely to lead to quit attempts that would not otherwise have happened**, and in a proportion of these to successful cessation. In this way, **e-cigarettes can act as a gateway from smoking**.<sup>3</sup>

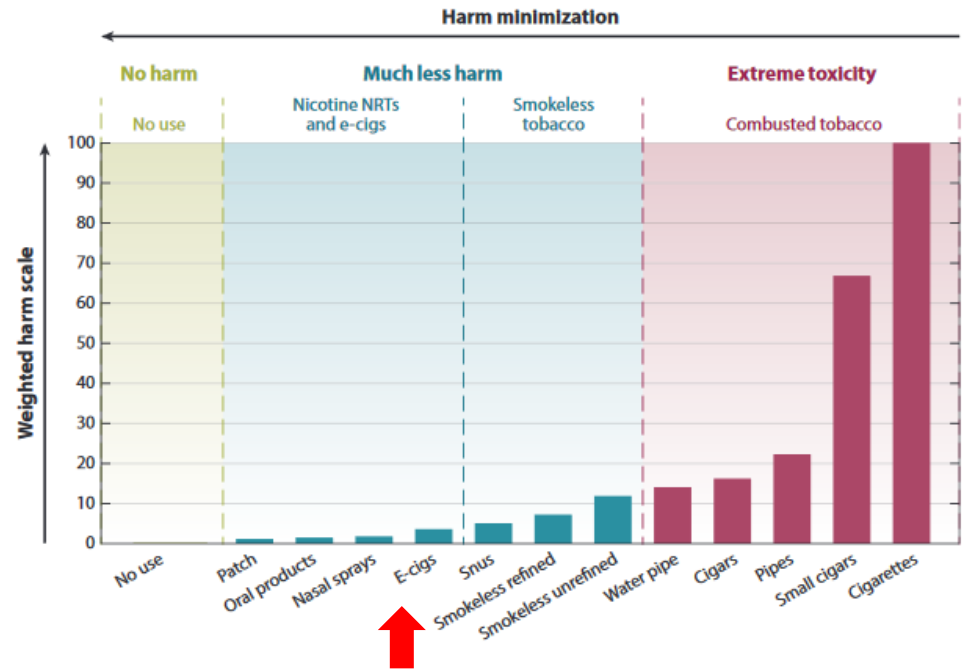
1. Harm Minimization and Tobacco Control: Reframing Societal Views of Nicotine Use to Rapidly Save Lives, Abrams et al. , College of Global Public Health, New York University, New York, NY 10012, <https://www.annualreviews.org/doi/pdf/10.1146/annurev-publhealth-040617-013849>

2. Biener L, Hargraves JL. 2015. A longitudinal study of electronic cigarette use among a population-based sample of adult smokers: association with smoking cessation and motivation to quit. *Nicotine Tob. Res.* 17:127–33 <https://www.ncbi.nlm.nih.gov/pubmed/25301815>

3. RPC (R. Coll. Phys.). 2016. *Nicotine Without Smoke: Tobacco Harm Reduction*. London: RPC. <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>

# Decoupling Nicotine from Inhaled Smoke for Harm Minimization

- ▶ “People smoke for nicotine but they die from the tar.” – Michael Russell<sup>1</sup>
- ▶ Most reviews of toxicological, clinical, and epidemiological evidence indicate that the chemicals found in e-cigarettes, when used as intended, are far fewer and well below levels seen in cigarette smoke<sup>2</sup>



- ▶ **If smokers could be shifted from smoking to consuming clean nicotine (i.e., without smoke), many lives would be saved<sup>2</sup>**

1. Russell MA. 1976. Low-tar medium-nicotine cigarettes: a new approach to safer smoking. *BMJ* 1:1430–33; 2.

2. Harm Minimization and Tobacco Control: Reframing Societal Views of Nicotine Use to Rapidly Save Lives, Abrams et al., College of Global Public Health, New York University, New York, NY 10012, <https://www.annualreviews.org/doi/pdf/10.1146/annurev-publhealth-040617-013849>

Chart: Nutt DJ, Phillips LD, Balfour D, Curran HV, Dockrell M, et al. 2014. Estimating the harms of nicotine containing products using the MCDA approach. *Eur. Addict. Res.* 20:218–25

# E-cigarettes and Smoking Cessation- UK

- ▶ In the interests of public health it is important to promote the use of e-cigarettes, NRT and other non-tobacco nicotine products as widely as possible as a substitute for smoking in the UK.<sup>1</sup>

*“It would be tragic if thousands of smokers who could quit with the help of an e-cigarette are being put off due to false fears about safety,”* - Prof John Newton, director of health improvement at PHE.

*“The false belief that vaping is as harmful as smoking could be preventing thousands of smokers from switching to e-cigarettes to help them quit.”* – Dr. Lion Shahab, University College London



1-month experiment, smoking vs. vaping

View 2018 PHE Lab Experiment:

[https://youtu.be/ZR\\_4PsYksfs](https://youtu.be/ZR_4PsYksfs)

1. RPC (R. Coll. Phys.). 2016. Nicotine Without Smoke: Tobacco Harm Reduction. London: RPC.  
<https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>

# Flavors are Key to Successful Quitting

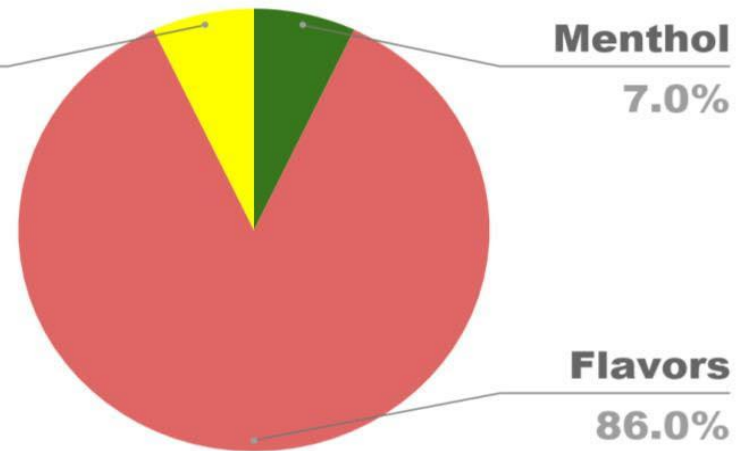
- ▶ Flavors are imperative to people's successful transition from combustible tobacco to vapor products <sup>1, 2, 3, 4, 5, 6, 7</sup>
- ▶ Former smokers want to distance themselves from tobacco and menthol flavors once they stop smoking. <sup>4, 5, 6, 8, 9, 10, 11, 12, 13</sup>

## Ecig Intelligence Survey 2017

**Tobacco**  
7.0%

**Menthol**  
7.0%

N=6939



**Flavors**  
86.0%

**94%** of respondents were exclusive vapors who had switched from a pack-a-day or greater use of combustible tobacco\*

Approximately **86%** of regular e-cigarette users **report using a non-tobacco flavor.** <sup>13</sup>

See sources on next page

# Citations – Flavors

- 1- Examining the relationship of vaping to smoking initiation among US youth and young adults: a reality check, *BMJ Tobacco Control*, David T Levy, Kenneth E Warner, K Michael Cummings, David Hammond, Charlene Kuo, Geoffrey T Fong, James F Thrasher, Maciej Lukasz Goniewicz, Ron Borland <https://tobaccocontrol.bmj.com/content/early/2018/10/31/tobaccocontrol-2018-054446>
- 2-Saul Shiffman, PhD Mark A. Sembower, MS Janine L. Pillitteri, PhD Karen K. Gerlach, PhD, MPH Joseph G. Gitchell, BA 2015. The Impact of Flavor Descriptors on Nonsmoking Teens' and Adult Smokers' Interest in Electronic Cigarettes, *Nicotine & Tobacco Research*, 17(10), 1 October 2015: 1255–1262 <https://doi.org/10.1093/ntr/ntu333>
- 3- Farsalinos, K. E., G. Romagna, D. Tsiapras, S. Kyrzopoulos, A. Spyrou, and V. Voudris. 2013. Impact of flavour variability on electronic cigarette use experience: An Internet survey. *International Journal of Environmental Research and Public Health* 10(12):7272–7282. <http://www.mdpi.com/1660-4601/10/12/7272/htm>
- 4- M.B. Harrell, S.R. Weaver, A. Loukas, M. Creamer et al, 2017. Flavored e-cigarette use: Characterizing youth, young adult, and adult users <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5121224>
- 5-Coleman, B. N., B. Rostron, S. E. Johnson, B. K. Ambrose, J. Pearson, C. A. Stanton, B. Wang, C. Delnevo, M. Bansal-Travers, H. L. Kimmel, M. L. Goniewicz, R. Niaura, D. Abrams, K. P. Conway, N. Borek, W. M. Compton, and A. Hyland. 2017. Electronic cigarette use among U.S. adults in the Population Assessment of Tobacco and Health (PATH) study, 2013-2014. *Tobacco Control*.
- 6- Litt MD, Duffy V, Oncken C. 2016. Cigarette smoking and electronic cigarette vaping patterns as a function of e-cigarette flavourings *Tobacco Control*. 2016; 25: ii67-ii72. [http://tobaccocontrol.bmj.com/content/25/Suppl\\_2/ii67](http://tobaccocontrol.bmj.com/content/25/Suppl_2/ii67)
- 7- John Buckell, Joachim Marti, and Jody L. Sindelar. 2017. Should Flavors be Banned in E-cigarettes? Evidence on Adult Smokers and Recent Quitters from a Discrete Choice Experiment. NBER Working Paper No. 23865 September 2017 JEL No. C35,I12,I18 <http://www.nber.org/papers/w23865.pdf>
- 8- NYTS National Youth Tobacco Survey (CDC Data) <https://www.cdc.gov/mmwr/volumes/66/wr/mm6623a1.htm#contribAff>
- 9- Brown, J. , Beard, E. , Kotz, D. , Michie, S. and West, R. (2014), Real-world effectiveness of e-cigarettes. *Addiction*, 109: 1531-1540. doi: 10.1111/add.12623 <https://onlinelibrary.wiley.com/doi/full/10.1111/add.12623>
- 10- L., Y. C. Zhan Wang, Q. D. Li, D. D. Zeng, S. J. Leischow, and J. Okamoto. 2015. An examination of electronic cigarette content on social media: Analysis of e-cigarette flavor content on Reddit. *International Journal of Environmental Research and Public Health* 12(11):14916–14935
- 11-Yingst, J. M., S. Veldheer, E. Hammett, S. Hrabovsky, and J. Foulds. 2017. A method for classifying user-reported electronic cigarette liquid flavors. *Nicotine & Tobacco Research* 19(11):1381–1385 .
- 12- Adolescents and e-cigarettes: Objects of concern may appear larger than they are Kozlowski, Lynn T. et al. *Drug & Alcohol Dependence*, Volume 174, 209 – 214 [http://www.drugandalcoholdependence.com/article/S0376-8716\(17\)30023-6/abstract](http://www.drugandalcoholdependence.com/article/S0376-8716(17)30023-6/abstract)
- 13 - Russell et al. 2018 Changing patterns of first e-cigarette flavor used and current flavors used by 20,836 adult frequent e-cigarette users in the USA *Harm Reduction Journal* 2018 15:33 <https://doi.org/10.1186/s12954-018-0238-6>

# Flavors Help Avoid Relapse Triggers

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- ▶ Once smokers switch to vapor products they do not want to be reminded of the taste of cigarettes and typically prefer flavors that are not tobacco or menthol.
- ▶ Once taste buds repair after decades of smoking, vapers are drawn to more pleasant flavors.
- ▶ After using flavors continuously for a few months time, a vaper's brain connects their use of nicotine with a good smelling/tasting flavor, and report the taste and smell of cigarettes are awful by comparison, thus reducing or eliminating the urge to smoke.
- ▶ Due to a common phenomenon where taste buds become neutral to a flavor that is used over the long term, it is imperative to change flavors occasionally to maintain interest and abstinence from combustible tobacco and avoid temptation to relapse.



# The Underage Dilemma

## Teen smoking rates are increasing in municipalities where sales of vapor products are restricted

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- ▶ “ENDS age purchasing restrictions are associated with an increase in adolescent cigarette use. There is causal evidence that ENDS age purchasing restrictions increased adolescent regular cigarette use by 0.8 percentage points.” **They showed an 11.7 percent increase in teen cigarette use after states introduced new age restrictions** for e-cigarettes between 2007 and 2013.<sup>1</sup>
- ▶ **Underage Fake ID use is the highest on record in NY State in 2017** Technological advancements in creating fake IDs has made it very difficult to differentiate from real IDs Scan-able Barcodes showing legal age
- ▶ Of teens that vape, **73.8% indicated they receive vapor products from family and friends**<sup>2</sup>
- ▶ NYSVA’s has great concern for the 18-20 year old vapers who went back to smoking in Tobacco 21 municipalities such as in New York City after it was enacted. **Illegal cigarettes are easy to get.**
- ▶ **56.8%** of cigarette sales are illegal sales in New York State-the highest in the nation<sup>3</sup>

1.The influence of electronic cigarette age purchasing restrictions on adolescent tobacco and marijuana use, Weill Cornell Medical College, Preventative Medicine

<http://www.sciencedirect.com/science/article/pii/S0091743516000396>

2. 2018 National Youth Tobacco Survey, CDC

3. Tax Foundation, 2015 <https://taxfoundation.org/cigarette-tax-cigarette-smuggling-2015/>

# Independent Vape Shop Market in NYS

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- ▶ 706 independent vape shops employ >2600<sup>1</sup> (comparable to 767 McDonalds in NYS)
- ▶ 89% of respondents to survey were owners or presidents
- ▶ Small businesses:
  - 38.9% < \$250,000 sales per year
  - 66.7% < \$500,000 sales per year
  - 91.7% < \$1,000,000 sales per year
  - They own an average of **1.8** retail stores
  - They employ an average of 6.6 people (**3.7 per store**)
  - They pay an average of **\$40,319** in payroll tax/year
  - They pay an average of **\$50,626** in sales tax/year

Sources: 1. NYSVA Market Survey, March 2017  
2. The Daily Meal, "States with the most McDonalds," 2014

# Economic Consequences of Destruction of the Vaping Market

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- ▶ Creation of an unfair business climate due to the immediate closure of almost all vape shops when purchases of flavors move to neighboring counties, states or online

## In New York City:

- Ind. Vape Shops = \$53.4M industry, 70 shops, 260 employees  
Flavors = \$38M market
  - Minimum loss of more than \$2.5M in Sales Tax
  - Minimum loss of more than \$2.8M in Payroll Tax
  - Immediate unemployment of more than 200 individuals, and the financial consequences of each person (unemployment pay, defaults on mortgages/rents and debt, repossessed cars etc.)
- ▶ Plus, immediate closure or move of major e-liquid manufacturers and distributors to neighboring counties/states

Market Survey of Vape Shop Owners, New York State Vapor Association, Inc.,  
March 2017 (89% of sales from E-liquid/80% of that from flavored e-liquid)

# Additional Risks of a Flavor Ban

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- ▶ New York City vape shops – the only affected establishments whose sole purpose is to help smokers quit – will close.
- ▶ Leaving these consumer choices:
  - Buy online (**skirting ban and taxes**)
  - **Dangerous Do-It-Yourself** (ingredients readily available, and puts undiluted nicotine in many homes)
  - Buy **Illegally** (no industry standards, regulation or taxes)
  - **Return to smoking**
- ▶ Unfairly favors companies that market and sell deadly tobacco products
- ▶ Unfairly favors companies that profit from the treatment of tobacco related diseases – not the prevention.

# Our Suggested Solutions

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- ▶ Better control of fake IDs (i.e., ID scanners at point of sale)\*
- ▶ Age-verifying software for online sales
- ▶ Stricter fines and penalties for those selling to minors\*
- ▶ Only arms-length sale after loss of license\*
- ▶ Mandatory NYS-approved training for all employees selling vapor products\*
- ▶ Stricter marketing restrictions at points of sale for non-age-restricted establishments\*
- ▶ Better teen and parental education

\* Proposed legislation in Governor's FY 2020 New York State Executive Budget, drafted Jan 15, 2019

# About NYSVA

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- ▶ Only NY State Trade Association representing 700+ independent vape shops, their 2600+ employees and hundreds of thousands of their customers
- ▶ Registered and report to the NYS and NYC Depts. of Ethics
- ▶ No funding from Big Tobacco, Big Pharma or any large corporations
- ▶ Board of directors has educated researchers, legislators, government agencies and stakeholders for 10 years, locally, statewide, federally and internationally
- ▶ For more information, visit [www.nysva.org](http://www.nysva.org)





**January 30, 2019**

**Testimony of Alex Clark, CEO, CASAA**

**New York City Committee on Health**

**RE: Int. No. 1362-2019 Prohibiting the sale of flavored electronic cigarettes.**

Chairman Levine and distinguished members of the committee,

I am writing on behalf of our more than 2000 members in New York City to express our concerns and extreme opposition to Int. No. 1362-2019. This ordinance is a hasty reaction to an emotionally fueled issue that is only being made worse by well-meaning, but misguided attempts to prevent youth use of tobacco and nicotine products.

