

PROPOSED ORDINANCE TO END THE SALE OF FLAVORED TOBACCO IN DENVER





WHAT PROBLEM ARE WE TRYING TO SOLVE?

- 1 The Tobacco Industry for decades has used FLAVORS to target youth, communities of color, and marginalized communities.
- 2 Flavored tobacco products are driving the recent Youth e-cigarette epidemic.
- 3 Menthol and other flavored tobacco play a significant role in causing health disparities and health inequities.



THE FACTS ABOUT FLAVORED TOBACCO

- Thousands of flavored tobacco products on the market
- 81% of youth started with a flavored product
- 2 million youth use e-cigarettes, majority cite flavors as reason
- Half of high school student smokers use menthol cigarettes
- 85% of Black smokers use menthol cigarettes
- Cigars are now the second most popular tobacco product among high school students

Source: The Flavor Trap Report

DENVER TOBACCO RETAILERS

Source: Aspirecenter.org





THE COST

- Tobacco is the leading cause of preventable death
 - Colorado adults who die each year from their own smoking = 5,100
 - Colorado kids now under 18 and alive who will ultimately die prematurely from smoking = 91,000
- Smoking-Caused Monetary Costs in Colorado
 - Annual health care costs directly caused by smoking = \$1.89 billion
 - Medicaid costs caused by smoking = \$386.3 million
 - Residents' state & federal tax burden from smoking-caused government expenditures = \$717 per household

Source: <https://www.tobaccofreekids.org/problem/toll-us/colorado>

STATES AND LOCALITIES WITH FLAVOR RESTRICTIONS

At least 310 localities and 5 states have passed restrictions on the sale of flavored tobacco products.



CITIES/ COUNTIES

- District of Columbia
- San Francisco, CA
- Los Angeles County, CA
- San Jose, CA
- Edina, MN
- Oakland, CA
- Bangor, ME



STATES

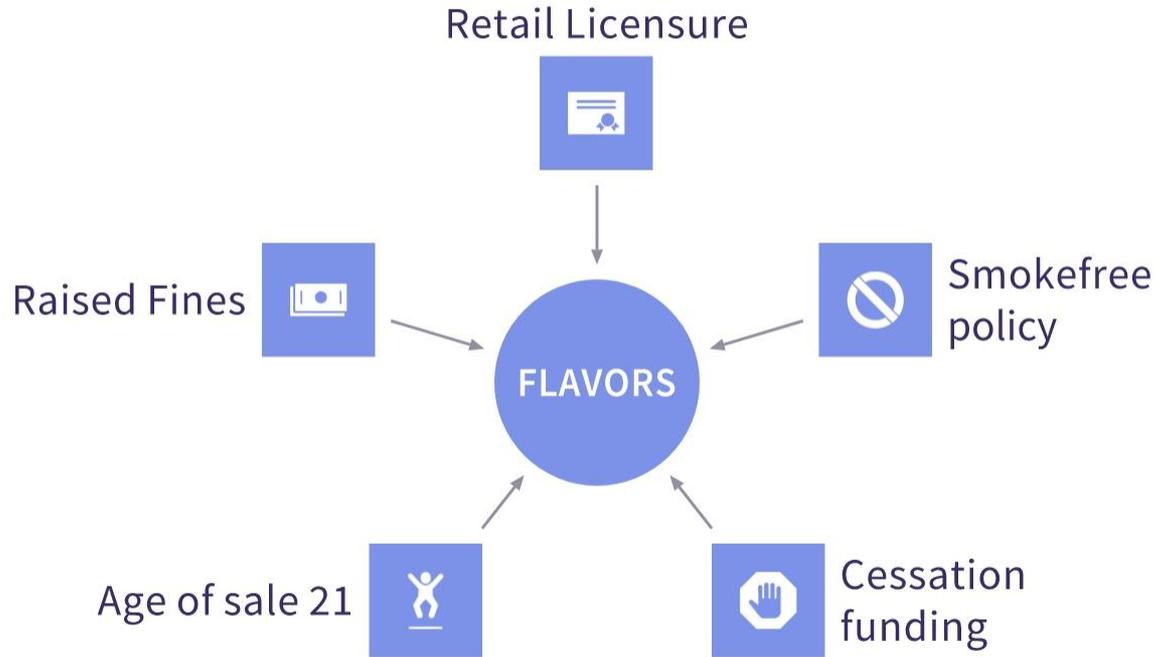
- California
- Massachusetts



COLORADO

-
- Aspen
 - Boulder
 - Carbondale
 - Edgewater
 - Glenwood Springs
 - Snowmass Village

