



E-CIGARETTE BANS

CENTRAL QUESTION



Should governments ban the sale of e-cigarettes?

INTRODUCTION



In 2019, a severe—and in some cases, fatal—lung illness began appearing across the United States, in patients with a history of e-cigarette use. In this *Close Up in Class Controversial Issue in the News*, we will examine e-cigarettes and the illness they are linked to, explore the actions that some governments have taken in response, and challenge you to weigh the pros and cons of one of the paths forward.

BACKGROUND



What Are E-Cigarettes? An e-cigarette is an electronic device that heats a substance—an “e-liquid”—into an aerosol that is inhaled. The aerosol may contain nicotine, flavorings, chemicals, ultra-fine particles, metals, and compounds such as propylene glycol and vegetable glycerin. Some e-cigarettes (those purchased on the street or in states that have legalized marijuana use) contain marijuana compounds suspended in oils. The practice of using an e-cigarette is commonly known as vaping.¹

E-cigarettes—which are also called vaporizers, vapes, vape pens, hookah pens, mods, and e-pipes—come in many shapes and sizes. They may look like conventional cigarettes, cigars, pens, or USB flash drives. As of September 2019, there are more than 460 brands of e-cigarettes on the market.²

So, who uses e-cigarettes in the United States?

- In this country, youth are more likely than adults to use e-cigarettes.³
- In 2018, 3.62 million middle school and high school students were e-cigarette users.
- Between 2017 and 2018, e-cigarette use increased from 11.7 percent of high school students to 20.8 percent, and from 3.3 percent of middle school students to 4.9 percent.⁴
- In 2017, 2.8 percent of adults were e-cigarette users.⁵

Are E-Cigarettes Safe? E-cigarettes are a relatively new product, so scientists are still studying their long-term health effects. Scientists do know, however, that nicotine (which most e-cigarettes contain) is highly addictive, that it is toxic to developing fetuses, that it can harm adolescent brain development, and that acute exposure to it can be toxic. Furthermore, e-cigarette aerosol can contain cancer-causing chemicals and ultra-fine particles that go deep into the lungs.⁶ However, e-cigarette aerosol generally contains fewer harmful chemicals than the mix of approximately 7,000 chemicals found in cigarette smoke.

Studies have produced mixed results about whether or not e-cigarettes help smokers quit, and as of October 2019, the Food and Drug Administration (FDA) has not approved e-cigarettes as a quit-smoking aid. In the words of the Centers for Disease Control and Prevention (CDC), e-cigarettes are less harmful than regular cigarettes, “but that doesn’t mean e-cigarettes are safe.”⁷

In 2016, the FDA began regulating the manufacture, import, packaging, labeling, advertising, promotion, sale, and distribution of e-cigarettes, including components of them (such as e-liquids, flavorings, cartridges, and certain batteries). Also in 2016, it became illegal across the country to sell e-cigarettes to people under the age of 18.⁸ More locally, various states and cities have taken steps to regulate the sale, marketing, and use of e-cigarettes, by enacting product packaging requirements, for example, or prohibiting the use of e-cigarettes in certain places.⁹



How does your state regulate e-cigarette use, sales, or marketing?

THE CURRENT CONTROVERSY



Should governments ban the sale of e-cigarettes?

The use of e-cigarettes attracted nationwide attention in 2019, when a severe lung illness began appearing in people with a history of vaping. As of October 15, there have been 1,479 lung injury cases in 49 states and the District of Columbia; 33 of those people, in 24 states, have died.¹⁰

Thus far, all of the lung injury patients have reported a history of e-cigarette use. Among a sample of 849 of the patients, most (78 percent) reported a history of using products that contain tetrahydrocannabinol (THC, the main psychoactive compound in marijuana), particularly products obtained off the street or through other informal sources (such as illicit dealers, family members, or friends). Fifty-eight percent reported using products that contain nicotine; ten percent reported using nicotine products only.¹¹

The suspected cause of the lung illness is exposure to a chemical or chemicals. But as the CDC and the FDA continue to investigate, the CDC is recommending that people (1) do not use e-cigarettes that contain THC, (2) do not buy any type of e-cigarette off the street, (3) do not modify or add any substances to e-cigarettes, and (4) consider refraining from using all types of e-cigarettes.¹²

In response to the outbreak, some officials at the federal, state, and local levels have begun considering various types of bans on e-cigarettes.

- In September 2019, President Donald Trump’s administration said that the FDA was readying a ban on all non-tobacco flavors of e-cigarettes. (Companies might be able to reintroduce their flavors at a later date if they receive FDA approval.)¹³
- In June 2019, San Francisco became the first U.S. city to ban the sale and distribution of all e-cigarettes, except those that have undergone premarket review by the FDA (as of October 2019, none have). The state of Massachusetts followed suit in September 2019, placing a four-month ban on all sales of e-cigarettes.¹⁴
- Other states—including Michigan, Montana, New York, Oregon, Rhode Island, and Washington—have enacted bans on flavored e-cigarettes only, lasting several months. As of October 2019, judges have halted implementation of the bans in Michigan and New York.¹⁵

These bans have sparked a nationwide debate about whether or not such policies offer the best path forward. Supporters of bans on the sale of e-cigarettes argue that the government must act quickly to curb the epidemic of e-cigarette use in young people and to protect the public from lung illness. But opponents argue that bans only push people into smoking dangerous e-cigarettes obtained on the black market, encourage Americans to use burned tobacco products such as cigarettes, unfairly harm the businesses of e-cigarette makers and distributors, and set a perilous precedent for the future.



