



FLAVORED DISPOSABLE E-CIGARETTES APPEAL TO KIDS AND REMAIN WIDELY AVAILABLE

The e-cigarette industry has already introduced the next new fad – cheap, disposable e-cigarettes in a variety of flavors. A 2019 study identified over 30 brands of disposable e-cigarettes. Unlike the “first generation” of disposable e-cigarettes that looked like cigarettes and had limited flavors, these new products are sleek, easily concealed, pre-charged, cheaper (some for less than \$5), available in a wide variety of flavors, and can even have higher nicotine concentrations than JUUL.¹

Disposable e-cigarettes have surged in popularity among kids.

- Between 2019 and 2020, disposable e-cigarette use increased approximately 1,000% (from 2.4% to 26.5%) among high school current e-cigarette users and by 400% (from 3.0% to 15.2%) among middle school current e-cigarette users. 870,000 youth are current users of disposable e-cigarettes.²
- Data from the 2020 Monitoring the Future Study shows that 8% of 10th and 12th graders wrote in Puff Bar as their preferred brand, making it the third most popular e-cigarette brand after JUUL and SMOK.³
- While fruit and mint flavors are prohibited in cartridge-based e-cigarettes, kids have turned to using these flavors in disposable products. Among current youth users of disposable e-cigarettes, the most commonly used flavor type is fruit (82.7%), followed by mint (51.9%).⁴
- The proportion of total e-cigarette sales that were disposable devices tripled between August 2019 and December 2020, from 10.3% to 34.4%. The popularity of disposables has been driven primarily by kid-friendly flavors: since January 2020, sales of other flavored disposables like fruit and candy more than tripled, making up 78% of disposable sales by December 2020.⁵

Disposables hook kids with their variety of flavors, low prices, high nicotine content, and concealability.

- Disposables come in an array of kid-friendly flavors, including cotton candy, iced apple mango, strawberry, and mint.
- These products are packed with nicotine, with some reaching up to 7.0% nicotine (a higher nicotine concentration than JUUL).⁶
- A single disposable device can replace the nicotine in an entire pack of cigarettes. For example, Mojo states that “the Mojo stick is equal to approximately 20 cigarettes.”⁷
- Ranging from as cheap as \$4.34 on sale, disposables are affordable for price-sensitive youth.⁸
- They are light and portable and their sleek designs make them easy to conceal. Posh highlights that “POSH is the disposable vaping kit which can be easily carried in your pocket. It comes with 12 awesome flavors.”⁹



These products have been marketed as starter products that are healthier.

- Companies are marketing these products as accessible and easy to use. Ready to use right out of the box, manufacturers tout the instant flavor hit and encourage users to try a variety of flavors.
- Mojo states that “the Mojo pods are great for anyone that vapes or trying to get into vaping.”¹⁰
- Bidi Vapor had previously asserted that “vaping is a healthier and better alternative in consideration of your health” on Instagram, and even posted “A Bidi Stick a day keeps the pulmonologist away” amid the COVID-19 pandemic.¹¹
- Without authorization from FDA, Posh has previously claimed that “It helps you quit smoking cigarettes”¹² and also asserted on its website that “Posh is a safer alternative and a healthier choice over cigarettes.”¹³ No e-cigarette has been approved or even reviewed for smoking cessation purposes by the FDA.

FDA’s January 2020 e-cigarette policy leaves kid-friendly, flavored disposable e-cigarettes on the market and widely available.