WHAT'S MISSING AT THE LOCAL LEVEL



 Taxation



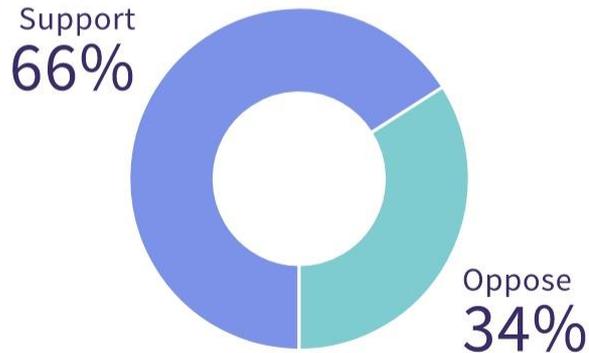
WHAT THIS ORDINANCE DOES

- 1 Ends the sale of all flavored tobacco products, in all locations, with no exceptions, in the city and county of Denver
- 2 Exempts any FDA approved cessation device
- 3 Protects against unintended racial targeting

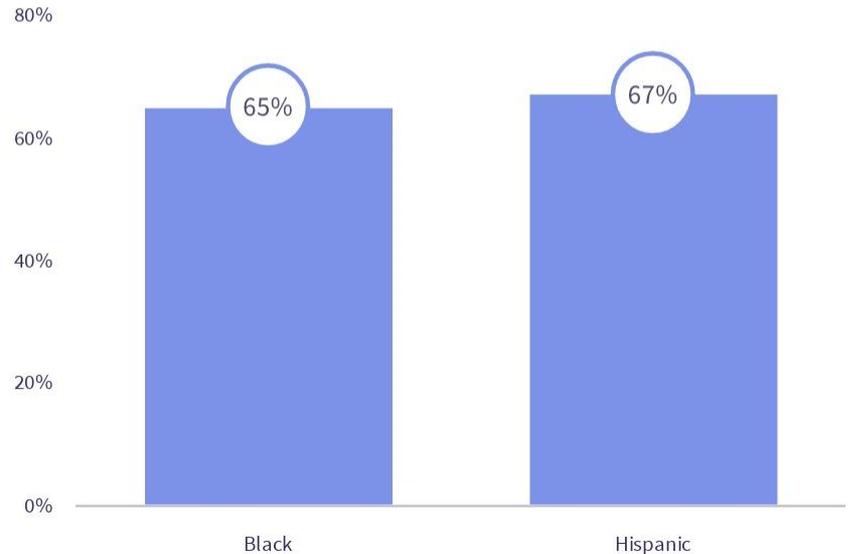
2/3 DENVER VOTERS SUPPORT A CITY-WIDE ORDINANCE TO END SALE OF FLAVORED TOBACCO PRODUCTS

Majority support consistent among subgroups and council districts

support/oppose



oversample demographics



ENDORISING ORGANIZATIONS

African American Tobacco Leadership Council
African Chamber of Commerce Colorado
American Academy of Pediatrics – CO Chapter
American Cancer Society – Cancer Action Network
American Heart Association
American Lung Association
American’s For Nonsmokers’ Rights
Boys & Girls Club of Metro Denver
Brother Jeff’s Cultural Center
Campaign for Tobacco-Free Kids
Capitol Hill United Neighborhoods
Center for African American Health
Center for Health Progress
Centura

Children’s Hospital Colorado
College View
Colorado Academy of Family Physicians
Colorado Advanced Practice Psychiatric Nurses
Colorado Association for School-Based Health Care
Colorado Black Health Collaborative
Colorado Cancer Coalition
Colorado Children’s Campaign
Colorado Children’s Healthcare Access Program
Colorado Coalition for the Homeless
Colorado Council of Black Nurses Inc
Colorado Dental Association
CLLARO
Colorado Medical Society
COLOR