The proposal to ban the sale of vapor products sold in flavors other than tobacco will deny people who smoke access to the most popular low-risk smoking replacement product in generations. Focusing solely on a particular feature of vapor products ignores other aspects of these products that people find enjoyable--a key factor in helping smokers make the switch and dramatically improve their health. Moreover, we believe it is a mistake to focus on the issue of flavors to the exclusion of underlying factors affecting youth use. Socioeconomic status, trauma, peer pressure, stress, depression, and a natural inclination toward taking risks all motivate young people to experiment with potentially harmful coping strategies.

The leading indicator of whether or not a young person will smoke is if they live with a parent who smokes. New York City can do more to promote healthy behaviors among young people by encouraging parents who smoke to switch completely to a low-risk smoke-free alternative. In order to achieve a rapid and enduring transition to safer nicotine products, people who smoke will need to have access to products they enjoy, which necessitates the availability of a diverse range of flavored smoke-free products. For these and the following reasons CASAA is urging the Committee on Health to reject Int. No. 1362-2019.

### **Int 1362-2019 will deny people who smoke vital tools to helping them quit smoking**

- **A ban on flavored vapor products will force vapor shops in NYC to close.**

We defer to data being presented by owners of vapor businesses in New York City with regard to the percentage of sales of devices, e-liquid, and accessories, but it is our understanding that a majority of sales involve e-liquid in flavors other than tobacco. To date, we are unaware of any retailer or manufacturer that sells a popular line of unflavored e-liquid. It is unlikely that specialty vapor retailers will be able to remain open if they are restricted to selling just vapor devices and tobacco flavored e-liquid. It is the diversity of vapor products that both supports independent

businesses and provides a customizable experience to people who are attempting to transition to a smoke-free lifestyle.

### **Vapor product specialty shops (vape shops) play a vital role in helping smokers switch to a low-risk alternative**

Vape shops are a source of peer-to-peer support that is not effectively replicated by current tobacco control strategies.. Vape shops provide knowledgeable staff who offer individualized attention to help customers find a device and eliquid flavor that will help them successfully make the switch. Just as importantly, vape shops provide a space for peer-to-peer support for people who used to smoke and people who are transitioning to a smoke-free product.

By way of background, vapor retailers and manufacturers in the United States are prohibited by federal law from marketing e-cigarettes as smoking cessation products or even less harmful than cigarettes.<sup>1</sup> Customers, however, are bound by no such law. It is not uncommon to hear customers exchange successful quit smoking stories between one another in a vape shop. To the casual observer, sharing such a story might not seem like much, but between people who are recovering from a multiyear or multi-decade cigarette addiction, it can mean the difference between living a smoke-free life or returning to the devil they know.

By comparison, vapor retailers in the United Kingdom are not subject to the same limitations on marketing communication in face-to-face transactions. Research conducted in the UK demonstrates that people who shop for vapor products in specialty vapor shops have a remarkable quit rate of >40% after 12 months.<sup>2</sup> Other than quitting “cold turkey,” no other smoking cessation intervention comes close to the success rate found in the UK. And while the retail environment studied in the UK is not a 1:1 match with vapor shops in the United States, when we consider customer to customer interactions within the retail environment, which are not regulated by federal law, it stands to reason that the results found in the UK may be generalizable to consumers in the United States.

### **Banning flavors will pressure consumers and retailers to take unnecessary risks**

- **Motivations to “do it yourself.”**

Motivations for people to manufacture vapor products at home for personal use (“do it yourself” or “DIY”) are related to saving money and customizing the experience. If flavors are banned, a

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<sup>1</sup> 21 USC 387k: Modified risk tobacco products, accessed from <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title21-section387k&num=0&edition=prelim>

<sup>2</sup> Polosa, Riccardo et al. “Quit and smoking reduction rates in vape shop consumers: a prospective 12-month survey” *International journal of environmental research and public health* vol. 12,4 3428-38. 24 Mar. 2015, doi:10.3390/ijerph120403428



significant number of individual consumers will turn to DIY in order to maintain access to vapor products they enjoy. Responses to consumer surveys regarding bans on various vapor products indicate as much. Indeed, the origins of the vapor industry trace back to people DIYing at home because they were unsatisfied with the products that were available at the time (circa 2008-2012).

In general, when following basic safety and sanitation protocols, DIYing at home is relatively safe. However, in the hands of novices, DIYing can present some risks. If New York City moves to adopt this ordinance, the city would be creating a situation where people who vape (or people who smoke who might attempt to switch to vaping) will be pressured to attempt DIYing e-liquids at home, possibly without the patience, knowledge, and experience to take the basic necessary precautions to ensure safety. Even more concerning, this ordinance will create a new underground, unregulated market where consumers have no assurances of product quality and no means of recourse should they be the victims of fraud or injury related to poorly manufactured products.

### **The unintended consequences outweigh hypothetical gains**

For the foregoing reasons we respectfully urge the Committee to reject Int. No. 1362-2019.

### **Recommendations**

- We urge the Committee to refocus their attention on the most pressing concern of reducing the early death and disease attributed to smoking.
- Effective substance use prevention starts by empowering young people with strong social skills and healthy coping strategies. People are generally resourceful and, historically, find ways around prohibitions on tobacco, drugs, and alcohol. Strong life skills training during adolescence has a greater potential to positively shape a young person's life well into adulthood.
- New York City needs to reevaluate the effectiveness of existing laws that restrict access to, and use of, tobacco and vapor products before enacting new laws that enact more extreme prohibitions. At the state level, New York consistently spends only a small fraction of the amount recommended by the Centers for Disease Control on tobacco prevention. Arguably, the state hasn't given existing tobacco prevention strategies a chance to succeed.
- Current state and federal law prohibits sales of any tobacco or vapor product to anyone under 18-years-old. New York City, New Jersey, and neighbouring counties prohibit sales to anyone under 21-years-old. Part of fully funding tobacco prevention programs must include funding for compliance inspections and enforcement of minimum sales age laws. Although CASAA is opposed to setting the minimum legal sales age for smoke-free tobacco and nicotine products at 21, we assert here that if the City of New York believes in the policy, then compliance and enforcement should be fully funded.

# Tobacco Truth

Tobacco Control has morphed into a crusade intent on demonizing both tobacco users and the industry supplying them. This blog examines and comments on scientific issues surrounding tobacco policies - and fallacies.

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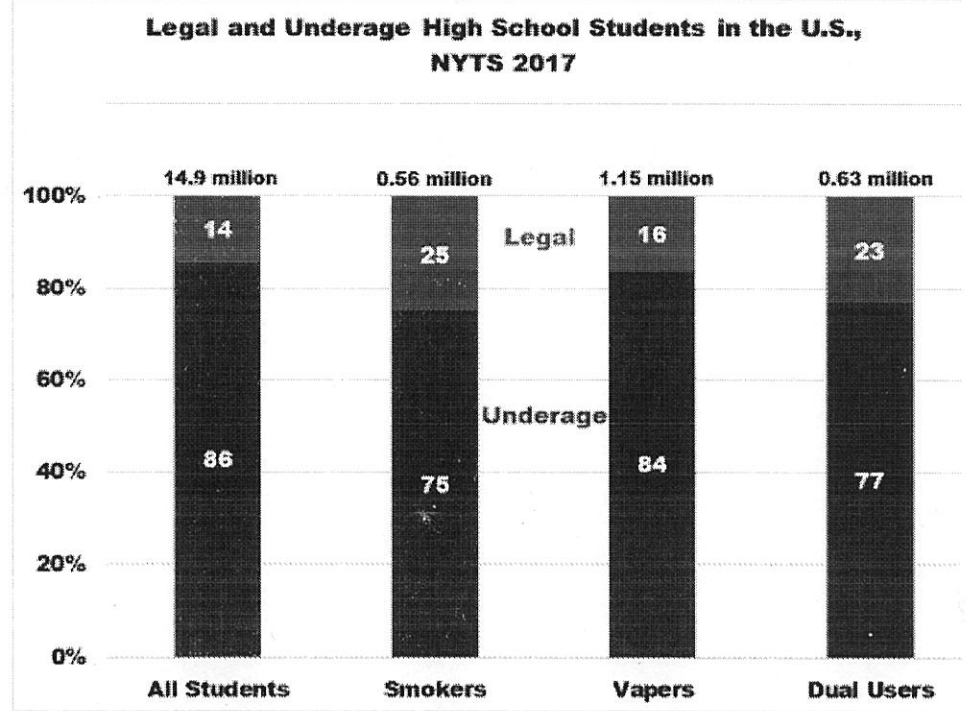
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New data shows that tobacco-specific nitrosamines (TSNAs) were at very low levels in almost all popular smokeless products availabl...
- 

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- 

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This blog is devoted to correcting myths and misconceptions about tobacco harm reduction. Here is some practical advice on to make the s...

Wednesday, October 10, 2018

## Not All Teen Smokers & Vapers Are Lawbreakers



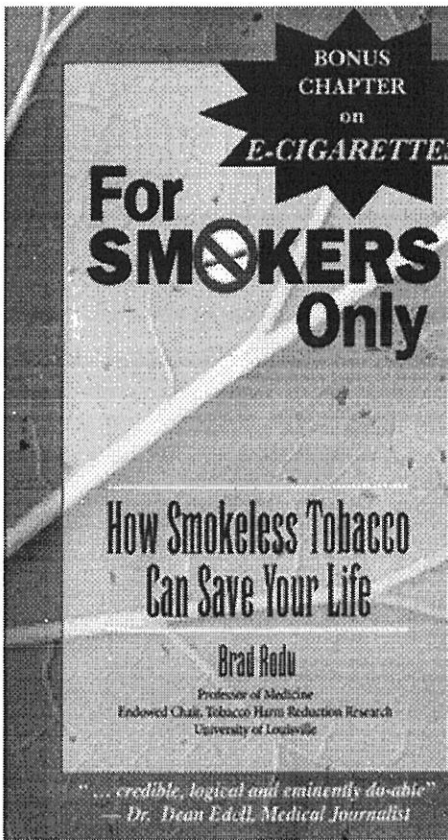
Sixteen percent of high school exclusive vapers in the 2017 National Youth Tobacco Survey (NYTS), or 184,000 out of 1.15 million, were 18 years of age or older, meaning that they could buy tobacco products legally.

Legal-age students also constituted one-quarter of high school smokers and 23% of dual users, according to the NYTS and shown on the chart at left.

Legal-age students are themselves the most common source for e-cigarettes among underage students, as the following table shows. The majority of underage students (74%) obtained e-cigarettes from family members, friends and others. The next biggest source was vape shops (12%). The Internet, which was singled out by FDA Commissioner Gottlieb in his recent announcement, was the source for fewer than 5% of underage vapers.

## For Smokers Only

Source	Percentage
Friend	64.0%
Family member	5.8%
Other person	4.0%
Vape shop	11.8%



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    - The Answers to FDA's Tobacco Questions Are Obvious...
    - Not All Teen Smokers & Vapers Are Lawbreakers
    - The FDA's Teen E-Cigarette-Addiction Epidemic Does...
  - ▶ September (3)
  - ▶ August (4)

Internet	4.7%
Other retail	3.6%
Gas station/convenience store	3.4%
Mall kiosk	1.4%
Drugstore	1.2%
Grocery store	Under 1%

Retailers must stop selling e-cigarettes to underage youths, and the FDA is responsible for enforcing that rule. However, it is critical that regulators and the public address the fact that friends and family are the biggest contributors to underage use.

N.B. Thanks to Bill Godshall for suggesting this assessment.

Posted by Brad Rodu at 8:51 AM

Labels: [FDA e-cigarette campaign](#), [social sources](#), [teen vaping](#), [underage tobacco possession](#)

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## My Credentials

Brad Rodu

I am a Professor of Medicine at the University of Louisville, I hold an endowed chair in tobacco harm reduction research, and I am a member of the James Graham Brown Cancer Center at U of L.

For the past 20 years I have been involved in research and policy development regarding tobacco harm reduction (THR). THR advocates acknowledge that there are millions of smokers who are unable or unwilling to quit with conventional cessation methods involving tobacco and nicotine abstinence, and we encourage them to use cigarette substitutes that are far safer.

My research has appeared in a broad range of medical and scientific journals. I have authored commentaries in the general press and I wrote the book, *For Smokers Only: How Smokeless Tobacco Can Save Your Life*. In 2003 I served as an expert witness at a Congressional hearing on tobacco harm reduction, and I have spoken at numerous international forums, including one held in London at the British Houses of Parliament.

My research is supported by unrestricted grants from tobacco manufacturers to the University of Louisville and by the Kentucky Research Challenge Trust Fund.

[View my complete profile](#)

## StatCounter

Chicago Tribune

Oct. 31 2018

## **First Park Ridge underage vaping cases avoid \$500 fines, assigned to 'deterrent' class**

The first batch of cases involving youth who were ticketed under a new Park Ridge law that prohibits underage use and possession of e-cigarettes appeared before an adjudication hearing officer in October.

Under a revised local ordinance passed by the Park Ridge City Council in July, youth under age 18 who are caught with an electronic smoking device can be ticketed and assigned to appear for an adjudication hearing, where they can pay a \$500 fine for the offense or pay a \$25 fine and enroll in a "diversion and education program."

The cost of the diversion and education program must also be paid, the ordinance says.

Weekly arrest and incident reports released by the Park Ridge Police Department show there were eight teenagers ticketed for possession of an electronic smoking device by a minor following the City Council's approval of the ordinance, and all eight were assigned to appear for an Oct. 10 adjudication hearing at City Hall.

According to the city, all of the youth whose cases were heard on Oct. 10 were given the reduced, \$25 fine and were required to enroll in the educational program. The city of Park Ridge declined to provide copies of the dispositions of each case, citing the fact that individuals under 18 were involved.

According to Park Ridge Police reports, all of the Oct. 10 adjudication cases were related to tickets issued during the month of September and early October at Maine East and Maine South high schools.

The tickets do not appear on a criminal record, as they are local ordinance violations, said Police Chief Frank Kaminski.

Teri Collins, executive director of the Maine Community Youth Assistance Foundation, an organization that aims to curb youth substance abuse, said she led the nonprofit organization's first e-cigarette diversion and education class on Oct. 23.

Three teens who had been ticketed and appeared for adjudication attended the class, along with their parents, Collins said.

The two-hour class costs \$125, with the payment going to MCYAF, Collins said. Parents are required to attend with their child," she said.

"It wouldn't be successful if the parents didn't come," Collins said, explaining that many parents know little about e-cigarette use or vaping, as it is more commonly called.

Collins, who has a Ph.D. in organic chemistry and a background in prescription medication development, research, and education, said the Oct. 23 class discussed the "facts and hazards" of vaping; the chemical properties of nicotine and vaping oils, including how nicotine is addictive; the development of the teenage brain in the context of addictive substances; and the consequences of making the choice to use e-cigarettes.

"Then we talk about goals," Collins said. "When people are known to have goals, they are less likely to do alcohol or drugs or smoke. That's a research-proven fact."

Representatives of the Park Ridge Police Department, including Maine South High School's school resource officer, had urged the City Council to adopt penalties for underage vaping and possession of electronic smoking devices, stating that students bringing the items to school had become problematic.

Collins described the \$500 fine that was imposed by the city as a "deterrent" to usage. She contends that vaping can be addictive and harmful, particularly to young users, and that she does not believe children and teens should be engaging in the activity.

"We're talking about kids. This stuff is starting in middle school," Collins said. "We've got 11-year-olds doing this stuff."

Collins is scheduled to speak about vaping before parents and students of Lincoln Middle School during a Parent-Teacher Organization program on Nov. 14 at 7 p.m. at the school, 200 S. Lincoln Ave.

Chicago Tribune

Nov. 17 2018

**More than 50 tickets issued for underage vaping in Park Ridge since penalties took effect last year: police**

More than 50 teenagers in Park Ridge have been ticketed for offenses related to underage vaping since the city began regulating the practice more than a year ago, Park Ridge's police chief reported this month.

Between September 2017 and early November, the police department issued 56 citations for violation of the city's ordinance on vaping, Chief Frank Kaminski's report said.

The ordinance prohibits the use and possession of tobacco products, including electronic smoking devices, by anyone under age 18.

A large percentage of the tickets were issued by the school resource officers at Maine South and Maine East high schools, Kaminski said.

Of the teens ticketed, 35 completed a two-hour class offered through the Maine Community Youth Association Foundation that is aimed at educating youth about the effects of vaping, according to the police chief.

Sixteen cases were still in progress.

The remaining five cases involve youth who did not take the educational course and were issued the \$500 fine allowed under the city's ordinance, Kaminski's report said. All five fines remain unpaid, with two of the fines belonging to one repeat offender, he said.