- FDA’s policy removed flavored, cartridge-based products from the market, but explicitly excluded disposable e-cigarettes (“An example of products that would not be captured by this definition include completely self-contained, disposable products”).¹⁴ In response to 2020 data showing the significant rise in disposable products used by youth, FDA announced it would prioritize enforcement against flavored disposable e-cigarettes in September 2020.¹⁵ However, the products have remained widely available and sales of flavored disposable e-cigarettes have continued to increase.¹⁶
- Manufacturers have produced disposable e-cigarettes in the same flavors as their pre-filled pods, so as FDA removes some flavored pods from the market, users can easily shift to the disposable e-cigarette version.
- FDA’s deficient policy has fueled the sales of flavored disposable e-cigarettes. A May 2020 industry analyst report noted, “We expect brands in the disposable e-cig segment to continue to gain share as long as they are not covered by the FDA’s restriction on non-tobacco/non-menthol flavor variants.”¹⁷
- A convenience store employee attributed the explosion of disposable products to FDA’s policy, “These products for the most part didn’t exist at retail in any consistent manner a year ago,” says Kraig Knudsen, tobacco category manager at Circle K’s Heartland Division, Lisle, Ill. “All those companies said, ‘Here’s a loophole. I’m going to just create a disposable, have any kind of flavor I want and sell a boatload of them.’ It’s worked for them.”¹⁸
- The popularity of Puff Bar, a disposable e-cigarette brand with enticing flavors such as O.M.G. and Blue Razz, is also reflected in sales data. The brand reached more than \$26 million in sales in 2020 and by mid-June 2020, industry analysts declared Puff Bar as one of the “biggest winners in disposables.” Recent 4-week sales data show that it is the leading disposable brand, making up 31.2% of all disposable e-cigarette retail dollar sales, ahead of major companies’ blu and NJOY.¹⁹
 - On July 13, 2020, Puff Bar posted on its website that it is suspending all sales in the U.S., but its products are still for sale on other retail websites, and knock-offs remain widely accessible.²⁰ A Puff Bar distributor claimed to have “ceased all distribution” in the U.S. in February 2020 following investigations into the company after a public outcry over rising youth use of the product,²¹ but the products remained on the market.
 - On February 19, 2021, Puff Bar announced a “fresh launch” of its products in the U.S. The announcement email stated that “THIS PRODUCT IS NOT DERIVED FROM TOBACCO OR INTENDED TO BE USED WITH ANY TOBACCO PRODUCTS.” Puff Bar now claims to be using synthetic nicotine in its products, allowing the products to potentially avoid regulation as a tobacco product, even though products using synthetic nicotine should be regulated as drugs under the Food, Drug, and Cosmetic Act (FDCA) because they are intended to affect the structure and function of the body.²² A CTP spokesperson said they are determining if Puff Bar still has components or parts that would make the product fall under its jurisdiction.²³
- On July 20, 2020, FDA issued warning letters to three disposable e-cigarette companies, including Puff Bar and Myle, notifying them to remove their flavored disposable e-cigarettes from the market because they lack premarket authorization. FDA stated that “The agency is particularly concerned about the

appeal of flavored, disposable e-cigarettes to youth.”²⁴ While FDA’s recent action is an important step forward, this is not a substitute for a ban on all flavored e-cigarettes. Rather than playing whack-a-mole with a handful of egregious products only after they become popular with our nation’s kids, FDA should clear the market of the thousands of flavored e-cigarettes that are still for sale.



Examples of disposable e-cigarettes in the same flavors as pre-filled pods. FDA removed some flavored pods from the market, while the same flavor from the same brand remained available as a disposable product.

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¹ Williams, R, “The rise of disposable JUUL-type e-cigarette devices,” *Tobacco Control*, published online December 5, 2019.

² Wang, Teresa W., et al., “E-Cigarette Use Among Middle and High School Students – United States, 2020,” *MMWR Early Release* Vol. 69, September 9, 2020. https://www.cdc.gov/mmwr/early_release.html

³ Miech, Richard, et al., “Trends in Use and Perceptions of Nicotine Vaping Among US Youth From 2017 to 2020,” *JAMA Pediatrics*, published online December 15, 2020, <https://jamanetwork.com/journals/jamapediatrics/article-abstract/2774132>.

⁴ Wang, TW, et al., “E-cigarette Use Among Middle and High School Students – United States, 2020,” *MMWR*, Volume 69, September 9, 2020, <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6937e1-H.pdf>.

⁵ CDC Foundation & Information Resources, Inc., “Monitoring U.S. E-Cigarette Sales: National Trends,” <https://www.cdcfoundation.org/programs/monitoring-e-cigarette-use-among-youth>.

⁶ Williams, R, “The rise of disposable JUUL-type e-cigarette devices,” *Tobacco Control*, published online December 5, 2019.

⁷ <https://www.mojovape.com/products/tobacco>

⁸ <https://www.electrictobacconist.com/mojo-vape-lemon-dessert-disposable-pod-device-p6001>, see also: Williams, R, “The rise of disposable JUUL-type e-cigarette devices,” *Tobacco Control*, published online December 5, 2019.

⁹ <https://www.instagram.com/nowposh/>, accessed July 8, 2020. Screenshot on file at Campaign for Tobacco-Free Kids.

