



## FLAVORED TOBACCO SALES RESTRICTIONS: PROMISING EVIDENCE FOR REDUCING YOUTH ACCESS AND TOBACCO USE

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In November 2019, Massachusetts became the first state to restrict the sale of all flavored tobacco products, including menthol cigarettes, followed by California in 2020 (implementation pending a referendum vote). In 2020, New Jersey, New York and Rhode Island also passed bans on the sale of flavored e-cigarettes. In addition, over 300 localities across the U.S. have enacted restrictions on the sale of flavored tobacco products, although laws differ in their application to specific products and store types. At least 100 of these communities restrict the sale of menthol cigarettes, in addition to other flavored tobacco products.

### **Emerging Evidence from U.S. State and Local Flavor Restrictions is Promising**

Because it is a relatively new strategy, data on the impact of flavored tobacco sale restrictions is still emerging. However, the available data indicate that strong laws can be easily implemented and can help reduce youth access to and use of tobacco by removing from store shelves the products that are most attractive to youth and the products that youth use most often. A 2020 Surgeon General report concluded that, “Prohibiting flavors, including menthol, in tobacco products can benefit public health by reducing initiation among young people and promoting cessation among adults.”<sup>1</sup>

Research also points to the importance of strong laws with robust enforcement programs, including retailer education. Weak enforcement measures and exemptions can reduce compliance and have other unintended consequences. In many localities, the most commonly sold noncompliant products were cigars or cigarillos with “concept flavors” like “Blue,” “Jazz,” and “Wild Rush.” Case studies show that retailer education and providing retailers with a list of known flavored products can help to increase compliance. A report from the Johns Hopkins University concluded that, “When compliance is high, a comprehensive flavor ban or restriction without exemptions is likely to significantly affect sales of flavored tobacco products” and that, “A comprehensive flavor ban without product, flavor, and retailer exemptions may maximize public health benefits and minimize the opportunity for unintended consequences.”<sup>2</sup>

#### **California Local Policies**

A survey conducted in 2019 found that youth and young adult flavored e-cigarette users who lived in a California locality with a flavored restriction were less likely than their peers in the rest of the state to report obtaining flavored e-cigarettes from a retail source, but more likely to report obtaining them from a social source.

In 2017, the San Francisco Board of Supervisors enacted the first comprehensive ban on flavored tobacco products, which was upheld by city voters in June 2018. The San Francisco Department of Public Health’s outreach and retailer education efforts extended through the fall of 2018. Between January and December 2019, compliance was 80%, compared to 18% in December 2018.<sup>3</sup>

#### **New York City, NY**

New York City restricted sales of flavored tobacco products (excluding e-cigarettes and menthol cigarettes) in 2009 and began enforcement in November 2010. In 2020, New York City’s law was strengthened to prohibit flavored e-cigarettes, but evaluation data is not yet available on the new law.

- **Implementation:** Retailer scanner data through 2012 showed sale of all flavored cigar, smokeless and pipe/roll-your-own tobacco declined by 87%. These declines were coupled with only minor increases in the sale of non-flavored cigars and pipe/roll-your-own tobacco (5% and 4%, respectively).<sup>4</sup> Out of over 75,000 compliance checks conducted from 2010 to 2015, the New York City Department of Community Affairs found only a 4.1% violation rate.<sup>5</sup>
- **Youth tobacco use:** Data from the New York City YRBS shows that New York City teens in 2013 had 37% lower odds of ever-trying flavored tobacco products and 28% lower odds of ever using tobacco products than teens in 2010. The percent of New York City teens who reported ever use

of flavored tobacco products or use of any tobacco products declined significantly after the policy was implemented (from 19.6% in 2010 to 15.6% in 2013; a 20% decline).<sup>6</sup>

Together, these findings indicate that not only are retailers complying with the New York City ordinance, it is effectively reducing youth access to and use of these products.

#### Massachusetts Local Policies

Research shows that local-level policies passed before the statewide prohibition had an impact on reducing youth use and access to flavored tobacco products. One study found that counties with greater implementation of flavored tobacco product restrictions were associated with reductions in the likelihood of current e-cigarette use and a decrease in the frequency of cigarette use among users.<sup>7</sup>

In 2015, the Boston Board of Health raised the tobacco sale age to 21 and restricted the sale of flavored non-cigarette tobacco products. Store assessments conducted 8-10 months after implementation found that 14.4% of stores were selling flavored products, compared to 100% before the law was implemented. 85% of noncompliant products sold were cigars, with the most common flavor being “Blue.”<sup>8</sup>

#### Minnesota Local Policies

In 2016, both Minneapolis and St. Paul implemented laws restricting all flavored non-cigarette tobacco products to adult-only retailers. In both Minneapolis and St. Paul, significantly fewer convenience and grocery stores sold flavored tobacco after policy implementation. In Minneapolis, availability was reduced from 85.4% of retailers before implementation to 39% after 5 months and 15.4% after 14 months. In St. Paul, availability was reduced from 97.3% of retailers before implementation to 8.1% after 2 months. While Minneapolis saw a decrease in the sale of concept-flavor (e.g., “Blue”) cigars (from 80.5% to 61.5%), St. Paul had an increase (from 67.6% to 81.1%).<sup>9</sup>