Park Ridge City Manager Joe Gilmore said unpaid fines for vaping violations are sent directly to the Illinois Debt Recovery Offset Portal for collection. Through the state's Local Debt Recovery Program, the comptroller's office can deduct payments owed to municipalities from

a debtor's state income tax refund, payroll check or other form of state payment.

The city's ordinance, which gives youth — and their parents — the choice of attending the course on vaping (at a cost of \$125, according to MCYAF) or paying the \$500 fine is “working well,” Kaminski told the City Council.

“I think the compliance rate and the success rate is pretty evident by the data we've put out there,” he said.

Police have had to ticket just one repeat offender, Kaminski said.

New penalties for vaping and use of all other tobacco products by minors were implemented in Park Ridge after police brought the problem of teens using electronic cigarettes in school before the City Council last year. Prior to the change in the local law, the city's ordinance on tobacco did not specifically address devices used for vaping.

Last year, Kaminski said the intention of the law was for youth to take the MCYAF course, instead of the paying the fine, so they could be educated “about the problems associated with [vaping].”

Several programs highlighting harmful effects of e-cigarettes have been held for parents in Park Ridge over the last two years.



# WARNING: This product contains nicotine. Nicotine is an addictive chemical.

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US | JANUARY 16, 2019

## JUUL INSIGHTS

# STUDIES PROVIDE INSIGHTS ON ROLE OF FLAVORS TO HELP ADULT SMOKERS IN THE U.S. SWITCH OFF COMBUSTIBLE CIGARETTES

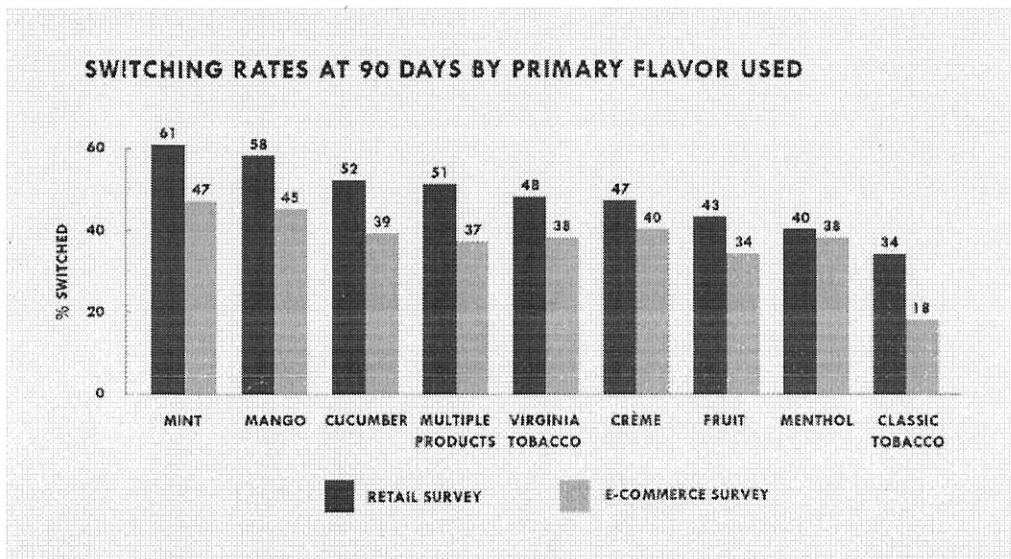
Two recent survey-based behavioral studies conducted by the [Centre for Substance Use Research \(https://www.csures.com/publications\)](https://www.csures.com/publications) (CSUR), an independent, U.K.-based research center, of both retail and online customers, indicate that non-tobacco-flavored JUULpods are helping adult smokers in their switching journey from combustible cigarettes. After 90 days of JUUL use, adult smokers who primarily used Mint or Mango demonstrated the highest switch rates from combustible cigarettes, respectively.

As part of our action plan to combat youth usage of our products, we stopped accepting retail orders for non-tobacco/mint/menthol flavored JUULpods on November 13, 2018. We continue selling them only at [JUUL.com \(http://juul.com/\)](http://juul.com), which features an industry-leading age verification system that restricts sales of all products to people 21 or older, as well as prevents bulk purchases.

The first study included 7,823 U.S.-based, adult smokers who purchased JUUL Starter Kits in retail outlets. Among the 4,260 respondents who completed the 90-day follow-up assessment, adult smokers who primarily used Mango and Mint demonstrated the highest switch rates. Fifty-eight percent of Mango users and 61 percent of Mint users had fully switched off combustible cigarettes for at least the last 30 days. Comparatively, 40 percent of Menthol users and 34 percent of Classic Tobacco users demonstrated completely switching for at least the last 30 days.

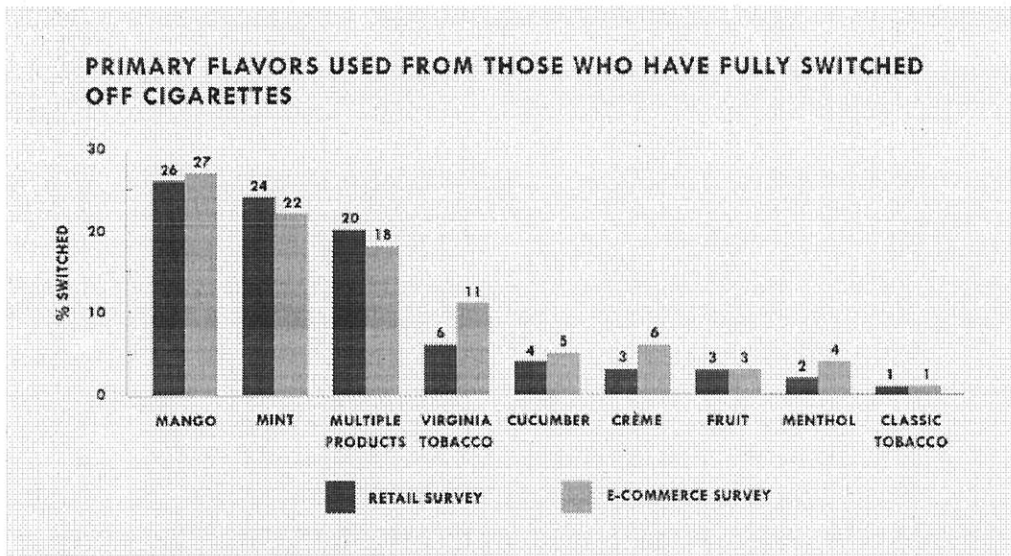
The second study included 7,633 U.S.-based, adult smokers who purchased JUUL Starter Kits through [JUUL.com \(http://www.juul.com/\)](http://www.juul.com/)'s e-commerce platform. Of the 5,012 respondents who completed the 90-day follow-up assessment, those who primarily used Mint, again, demonstrated

the highest switching rates, with 47 percent responding as having completely switched off combustible cigarettes for at least the last 30 days. Of those who primarily used Mango, 45 percent of respondents reported completely switching off cigarettes for at least the last 30 days. The lowest 90-day switch rate for adult smokers was observed among primary users of Classic Tobacco at 18 percent.



Mint and Mango were not only the options with the highest switching rates, they were also the most popular ones. Across both studies, Mint and Mango represented the highest frequency of primary use flavors among respondents who switched at the 90-day assessment.

In the retail study, 26 percent of respondents who switched after 90 days primarily used Mango and 24 percent primarily used Mint. Similarly, in the e-commerce study, 27 percent of respondents who switched after 90 days primarily used Mango and 22 percent primarily used Mint.



Note: Data in the second figure does not add up to 100% because a small number of switchers did not provide data on the flavor pods used.

These real-world, representative studies provide strong evidence that adult smokers not only are using flavored JUUL products, but that these products are also facilitating their switch from combustible cigarettes. Public health experts note that using flavors to dissociate from the taste of tobacco can help ease a smoker's journey off combustible cigarettes.

"These results add to a growing body of scientific studies confirming what makes common sense," said Dr. David B. Abrams, a professor of Social and Behavioral Sciences at NYU College of Global Public Health. "Smokers who find a satisfying alternative to cigarettes are more likely to switch if their vape device helps to forget the taste and smell of their cigarettes."

"Flavors are an essential element of encouraging switching to vaping, and we need regulations that focus on a risk-benefit analysis rather than inadvertently perpetuating the cigarette epidemic," said David Sweanor of the Center for Health Law, Policy and Ethics at the University of Ottawa.

An in-depth analysis of the data from both studies has been submitted by CSUR to a medical journal for peer review.

### About the Studies:

JUUL Labs commissioned CSUR to independently design, administer, and analyze the results for both the e-commerce and retail studies. Study participants were asked to report primary flavor use at each follow-up point. A comparison of switching rates at 90 days of JUUL use, across flavored products, shows variation in switching rates by flavor.

For the retail study, invitations to complete an online survey were inserted into the packaging of JUUL Starter Kits, which were then distributed at random to approximately 10,000 licensed store retailers. The first 7,823 who qualified for the study were enrolled.

For the e-commerce study, invitations to complete an online survey about the use of cigarettes, JUUL products, and other e-cigarettes and vapor products were sent to approximately 37,536 U.S. adults aged 21 years and older who had recently purchased the JUUL Starter Kit from JUUL.com and consented to be contacted by JUUL Labs.

~~(https://www.juul.com/)~~

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This product contains nicotine. Nicotine is an addictive chemical.

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This product contains chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

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January 30, 2019

## **Prevent Underage Vaping; Don't Prevent Adult Switching**

Jeff Stier Senior Fellow, Taxpayer Protection Alliance: @JeffaStier

E-cigarettes are not entirely safe and they should not be used by kids. At the same time, combustible cigarettes are around 95 percent more dangerous than e-cigarettes.

Cigarette smoking is still a major public health problem in New York City.

Many adults who have not been able to quit smoking using other methods have now completely quit with the help of a wide variety of flavors of these far-less harmful non-combustible alternatives to cigarettes.

The American Cancer Society says we should support adult smokers who attempt to quit with e-cigarettes. Flavors are essential to making e-cigarettes a viable alternative to combustible cigarettes. As such, from a public health perspective, a ban on e-cigarette flavors would undermine the goal of supporting adult cessation.

The Council should consider targeted policies that will prevent teen vaping which would not have the unintended consequence of preventing adult smokers from quitting.



## The American Vaping Association

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www.vaping.org

70 Hemlock St, Stratford, CT 06615

(609) 947 - 8059

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January 30, 2019

**RE: T2019-3592 (Oversight) and Int. 1362-2019, a bill to ban the sale of flavored electronic cigarettes**

Chairman Levine and members of the Committee on Health:

On behalf of the American Vaping Association, a nonprofit organization that advocates for policies that encourage adult smokers who are unwilling or unable to quit smoking to switch to reduced risk nicotine products, I am writing to urge the committee to reject Int. 1362-2019, which would ban the sale of e-liquids used in vaping products by 90%-plus of adult vapers in the United States. Neither public health nor New York City small businesses will be served by preventing adult smokers from accessing less harmful alternatives to traditional combustible cigarettes.

### **I. Vaping Products are Much Less Harmful than Smoking & are Helping Adult Smokers Quit**

- Over forty years ago, Dr. Michael Russell wrote in the British Medical Journal, "Smokers smoke for the nicotine, but die from the tar." While nicotine can create dependence in users, it is not a carcinogen and does not meaningfully contribute to the death and disease that is principally caused by the habitual inhalation of cigarette smoke.
- On January 19, 2019, Food & Drug Administration Commissioner Dr. Scott Gottlieb reiterated his position on the benefits of vaping by adults, tweeting, "I believe if every currently addicted adult smoker switched completely to e-cigs it would provide a tremendous public health gain."
- Researchers from the American Heart Association, working from a sample size of over 460,000 Americans, estimated that 7.6% of all ex-smokers in the United States (4.4 million adults) had vaped in the past month, with 5% of all ex-smokers being daily vapers (3 million people).<sup>1</sup>
- A 26-month study of 15,943 adult smokers undertaken by the Centers for Disease Control & Prevention (CDC) found that vaping is the most popular method of quitting smoking in the United States. Furthermore, smokers using vapor products were more likely to successfully quit versus those who used conventional methods like the nicotine gum and patch.<sup>2</sup>
- Respected international bodies, including the Royal College of Physicians and Public Health England, have published expert reports estimating that vaping carries no more than 5% the risk of smoking.
- The U.S. National Academy of Sciences (NAS) extensively studied the health effects of vaping products and concluded that vaping will result in an overall public health benefit under the most plausible scenarios.

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<sup>1</sup> M. Mirbolouk, *et al.* "Prevalence and Distribution of E-Cigarette Use Among U.S. Adults: Behavioral Risk Factor Surveillance System, 2016. *Annals of Internal Medicine.*" *Ann. Intern Med.* <http://annals.org/aim/article-abstract/2698112/prevalence-distribution-e-cigarette-use-among-u-s-adults-behavioral>

<sup>2</sup> R. Caraballo, *et al.* "Quit Methods Used by US Adult Cigarette Smokers, 2014–2016." *Prev Chronic Dis* 2017; 14:160600. [https://www.cdc.gov/pcd/issues/2017/16\\_0600.htm](https://www.cdc.gov/pcd/issues/2017/16_0600.htm)

## II. The Importance of Flavors to Adults has been Demonstrated

- A study using data from the FDA's multi-year, population-level PATH study found that among adults aged 25 or older, those using candy or sweet vaping flavors were twice as likely to be trying to quit combustible tobacco. Moreover, among ex-smokers who reported that e-cigarettes helped with their smoking cessation, more respondents used fruit than any other flavor type.<sup>3</sup>
- Researchers from the Yale School of Public Health and other institutions conducted an FDA-funded study of 2,031 adult smokers and recent quitters. The study concluded that banning flavors in vaping products would result in increases in smoking.<sup>4</sup>
- A self-selected survey of 69,223 vapers from the United States found that among the 81.3% of respondents who were former smokers, just 7.7% and 12.8% of these exclusive vapers used tobacco or menthol flavors, respectively. Ex-smokers and dual users overwhelmingly preferred flavors categorized as fruit, dessert, or sweet.<sup>5</sup>

## III. Better Enforcement is the Answer, Not Bans That Will Only Harm Adults

In the next two weeks, FDA Commissioner Scott Gottlieb is expected to officially release new policy guidance that will restrict the retail sale of all flavored vaping products (other than tobacco, mint, and menthol) to adult-only environments like vape shops. Dr. Gottlieb believes this federal policy change and other agency actions will help strike a balance between the goals of preventing youth nicotine initiation and ensuring adult smokers have access to satisfying and effective alternatives.<sup>6</sup>

New York City should rigorously enforce its existing ban on the sale of all nicotine and tobacco products to those under 21. However, new restrictions on flavored non-combustible products are not justified by the science that exists today. Indeed, the science suggests that because flavored vaping products and other non-combustible options are helping to reduce and denormalize smoking, banning flavored e-liquids would actually do great harm.

Please reject Int. 1362-2019 and keep flavored smoke-free alternatives available to adults in New York City.

Sincerely,



Gregory Conley, J.D., M.B.A.  
President  
American Vaping Association

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<sup>3</sup> S. Someji, *et al.* "Flavor Preference Among Adolescent, Young Adult, and Adult E-Cigarette Users: Findings From Wave 2 of the Population Assessment of Tobacco and Health Study." Poster SYM7D. Presented at SRNT 2018.

<sup>4</sup> John Buckell, Joachim Marti, and Jody L. Sindelar, "Should Flavors Be Banned in E-Cigarettes? Evidence on Adult Smokers and Recent Quitters from a Discrete Choice Experiment." National Bureau of Economic Research. September 2017. <http://www.nber.org/papers/w23865.pdf>.

<sup>5</sup> Jim McDonald. "Farsalinos Survey Shows Vapers Prefer Fruit and Dessert Flavors." Vaping360. August 13, 2018. <https://vaping360.com/vape-news/69440/farsalinos-survey-shows-vapers-prefer-fruit-and-dessert-flavors/>



## The African American Tobacco Control Leadership Council

January 29, 2019

**To:** New York City Council Committee on Health

**From:** The African American Tobacco Control Leadership Council

**Re: Adopt Citywide Restriction on the Sale of Menthol and all Other Flavored Tobacco Products, Including Flavored E-Juices in the New York City**

The African American Tobacco Control Leadership Council (AATCLC) strongly encourages the New York City Council to restrict the sale of menthol and all flavored tobacco products, including flavored e-juices citywide in New York City. We already know that 80% of youths aged 12-17 start smoking using flavored cigarettes (Ambrose et al., 2015). If the City Council truly wants a healthier New York City, and we believe that you do, then it is imperative that the sales of menthol and all other flavored tobacco products be restricted and the predatory marketing of these products be recognized as a social injustice issue, an issue that disproportionately impacts young people, poorer communities, marginalized groups, and communities of color.

