

# Why a federal court upheld ban on flavored tobacco products

MAY 6, 2021

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Flavored tobacco products won't be lining store shelves in San Diego, taking away a temptation for teens to pick up an addictive habit.

The U.S. District Court for the Southern District of California recently dismissed two lawsuits challenging a San Diego law that took effect last year and bans the sale of flavored tobacco products and temporarily suspends e-cigarette sales in San Diego County.

The AMA joined several other public health and anti-tobacco groups in urging the court to do just that. They filed an amicus brief that outlined concrete data on the recent upward trend in youth smoking, how youth are drawn in by flavored tobacco products, the detrimental health consequences of tobacco use and the health disparities these products produce in African American communities.

"By enacting the Flavors Ordinance, San Diego County has sought to protect its residents—and particularly its young people—from the continuing and increasing scourge of favored tobacco products that lure millions into a lifetime of addiction, disease and death," the brief told the court.

Noting that COVID-19's attacks on the lungs make those who smoke or vape even more vulnerable to severe bouts with the disease, the brief said "never has it been more important to curb the sale of flavored tobacco products that lure kids into smoking and vaping."

## Flavors target teens—successfully

San Diego lawmakers passed the Flavors Ordinance in a climate that resulted in the U.S. surgeon general in 2018 issuing an advisory on e-cigarette use among youth, calling the growing problem an epidemic. Tobacco use is the leading cause of preventable deaths among Americans, according to a 2014 report from the surgeon general's office. It's responsible for about 480,000 deaths annually.

And with 90% of adult smokers picking up the habit in their teens, the tobacco industry has for years relied on flavored products to successfully market to young people, the brief told the court. E-cigarette flavors such as cotton candy and gummy bear have led to e-cigarette use more than doubling. In 2019, 27.5% of high school students reporting using e-cigarettes, up from 11.7% in 2017.

Data and research from the Food and Drug Administration, National Institutes of Health and others have found that:

- | Nearly 81% of 12-to-17-year-olds who had ever used a tobacco product first used a flavored product.
- | For each tobacco product, at least two-thirds of youth reported using these products “because they come in flavors I like.”
- | 97% of current youth e-cigarette users had used a flavored product in the past month.

## Health disparities created

In addition, menthol cigarettes have played an “especially pernicious role in victimizing the African American community,” the brief said. Since the 1950s, tobacco companies have marketed menthol cigarettes to Black people by putting more advertisements at stores with higher proportions of African American residents, among other tactics. The result has been that 85% of Black smokers use menthol cigarettes, compared with 29% of whites.