In 2018, Minneapolis and St. Paul implemented stronger laws that included restrictions on menthol cigarettes, but they added liquor stores to the definition of exempted retailers. In the same year, Duluth and Falcon Heights implemented comprehensive flavored tobacco bans with no retailer exemptions. Compliance has been high across all four cities, with only eight retailers found to be non-compliant. Minneapolis and St. Paul’s policies led to 76% and 62% reductions in the number of retailers selling menthol cigarettes, respectively, whereas Duluth and Falcon Heights saw larger reductions (95% and 100% respectively) because they did not allow for retailer exemptions.<sup>10</sup>

#### Providence, RI

In January 2013, Providence began enforcement on its sales restriction on flavored non-cigarette tobacco products (except mint, menthol and wintergreen). Sales data from 2012 to 2016 show that sales of cigars with explicit flavor names (e.g., Cherry) declined by 93%. However, sales of concept-flavor cigars (e.g., Jazz) increased by 74%, resulting in a 51% overall decline in flavored cigar sales.<sup>11</sup>

#### International Evidence

In October 2017, Canada banned menthol cigarettes nationwide, although most provinces had banned menthol cigarettes prior to the nationwide law. Surveillance data from Ontario, Canada, which banned menthol cigarettes in January 2017, shows promising evidence that banning menthol cigarettes increases quit attempts and cessation:

- A 1-year follow-up survey found that both daily and occasional menthol smokers were more likely to report having quit smoking (24% and 20% vs 14%) or having made a quit attempt (63% and 62% vs 43%), compared to non-menthol smokers.<sup>12</sup>
- A 2-year follow-up survey found that menthol smokers were more likely to report having quit smoking for at least the last 6 months (12% for daily menthol smokers and 10% for occasional menthol smokers), compared to non-menthol smokers (3%), with no significant differences in relapse rates. Menthol smokers also reported more quit attempts than non-menthol smokers. Daily menthol smokers reported an average of 3 quit attempts, compared to 2.6 for occasional menthol smokers and 1.2 for non-menthol smokers.<sup>13</sup>

Research on the impact of Canada's national ban is also starting to emerge. Data from the International Tobacco Control Policy Evaluation Project (ITC) are consistent with the findings on the impact of the Ontario ban. Specifically, ITC researchers, using longitudinal surveys of Canadian smokers in seven provinces from 2016-2018 found that following provincial bans and the national ban, menthol smokers were more likely to try to quit than non-menthol smokers (59% vs. 49%), and were twice as likely to have quit smoking for at least six months (12% vs. 6%).<sup>14</sup> It is important to note that menthol cigarettes comprised a much smaller proportion of the Canadian cigarette marketplace (~5%) than the US marketplace (37%), and the demographics of menthol smokers are very different between the two countries.

In May 2020, the European Union and the United Kingdom banned the sale of menthol cigarettes, but research is not yet available on the impact of these bans.

### ***Campaign for Tobacco-Free Kids, April 23, 2021 / Laura Bach***

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<sup>1</sup> U.S. Department of Health and Human Services (HHS), *Smoking Cessation. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2020.

<sup>2</sup> Institute for Global Tobacco Control. State of the Evidence: Flavored Tobacco Product Bans or Restrictions. January 2020. Available at: <https://www.globaltobaccocontrol.org/resources/flavorreportsummary>.

<sup>3</sup> Vyas, P, et al, "Compliance with San Francisco's flavoured tobacco sales prohibition," *Tobacco Control*, published online April 16, 2020.

<sup>4</sup> Farley, SM and Johns, M, "New York City flavoured tobacco product sales ban evaluation," *Tobacco Control*, published online February 12, 2016.

<sup>5</sup> Brown, EM, et al., "Implementation of the New York City Policy Restricting Sales of Flavored Non-Cigarette Tobacco Products," *Health Education & Behavior*, 46(5) 782-789, 2019.

<sup>6</sup> Farley, SM and Johns, M, "New York City flavoured tobacco product sales ban evaluation," *Tobacco Control*, published online February 12, 2016.

<sup>7</sup> Hawkins, S, et al., "Flavoured tobacco product restrictions in Massachusetts associated with reductions in adolescent cigarette and e-cigarette use," *Tobacco Control*, published online January 27, 2021.

<sup>8</sup> Kephart, L, Massachusetts Tobacco Control Program, *Evaluating tobacco retailer experience and compliance with a flavored tobacco product restriction in Boston, Massachusetts*, webinar presented October 24, 2019.

<sup>9</sup> Brock B, "A tale of two cities: exploring the retail impact of flavoured tobacco restrictions in the twin cities of Minneapolis and Saint Paul, Minnesota," *Tobacco Control*, published online June 6, 2018.

<sup>10</sup> D'Silva, J, et al., "Local sales restrictions significantly reduce the availability of menthol tobacco: findings from four Minnesota cities," *Tobacco Control*, published online first July 23, 2020.

<sup>11</sup> Rogers, T, et al., "Changes in cigar sales following implementation of a local policy restricting sales of flavoured non-cigarette tobacco products," *Tobacco Control*, published online July 24, 2019.

<sup>12</sup> Chaiton, MO, et al., "Ban on menthol-flavoured tobacco products predicts cigarette cessation at 1 year: a population cohort study," *Tobacco Control*, published online May 30, 2019.

<sup>13</sup> Chaiton, M, et al., "Prior daily menthol smokers more likely to quit two years after a menthol ban than non-menthol smokers: a population cohort study," *Nicotine & Tobacco Research*, published online March, 10, 2021.

<sup>14</sup> Chung-Hall, et al., "Evaluating the impact of menthol cigarette bans on cessation and smoking behaviours in Canada: longitudinal findings from the Canadian arm of the 2016-2018 ITC Four Country Smoking and Vaping Surveys," *Tobacco Control*, published online April 5, 2021.