**This is no minor matter.** Menthol and flavored tobacco products are driving tobacco-caused deaths and diseases nation-wide. While the use of non-flavored tobacco cigarettes has been decreasing, the use of menthol cigarettes is on the rise, among youth and adults; among Latinos, Blacks, and Whites (Villanti, 2016). Let's be clear, the majority of women smokers smoke menthol cigarettes; folks from the LGBTQ community disproportionately smoke these products; 47% of Latino smokers prefer menthol cigarettes, with 62% of Puerto Rican smokers using menthol; nearly 80% of Native Hawaiians; a majority of Filipinos; and a majority of smokers with behavioral health issues smoke menthol cigarettes. Frankly, most marginalized groups disproportionately use these "minty" products (CDC, 2010; Fallin, 2015; Forbes, 2013; Delnevo, 2011; Hawaii State Dept. of Health, 2009; Euromonitor, 2008; Hickman, 2015).

Moreover, 85% African American adult smokers and 94% of Black youth who smoke are using menthol products (Giovino, 2013). These striking statistics arise from the predatory marketing of these products in the Black Community, where there are more advertisements, more lucrative promotions, and *cheaper prices* for menthol cigarettes compared to other communities (Henriksen et al., 2011; Seidenberg et al., 2010).

The City Council should be aware that menthol, as if to add insult to injury, masks the harsh taste of tobacco and allows for deeper inhalation of toxins and greater amounts of nicotine.

Furthermore, the presence of menthol makes cigarettes harder to quit compared to other cigarettes (Ton et al., 2015; Levy et al., 2011). The “cool refreshing taste of menthol” heralded by the tobacco industry is just a guise; ultimately, menthol allows the poisons in cigarettes and cigarillos to “go down into the body” more easily.

We all have been reading in the papers about the “JUUL Explosion,” where a little thumb drive looking device is used more than regular cigarettes among youth (CDC, 2018). And one of the major drivers of the massive uptake of c-cigarettes among youth is the fact that there are over 15,000 kid friendly flavors available in the marketplace! (<https://www.flavorshookkids.org/> 2018). The vaporist community would like you to believe that aerosol inhaled by e-cigarette users is only water vapor – nothing could be further from the truth. Here are the facts:

1. E-cigarettes are tobacco products that deliver nicotine, an addictive substance that especially in youth can compromise the brains executive functioning (Report of the Surgeon General, 2014).
2. The propylene glycol and vegetable glycerin that constitute a large portion of the e-juice and the resulting vapor **are not FDA approved for inhalation.**
3. The 15,000+ flavors available on the market may be Generally Recognized as Safe (GRAS) for **ingestion**, but they are not GRAS for **inhalation.**
4. There are as many, if not more, metals in the vapor of e-cigarettes than found in cigarette smoke (Williams et al., 2013).
5. Many of the same toxins and carcinogens found in regular cigarettes, like benzene, formaldehyde, and tobacco specific nitrosamines, can be found in e-cigarette vapor (Goniewicz et al., 2013). And yes, these toxins and carcinogens are at lower levels than in a regular cigarette; while toxic levels may be lower doesn’t mean that e-cigarettes are **safe!**
6. The vapor from e-cigarettes activates platelet formation just like regular cigarettes; such platelet activity leads to arterial blockages (Hom et al., 2016).
7. E-cigarette aerosol consists of ultrafine particles at levels comparable to or higher than cigarettes. These particles can cause cardiovascular and pulmonary disease. In addition, the particle size in e-cigarettes is often smaller, and thus more dangerous, than those generated by cigarettes (Fuoco FC, Buonanno G, Stabile L, Vigo P. 2014).
8. Kids who start with e-cigarettes are more likely to become regular cigarette users, and unfortunately, in many cases dual users (Byrne S et al., 2018).
9. Here is a link to the European Public Health Association: Fact or Fiction on E-cigs: [https://eupha.org/repository/advocacy/EUPHA\\_facts\\_and\\_fiction\\_on\\_e-cigs.pdf](https://eupha.org/repository/advocacy/EUPHA_facts_and_fiction_on_e-cigs.pdf)

The AATCLC is calling upon the New York City Council to join a growing number of cities and counties around the country that are restricting jurisdiction-wide the sales of menthol cigarettes and all other flavored tobacco products, including e-juices. In June 2018, San Francisco voters passed the first ever citywide restriction on the sales of all other flavored tobacco products, including menthol cigarettes and flavored e-cigarettes juices. This “strongest flavor ban law ever” was rapidly replicated in the City of Richmond, CA the following month. Within weeks,



Beverly Hills followed with their own citywide restrictions. Since November, The County of Marin, the Cities of Alameda, Santa Cruz, San Pablo, Hermosa Beach, in California and the City of Needham in Massachusetts, all have passed city wide menthol and flavor restrictions city wide. Indeed, the Food and Drug Administration announced that it is contemplating initiating a process to remove menthol from combustible cigarettes and flavors out of little cigars. Moreover, Governor Cuomo, although not identifying menthol to be regulated, has mentioned the need to regulate certain flavors in tobacco products: "The budget will include a proposal to provide the Department of Health the authority to ban the sale of certain flavored liquids that target youth use of e-cigarettes." Frankly, it would be a game changer, not only for the health of NYC residents, but would be a clarion call nationwide to get menthol and flavors out of tobacco products. These laws that are passed should also include money for cessation services to accompany the polices being implemented.

Rhetoric driven and funded by the tobacco industry has been used to try to block our efforts to save the lives of the 45,000 Black people who die each year from tobacco caused diseases. Such rhetoric usually centers around the very legitimate concerns that Black and Brown communities face with inequitable enforcement of tobacco control laws. It is posited that these laws, though well intentioned, will be punitively and unequally enforced on people who are already the victims of decades of predatory tobacco industry targeting and police harassment. Additionally, assertions that these restrictions will lead to a black market are not substantiated with facts; nowhere these restrictions are in place have we seen the emergence of a black market. Moreover, none of the above-mentioned restrictions on menthol and flavored cigarettes has led to arresting Black kids for possession of these products. All the regulations call for the restriction of sales, not for criminalizing possession; these products will remain legal for people to use. In this regard, we applaud the NAACP and Delta Sigma Theta Sorority, Inc. for supporting the ban of menthol and all other flavored tobacco products. While at the same time, we call on all civil rights organizations to take no money from the tobacco industry.

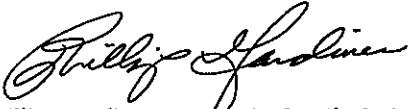
Formed in 2008, the African American Tobacco Control Leadership Council is composed of a cadre of dedicated community activists, academics, public health advocates and researchers. Even though based in California, we are national in our scope and reach. We have partnered with community stakeholders, elected officials, and public health agencies, from Chicago and Minneapolis to Berkeley and San Francisco. Our work has shaped the national discussion and direction of tobacco control policy, practices, and priorities, especially as they affect the lives of Black Americans, African immigrant populations, and ultimately all smokers. The AATCLC has been at the forefront in elevating the regulation of mentholated and other flavored tobacco products on the national tobacco control agenda, including testifying at the FDA hearings when the agency was first considering the removal of menthol cigarettes from the marketplace.

We here at the AATCLC recognize that the City Council is under extraordinary pressure from the tobacco industry and the vaporist community to put profits above human life by not including menthol in the City's existing flavors restrictions. Please join your sister cities around the country and stand up to the tobacco industry and their allies by calling for: **No Selling of Menthol Cigarettes and All Other Flavored Tobacco Products, including Flavored E-Juices**

**Citywide in New York City. Say “No” to the continued predatory marketing of menthol tobacco products to our youth, and say “Yes” to the health and welfare of our kids, who are the most vulnerable. In fact, say “Yes” to the protection for all New York City residents.**

**We are all counting on you!**


Sincerely,



Phillip Gardiner, Dr. P.H. Co-Chair AATCLC [www.savingblacklives.org](http://www.savingblacklives.org)



Carol McGruder, Co-Chair AATCLC



Valerie Yerger, N.D., Co-Chair AATCLC



## The African American Tobacco Control Leadership Council

January 29, 2019

**To:** New York City Council Committee on Health

**From:** The African American Tobacco Control Leadership Council

**Re: Adopt Citywide Restriction on the Sale of Menthol and all Other Flavored Tobacco Products, Including Flavored E-Juices in the New York City**

The African American Tobacco Control Leadership Council (AATCLC) strongly encourages the New York City Council to restrict the sale of menthol and all flavored tobacco products, including flavored e-juices citywide in New York City. We already know that 80% of youths aged 12-17 start smoking using flavored cigarettes (Ambrose et al., 2015). If the City Council truly wants a healthier New York City, and we believe that you do, then it is imperative that the sales of menthol and all other flavored tobacco products be restricted and the predatory marketing of these products be recognized as a social injustice issue, an issue that disproportionately impacts young people, poorer communities, marginalized groups, and communities of color.

**This is no minor matter.** Menthol and flavored tobacco products are driving tobacco-caused deaths and diseases nation-wide. While the use of non-flavored tobacco cigarettes has been decreasing, the use of menthol cigarettes is on the rise, among youth and adults; among Latinos, Blacks, and Whites (Villanti, 2016). Let's be clear, the majority of women smokers smoke menthol cigarettes; folks from the LGBTQ community disproportionately smoke these products; 47% of Latino smokers prefer menthol cigarettes, with 62% of Puerto Rican smokers using menthol; nearly 80% of Native Hawaiians; a majority of Filipinos; and a majority of smokers with behavioral health issues smoke menthol cigarettes. Frankly, most marginalized groups disproportionately use these "minty" products (CDC, 2010; Fallin, 2015; Forbes, 2013; Delnevo, 2011; Hawaii State Dept. of Health, 2009; Euromonitor, 2008; Hickman, 2015).

Moreover, 85% African American adult smokers and 94% of Black youth who smoke are using menthol products (Giovino, 2013). These striking statistics arise from the predatory marketing of these products in the Black Community, where there are more advertisements, more lucrative promotions, and *cheaper prices* for menthol cigarettes compared to other communities (Henriksen et al., 2011; Seidenberg et al., 2010).

The City Council should be aware that menthol, as if to add insult to injury, masks the harsh taste of tobacco and allows for deeper inhalation of toxins and greater amounts of nicotine. Furthermore, the presence of menthol makes cigarettes harder to quit compared to other cigarettes (Ton et al., 2015; Levy et al., 2011). The “cool refreshing taste of menthol” heralded by the tobacco industry is just a guise; ultimately, menthol allows the poisons in cigarettes and cigarillos to “go down into the body” more easily.

We all have been reading in the papers about the “JUUL Explosion,” where a little thumb drive looking device is used more than regular cigarettes among youth (CDC, 2018). And one of the major drivers of the massive uptake of c-cigarettes among youth is the fact that there are over 15,000 kid friendly flavors available in the marketplace! (<https://www.flavorhookkids.org/> 2018). The vaporist community would like you to believe that aerosol inhaled by e-cigarette users is only water vapor – nothing could be further from the truth. Here are the facts:

1. E-cigarettes are tobacco products that deliver nicotine, an addictive substance that especially in youth can compromise the brains executive functioning (Report of the Surgeon General, 2014).
2. The propylene glycol and vegetable glycerin that constitute a large portion of the e-juice and the resulting vapor **are not FDA approved for inhalation.**
3. The 15,000+ flavors available on the market may be Generally Recognized as Safe (GRAS) for **ingestion**, but they are not GRAS for **inhalation.**
4. There are as many, if not more, metals in the vapor of e-cigarettes than found in cigarette smoke (Williams et al., 2013).
5. Many of the same toxins and carcinogens found in regular cigarettes, like benzene, formaldehyde, and tobacco specific nitrosamines, can be found in e-cigarette vapor (Goniewicz et al., 2013). And yes, these toxins and carcinogens are at lower levels than in a regular cigarette; while toxic levels may be lower doesn't mean that e-cigarettes are **safe!**
6. The vapor from e-cigarettes activates platelet formation just like regular cigarettes; such platelet activity leads to arterial blockages (Hom et al., 2016).
7. E-cigarette aerosol consists of ultrafine particles at levels comparable to or higher than cigarettes. These particles can cause cardiovascular and pulmonary disease. In addition, the particle size in e-cigarettes is often smaller, and thus more dangerous, than those generated by cigarettes (Fuoco FC, Buonanno G, Stabile L, Vigo P. 2014).
8. Kids who start with e-cigarettes are more likely to become regular cigarette users, and unfortunately, in many cases dual users (Byrne S et al., 2018).
9. Here is a link to the European Public Health Association: Fact or Fiction on E-cigs: [https://eupha.org/repository/advocacy/EUPHA\\_facts\\_and\\_fiction\\_on\\_e-cigs.pdf](https://eupha.org/repository/advocacy/EUPHA_facts_and_fiction_on_e-cigs.pdf)

The AATCLC is calling upon the New York City Council to join a growing number of cities and counties around the country that are restricting jurisdiction-wide the sales of menthol cigarettes and all other flavored tobacco products, including e-juices. In June 2018, San Francisco voters passed the first ever citywide restriction on the sales of all other flavored tobacco products,

including menthol cigarettes and flavored e-cigarettes juices. This “strongest flavor ban law ever” was rapidly replicated in the City of Richmond, CA the following month. Within weeks, Beverly Hills followed with their own citywide restrictions. Since November, The County of Marin, the Cities of Alameda, Santa Cruz, San Pablo, Hermosa Beach, in California and the City of Needham in Massachusetts, all have passed city wide menthol and flavor restrictions city wide. Indeed, the Food and Drug Administration announced that it is contemplating initiating a process to remove menthol from combustible cigarettes and flavors out of little cigars. Moreover, Governor Cuomo, although not identifying menthol to be regulated, has mentioned the need to regulate certain flavors in tobacco products: “The budget will include a proposal to provide the Department of Health the authority to ban the sale of certain flavored liquids that target youth use of e-cigarettes.” Frankly, it would be a game changer, not only for the health of NYC residents, but would be a clarion call nationwide to get menthol and flavors out of tobacco products. These laws that are passed should also include money for cessation services to accompany the policies being implemented.

Rhetoric driven and funded by the tobacco industry has been used to try to block our efforts to save the lives of the 45,000 Black people who die each year from tobacco caused diseases. Such rhetoric usually centers around the very legitimate concerns that Black and Brown communities face with inequitable enforcement of tobacco control laws. It is posited that these laws, though well intentioned, will be punitively and unequally enforced on people who are already the victims of decades of predatory tobacco industry targeting and police harassment. Additionally, assertions that these restrictions will lead to a black market are not substantiated with facts; nowhere these restrictions are in place have we seen the emergence of a black market. Moreover, none of the above-mentioned restrictions on menthol and flavored cigarettes has led to arresting Black kids for possession of these products. All the regulations call for the restriction of sales, not for criminalizing possession; these products will remain legal for people to use. In this regard, we applaud the NAACP and Delta Sigma Theta Sorority, Inc. for supporting the ban of menthol and all other flavored tobacco products. While at the same time, we call on all civil rights organizations to take no money from the tobacco industry.

Formed in 2008, the African American Tobacco Control Leadership Council is composed of a cadre of dedicated community activists, academics, public health advocates and researchers. Even though based in California, we are national in our scope and reach. We have partnered with community stakeholders, elected officials, and public health agencies, from Chicago and Minneapolis to Berkeley and San Francisco. Our work has shaped the national discussion and direction of tobacco control policy, practices, and priorities, especially as they affect the lives of Black Americans, African immigrant populations, and ultimately all smokers. The AATCLC has been at the forefront in elevating the regulation of mentholated and other flavored tobacco products on the national tobacco control agenda, including testifying at the FDA hearings when the agency was first considering the removal of menthol cigarettes from the marketplace.

We here at the AATCLC recognize that the City Council is under extraordinary pressure from the tobacco industry and the vaporist community to put profits above human life by not including menthol in the City’s existing flavors restrictions. Please join your sister cities around the

country and stand up to the tobacco industry and their allies by calling for: **No Selling of Menthol Cigarettes and All Other Flavored Tobacco Products, including Flavored E-Juices Citywide in New York City.** Say “No” to the continued predatory marketing of menthol tobacco products to our youth, and say “Yes” to the health and welfare of our kids, who are the most vulnerable. In fact, say “Yes” to the protection for **all** New York City residents.

We are all counting on you!

Sincerely,



PI

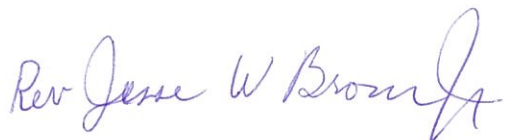
TCLC [www.savingblacklives.org](http://www.savingblacklives.org)



Carol McGruder, Co-Chair AATCLC



Valerie Yerger, N.D., Co-Chair AATCLC



Rev. Jesse W Brown Jr.