Colorado PTA
Colorado Public Health Association
Colorado Society for Respiratory Care
Colorado Thoracic Society
CoPIRG
Denver African American Commission
Denver Alumnae Chapter, Delta Sigma Theta Sorority, Inc.
Denver Asian American & Pacific Islander Commission
Denver Black Educators Caucus
Denver Council Parent Teacher Student Association
Denver Health
Denver Indian Health and Family Services Inc.
Denver Latino Commission
Denver Medical Society
Denver Public Schools
Denver Resources for Awareness Prevention

Denver Youth Commission
DSST
Eastern Colorado Council of Black Nurses Inc
Girls Inc
Greater Park Hill Community Association
Group to Alleviate Smoking Pollution
Healthier Colorado
HealthONE
Highlands Family Medicine
Inner City Health Center
Interfaith Alliance of Colorado
Jefferson Park United Neighborhoods
Kaiser Permanente
Lowry United Neighborhoods
Lung Cancer Task Force
March of Dimes
Masjid Taqwa – Northeast Denver Islamic Center
Mental Health Colorado

Metro Denver Dental Society
Metro Denver Oncology Nursing Society
Mile High Health Alliance
Mile High Medical Society
Montbello 2020
NAACP Denver Chapter
NAACP Statewide
National Association of Black Veterans
National Association of Hispanic Nurses
National Jewish Health
National LGBTQ Cancer Network
New Era
Northeast Park Hill Coalition
Oncology Nursing Society
One Colorado
Overland Park Neighborhood Association
Parents Against Vaping E-Cigarettes
Preventing Tobacco Addiction Foundation

RMC Health
Rocky Mountain Hospital for Children
Ruby Hill Neighborhood Association
Servicios de La Raza
Servicios de La Raza – La Raza Youth Leadership Institute
SHAPE Colorado
Single Mothers of Color, Inc.
Sloan’s Lake Citizens Group
Tepeyac Community Health Center
The Center for Black Health Equity
The Center on Colfax
The National Organization of African Americans in Housing
Tuchman Foundation
UCHealth
UpRise
Urban League for Young Professionals
Urban Peak
YMCA Metro Denver
Young Invincibles

DISCUSSION OF PROPOSED AMENDMENTS

- 1 Hookah (Clark)
- 2 Premium tobacco and cigars (Kashmann)
- 3 Require enhanced ID verification for all tobacco sales at any store including grocers, convenience stores and tobacco-focused (Black)
- 4 21+ like Marijuana (Black)

WHY INCLUDE FLAVORED HOOKAH?

- Hookah smoking is linked to many of the same adverse health effects of cigarette smoking, such as lung, bladder, and oral cancers and heart disease
- 78.9% of youth hookah users reported using hookah “because they come in flavors I like”
- Higher use rates among minority populations
 - 10x higher in the transgender community
 - 4x higher in the Native Hawaiian community
 - 2x higher in the AAPI community
 - 1.5x higher among bisexuals



Source: 2019 Healthy Kids Colorado Survey

PROPOSED HOOKAH EXEMPTION

Sec. 24-404. - Sale of flavored tobacco products prohibited.

(a) It shall be unlawful for any retail tobacco store, or for any person acting as an officer, authorized agent, representative, or employee of such retail tobacco store, to sell, offer for sale, give, barter, deliver or furnish to a user or consumer any flavored tobacco product or samples of such products.

The board may adopt rules and regulations as may be necessary for the protection of public health related to this section.

(b) A violation of this section is declared to be a noncriminal violation.

(c) This section shall not apply to hookah tobacco sold at a hookah tobacco retailer, provided the hookah tobacco retailer prohibits entry to any individual under 21 years old.

QUESTIONS/DISCUSSION

WHY INCLUDE FLAVORED CIGARS?

