



PROTECT DENVER KIDS AND ADVANCE HEALTH EQUITY

An Ordinance to End the Sale of Flavored Tobacco Products in Denver

THE PROBLEM: FLAVORS HOOK KIDS

- In 2023, the [Healthy Kids Colorado Survey](#) found that 6.9% of Denver high school students and 9.2% of high school students in Colorado use tobacco products.
- Flavored tobacco products are addicting a new generation of kids, and according to the [Colorado Department of Public Health](#), young people who vape are 4 times more likely to smoke cigarettes a year later.
- Even scarier, tobacco is the number 1 cause of preventable and premature death in Colorado, according to a [2023 Colorado Public Radio investigative series](#).



POLITICS MONEY ARTS JUSTICE ENVIRONMENT NEWSLETTER SUPPORT CPR

The teens who made Colorado No. 1 in underage vaping 5 years ago are now young adults, and they're still using



By John Daley · Jan. 16, 2024, 4:00 am

THE TOBACCO INDUSTRY HAS KNOWN FOR DECADES THAT FLAVORS ATTRACT AND NICOTINE ADDICTS KIDS

"It's a well-known fact that teenagers like sweet products. Honey might be considered."

-Memo to Brown & Williamson, 1972

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

-R.J. Reynolds Memo, 1974

American
Lung Association.
State of Tobacco Control

2024



[1962 Flintstones cartoon selling Winston's cigarettes](#)

Saturday morning cartoons have been the staple of children across the U.S. for the past half century, but Big Tobacco has muddied even this innocent memory – placing their products in cartoons, normalizing their appearance to kids.



THE SOLUTION: END THE SALE OF ALL FLAVORED TOBACCO PRODUCTS

- **Prohibit the sale of all flavored tobacco products**, including fruit and candy-flavored e-cigarettes, menthol cigarettes, flavored hookah, and flavored chew and pouches, with no exceptions for products, flavors, or locations to ensure equal treatment under the law and account for these products' evolving nature.
- **Provide a comprehensive definition of flavored tobacco products** to cover all flavored items and expand the definition of "tobacco product" to include all forms of nicotine.
- **Hold retail tobacco stores accountable for employees' actions** by making license holders responsible for violations instead of clerks.
- **Strengthen administrative penalties** by extending the "lookback period."
- Require DDPHE to report to City Council annually on the implementation and effectiveness of the ordinance.
- **Create a presumption that any tobacco product advertised as flavored is presumed to be flavored** unless the seller demonstrates otherwise.
- Enact the bill 90 days after passage to allow DDPHE time to educate retailers before enforcement in 2026.

THE SOLUTION: ENFORCEMENT

1 st Violation at a Specific Location	DDPHE may issue warning that future violations within 2 years may result in suspension to sell tobacco products where violation occurred.
2 nd Violation at the Same Location within 3 Years of the 1 st Violation	DDPHE may suspend privilege to sell tobacco products for not-to-exceed 30 days where violations occurred.
3 rd Violation at the Location within 3 Years of the 1 st Violation or after Violating an Order Suspending Sales Privileges	DDPHE may suspend privilege to sell tobacco products for not-to-exceed 60 days where violations occurred.
4 th Violation at the Location within 3 years or after 2 or more Violations of an Order Suspending Sales Privileges	DDPHE may suspend privilege to sell tobacco products for not-to-exceed 1 year where violations occurred.

DDPHE may take action to ensure compliance with suspension of privilege to sell tobacco products, including requiring the removal of all tobacco products from sales area of location for duration of suspension, and inspecting documentation relevant to suspension.

DDPHE may post notice at location of sale that tobacco sales have been suspended for duration of suspension.

THE SOLUTION: ELIMINATE “PUP” LAWS FOR KIDS

- Eliminate penalties for the underage Purchase, Use, or Possession of tobacco products (PUP Laws).
- Support health equity and social justice by not penalizing targeted youth.
- Shift accountability to the industry profiting from tobacco sales, not the young people who purchase, use, or possess tobacco products or individual employees who sell them.
- Recognize the lack of evidence that PUP laws reduce youth tobacco use or addiction.



POLICY UPDATES BASED ON COMMUNITY AND STAKEHOLDER FEEDBACK

1. Clarify Pipe and Premium Cigar Regulations

Moved pipe tobacco and premium cigars regulations from Sec. 24-40 (definitions) to Sec. 24-406 to eliminate confusion that there is an exemption for flavored pipe tobacco and premium cigars. Sec. 24-406 allows retailers to sell pipe tobacco and premium cigars in packaging different from how they received it from the wholesaler. Given the nature of both products and how they are received, Sec. 24-406 only applies to these products.

