Under the Cyber Radar: Addressing Youth Access to E-Cigs and Tobacco Online

Public Health Law Center Webinar
April 27, 2016
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This webinar is being recorded. If you arrive late, miss details or would like to share it, we will send you a link to this recording after the session has ended.
Tobacco Control Legal Consortium

Attorneys supporting tobacco control policy change.
Introductions

Kathleen Hoke, JD, Professor and Director, University of Maryland Carey School of Law, the Network for Public Health Law – Eastern Region, and the Legal Resource Center for Public Health Policy

Rebecca S. Williams, PhD, MHS, Research Associate, School of Medicine, UNC-Chapel Hill Cancer Prevention and Control

Maureen O’Brien, JD, Staff Attorney, Tobacco Control Legal Consortium at the Public Health Law Center
Why regulate internet tobacco sales?

Tobacco use is the foremost preventable cause of premature death in the United States, responsible for approximately 480,000 deaths a year and 20.8 million premature deaths in the U.S. over the past 50 years.
Why regulate internet tobacco sales?

Most smokers want to quit, but can’t

Adolescent brains are uniquely vulnerable to the effects of nicotine and nicotine addiction
Why regulate internet tobacco sales?

“If a man has never smoked by age 18, the odds are three-to-one he never will. By age 21 the odds are twenty-to-one.”

-Marketing Report for R.J. Reynolds, 1982
Why regulate internet tobacco sales?

State laws set age of sale at 18, 19 or 21, but what good are strong laws if they can be easily circumvented through online purchases?
Youth Exposure to Advertising and E-Cigarette Use

Greater exposure to e-cigarette ads is associated with higher odds of youth e-cigarette use. Most e-cigarettes contain NICOTINE, which can cause ADDICTION, may harm brain development, and could lead to continued tobacco product use among youth.

Efforts to reduce youth exposure to tobacco advertising are crucial to prevent all forms of tobacco use among youth.

Sources of E-Cigarette Advertising

- 14.4 million youth are exposed at retail stores
- 10.5 million youth are exposed through the internet
- 9.6 million youth are exposed through TV/movies
- 8 million youth are exposed through magazines and newspapers

SOURCE: CDC Vital Signs, January 2016
Roadmap

State laws and legal challenges

Federal laws

Research
Under the Cyber Radar: Addressing Youth Access to E-Cigarettes and Tobacco Online

State Law and Policy Action to Reduce Access

Kathleen Hoke
April 27, 2016
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Presentation Overview

State Laws Restricting or Prohibiting Sale

Public/Private Initiatives
(As a result or in lieu of enforcement actions)
State Laws

Best compilation/survey of these laws is presented in:

*Comprehensive Review of State Laws Governing Internet and Other Delivery Sales of Cigarettes in the USA, Nicotine and Tobacco Research, February 2008, 10(2): 253–265.*

Rebecca is a contributing author to this wonderful piece!
STATE LAWS

- Since early 1990s, states have adopted laws specifically regulating the shipment of cigarettes

- At least 30 states have passed a law with some regulation of shipment sales

- At least 2 have been challenged in court; 1 was successful and 1 was not (more on the specifics later . . . )
Complete Ban

- At least 4 states have enacted a complete ban on the direct shipment of cigarettes to consumers;

- Others may have such a provision functionally as a result of their licensing scheme (i.e. Arkansas)

- *Important that these laws apply equally to in-state and out-of-state retailers (Commerce Clause)*: New York Case: Brown and Williamson v. Pataki, 320 F.3d 200 (2nd Cir. 2003)
Type of Provisions in State Laws

Specific Age Restriction Provisions

✓ Customer Affirmation

✓ Check of Government-Issued Identification

✓ Verify Identification on Database

Most states require at least one; some require two or all three elements.
Type of Provisions in State Laws

Shipping Name/Address Provisions

✓ Some states require that the purchaser name match the name on the bank account or credit card used

✓ Some states require that shipping address match the address on the identification and/or the billing address for the bank account or credit card used
Type of Provision in State Law

Shipping Documentation Requirements

✓ Some states require the bill indicate that the transaction is for the sale of cigarettes/tobacco products

✓ Some states require the package indicate that cigarettes/tobacco products are contained in the package
Vendor Licensing

- Some states require any vendor to acquire a retailer license (in some states this is the functional equivalent of a ban because a brick-and-mortar store/fixed address is required for a license)

- Some states maintain a list of authorized tobacco retailers
Penalty/Enforcement Provisions

✓ Virtually all state laws provide for penalties to sellers who violate

✓ A few states provide for penalties to purchasers (in addition to the state PUP law)

✓ Several state laws make clear the enforcement authority
Maine had required that tobacco retailers use only carriers that verify the age of each tobacco purchaser and carriers ensure that no tobacco is shipped to unlicensed retailers.