- Cigars are the second most popular tobacco product among high school students.
 - 5% of HS students use cigars
 - 9.2% African American HS students are current cigar smokers
- Sales of flavored cigars have increased by nearly 50% from 2008 to 2015, with more than 250 unique cigar flavors available.
- 58.3% of current youth cigar smokers—550,000 youth—use flavored cigars.
 - Among current youth users of flavored cigars, the most popular flavor was fruit (61.5%), followed by candy/dessert/other sweets (34.0%) and mint (30.4%)
- 73.8% of youth cigar smokers smoked cigars “because they come in flavors I like”

PROPOSED PREMIUM CIGAR & PIPE TOBACCO EXEMPTION

Sec. 24-404. - Sale of flavored tobacco products prohibited.

(a) It shall be unlawful for any retail tobacco store, or for any person acting as an officer, authorized agent, representative, or employee of such retail tobacco store, to sell, offer for sale, give, barter, deliver or furnish to a user or consume any flavored tobacco product or samples of such products. The board may adopt rules and regulations as may be necessary for the protection of public health related to this section.

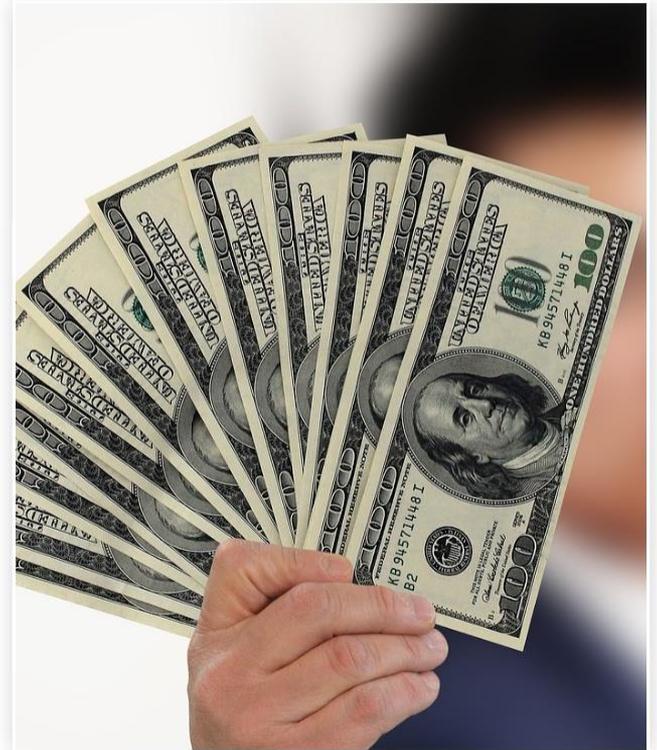
(b) A violation of this section is declared to be a noncriminal violation.

(c) This section 24-4045 shall not apply to cigars or pipe tobacco sold or displayed by a person who primarily engages in the business of selling cigars, pipe tobacco, cigar related accessories, and pipe tobacco related accessories, or the rental of on-premises humidors or other cigar storage units.

QUESTIONS/DISCUSSION

WHY INCLUDE AGE-RESTRICTED STORES?