Jesse W Brown Jr &lt;onyxbrown@gmail.com&gt;

## Rev. Jessie Brown will be attending...here is his number-he is cc"..Phil is sending our letter now.

1 message

**Carol McGruder** <cmcgruder@usa.net>

Tue, Jan 29, 2019 at 7:25 PM

To: Kevin O'Flaherty <koflaherty@tobaccofreekids.org>, Jesse W Brown Jr <onyxbrown@gmail.com>, Delmonte Jefferson <djefferson@naatpn.org>, Matt Myers <mmyers@tobaccofreekids.org>, Carol McGruder <cmcgruder@usa.net>, Phillip Gardiner <phillip.gardiner@ucop.edu>, Valerie Yerger <valerie.yerger@ucsf.edu>

Cc: Chris Sherwin <csherwin@tobaccofreekids.org>, Kimberly Amazeen <kamazeen@tobaccofreekids.org>

Rev. Jesse Brown will be attending (215) 680-3790

*Subway 2 or 3*

----- Original Message -----

**Received:** Tue, 29 Jan 2019 11:47:38 AM PST

**From:** Kevin O'Flaherty <koflaherty@TobaccoFreeKids.org>

**To:** Matt Myers <mmyers@TobaccoFreeKids.org>, Carol McGruder <cmcgruder@usa.net>, Phillip Gardiner <phillip.gardiner@ucop.edu>, "Valerie Yerger" <valerie.yerger@ucsf.edu>

**Cc:** Chris Sherwin <csherwin@TobaccoFreeKids.org>, Kimberly Amazeen <kamazeen@TobaccoFreeKids.org>

**Subject:** Re: Time sensitive request about tomorrow's NYC menthol hearing

City Hall is located in **City Hall Park**, and the best entrance to the park is on **Broadway at Murray Street**.

There is a rally that opponents of one of the bills are holding in front of city hall at 1130. It would be best to arrive at city hall before 1130 or noon to be able to get a seat before the rally attendees enter the room.

If you believe you will be able to have someone attend to represent your group(s), please let me know. I can share with committee staff to get them placed on a more prominent (and earlier) panel.

Please let me know if you have any other questions.

Best,  
Kevin

Kevin O'Flaherty  
Director of Advocacy - Northeast Region  
Campaign for Tobacco-Free Kids  
646-919-0469

----- Original message -----

**From:** Matt Myers <mmyers@TobaccoFreeKids.org>

**Date:** 1/29/19 1:39 PM (GMT-06:00)

**To:** Carol McGruder <cmcgruder@usa.net>, Phillip Gardiner <phillip.gardiner@ucop.edu>, Valerie Yerger <valerie.yerger@ucsf.edu>

**Cc:** Kevin O'Flaherty <koflaherty@TobaccoFreeKids.org>, Chris Sherwin <csherwin@TobaccoFreeKids.org>, Kimberly Amazeen <kamazeen@TobaccoFreeKids.org>

**Subject:** Re: Time sensitive request about tomorrow's NYC menthol hearing

Hearing is at 1 pm January 30 before the **Committee on health at the Committee Room in City Hall**.

Testimony of Michael Seilback

New York City Council

Committee on Health

“Oversight– Banning the sale of Flavored Vaping Products and Flavored Cigarettes in New York City”

January 30, 2019

Good afternoon Chairman Levine and members of the Health Committee. My name is Michael Seilback and I’m the National Assistant Vice President for State Public Policy for the American Lung Association. On behalf of the Lung Association, we are pleased to speak today in support of Intro 1345 and Intro 1362 with the edits that were laid out earlier today. We urge the Council to protect health by passing these bills together as soon as possible.

The Lung Association works on behalf of the 33 million Americans living with lung diseases including lung cancer and COPD – which are primarily caused by tobacco use and exposure to secondhand smoke.

We have made tremendous progress in reducing adult and youth cigarette smoking rates to all-time lows, with 7.6 percent of high school students and 14.0 percent of adults smoking cigarettes. In particularly positive news, there was a significant drop in adult smoking rates from 15.5 percent in 2016 to 14.0 percent in 2017. However, this positive news was tempered by a dramatic and extremely troubling 78 percent rise in high school e-cigarette use from 2017 to 2018 – meaning more than 1 million additional kids started using e-cigarettes in the past year. This disturbing increase led the U.S. Surgeon General to call youth e-cigarette use an epidemic last month. And a significant number of these kids will start smoking regular cigarettes.

Continued progress on reducing both cigarette smoking, and other tobacco product use requires bold and swift action on the part of our federal, state and local governments. But we cannot sit here and wait for potential action from our partners on the state and federal level. It is imperative that the City acts now – waiting for other levels of government to act may lead to not only another generation of New Yorkers addicted to tobacco products but ultimately more tobacco-caused death and disease.



E-cigarettes currently being sold in the U.S. in the marketplace have not been reviewed by the Food and Drug Administration. That means the company has not had to disclose the ingredients in their products to the FDA. But we do know that almost all e-cigarettes include nicotine, as well as chemicals and toxins which are unsafe to inhale. While the FDA now has authority over e-cigarettes, it has delayed a critical review of ingredients and potential harms until 2022 – leaving unregulated products with unknown chemicals that are being inhaled into the lungs – on the market.

The Lung Association is also troubled about the claims e-cigarette manufacturers are making. Let me be clear: the Food and Drug Administration has not found any e-cigarette to be safe and effective in helping smokers quit. If smokers are ready to quit smoking for good, they should call 1-866-NYQUITS or talk with their doctor about finding the best way to quit using proven methods and FDA-approved treatments and counseling.

With regards to the bills being considered today, the American Lung Association urges the Council to move forward and pass both proposed laws which would prohibit the sale of all flavored e-cigarettes and expand New York City's current flavored tobacco product restrictions to apply to mint, menthol and wintergreen. Each day of delay benefits the purveyors of these products who continue to prey on our nation's children. According to the 2018 National Youth Tobacco Survey released in November, over 50 percent of high school students who use e-cigarettes are using mint and menthol flavored e-cigarettes. It is therefore imperative that all flavored tobacco products are addressed by the Council through these two bills. The Lung Association urges the Council to move forward with this initiative as we continue to work on the state and federal level to remove all flavored tobacco products from the marketplace.

Recognizing that almost all tobacco users begin their use during their adolescence or young adulthood, tobacco companies have spent billions of dollars marketing their products and making them more attractive to young people. It is well established that flavors are attractive to children and young people. Both the US Surgeon General<sup>1</sup> and the National Academy of Sciences, Engineering and Medicine have written comprehensive reports on e-cigarettes that discuss the subject<sup>2</sup>. For decades, the tobacco industry has used flavors to attract youth. Indeed the industry's decades-long conspiracy to deceive the public includes many documents that demonstrate the industry's understanding of the role flavors play in tobacco use initiation. While most flavored cigarettes are prohibited, the industry is once again using flavored e-cigarettes – as well as cigars – to attract youth – and then addict them.

Several years ago, one study estimated there were about 7,700 flavors of e-cigarettes on the market at that time. Once Juul came onto the market, it quickly became the most commonly used e-cigarette product through the sale of their cool mint, mango, fruit, creme and cucumber flavors. Other e-cigarette brands sell flavors tasting like Gummy Bears, Atomic Fireball, Captain Crunch

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<sup>1</sup> U.S. Department of Health and Human Services. (2016.) E-Cigarette Use Among Youth and Young Adults. Retrieved from [https://e-cigarettes.surgeongeneral.gov/documents/2016\\_sgr\\_full\\_report\\_non-508.pdf](https://e-cigarettes.surgeongeneral.gov/documents/2016_sgr_full_report_non-508.pdf)

<sup>2</sup> National Academies of Sciences. (2018). Public Health Consequences of E-Cigarettes. Retrieved from <http://nationalacademies.org/hmd/Reports/2018/public-health-consequences-of-e-cigarettes.aspx>

and a wide variety of other fruit, candy and sweet flavors. There is no question that these flavors appeal to youth.

There is even more evidence that flavor additives in e-cigarettes – especially those that are based on natural plant-based extracts, are menthol-based and food-related additives such as cinnamaldehyde – are particularly toxic to lungs when they are inhaled. One study found that these additives significantly affect the lung cell viability and the respiratory barrier integrity<sup>3</sup>. Another study found that lower concentrations of these flavor additives in e-cigarettes caused inflammation and created symptoms consistent with endothelial dysfunction<sup>4</sup>. And of course, the presence of chemicals such as diacetyl and acetyl propionyl, are associated with respiratory disease.<sup>5</sup>

The American Lung Association strongly supports menthol cigarettes being removed from the marketplace and has been calling for such action since 2011. In April 2013, the American Lung Association and our partners submitted a formal citizen petition to the FDA, requesting that the Commissioner “prohibit menthol as a characterizing flavor of cigarettes.”<sup>6</sup> In it, our organizations cited the FDA’s Tobacco Products Scientific Advisory Committee (TPSAC) report, which concluded:

1. Menthol cigarettes have an adverse impact on public health in the United States;
2. Menthol cigarettes offer no public health benefits.
3. Menthol cigarettes increase the likelihood of addiction and the degree of addiction in youth smokers.

Menthol cigarette does not affect everyone equally. Use of menthol cigarettes is more common among youth, female smokers, LGBT smokers<sup>7</sup>, those with mental illness and racial and ethnic minorities, especially African-Americans. Nearly 9 in 10 African-American smokers (88.5 percent) aged 12 years old and older use menthol cigarettes<sup>8</sup>. And that’s not by chance -- the sale and marketing of menthol cigarettes disproportionately burdens the African-American community as a result of decades of targeted marketing to the African-American community by the tobacco industry<sup>9</sup>.

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<sup>3</sup> Fetterman, J.L., et al. (2018). Flavorings in Tobacco Products Induce Endothelial Cell Dysfunction. *Arterioscler, Thrombosis, and Vascular Biology*. Retrieved from <http://atvb.ahajournals.org/content/early/2018/06/13/ATVBAHA.118.311156>

<sup>4</sup> Fetterman, J.L., et al. (2018). Flavorings in Tobacco Products Induce Endothelial Cell Dysfunction. *Arterioscler, Thrombosis, and Vascular Biology*. Retrieved from <http://atvb.ahajournals.org/content/early/2018/06/13/ATVBAHA.118.311156>

<sup>5</sup> Farsalinos, K.E., et al. (2014). Evaluation of Electronic Cigarette Liquids and Aerosols for the Presence of Selected Inhalation Toxins. *Nicotine & Tobacco Research*. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4892705/>

<sup>6</sup> American Lung Association and other health groups. (2013). Citizens Petition to the Division of Dockets Management at the Food and Drug Administration re Menthol in Cigarettes. Retrieved from <http://www.lung.org/assets/documents/advocacy-archive/menthol-citizen-petition.pdf>

<sup>7</sup> Menthol cigarette smoking among lesbian, gay, bisexual, and transgender adults.

Fallin A1, Goodin AJ2, King BA3. <https://www.ncbi.nlm.nih.gov/pubmed/25245795>

<sup>8</sup> <https://truthinitiative.org/news/6-key-takeaways-new-fda-plan-e-cigarettes-flavored-tobacco-products>

<sup>9</sup> Too Many Cases, Too Many Deaths: Lung Cancer in African Americans, American Lung Association. <https://www.lung.org/assets/documents/research/ala-lung-cancer-in-african.pdf>

New York City has often led the way when it comes to fighting the scourge of tobacco use. It is imperative that the City steps up once again to fight the use of flavored tobacco and e-cigarette use in our city. The American Lung Association strongly supports these efforts and urges the Council to quickly act to pass these bills.

For more information about this testimony, please contact Michael Seilback at 631.415.0946 or [Michael.Seilback@Lung.org](mailto:Michael.Seilback@Lung.org).



New York Association of Convenience Stores  
130 Washington Avenue, Suite 300, Albany NY 12210

TELEPHONE: (800) 33-NYACS or (518) 432-1400

FAX: (518) 432-7400

**Testimony of James Calvin, President  
New York Association of Convenience Stores  
Before the New York City Council Health Committee  
January 30, 2019**

The New York Association of Convenience Stores is a private trade organization representing 8,700 neighborhood mini-marts here in New York City and across the state, most of which are licensed to responsibly sell legal tobacco products to adult customers in accordance with federal, state and local standards.

New York City is already the nation's illegal tobacco trade capital. Introductions 1345 and 1362 would unquestionably make this problem even worse – thwarting public health objectives, draining untold millions of dollars in tax revenue, and depriving licensed retailers of legitimate, age-verified sales.

Legislatively banning the sale of menthol cigarettes would be like commanding the tide to stop coming in. The enormous demand – about one-third of total cigarette consumption nationally – has existed for generations, and menthol smokers would be undeterred in finding alternate sources of the product.

It is widely known that hundreds of thousands of New York City smokers routinely buy cigarettes from trunk slammers, street peddlers, and criminal entrepreneurs who smuggle them in, largely, from lower-tax states down the I-95 corridor. The Mackinac Center for Public Policy describes New York as a smuggler's paradise, documenting that 56 percent of all cigarettes are purchased outside of regulated channels. Attached to my testimony are recent examples of major cigarette trafficking arrests by federal, state and city agencies exposing tens of millions of dollars in tax evasion, yet only the tip of New York City's bootlegging iceberg.

Given the pervasiveness of these illegal trade channels, the choice here is not between making menthol cigarettes available or unavailable, or between making flavored e-cigarettes available or unavailable. It's between having them sold in a licensed, taxed, age-verified environment like our stores, or having them sold out on the street without any tax collection or age verification whatsoever.

Please don't hand the other 44 percent of New York's tobacco trade to the bootleggers. Please don't unwittingly drive smokers of menthol cigarettes, and users of flavored e-cigarettes, to the unlicensed, unregulated, untaxed side of the street. Please don't cripple mom-and-pop businesses and thwart continuing efforts to curtail tobacco and e-cigarette use. Please reject Introductions 1345 and 1362. Thank you for the opportunity to be heard.

THE UNITED STATES ATTORNEY'S OFFICE  
SOUTHERN DISTRICT *of* NEW YORK

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Department of Justice  
U.S. Attorney's Office  
Southern District of New York

FOR IMMEDIATE RELEASE

Thursday, January 24, 2019

## **Six Individuals Charged With Conspiring To Traffic More Than \$30 Million Of Contraband Cigarettes**

Geoffrey S. Berman, the United States Attorney for the Southern District of New York, Philip R. Bartlett, Inspector-in-Charge of the New York Office of the U.S. Postal Inspection Service ("USPIS"), Angel M. Melendez, the Special Agent-in-Charge of the New York Field Office of U.S. Immigration and Customs Enforcement's Homeland Security Investigations ("HSI"), Matthew Modafferi, Special Agent in Charge, U.S. Postal Service, Office of Inspector General, Northeast Area Field Office ("USPS-OIG"), and Joseph Fucito, New York City Sheriff, announced today the unsealing of an indictment in Manhattan federal court charging SHAO JUN GUO, JIAN JIANG FENG, YUE JUAN CHEN, ZHURONG GAO, SHUI YING LIN, and WO KIT CHENG with conspiring to traffic contraband cigarettes and trafficking contraband cigarettes. The defendants were arrested yesterday and will be presented before U.S. Magistrate Judge Robert W. Lehrburger today. The case is assigned to U.S. District Judge Jesse M. Furman. The defendants will be arraigned before Judge Furman on January 31, 2019, at 11:00 a.m.

As alleged in the indictment, SHAO JUN GUO, JIAN JIANG FENG, YUE JUAN CHEN, ZHURONG GAO, SHUI YING LIN, and WO KIT CHENG conspired to traffic more than \$30 million of contraband cigarettes to avoid approximately \$30 million in taxes. The case is assigned to United States District Judge Jesse M. Furman.

U.S. Attorney Geoffrey S. Berman said: "As alleged, the defendants trafficked in massive quantities of contraband cigarettes, defrauding city, state, and federal governments of millions of dollars in tax revenue. That is lost tax revenue that would be used to fund research into cancer and other smoking-related illnesses, and to fund cessation and anti-smoking programs. These defendants' alleged scheme to make millions, cheat taxing authorities, and deny funds for healthcare programs has gone up in smoke."

USPIS Inspector-in-Charge Philip R. Bartlett said: "These defendants thought they could get away with their scheme to distribute contraband cigarettes, avoiding regulations put in place to protect the public, businesses and the City from fraud. Their illegal profit went up in smoke."

HSI Special Agent-in-Charge Angel M. Melendez said: "For the past six years these defendants smuggled untaxed cigarettes into the United States causing lost revenue to the U.S. economy to the tune of \$30 million dollars in unpaid taxes. Whether it be drugs, counterfeit goods or untaxed cigarettes, smuggling items into the United States is a crime that we at HSI take very seriously as we work every day to secure our borders."