SHOULD GOVERNMENTS BAN THE SALE OF E-CIGARETTES?



YES: Governments must act now to protect young people and curb e-cigarette use.

Over the course of 2019, 1,479 Americans in 49 states and the District of Columbia have contracted a serious lung disease—one that has killed 33 people as of October 15. The one thing these people have in common? They all reported a history of using e-cigarettes.¹⁶

“The only way to assure that people are not at risk while the investigation continues is to consider refraining from use of all e-cigarette and vaping products,” the CDC implored. “There is no safe tobacco product. All tobacco products, including e-cigarettes, carry a risk.”¹⁷

Statistics show that e-cigarette use has become a dangerous epidemic among young people, and that is why governments must step in now. As of 2018, there were 3.62 million middle school and high school students who use e-cigarettes, representing 20.8 percent of all high school students and 4.9 percent of all middle school students.¹⁸ And these are the people to whom e-cigarettes pose the greatest danger.

“Young people who use nicotine products in any form, including e-cigarettes, are uniquely at risk for long-lasting effects. Because nicotine affects the development of the brain’s reward system, continued e-cigarette use can not only lead to nicotine addiction, but it also can make other drugs such as cocaine and methamphetamine more pleasurable to a teen’s developing brain,” noted the National Institute on Drug Abuse. “Nicotine also affects the development of brain circuits that control attention and learning. Other risks include mood disorders and permanent problems with impulse control—failure to fight an urge or impulse that may harm oneself or others.”¹⁹

In other words, a laundry list of dangers comes with e-cigarette use. Nicotine is toxic to developing fetuses, acute nicotine exposure can be poisonous, and e-cigarette aerosol can contain cancer-causing chemicals, ultra-fine particles that go deep into the lungs, volatile organic compounds (such as benzene, which is present in car exhaust), and heavy metals (such as nickel, tin, and lead).²⁰

Yet if government officials place a ban on e-cigarette sales—even a ban on flavored e-cigarettes only—it would successfully eliminate a tool that e-cigarette makers have used for years to lure young people into a life of tobacco use.

“We have an epidemic in the country. After decades of reducing youth smoking, the e-cigarette vaping phenomenon has sort of turned it around. One point five million more young people began smoking in 2018 and 2017, largely driven by e-cigarettes,” said Senator Tim Kaine, D-Va. “The use of flavors is one of the key areas where young people get sucked into something that they shouldn’t. So I am very heartened by the [Trump] administration’s proposal.”²¹



NO: Do not drive people into the black market or eliminate an alternative to cigarette smoking.

It may sound like a noble idea to ban the sale of e-cigarettes. But these bans will only push people into smoking dangerous black-market e-cigarettes, encourage Americans to use burned tobacco products, unfairly destroy the businesses of e-cigarette makers and distributors, and set a perilous precedent for the future.

According to the CDC, e-cigarettes containing THC—“particularly those obtained off the street or from other informal sources”—are “linked to most of the cases and play a major role in the outbreak” of the deadly lung illness in 2019. Yet if governments ban e-cigarettes, they will only force users into that dangerous, unregulated black market—the same black market that likely started this epidemic.

“This is a terrible decision,” tweeted Shaleen Title, a commissioner on Massachusetts’ Cannabis Control Commission, in response to the state’s four-month ban on the sale of e-cigarettes. “Purposely pushing people into the illicit market—precisely where dangerous products are—goes against every principle of public health and harm reduction.”²²

Banning e-cigarettes would also deprive smokers of a healthier alternative to traditional cigarettes—an alternative that may help them quit. When an e-cigarette is “smoked,” there is no release of cigarette smoke with its 7,000 chemicals (including more than 70 that can cause cancer).²³ “Are electronic cigarettes safe? Of course not. But e-cigarettes don’t need to be absolutely safe,” wrote Dr. Michael Siegel, a tobacco researcher at Boston University. “By definition, harm reduction involves an alternative product that is much safer.”²⁴

Take the case of Charlotte Raynor of Illinois, 61, who turned to vaping after other quit-smoking methods failed to wean her from her decades-long smoking habit. Through the use of mint- and cherry-flavored e-cigarettes, she gradually lowered her nicotine intake until she quit. “They are going overboard trying to invoke these laws on adults,” said Raynor of the various bans on e-cigarettes. “People will go to the black market and get them anyway. I don’t like that because there will be more deaths.”²⁵

It is true that scientists have much to learn about e-cigarettes. But it is precisely because of these unknowns that governments should refrain from banning e-cigarettes until they have been studied. In the words of the American Conservative Union and FreedomWorks, prematurely banning e-cigarettes would only “destroy thousands of small businesses without congressional oversight and without sufficient input from the public.”²⁶

And if governments ban the sale of e-cigarettes today, who is to say what comes next? Banning traditional cigarettes? Alcohol? Sugary sodas? Unhealthy foods? Americans must be careful not to give the government unchecked power over their personal lives.

QUESTIONS TO CONSIDER



1. Do you believe governments should ban the sale of e-cigarettes? If so, what type of ban would you support (a ban on the sale of all e-cigarettes, a ban on the sale of flavored e-cigarettes, a temporary ban, etc.)? If not, why not?
2. What do you believe to be the most compelling argument of the opposition? Explain your answer.
3. To what extent, if any, is it the role of the federal government to enact policies that enhance public health? Explain your answer.