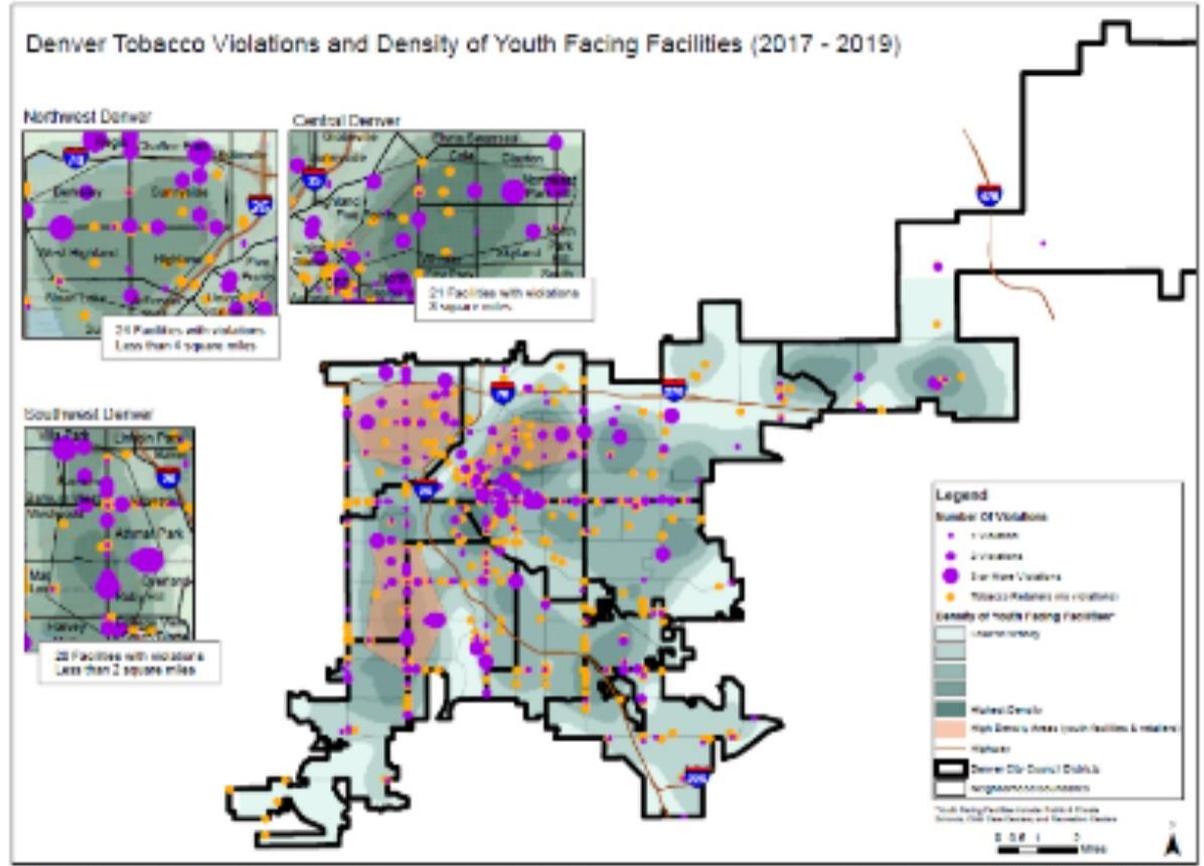
- Creates a loophole that weakens the policy's effectiveness
- Kids will still access tobacco products
- Big Tobacco uses every tactic to exploit loopholes
- Oakland and Minnesota examples
- Despite strict age-verification and ID requirements, 25.5% of Denver kids report marijuana use



Source: 2019 Healthy Kids Colorado Survey

UNDER AGE SALES VIOLATIONS

106 Violations --
38% of violations
occurred at stores
that sell
age-restricted
products (ie:
liquor stores,
vape shops,
tobacco
storefronts)



PROPOSED 21+ AGE RESTRICTION (1 OF 2)

Sec. 24-402. - Sale of tobacco products to persons under twenty-one (21) years of age prohibited.

(a) It shall be unlawful for any person to sell, give, deliver or furnish any tobacco product to anyone who has not reached twenty-one (21) years of age.

(b) It shall be unlawful for any person to permit or allow the person's agent, servant, officer or employee to sell, give, deliver or furnish any tobacco product to anyone who has not reached twenty-one (21) years of age.

(c) It shall be unlawful for any retail tobacco-focused business to allow any person under the age of twenty-one (21) on the licensed premises. Government-issued identification must be required from all patrons before the patron is allowed access into the licensed premises.

PROPOSED 21+ AGE RESTRICTION – VERIFICATION (2 OF 2)

Sec. 24-402. - Sale of tobacco products to persons under twenty-one (21) years of age prohibited.

(a) It shall be unlawful for any person to sell, give, deliver or furnish any tobacco product to anyone who has not reached twenty-one (21) years of age.

(b) It shall be unlawful for any person to permit or allow the person's agent, servant, officer or employee to sell, give, deliver or furnish any tobacco product to anyone who has not reached twenty-one (21) years of age.

(c) Before selling a tobacco product to a customer, a person shall verify that the customer is at least 21 years of age by either:

(1) Examining a government-issued photographic identification and performing age and identify.

verification through enhanced controls that utilize a scanning technology or other automated, software-based system; or

(2) For government-issued identifications that are not capable of being scanned, the person must visually confirm that the identification presented by the customer shows that the customer is at least 21 years of age and the identification is not expired.

QUESTIONS/DISCUSSION

ACCORDING TO THE FDA, MENTHOL CIGARETTES ARE ASSOCIATED WITH...