USPS-OIG Special Agent-in-Charge Matthew Modafferi said: "In certain instances, the Special Agents of the U.S. Postal Service, Office of Inspector General will work with their law enforcement partners to stop those who use the U.S. Mail to facilitate their crimes. We would like to thank the U.S. Attorney's Office, USPIS, HSI, and New York City Sheriff's Department for their collaborative efforts in developing this investigation."

Sheriff Joseph Fucito said: "The alleged criminal conduct of the defendants deprives all New Yorkers of significant tax revenues. These lost revenues impact public safety, education, health, housing, and social services. The New York City Sheriff's Department will continue to investigate and pursue criminal conduct to ensure these invaluable services are sustained."

According to the allegations in the Indictment unsealed today in Manhattan federal court<sup>[1]</sup>: From June 2013 through January 2019, the defendants engaged in a scheme to smuggle and traffic \$30 million of untaxed cigarettes in the United States to avoid at least \$30 million in taxes.

\* \* \*

SHAO JUN GUO, 42, of Brooklyn, New York, JIAN JIANG FENG of New York, New York, YUE JUAN CHEN, 41, of Bayside, New York, ZHURONG GAO, 66, of New York, New York, SHUI YING LIN, 43, of Brooklyn, New York, and WO KIT CHENG, 44, of Brooklyn, New York, have each been charged with one count of conspiracy to traffic contraband cigarettes, which carries a maximum prison term of five years; and one count of trafficking contraband cigarettes, which carries a maximum prison term of five years. The maximum potential sentences are prescribed by Congress and are provided here for informational purposes only, as any sentencing of the defendants will be determined by the judge.

Mr. Berman praised the outstanding investigative work of the USPIS, HSI, and the New York City Sheriff's Department.

This case is being handled by the Office's General Crimes Unit. Assistant United States Attorneys Ryan B. Finkel, Elizabeth Espinosa, and Andrew Chan are in charge of the prosecution.

The charges contained in the Indictment are merely accusations, and the defendants are presumed innocent unless and until proven guilty.



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**93-2018**  
**For Immediate Release**  
**November 19, 2018**

**21 PEOPLE INDICTED IN \$15 MILLION TAX FRAUD SCHEME THAT FORGED  
MILLIONS OF TAX STAMPS FOR CIGARETTES FROM NORTH CAROLINA  
Takedown by Bronx DA, New York State Tax Dept., Homeland Security Investigations  
and NJ Treasury Office of Criminal Investigation Yields  
Equipment and Trove of Forged Tax Stamps**

Bronx District Attorney Darcel D. Clark, New York State Department of Taxation and Finance Acting Commissioner Nonie Manion, Brian Michael, Special Agent in Charge, Homeland Security Investigations Newark; and New Jersey State Treasurer Elizabeth Maher Muoio today announced that a joint investigation has resulted in indictments charging 21 people with forging millions of cigarette tax stamps and trafficking in illegal cigarettes that resulted in the evasion of more than \$15 million in taxes and undercutting small businesses.

District Attorney Clark said, "This scheme involved defendants who allegedly forged and printed millions of tax stamps in an apartment and a printing store. Truckloads of cartons of cigarettes per week were brought from North Carolina, and the defendants put the stamps on the packs and sold them to stores throughout the metropolitan area. This scheme allegedly cheated the state and city out of more than \$15 million in taxes in the last six months alone. In addition, this scheme hurts law-abiding businesses that cannot compete with stores illegally selling untaxed, cheap cigarettes."

Acting Commissioner Manion said, "The bust of this sophisticated counterfeit tax stamp ring, the largest in Tax Department history, required deft coordination with our partners in law enforcement. I thank them for continuing to support our mission to break up criminal networks like this one and other operations that deprive communities of vital tax revenue and put honest business owners at a competitive disadvantage."

Special Agent in Charge Michael said, "This type of criminal activity generates huge profits for criminal organizations, both here and abroad, while depriving communities of the benefits of tax revenues and harming small businesses. Those who engage in such forgeries should know



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that the cooperative efforts of local, state, and federal law enforcement agencies will ensure that they are apprehended.”

New Jersey State Treasurer Maher Muoio said, “This criminal enterprise sought to cheat taxpayers in New York and New Jersey out of millions of dollars by peddling truckloads of cigarettes with counterfeit tax stamps. Thankfully, the combined efforts of city, state, and federal law enforcement in New York and New Jersey shut down this operation and put the defendants out of business.”

District Attorney Clark said 17 of the defendants were arrested in takedowns on November 14, 2018 through November 16, 2018 in locations in the Bronx and Yonkers. Nearly two million counterfeit tax stamps, a printing press and other equipment, as well as more than \$120,000 cash were recovered. Authorities also recovered records revealing the transfer of tens of thousands of dollars out of the U.S.

The defendants have been arraigned before Bronx Supreme Court Justice Martin Marcus. They are due back in court starting November 26, 2018. If convicted of the top count of the indictment, many of the defendants face 8 1/3 to 25 years in prison.

The defendants are variously charged with first and second-degree Criminal Tax Fraud, second-degree Money Laundering, first-degree Criminal Possession of a Forged Instrument, first-degree Forgery, Cigarette and Tobacco Products Tax and fourth and fifth-degree Conspiracy.

According to the investigation, between March 2018 and November 2018, defendants Luis Ortiz and Ernesto Guerrero allegedly designed stencils in order to print stamps and sell them for distribution throughout New York City and state without paying city and state taxes. Defendants Bolivar Clase and Nelsa Soler allegedly acquired special wax paper and other supplies, and Guerrero and Ortiz allegedly manufactured the stamps in Ernesto Printing, at 353 Rider Avenue in the Bronx, as well as in Ortiz’ residence at East 173 Street in the Bronx.

Defendants Carlos Santos, Rafael Dominguez and Wilson Dominguez allegedly resold the stamps or affixed them to packs of cigarettes using a clothes iron and then sold the cigarettes.

The other defendants allegedly transported the cigarettes from North Carolina or bought and sold stamps throughout New York City and Westchester County.





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FOR IMMEDIATE RELEASE  
WEDNESDAY, SEPTEMBER 26, 2018

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**MULTI-STATE UNTAXED CIGARETTE SMUGGLING RING DISMANTLED**  
**FOLLOWING LONG-TERM JOINT INVESTIGATION**

*Eight Defendants - Including Two Fathers and Their Sons - Arrested;  
More than \$2 Million in Illegal Profits Seized, Over 150,000 Counterfeit Tax Stamps  
And Approximately 62,670 Packs of Cigarettes Recovered By Law Enforcement*

Queens County District Attorney Richard A. Brown, joined by New York State Acting Commissioner of Taxation and Finance Nonie Manion, today announced that eight individuals from Queens, Long Island, Brooklyn and Virginia have been charged with grand larceny, conspiracy and other crimes for allegedly operating a complex multi-state cigarette smuggling ring.

District Attorney Brown said, "The defendants in this case are modern-day bootleggers who allegedly peddled untaxed cigarettes to enrich themselves. This smuggling ring raked in millions of dollars at the expense of New Yorkers. Purchasing cheaper cigarettes from out of state and applying counterfeit tax stamps on them cheats both the state and city out of much-needed tax revenue. The defendants now face prison time as a result of their alleged greed."

Continuing, the District Attorney said, "I want to acknowledge the exceptional work of the multi-agency Strike Force that investigated this illegal operation. My office will continue to work diligently with our law enforcement partners to root out those who set up illegal operations in Queens County."

NYS Department of Taxation and Finance Acting Commissioner Manion said, "The multi-state fraud scheme alleged in this indictment underscores our resolve to coordinate with all of our law enforcement partners to bring criminals to justice and ensure a level playing field for honest businesses."

The District Attorney identified the defendants as Nicholas Galafano, 56, of 248<sup>th</sup> Street in Little Neck, Queens, his sons Yaseen Galafano, 22, and Musa Galafano, 25, also of 248<sup>th</sup> Street in Little Neck, Queens; Ahmad Abualrub, 61, and his son Hassan Abualrub, 18, both of Brighton 3rd Street in Brooklyn; Beatrice Villafane, 46, of Meadowbrook Road in Hempstead, Long Island; Nasir Jafri, 43, of Giselle Court in Chantilly, Virginia; and Lisa Penda, 33, of Elk Street in Hempstead, Long Island.

All eight defendants are charged in multiple criminal complaints with second-degree grand larceny, a cigarette and tobacco products tax law felony, second-degree criminal possession of a forged instrument and fourth-degree conspiracy. The defendants were arraigned last night before Queens Criminal Court Judge Toni Cimino, who released them on their own recognizance and ordered the defendants to return to court on November 27, 2018. If convicted, the defendants face between 8 to 30 years in prison.

District Attorney Brown said that, according to the criminal charges, a long-term investigation, which included court-authorized search warrants, grand jury subpoenas and other investigative tools, uncovered a multi-state conspiracy to smuggle cigarettes purchased in Virginia, transported to New York and then resold with counterfeit New York State tax stamps.

Continuing, District Attorney Brown said that all cigarette packages sold in New York City must bear a joint New York City/New York State tax stamp and only a licensed stamping agent can possess untaxed cigarettes and affix the tax stamp on the packages. Each tax stamp includes a unique number.

The District Attorney said, these defendants allegedly stole more than \$953,000 in taxes that would have been collected in New York City and New York State if the cigarettes confiscated had been sold with the appropriate and legal tax stamps.

(MORE)

The District Attorney said that, according to the complaints, in 2018 alone defendant Jafri is alleged to have purchased more than 37,000 cartons of cigarettes from big box stores in Virginia and Maryland. The cigarettes were then allegedly driven into New York and sold to Nicholas Galafano.

Furthermore, said the District Attorney, according to the complaints, defendants Ahmad and Hassan Abualrub allegedly purchased the non-New York taxed cigarettes from Nicholas Galafano and transported them to Brooklyn where they sold the cigarettes to their customers in both Brooklyn and Queens.

Continuing, the District Attorney added that, according to the charges, a review of official documents from the Bridgehampton National Bank, Western Union and Switch Commerce, allegedly show that defendant Villafane ran multiple businesses with defendant Nicholas Galafano and the two allegedly laundered the cash generated from the sale of the untaxed cigarettes. Nearly one million dollar were in these accounts.

Court-authorized search warrants executed on Monday, September 24, 2018, recovered approximately 6,267 cartons of untaxed cigarettes and \$2.3 million in illegal proceeds, including more than \$200,000 in cash. Following a search of Galafano's Little Neck, Queens, home police recovered multiple documents, ledgers and receipts for cigarette orders, prices, deliveries and proceeds. Approximately 49 cartons of cigarettes with either counterfeit New York tax stamps or Virginia tax stamps or no stamps at all were also recovered.

According to the charges, said the District Attorney, during Monday's search of Villafane's home - also known as the stash house - in Hempstead, police allegedly recovered more than 3500 cartons of untaxed cigarettes, nearly 100,000 counterfeit New York State tax stamps, paraphernalia used to remove and affix stamps, counting machines and more than \$200,000 cash.

Continuing, the District Attorney said, according to the complaints, in the apartment where the Abualrubs live in Brooklyn, police recovered during the court-authorized search more than 1,800 cartons of cigarettes with counterfeit New York State tax stamps along with cigarettes that had tax stamps from Connecticut and Virginia, 56,620 counterfeit NJ, NYS, CT and VA tax stamps and about \$9,000 cash.

The investigation was conducted by Investigator John Romero of the New York State Department of Taxation and Finance's Cigarette Strike Force, under the supervision of Senior Investigator Gregory Aurigemma and Chief Investigator Janet Mullins, under the overall supervision of Deputy Director of Investigations Michael Spinoso, Director of Investigations Michael Szrama and Deputy Commissioner John Harford. Also assisting in the investigation, Detectives from District Attorney Brown's Crimes Against Revenue Unit, supervised by Sergeants Edwin Driscoll and Joseph Brancaccio, under the overall supervision of Chief Franco Russo and Deputy Chief Robert Burke.

District Attorney Brown would like to thank and acknowledge Nassau County District Attorney Madeline Singas and her team for their cooperation on the case, as well as a thanks to the Suffolk County Police Department and the Department of Homeland Security for their assistance.

Assistant District Attorney Marnie Lobel, Chief of District Attorney Brown's Crimes Against Revenue Unit within the Special Proceedings Bureau, is prosecuting the case, under the supervision of assistant district attorneys Anthony M. Communiello, Bureau Chief of the Special Proceedings Bureau, Oscar W. Ruiz and Nicoletta Caferrri, Deputy Bureau Chiefs, and under the overall supervision of Executive Assistant District Attorney for Investigations Peter A. Crusco and Deputy Executive Assistant District Attorney for Investigations Wilbert J. LeMelle, as well as Karen J. Friedman, special counsel to the Trial Division.

It should be noted that a criminal complaint is merely an accusation and that a defendant is presumed innocent until proven guilty.

#

Note to Editors: Press release e-version posted at [www.queensda.org](http://www.queensda.org).

## **A.G. Underwood Announces Takedown Of Brooklyn-Based Cigarette Trafficking Ring**

*Multi-Agency Crackdown Leads to 21-Count Indictment Charging 3-Person Cigarette Trafficking Ring with Distributing More than 1.25 Million Untaxed Cigarettes, Evading Nearly \$430,000 in Tax Liability*

BROOKLYN - Attorney General Barbara D. Underwood today announced the indictment and arrest of three individuals for their alleged roles in trafficking significant quantities of untaxed cigarettes from Virginia to Kings County. In a 21-count indictment unsealed today in Kings County Supreme Court, the defendants were charged with various tax- and money laundering-related crimes for their involvement in the cigarette trafficking network.

“As we allege, the defendants ran a criminal trafficking ring that funneled over 1.25 million untaxed cigarettes into New York – while cheating New Yorkers out of hundreds of thousands of dollars in taxes,” said **Attorney General Underwood**. “These traffickers are charged with sidestepping the law, which put legitimate, law-abiding businesses at a disadvantage. We’ll continue to work with our partners in law enforcement to hold accountable those who try to game the system and cheat New Yorkers.”

Code-named “Operation Sidestep,” state, federal, and local law enforcement agents concluded a months-long investigation into a network that allegedly evaded New York State and New York City excise and sales taxes by trafficking more than 1,500 cartons of untaxed cigarettes per week from Virginia to be sold in retail shops in Brooklyn. The investigation was led by the New York State Attorney General's Organized Crime Task Force (“OCTF”) in partnership with the Intelligence Bureau of the New York Police Department (“NYPD”) and Homeland Security Investigations (“HSI”). It is alleged that a total of approximately 1,255,000 cigarettes were smuggled into Brooklyn, evading a total of \$426,700 in tax liability due to New York State and New York City.

“Financial fraud victimizes an unknowing and unwilling public for the unabashed gain of a small handful who know full well their gains compromise the widespread safety, security, and economic health of others,” said **HSI Baltimore’s Acting Special Agent in Charge Cardell T. Morant**. “I thank the dedicated investigators involved and commend the invaluable productive and efficient partnerships in place that assure these charges will be faced

and answered for.”

During the course of the takedown, authorities seized three handguns, one shotgun, three vehicles, and more than \$312,000 in cash from the Ramadans’ home in Maryland, as well as more than 341,000 untaxed cigarettes from a storage location in Brooklyn.

The Attorney General’s indictment charges the following three defendants with different crimes, including, but not limited to: Criminal Tax Fraud in the Second Degree (a class C felony), Money Laundering in the Second Degree (a Class C felony), and Conspiracy in the Fourth Degree (class E felony), in relation to their involvement in the cigarette trafficking operation:

Basel Ramadan, 47 years old – Ocean City, MD

Samir Ramadan, 45 years old – Ocean City, MD

Fahd Muthana, a/k/a “Ahmed Abdullah,” 39 years old – Brooklyn, NY

Basel Ramadan and Samir Ramadan were arraigned today in Kings County Supreme Court before Judge Danny Chun; bail for Samir Ramadan was set at \$2 million cash or \$500,000 bond. Fahd Muthana was arraigned on October 11, 2018 in Kings County Supreme Court before Judge Chun. All three defendants’ cases were adjourned to December 19, 2018.

The charges against the defendants are merely accusations and the defendants are presumed innocent unless and until proven guilty in a court of law.

The Attorney General thanks the NYPD and Homeland Security Investigations for their partnership.

The Attorney General’s investigation was directed by OCTF Investigator Raymond Almovodar, under the supervision of OCTF Supervising Investigator Paul Grzegorski and Deputy Chief Investigator Christopher Vasta. The Investigations Bureau is led by Chief Dominick Zarrella.

The case is being prosecuted by OCTF Assistant Deputy Attorney General Caitlin E. Carroll, under the supervision of Deputy Bureau Chief Diego Hernandez. Nicole Keary is the Deputy Attorney General in charge of OCTF. Margaret Garnett is the Executive Deputy Attorney General for Criminal Justice.