2. Update the Responsibility Section

Sec. 24-407 was updated to clarify that the license holder is the entity responsible for the sale of a tobacco product. Fines and suspension of selling privileges are thus imposed upon the retail license holder, not a person, officer, agent, or employee acting on their behalf.

ONGOING STAKEHOLDER ENGAGEMENT

Bill sponsors, Council Members Watson, Lewis, and Gonzales-Gutierrez, hosted 2 town halls.

- Oct. 23: Virtual
- Oct. 24: In-Person

To solicit feedback, Council sponsors continue to have an ongoing dialog with:

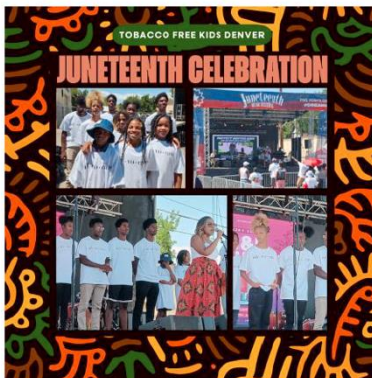
- Vaping advocates, tobacco companies, and hookah representatives.
- Stakeholders from impacted communities.
- Parents, students, and educators.



Photos from the In-Person Town Hall at the MLK Rec Center

STRONG COMMUNITY OUTREACH

Health experts, parents, and stakeholders have participated in over 27 local community events to support ending the sale of flavored tobacco products.



THE DENVER BOARD OF EDUCATION SUPPORTS ENDING FLAVORED TOBACCO SALES



NOW, THEREFORE, BE IT PROCLAIMED, that we call on the Denver City Council to end the sale of all flavored tobacco products to protect students and communities from nicotine addiction, reduce the health and academic harms of tobacco use, and advance health equity.

STRONG COMMUNITY SUPPORT

2 out of 3 Denver voters and over 50 local Colorado and Denver organizations support end the sale of flavored tobacco products.



Questions and Discussion

APPENDIX

CITATIONS

- U.S. Surgeon General, E-Cigarette Use Among Youth and Young Adults, 2016. (https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf)
- 6.9% of Denver high school students, 9.2% of high school students in Colorado use tobacco products: 2023 Healthy Kids Colorado Survey
- *Tobacco Control*, 2021. Mendez, D and Le, TT, “Consequences of a match made in hell: the harm caused by menthol smoking to the African American population over 1980-2018,” *Tobacco Control*, published online September 16, 2021. (<https://tobaccocontrol.bmj.com/content/31/4/569>)
- Save 255,000 Black Americans: *Tobacco Control*, “Public health impact of a US menthol cigarette ban on the non-Hispanic black population: a simulation study” 2022, published online December 13, 2023. (<https://tobaccocontrol.bmj.com/content/33/1/126>)
- Tobacco industry: Campaign for Tobacco-Free Kids (<https://assets.tobaccofreekids.org/factsheets/0134.pdf>) and American Journal of Public Health, Acevedo-Garcia, D., et al., “Undoing an Epidemiological Paradox: The Tobacco Industry’s Targeting of US Immigrants,” 2004 (<https://pmc.ncbi.nlm.nih.gov/articles/PMC1448610/>)
- More than 43,000 Latinos diagnosed: CDC, “Vital Signs: Disparities in Tobacco-Related Cancer Incidence and Mortality—United States, 2004-2013,” *Morbidity & Mortality Weekly Report*, 65(44): 1212-1218, <http://www.cdc.gov/mmwr/volumes/65/wr/mm6544a3.htm>.
- Lung cancer: American Cancer Society, “Cancer Facts & Figures for Hispanics/Latinos 2021-2023,” 2021. <https://www.cancer.org/research/cancer-facts-statistics/hispanics-latinos-facts-figures.html>
- 47% of Asian American smokers: 2018 National Survey of Drug Use and Health (NSDUH) (<https://pmc.ncbi.nlm.nih.gov/articles/PMC7542641/>)
- Cancer the leading cause of death: Campaign for Tobacco-Free Kids; see Curtin SC, Tejada-Vera B, Bastian BA. Deaths: Leading causes for 2020. *National Vital Statistics Reports*; vol 72 no 13. Hyattsville, MD: National Center for Health Statistics. 2023. DOI: <https://dx.doi.org/10.15620/cdc:133059>. See Table D. Deaths and percentage of total deaths for the 10 leading causes of death, by race and Hispanic origin: United States, 2020 and CDC, “Vital Signs: Disparities in Tobacco-Related Cancer Incidence and Mortality—United States, 2004-2013,” *Morbidity & Mortality Weekly Report*, 65(44): 1212-1218, <http://www.cdc.gov/mmwr/volumes/65/wr/mm6544a3.htm>.
- CDC, <https://www.cdc.gov/tobacco-health-equity/collection/lgbtq-unfair-and-unjust.html>