- Increased smoking initiation among youth and young adults
- Greater addiction
- Decreased success in quitting smoking

THE TOBACCO INDUSTRY HAS BEEN TARGETING BLACK AMERICANS FOR DECADES



- 85% of Black smokers use menthol cigarettes, compared to 29% of White smokers
- Black smokers are less likely to quit than White smokers, and die at higher rates from tobacco-related diseases
- Each year, 45,000 Black Americans die from tobacco-related diseases

FDA AND FDA'S TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE (TPSAC) CONCLUSIONS ON MENTHOL

“REMOVAL OF MENTHOL CIGARETTES FROM THE MARKETPLACE WOULD BENEFIT PUBLIC HEALTH IN THE UNITED STATES.”



Tobacco Products Scientific Advisory Committee (TPSAC)

MENTHOL EXEMPTION

Remove: the word “menthol” in the Definition of Flavored Tobacco Product on Page 2 Line 31.

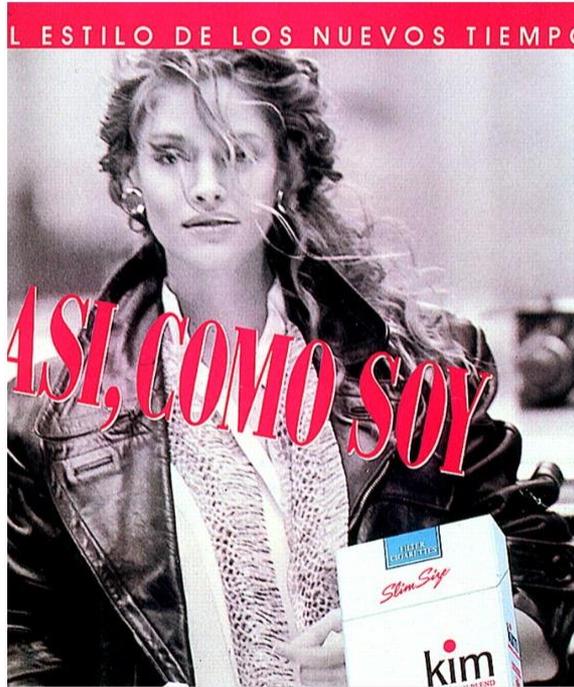
QUESTIONS/DISCUSSION

APPENDIX

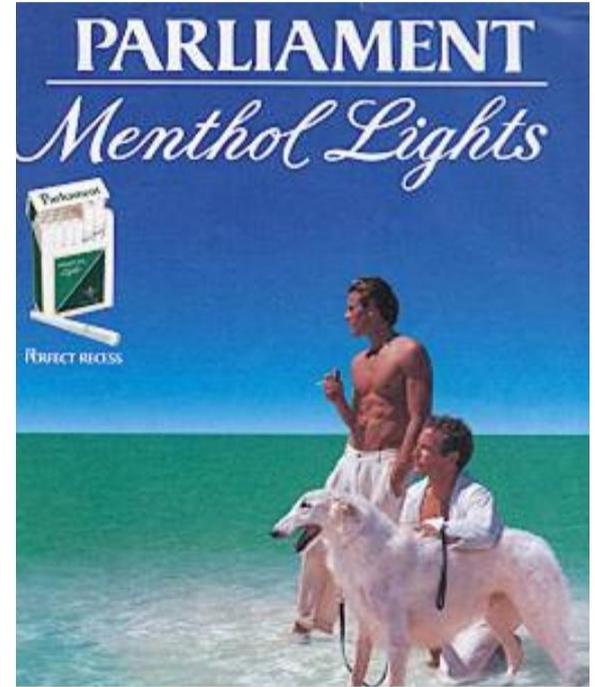
TARGETED COMMUNITIES



Black Americans



Hispanics and Latinos



LGBTQ+

TOP ISSUES RAISED REGARDING A FLAVOR BAN

- Stores will go out of business
- Exemption for pipe tobacco
- Exemption for hookah tobacco and hookah bars
- Exemption for menthol
- Exemption for age-restricted stores