Date: January 30, 2019

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To: The Honorable Chair Mark Levine and  
Health Committee Members

From: Tuncer Ozdemir 7-Eleven Franchise Store Owner

RE: Int. 1345 Flavored Cigarette (Menthol) Ban Bill  
Int. 1362 Flavored E-Cigarette Ban Bill

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Chair Levine and Members of the Health Committee:

Thank you for allowing me to submit this testimony to you today. My name is Tuncer Ozdemir and I own a 7-Eleven store at 590 E Fordham rd. Bronx NY.

I have 10 employees and have been a small business owner for 20 years.

I am writing to ask for your vote to oppose the flavored and menthol cigarette ban bill 1345 and the flavored e-cigarette ban bill 1362.

In particular, if Bill 1345 passes, it would significantly financially harm our cigarettes sales. I am responsible grocery products and tobacco retailer in the city. My store's employees are trained and provide friendly service and convenience to our customers.

As part of our store sales, we sell tobacco products and are licensed for that. Menthol cigarettes are approximately 40 percent of all of our cigarette sales. If our customers who smoke menthol cigarettes cannot buy their preferred product, we will likely lose those sales. They will go to a nearby store or other venues and get them along with the other products that they purchase when visiting my store.

I've worked tirelessly to build up business at my store and I contribute to my community. If passed, this would harm our sales and income and the city will lose tax revenues on those sales, too. Please do not let that happen.

This ban bill if passed would simply drives those sales away from my local store to another NY store or the Internet. It does not stop them. My store complies with state and city tobacco laws and we ask you to oppose this arbitrary menthol and flavored cigarette ban bill.

Additionally, I ask you to consider opposing Bill 1362 which bans flavored e-cigarettes.

Thank you for considering these concerns for my local business.

Tuncer Ozdemir





The Yemeni American Merchants Association, a nonprofit birthed from the hugely successful Bodega Strike in 2017, in protest to the Muslim Ban, is pleased to provide testimony on behalf of our merchants against the bill to ban the sale of menthol cigarettes.

Yemeni-American bodegas account for about 4000 small business throughout the New York area, a large portion of which are in low-income neighborhoods. Not only are their businesses in these neighborhoods but their homes and families as well. These businesses support their livelihood and a ban on Menthol cigarettes will inevitably result in a steep decrease in revenue for their business. Our community has worked very hard to raise their lives to a comfortable standard a living by following the law when it comes to properly selling the tobacco products in their stores. It is unfair to punish law abiding citizens by assumptions of the actions of the few.

The idea of banning menthol cigarettes, which if you ask the average bodega owner, means banning cigarette sales entirely will essentially shut down a faction of business entirely. Such measures increase criminal enterprises of illegal sales, increase "loosey sales" and in turn increase public safety needs for already stressed communities and our merchants and families already living in these communities. Our law-abiding bodega owners will be essentially forced to either close their business or sell "looseys" to keep their business afloat, the latter of which is clearly not an option.

We believe this bill needs to be fully re-evaluated if not abandoned completely. Our Yemeni bodega owners are a staple in all our communities and the NYC economy and therefore we support our merchants by protesting this bill.

Thank you,

Youssef Mubarez  
Yemeni American Merchants Association  
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P: 718-213-0030

January 30, 2019

FOR THE RECORD

Hon. Mark Levine  
Chair, Committee on Health  
New York City Council  
11 Centre Street  
New York, NY 10007

Dear Chairman Levine:

Re: *Introductions No. 1345 and 1362*

I am a professor at the Rutgers University School of Public Health and a member of both Rutgers' Center for Tobacco Studies and the Cancer Institute of New Jersey. The last time I testified before this Committee, I was working as an attorney for the NYC Health Department. In that role, I helped to craft the City's tobacco control policies. I appreciate the opportunity to come before this Committee again.

First, I commend the Council for its leadership in responding to the devastating health crisis posed by tobacco use. Despite NYC's leadership and progress on this issue, tobacco use is a leading cause of premature, preventable death, and more work needs to be done. Second, I commend Council's decision to take on flavored tobacco products and e-cigarettes. Nearly 90% of smokers get started before the age of 18. Once a smoker begins, the path to addiction is deceptively quick and difficult to reverse. Menthol flavoring is a leading factor that increases youth smoking initiation. The availability of a wide variety of flavors is a leading reason youth initiate smoking cigars and using e-cigarettes. Therefore, addressing flavors is a critically important facet in the effort to reduce tobacco use.

**Intro 1345 – Ban on menthol, mint and wintergreen flavored cigarettes**

Months after the US banned flavored cigarettes in 2009, NYC was the first municipality in the US to ban flavored tobacco products other than cigarettes. However, both the federal law and NYC's law created a loophole for menthol. In 2009, it was understandable for NYC to follow Congress' lead. But now mounting evidence shows the detrimental effects of menthol cigarettes on population health. A comprehensive review of the scientific evidence published through May of 2017 found "more than sufficient evidence to establish a positive relationship between menthol cigarettes and (1) increased youth smoking initiation, (2) increased nicotine dependence, and (3) decreased adult cessation." Canada, San Francisco, and other jurisdictions, have already implemented menthol bans, and the European Union will do so next year. On November 15, 2018, FDA made a historic announcement outlining a plan to ban menthol combustible tobacco products. Even in a best case scenario, a US menthol ban will not take effect for several years.

Menthol is a particularly important issue in NYC. Almost half of the City's smokers identify as menthol smokers. And members of specific communities including youth, women, African Americans, members of the LGBT community, and Hispanics smoke menthol at even higher rates. This is largely

explained by the tobacco industry's marketing tactics that have historically targeted menthol cigarettes to those groups. This law will help members of these communities to quit. For these reasons, NYC should ban menthol and continue to be a leader in tobacco control.

Opponents of this bill will argue a menthol ban will increase demand for illicit menthol cigarettes. This is not surprising. The tobacco industry consistently uses the specter of illicit trade as a tool to combat various types of regulation. Importantly, when independent researchers analyze tobacco industry estimates of illicit trade they consistently find that industry estimates are inflated and likely to be overestimates of actual behavior. Contrary to industry predictions, after Nova Scotia implemented a menthol ban in 2015—the first Canadian province to do so—there was no surge in illicit menthol cigarettes.

NYC already has a substantial illicit cigarette market driven by high prices. That is likely to continue, and the Sherriff's Office deserves Council's full support and greater resources as it fights against this illicit activity. But the existence of an illicit market is not a reason to refrain from regulating. High taxes are proven to be effective at reducing smoking rates, despite the existence of an illicit market. Similarly, even with an illicit market, a menthol ban will further decrease the availability of menthol cigarettes, creating another obstacle to ordinary purchasing patterns, which will help many quit attempts to be successful. Further, as menthol smokers quit or migrate to other sources of nicotine, like nonmenthol cigarettes or e-cigarettes, the demand for illicit menthol tobacco products will decline.

The theory that a menthol ban will cause an increase in sales to underage youth is not based in fact. Notably, it fails to consider trends in youth tobacco use and the surge in youth demand for e-cigarettes. It also fails to consider data on the impact of the FDA's 2009 flavored cigarette ban, which suggests that a menthol ban will likely reduce youth tobacco use.

Some opponents may argue that a menthol ban will criminalize smoking preferences and lead to an increase in police interactions with youth in communities of color. This is a scare tactic that is not based on fact. This law will be enforced by inspectors from DCA and the Sherriff's office who regulate licensed retailers, wholesalers, and other players in the supply chain. Overall, the concerns about an illicit market should be taken seriously, but they do not justify inaction when the evidence shows that a menthol ban can make a meaningful impact on the health of New Yorkers.

Finally, some opponents of this bill may argue a menthol ban will result in a loss of tax revenue. When you consider total economic cost of smoking on the City in direct medical care and lost productivity due to premature death and secondhand smoke exposure, it dwarfs the tax revenue in question.

### **Flavored Cigars with Ambiguous Names**

In addressing flavored tobacco, Council's bill fails to reference an increasingly prevalent type of flavored cigars that are technically illegal. Since laws banning flavored tobacco started going into effect, tobacco manufacturers have been devising ambiguous names for cheap, flavored cigars and cigarillos that do not indicate if a cigar is flavored. By changing the name of a "*Grape*" cigar to "*Purple Reserve*,"



those cigars no longer fell within NYC's enforcement protocol. Other names include *Tropical*, *Pink* and *Summer Love*. Over the past several years, cigars with concept flavors have increased in market share from 9% to 15% nationwide. NYC should close this loophole by (1) requiring manufacturers to certify that their cigars are not flavored as a precondition for selling them in New York City and (2) prohibiting wholesalers from supplying retailers with cigars that lack a certification.

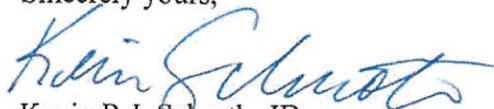
**Intro No. 1362 regarding flavored e-cigarettes**

Although some people claim that e-cigarettes hold great promise for adult smokers attempting to quit, on a population level, there is increasing concern that a lasting legacy of e-cigarettes may be a generation of youth addicted to nicotine by flavored JUUL and similar products. That said, there is evidence that adults who use e-cigarettes exclusively and regularly have success in quitting smoking.

For this reason, while I applaud Intro 1362's goal, I believe it can be equally effective if it is less extensive. I recommend an e-cigarette flavor ban that does not extend to "retail electronic cigarette stores," aka, "vape shops" that sell e-cigarettes exclusively. Vape shops are already required to get an e-cigarette license, and they are subject to a retail density cap, which will prevent the market from expanding. Based on anecdotal evidence and the threat of losing their license, I trust that vape shops are responsible players in this market who are unlikely to sell to underage youth. Intro 1362 should ban youth under 21 from entering vape shops. Therefore, I would support a bill that bans the sale of flavored e-cigarettes/e-juices, except for vape shops. This would remove flavored e-cigarettes from convenience stores, and it would reduce the number of retailers selling flavored e-cigarettes from several thousand to several hundred.

For these reasons, I support Introduction 1345 in its entirety, and I support Introduction 1362 subject to the suggestions referenced above. I would be pleased to make myself available to answer any questions you may have in this regard.

Sincerely yours,



Kevin R.J. Schroth, JD

Associate Professor

Rutgers School of Public Health

Center for Tobacco Studies

Kyra Stephenson-Valley, Cessation Coordinator  
Derek Perkinson, NYC Field Director  
National Action Network  
New York City Council Testimony  
January 30, 2019

Good Afternoon,

National Action Network is a national civil rights organization founded in 1991 by the Reverend Al Sharpton. Since our founding, National Action Network has continued to carry the mantle of Dr. Martin Luther King, Jr., and his commitment to non-violent social change. We are an organization that uses non-violent direct action to fight for the oppressed and forgotten. Our commitment to one standard justice and decency for all is why today I am urging the New York City Council to consider the unintended consequences of a ban on Menthol Cigarettes as proposed in INT-1345. Over 80 percent of African Americans who choose to smoke prefer menthol cigarettes. Thus, any consideration of a possible ban on menthol cigarettes will principally affect African American smokers. We stand with groups like the Drug Policy Alliance, the Law Enforcement Action Partnership, and the National Organization of Black Law Enforcement Executives in demanding that any conversation about criminalizing menthol cigarettes include a candid discussion about racial disparities and selective prosecution in communities of color.

First, allow me to start by saying that National Action Network does not want people to smoke. We do not want youth to smoke, and we want to help people who would like to stop smoking, quit. We know that Black smokers are more likely to die prematurely from tobacco-related diseases and are statistically less successful in attempts to quit than smokers of other racial backgrounds for a myriad of reasons.

I lead NAN's national Cessation Program through which NAN is training our chapters across the nation to educate our youth about the dangers of smoking and the importance of deciding to be tobacco-free and offering resources and support for smokers who want to quit smoking. Conversations around the menthol ban often suggest that the legislation will help adult, black smokers stop smoking. We appreciate those within the public health community seeking to protect the health and well-being of the Black community, however, even policy with the best intentions can be vulnerable to unintended consequences.

Here in New York we find ourselves in a precarious position. On one hand we are supporting the legalization of marijuana to overturn a prohibition that has had a disparate impact on African Americans. Just a few months ago my colleague testified in front of the New York Assembly to ensure that any legislation to legalize marijuana will include provisions for the people who were disproportionately arrested due to targeted policing. Almost concurrently, I stand here today, because New York City is considering implementing a ban on menthol cigarettes without careful consideration of the potential affects on the same population. How do we reconcile these two opposing realities? How do we progress if we ignore the lessons we've learned from bad policy?

Recent history has shown the disparate impact of bans and prohibitions on the African American community. It has proven that increased regulation does not necessarily stop users from consuming addictive products, but rather criminalizes addicts without recourse. History has shown us that bans and prohibitions can often lead to an increase in negative interactions between law enforcement and African Americans. History has shown us that here in New York City law enforcement can take your life over something as trivial a loose cigarette.

Before taking any further action on menthol I urge the Health Committee do more to investigate the consequences of the proposed ban, especially on the communities it aims to protect. I urge you today to proactively review existing research, seek advice from experts, and if necessary, commission the studies required to make a fully informed determination on the best course of action to reduce smoking in New York City. I invite you to work with us to increase culturally relevant quit smoking programs that are accessible to those who need them most. With careful consideration to the consequences of the proposed ban on menthol cigarettes, I hope we can avoid repetitions of policies like stop and frisk that were specifically intended to protect Black New Yorkers, but instead only further engrained systemic racism.

### **John Connolly Testimony**

My name is John Connolly. I am currently an Investigative Support Manager, working as a contractor for the Altria Brand Integrity Investigations and Law Enforcement Support Unit. I supervise investigators that search for subject's counterfeiting cigarettes and/or smuggling cigarettes and tobacco products and I train law enforcement in what to look for in relation to this smuggling activity. Previously I worked for over 30 years in law enforcement with the last 16 years at the New York State Taxation and Finance in the Petroleum, Alcohol, Tobacco Bureau. I retired as the Chief Investigator of that unit and oversaw complex criminal investigations and undercover operations targeting subjects smuggling cigarettes, tobacco, alcohol and motor fuel into New York State to avoid the applicable taxes.

I believe that banning the sale of flavored cigarettes in New York City will only increase the smuggling of illicit cigarettes into the city. In addition banning the sale of flavored e-cigarettes and vape products will lead to an illicit market springing up to supply these products to consumers and you will see the proliferation of subjects who will be offering them for sale illegal to retail stores or directly to consumers. Anytime an entity restricts a commodity or adds a tax on a commodity that is used by a large number of people, it opens the door for criminal groups to step in and take advantage of that situation. I have seen that previously in relation to numerous regulated commodities like cigarettes, tobacco, alcohol and motor fuel. Criminals are all about taking advantage of situations, whether it be selling a popular commodity at a lower price such as cigarettes or by providing a commodity that is not readily obtainable through legal channels like synthetic marijuana, CBD oils or potentially flavored cigarettes, flavored e-cigarettes and/or vape products.

Once criminals have created a supply chain for an illegal commodity they can smuggle all types of illegal products through that same network. These smuggling networks already exist in relation to cigarettes. Lower priced cigarettes are smuggled into the NYC area from various source locations for resale and this will only increase with a ban on the sale of flavored cigarettes. In addition you will likely see the illicit smuggling of flavored e-cigarettes and vape products for sale into NYC, if a ban is also enacted on the sale of these products.

Thank you for your time and consideration.



**January 30, 2019**

**Testimony of Alex Clark, CEO, CASAA**

**New York City Committee on Health**

**RE: Int. No. 1362-2019 Prohibiting the sale of flavored electronic cigarettes.**

Chairman Levine and distinguished members of the committee,

I am writing on behalf of our more than 2000 members in New York City to express our concerns and extreme opposition to Int. No. 1362-2019. This ordinance is a hasty reaction to an emotionally fueled issue that is only being made worse by well-meaning, but misguided attempts to prevent youth use of tobacco and nicotine products.

The proposal to ban the sale of vapor products sold in flavors other than tobacco will deny people who smoke access to the most popular low-risk smoking replacement product in generations. Focusing solely on a particular feature of vapor products ignores other aspects of these products that people find enjoyable--a key factor in helping smokers make the switch and dramatically improve their health. Moreover, we believe it is a mistake to focus on the issue of flavors to the exclusion of underlying factors affecting youth use. Socioeconomic status, trauma, peer pressure, stress, depression, and a natural inclination toward taking risks all motivate young people to experiment with potentially harmful coping strategies.

The leading indicator of whether or not a young person will smoke is if they live with a parent who smokes. New York City can do more to promote healthy behaviors among young people by encouraging parents who smoke to switch completely to a low-risk smoke-free alternative. In order to achieve a rapid and enduring transition to safer nicotine products, people who smoke will need to have access to products they enjoy, which necessitates the availability of a diverse range of flavored smoke-free products. For these and the following reasons CASAA is urging the Committee on Health to reject Int. No. 1362-2019.