¹⁰ <https://www.mojovape.com/pages/about-us>

¹¹ <https://www.instagram.com/bidivapor/>, accessed April 22, 2020. Screenshot on file at Campaign for Tobacco-Free Kids.

¹² <https://www.instagram.com/nowposh/>, accessed January 6, 2020. Screenshot on file at Campaign for Tobacco-Free Kids.

¹³ <https://www.nowposh.com/pages/about-us>, accessed January 6, 2020. Screenshot on file at Campaign for Tobacco-Free Kids.

¹⁴ FDA, *Enforcement Priorities for Electronic Nicotine Delivery Systems (ENDS) and Other Deemed Products on the Market Without Premarket Authorization*, Guidance for Industry, January 2020, at Note 20, <https://www.fda.gov/media/133880/download>.

¹⁵ FDA Statement, National Survey Shows Encouraging Decline in Overall Youth E-Cigarette Use, Concerning Uptick in Use of Disposable Products, September 9, 2020, <https://www.fda.gov/news-events/press-announcements/national-survey-shows-encouraging-decline-overall-youth-e-cigarette-use-concerning-uptick-use>.

¹⁶ CDC Foundation & Information Resources, Inc., “Monitoring U.S. E-Cigarette Sales: National Trends,” <https://www.cdcfoundation.org/programs/monitoring-e-cigarette-use-among-youth>.

¹⁷ Goldman Sachs, “Americas Tobacco: Nielsen Data Through 5/16 - Cig Consumption Increases as Cig Vol Declines Continue to Moderate,” May 26, 2020.

¹⁸ CSP Magazine, “Disposable E-Cigarettes: The Darlings of the Vaping Segment,” February 20201, https://www.gqdigitalpublishing.com/publication/?m=20858&i=691381&p=62&mkt_tok=eyJpIjoiTnpBeFlqa3IOMjItTnpBndylslnQiOiJYOUS3eHNpcWxjdzhcL0JhRmF0cDlwSOR1aE9OcTJzYmZVaTZJN1p0eFpHWUVxYzdoWjNOdDB6Q1NoZGI0b0FBelV5U0RiMWdJWSHqSlc5MXdqQWhScHFUN2RUbVMzY2U4N2VibYXa0o1SmtvVEhoMWZiYlc2UVFRTJ6Nm1lakkiQ%3D%3D

¹⁹ <https://www.nytimes.com/2020/01/31/health/vaping-flavors-disposable.html>, Goldman Sachs, “Americas Tobacco: Tobacco Nielsen Data Through 2/6/21 - Americas Tobacco: Nielsen Data thru 2/6/21: Total nicotine volumes decelerate slightly,” February 16, 2021.

²⁰ Wolfe, E., “Controversial E-Cigarette Company Puff Bar Say It’s Suspending U.S. Sales,” *Fair Warning*, July 13, 2020, https://www.fairwarning.org/2020/07/e-cigarette-company-suspends-sales/?mc_cid=8da9122525&mc_eid=65417f91ee, Wolfe, E., “Lifting the Veil on a Controversial E-cigarette Company—Sort of,” *Fair Warning*, July 9, 2020, <https://www.fairwarning.org/2020/07/veil-lifted-on-controversial-e-cigarette-company/>.

²¹ Alexander, S. & LaVito, A., “Upstart Vaping Company Plans Pullback After Outcry Over Loophole,” *Bloomberg*, February 20, 2020, <https://www.bloomberg.com/news/features/2020-02-20/puff-bars-disposable-vapes-exploit-us-flavor-ban-loophole>.

²² 21 U.S.C. § 321

²³ Maloney, J, "Puff Bar Defies FDA Crackdown on Fruity E-Cigarettes by Ditching the Tobacco," *Wall Street Journal*, March 2, 2021, <https://www.wsj.com/articles/puff-bar-defies-fda-crackdown-on-fruity-e-cigarettes-by-ditching-the-tobacco-11614681003>.

²⁴ FDA, *FDA Notifies Companies, Including Puff Bar, to Remove Flavored Disposable E-Cigarettes and Youth-Appealing E-Liquids from Market for Not Having Required Authorization*, July 20, 2020, <https://www.fda.gov/news-events/press-announcements/fda-notifies-companies-including-puff-bar-remove-flavored-disposable-e-cigarettes-and-youth>.