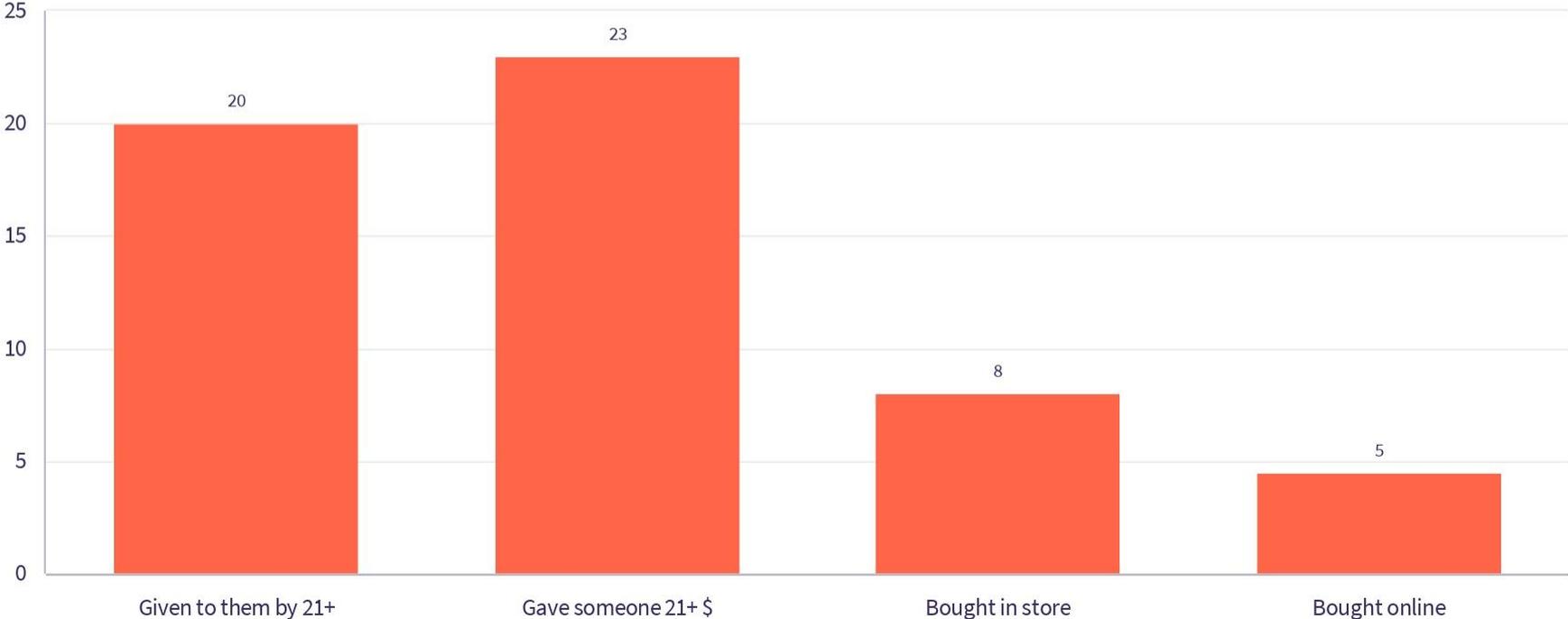
CIGAR COMPANIES MARKET TO YOUTH

There are over 250 cigar flavors and counting



HOW DENVER STUDENTS OBTAIN VAPING PRODUCTS

Ease of obtaining in Denver = 54%



Source: 2019 Healthy Kids Colorado Survey

FDA VIOLATIONS

Compliance checks outside of DDPHE
2017 - 2021 (No checks from early 2020 - mid 2021 due to COVID)

What kids successfully purchased

- 37% vaping products
- 13% cigars
- 49% cigarettes
- 1% smokeless tobacco

Retailers that asked for ID

- 83% sold without asking for ID
- 17% asked for ID and still sold

Businesses in violation

- 40% of violations occurred at stores that sell age-restricted products.
- Stash Smokes and Vape, King Soopers (kiosk), Broadway Smoke Shop, Mile High Pipe & Tobacco IV, Capitol Cigars, Holly Market, The Retro Room, Kiran's Liquors, Family Dollar, O' Pipes and Tobacco, and many more.