### **Int 1362-2019 will deny people who smoke vital tools to helping them quit smoking**

- **A ban on flavored vapor products will force vapor shops in NYC to close.**

We defer to data being presented by owners of vapor businesses in New York City with regard to the percentage of sales of devices, e-liquid, and accessories, but it is our understanding that a majority of sales involve e-liquid in flavors other than tobacco. To date, we are unaware of any retailer or manufacturer that sells a popular line of unflavored e-liquid. It is unlikely that specialty vapor retailers will be able to remain open if they are restricted to selling just vapor devices and tobacco flavored e-liquid. It is the diversity of vapor products that both supports independent

businesses and provides a customizable experience to people who are attempting to transition to a smoke-free lifestyle.

### **Vapor product specialty shops (vape shops) play a vital role in helping smokers switch to a low-risk alternative**

Vape shops are a source of peer-to-peer support that is not effectively replicated by current tobacco control strategies.. Vape shops provide knowledgeable staff who offer individualized attention to help customers find a device and eliquid flavor that will help them successfully make the switch. Just as importantly, vape shops provide a space for peer-to-peer support for people who used to smoke and people who are transitioning to a smoke-free product.

By way of background, vapor retailers and manufacturers in the United States are prohibited by federal law from marketing e-cigarettes as smoking cessation products or even less harmful than cigarettes.<sup>1</sup> Customers, however, are bound by no such law. It is not uncommon to hear customers exchange successful quit smoking stories between one another in a vape shop. To the casual observer, sharing such a story might not seem like much, but between people who are recovering from a multiyear or multi-decade cigarette addiction, it can mean the difference between living a smoke-free life or returning to the devil they know.

By comparison, vapor retailers in the United Kingdom are not subject to the same limitations on marketing communication in face-to-face transactions. Research conducted in the UK demonstrates that people who shop for vapor products in specialty vapor shops have a remarkable quit rate of >40% after 12 months.<sup>2</sup> Other than quitting “cold turkey,” no other smoking cessation intervention comes close to the success rate found in the UK. And while the retail environment studied in the UK is not a 1:1 match with vapor shops in the United States, when we consider customer to customer interactions within the retail environment, which are not regulated by federal law, it stands to reason that the results found in the UK may be generalizable to consumers in the United States.

### **Banning flavors will pressure consumers and retailers to take unnecessary risks**

- **Motivations to “do it yourself.”**

Motivations for people to manufacture vapor products at home for personal use (“do it yourself” or “DIY”) are related to saving money and customizing the experience. If flavors are banned, a

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<sup>1</sup> 21 USC 387k: Modified risk tobacco products, accessed from <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title21-section387k&num=0&edition=prelim>

<sup>2</sup> Polosa, Riccardo et al. “Quit and smoking reduction rates in vape shop consumers: a prospective 12-month survey” *International journal of environmental research and public health* vol. 12,4 3428-38. 24 Mar. 2015, doi:10.3390/ijerph120403428

significant number of individual consumers will turn to DIY in order to maintain access to vapor products they enjoy. Responses to consumer surveys regarding bans on various vapor products indicate as much. Indeed, the origins of the vapor industry trace back to people DIYing at home because they were unsatisfied with the products that were available at the time (circa 2008-2012).

In general, when following basic safety and sanitation protocols, DIYing at home is relatively safe. However, in the hands of novices, DIYing can present some risks. If New York City moves to adopt this ordinance, the city would be creating a situation where people who vape (or people who smoke who might attempt to switch to vaping) will be pressured to attempt DIYing e-liquids at home, possibly without the patience, knowledge, and experience to take the basic necessary precautions to ensure safety. Even more concerning, this ordinance will create a new underground, unregulated market where consumers have no assurances of product quality and no means of recourse should they be the victims of fraud or injury related to poorly manufactured products.

### **The unintended consequences outweigh hypothetical gains**

For the foregoing reasons we respectfully urge the Committee to reject Int. No. 1362-2019.

### **Recommendations**

- We urge the Committee to refocus their attention on the most pressing concern of reducing the early death and disease attributed to smoking.
- Effective substance use prevention starts by empowering young people with strong social skills and healthy coping strategies. People are generally resourceful and, historically, find ways around prohibitions on tobacco, drugs, and alcohol. Strong life skills training during adolescence has a greater potential to positively shape a young person's life well into adulthood.
- New York City needs to reevaluate the effectiveness of existing laws that restrict access to, and use of, tobacco and vapor products before enacting new laws that enact more extreme prohibitions. At the state level, New York consistently spends only a small fraction of the amount recommended by the Centers for Disease Control on tobacco prevention. Arguably, the state hasn't given existing tobacco prevention strategies a chance to succeed.
- Current state and federal law prohibits sales of any tobacco or vapor product to anyone under 18-years-old. New York City, New Jersey, and neighbouring counties prohibit sales to anyone under 21-years-old. Part of fully funding tobacco prevention programs must include funding for compliance inspections and enforcement of minimum sales age laws. Although CASAA is opposed to setting the minimum legal sales age for smoke-free tobacco and nicotine products at 21, we assert here that if the City of New York believes in the policy, then compliance and enforcement should be fully funded.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: Kim Kessler

Address: NYC DOHMH

I represent: \_\_\_\_\_

Address: \_\_\_\_\_



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: Meredith Berkman

Address: 155 W. 86

I represent: Parents Against Vaping E-Cigarette

Address: \_\_\_\_\_



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: 14 Dorian Fuhrman  
Grant Fuhrman

Address: Parents Against Vaping E-Cigarette

I represent: Parents for Vaping E-C, Age 14

Address: \_\_\_\_\_





# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Dorian Fuhrman

Address: \_\_\_\_\_

I represent: Parents Against Vaping E-Cigarette

Address: \_\_\_\_\_



# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Yael Mintz

Address: \_\_\_\_\_

I represent: PAVe Age 11

Address: \_\_\_\_\_



# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Caleb Mintz

Address: \_\_\_\_\_

I represent: PAVe Age 17

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms



# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Rebecca Shalam (adult)

Address: \_\_\_\_\_

I represent: PAVE

Address: \_\_\_\_\_



# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Mimi Boublik

Address: \_\_\_\_\_

I represent: PAVE

Address: \_\_\_\_\_



# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Dina Alessi

Address: \_\_\_\_\_

I represent: PAVE

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms



# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

*Phillip #6  
15*

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Phillip Fuhrman

Address: PAve Age 15

I represent: \_\_\_\_\_

Address: \_\_\_\_\_



# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

*16*

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Luke Alessi

Address: \_\_\_\_\_

I represent: PAve Age 16

Address: \_\_\_\_\_

# THE COUNCIL THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

*E cig flavors*

Date: 11/30/19

(PLEASE PRINT)

Name: Ashley Zagnatta

Address: 1466 Manor Rd S1W4

I represent: Tobacco free Staten Island *10/31/19*

Address: 1466 Manor Rd

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1345 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: COMMISSIONER JILES SHIP

Address: WASHINGTON, DC.

I represent: NOBLE (NAT'L ORG. OF BLACK LAWENFORCEMENT EXECUTIVES)

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1345 Res. No. 1362

in favor  in opposition

Date: 1/30/2019

(PLEASE PRINT)

Name: KEVIN SCHROTH

Address: 119 W. 71st St

I represent: RUTGERS UNIVERSITY

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: MARK KLEIMAN

Address: 325 F.P.K AVE #83 10016

I represent: BOYER

Address: 325 F.P.K AVE #83

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1395 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Kyra Stephenson - Valley

Address: \_\_\_\_\_

I represent: National Action Network

Address: 561 Fashion Avenue Fl 14

New York, NY 10018

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362/1348 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Deidre Sully

Address: \_\_\_\_\_

I represent: Public Health Solutions

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Suzanne Braikwan te Nante

Address: 746 E. 39th St NY 10017

I represent: NACT NY Conference

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

*Commissioner*  
Name: Oxiris Barbot (PLEASE PRINT)

Address: NYC DOHMH

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: MR. Mubarez (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: Yemeni American Merchants

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Cynthia Cabrera (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: The Cating Group

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

1362

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Daman Jacobs

Address: \_\_\_\_\_

I represent: 17 street Institute

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

1345

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Dana DeBlasio

Address: \_\_\_\_\_

I represent: NSA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Jordan Tenneillo

Address: 485 Lyme St, Staten Island, NY 10300

I represent: Beyond Vape

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Christian Beaman

Address: 820 1st Ave

I represent: HLA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Victor CANASTAROS

Address: 8105 44th Port Rd W 14051

I represent: Benedict & Liquids Inc

Address: 5795 Transit Rd. Depew NY 14042

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Thomas Snider

Address: 41 Madison St. Lancaster, N.Y.

I represent: Cloud Chusos

Address: 476 Broadway Depew, N.Y.

Please complete this card and return to the Sergeant-at-Arms



THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: John Reynolds

Address: \_\_\_\_\_

I represent: Harold Levinson

Address: 21 Bank Plaza Farmingdale, NY

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Joseph Sinapi

Address: 2495 Arthur Ave

I represent: Guardian Vape Shop

Address: 2500 Arthur Ave, Bx NY 10458

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Cheryl L Richter

Address: 235 Pine Brook Blvd New York

I represent: New York State Vapor Assoc

Address: 7109 Rte 22 West Chazy

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

Name: Avinach Ramkumar (PLEASE PRINT)

Address: 105-06 101st Avenue

I represent: Consumer

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

Name: Christine Johnson (PLEASE PRINT)

Address: 21 South Magnolia Street Pearl River

I represent: Cloud 99 East Village

Address: ea st village, New York

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

Name: Jim Calvin (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: New York Association of Convenience

Address: ALBANY, NY 518432-1400 STORES

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: ROBERT KORONA

Address: \_\_\_\_\_

I represent: HAROLD LEVINSON ASSOC.

Address: 21 BANFI PLAZA FARMINGDALE, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Tenzing Lama

Address: 9715 124th St Richmond Hill, NY

I represent: HILA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: MARIA KOLESNIKOVA

Address: 1109 19TH ST ASTORIA, 11105

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Matt Stewart

Address: 22 Popes Ferry Drive, Bronx, NY

I represent: Strong Island Vets

Address: 1543 Lincoln Ave, Harlem, NY 10741

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Dave Smith

Address: Rockville Centre, NY

I represent: HLA

Address: Farmingdale, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: BRANDI MATKOVICH

Address: 197 Decker Ave SE NY 10302

I represent: HLA Harold Levinson Associates

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: SANDRA KROKOPIN

Address: 4305 BEEK STR, ASTORIA, OR 97105

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: MIGUEL DELPESO

Address: 54 W 3rd Ave Bldg NY 11209

I represent: Consumer

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Pete Cooper

Address: 21 PARSONS CREEK

I represent: CLOUD 99 APPS

Address: 502nd Ave NY 10005

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Wille Wns

Address: 38 Laurel Rd Pearl River NY 10968

I represent: Cloud 99 vapes

Address: 50 2nd ave New York, New York, 10003

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Jonathan Locker

Address: 43 Ombra Parc Dr Nanuet NY 10954

I represent: Cloud 99 vapes

Address: 50 2nd Ave NY NY 10003

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Maryann Sunnie

Address: 105-06 101 Avenue

I represent: Gotham LLC

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Alan Schneiderman

Address: 5 Bascott Pl. E. Northport NY

I represent: Consumer

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Robert Testagrossa

Address: 178 Bowery Apt 3A, NY NY 10012

I represent: Cloud99 Vapes

Address: 50 2nd Ave, NY NY 10003

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Daniel Maffis

Address: 3845 Shore Parkway Brooklyn NY 11231

I represent: Vape NY

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Stewart Dowers

Address: 4155 Kings Highway

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Shara Nguyen

Address: 4315 PARK AVE, APT 7E, UNION CITY NJ 07087

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Robert Singh

Address: 21299 Chamberline

I represent: Guardian vape shop

Address: 2560 Arthur av Bx NY 10138

Please complete this card and return to the Sergeant-at-Arms



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: ALEX CIUBARA

Address: 2607 37<sup>th</sup> St, Astoria 11105

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Steve Mauer

Address: 730 E 152 St Bronx 10455

I represent: cons mer

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: ALEXANDER DAVID MURALES

Address: 433 Beach 40<sup>th</sup> ST FAR ROCK NY 11691

I represent: CONSUMER / VAPESHOP retail

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Ricardo Garcia

Address: 345 W 86<sup>th</sup> ST

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Spike Babaran

Address: 675 86 St Brooklyn

I represent: NYS Vapor Association

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Robert Watkins

Address: 9-11 36th Ave

I represent: Consumer

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Damon L. Jacobs

Address: 225 Navier H2A, Brooklyn, 11206

I represent: Self

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Alex Clark

Address: \_\_\_\_\_

I represent: Consumer Advocates for Smoke

Address: Free Alternatives Associates

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

1362

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Jeff Stier

Address: \_\_\_\_\_

I represent: Consumer Choice Center

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

1362

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Greg Conley

Address: \_\_\_\_\_

I represent: American Vaping Association

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: ShaDonna Blake

Address: 340 Cherry St

I represent: New York

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: G HAMDAN HASSAN

Address: 296 GRAFFAN ST BROOKLYN NY

I represent: SMOKE N VAPE

Address: 644 9th AVE

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Will Welsh

Address: 26 Perry St Lindenhurst NY 11758

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Kim Arnold

Address: 38 Birch Hill Rd Mt Sinai NY 11766

I represent: Fluid Vapor

Address: 505 Johnson Ave Bohemia NY 11716

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: JOHN ABRAHAM

Address: 56 FT WASHINGTON AVE 2C

I represent: MYSELF

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: LEONID Ginder

Address: 7322 3rd AVE BROOKLYN NY 11209

I represent: "Vape Life lounge" "Vape Stop"

Address: 905 Cross Bay Blvd broad Channel NY 11693

**THE COUNCIL  
THE CITY OF NEW YORK** 1362

Appearance Card

1345

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Rev Name: Jesse W Brown Jr

Address: 2000 Hamilton St, #652, Philadelphia PA

I represent: The African American Tobacco Control leadership Council

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

1362

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: David Abrams

Address: \_\_\_\_\_

I represent: NYU College of Global Health

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

1345

Appearance Card

~~1362~~

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Donald Diaz

Address: \_\_\_\_\_

I represent: Bodega Association of the US

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/30/19

(PLEASE PRINT)

Name: Will Joseph Morgan

Address: 16 220-25 93rd Road

I represent: myself

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Mark Ziller

Address: 247-22 S. CONDUIT AVE.

I represent: Beast Coast Vape

Address: 247-22 S. CONDUIT AVE

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: DAN DONAHUE

Address: 400 RIVERFRONT BLVD APT 422

I represent: MYSELF

Address: same as above

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Brian Fortik

Address: \_\_\_\_\_

I represent: National Association of Tobacco

Address: Outlets (NATCO)

Please complete this card and return to the Sergeant-at-Arms



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. 1362

in favor  in opposition

Date: 1/30/19

Name: JEFF (PLEASE PRINT) Stief

Address: 41 W 96th St NY NY

I represent: TPA / CCC

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1362 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: DAVID (PLEASE PRINT) ABRAMS

Address: NYU College Global Pub Htz

I represent: \_\_\_\_\_

Address: 715 BROADWAY NYC

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. 1345

in favor  in opposition

Date: \_\_\_\_\_

Name: John Connolly (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: Bluewater Investigations

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

1345

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Max Bookman

Address: \_\_\_\_\_

I represent: NYC Newsstand Operators

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

1345

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1345

(PLEASE PRINT)

Name: Jim Calvin

Address: \_\_\_\_\_

I represent: New York Association of ~~Stores~~

Address: Convenience Stores

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: ROBERT KORONP

Address: \_\_\_\_\_

I represent: HAROLD LEVINSON ASSOC.

Address: 21 BANFI PLAZA FARMINGDALE NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/20/19

(PLEASE PRINT)

Name: Robin Vitale

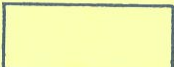
Address: 122 E. 42<sup>nd</sup> St. 18<sup>th</sup> FL

I represent: American Heart Association

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1-30-19

(PLEASE PRINT)

Name: RICHARD MARIANOS

Address: WASHINGTON DC

I represent: LAW ENFORCEMENT

Address: WASHINGTON DC

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 1345/1345 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/30/19

(PLEASE PRINT)

Name: Matthew Myers

Address: 1400 I ST, NW., Washington, DC

I represent: Campaign for Tobacco-Free Kids

Address: 1400 I ST, NW, Washington, DC



Please complete this card and return to the Sergeant-at-Arms



THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/29/19

(PLEASE PRINT)

Name: Bill Sherman

Address: 132 W 32nd St. NY

I represent: American Cancer Society

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition  
of bills

Date: 1/30/19

(PLEASE PRINT)

Name: Michael Seiback

Address: \_\_\_\_\_

I represent: American Lung Association

Address: 21 W. 38th St New York, NY

Please complete this card and return to the Sergeant-at-Arms