The Supreme Court found theses provision to be preempted by federal law—the Federal Aviation Administration Authorization Act (FAAAA), which regulates common carriers and precludes states from doing so.
The Maine provisions were directly connected with motor carrier services and therefore had a significant and adverse impact on the congressional goal of precluding state regulation in lieu of competitive market forces. The Court further stated that the FAAAA did not allow any exceptions for police powers or public health concerns of the State. Court made clear Maine could have BANNED all shipment sales.
Impact of Maine Case

- Hmmmmm . . .

  - Kathi and Maureen pondered whether outcome would have been the same today, when delivery companies routinely offer age verification services.

  - Bottom line is that the holding in NARROW and only relates to obligations placed on the shipping company.
Shipping Companies:
By 2005, the major shipping companies (i.e., FedEx, UPS, DHL) had agreed to stop shipping cigarettes directly to consumers. Current policies reflect some expansion to tobacco products more broadly.

USPS* came on board a few years later.

*There are exceptions for cigars and a convoluted personal delivery with age-verification process.
Public–Private Initiatives

**Credit Card Companies**

ATF and State AGs negotiated with the major credit card companies to secure agreement that companies would:

- Prohibit use of credit card for illegal internet/mail order cigarette purchases
- Investigate and take action against sites that make illegal sales as identified by law enforcement
Public–Private Initiatives

Cigarette/Tobacco Manufacturers with AGs
Philip Morris and Lorillard agreed in 2006 to:

(a) Terminate shipments of cigarettes to any direct customers that the Attorneys General have found to be engaging in illegal Internet and mail order sales

(b) Reduce the amount of product made available to direct customers found by the Attorneys General to be engaged in the illegal resale of cigarettes to the Internet vendors

(c) Suspend from the companies’ incentive programs any retailer found by the Attorneys General to be engaging in such illegal sales
State-Specific Example of Enforcement/Consent Agreement

**California (2008)**

Agreement with First Regional Bank to prevent processing of payments for services to online tobacco retailers.

Came after several warnings Undercover (under keyboard?) investigation by CA and NY AGs finding rampant violations
Hand Off to . . .
PACT Act and Tobacco Control Act

PACT Act: Regulates internet-based retailers of cigarettes and smokeless tobacco

Tobacco Control Act: Directs FDA to issue regulation of internet tobacco sales
PACT Act of 2009

Declares cigarettes and smokeless tobacco non-mailable
PACT Act of 2009

Requires age-verification at purchase and signature and ID verification at delivery*

*rule applies to the internet-based retailer, not the delivery company
PACT Act of 2009

Allows states to prohibit shipment* of cigarettes and smokeless tobacco to consumers and residential addresses

*Note: “ship” vs. “transport”
PACT Act of 2009 - Preemption

States can’t regulate delivery carriers or services
PACT Act of 2009

Internet-based sellers required to pay state tax and follow state laws

List of retailers who do not follow the law

Delivery carriers* prohibited from accepting a shipment from a retailer on this list

* except the major carriers
“In recognition of UPS and other common carriers' agreements to not deliver cigarettes to individual consumers on a nationwide basis, pursuant to agreements with the State of New York, we have exempted them from the bill provided this agreement remains in effect.” – Sen. Kohl, bill sponsor
Youth access summary:

- Cigarettes and smokeless ONLY
- Non-mailable
- Internet-based retailers prohibited from selling to youth
- Internet-based retailers have to use a delivery service that checks ID
- Allows states to prohibit shipment to customers
- Exempts and preempts regulation of delivery companies
- Prohibits delivery companies from accepting shipment orders from “scofflaw” internet retailers

Tax issues- topic for a separate webinar!
Tobacco Control Act

Required the FDA to issue a regulation of non-face-to-face sales of tobacco
Non-Face-to-Face Sale and Distribution of Tobacco Products and Advertising, Promotion, and Marketing of Tobacco Products

This Proposed Rule document was issued by the Food and Drug Administration (FDA)

For related information, Open Docket Folder

Action

Advance notice of proposed rulemaking.

Summary

The Food and Drug Administration (FDA) is issuing this advance notice of proposed rulemaking (ANPRM) to obtain information related to the regulation of non-face-to-face sale and distribution of tobacco products and the advertising, promotion, and marketing of tobacco products. FDA is taking this action as part of its implementation of the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act). FDA is requesting comments, data, research, or other information related to non-face-to-face sale and distribution of tobacco products; the advertising, promotion, and marketing of such products; and the advertising of tobacco products via the Internet, e-mail, direct mail, telephone, smart phones, and other communication technologies that can be directed to specific recipients.

Dates

Submit either electronic or written comments by December 8, 2011.
Non face-to-face sales regulation

Including e-cigarettes! (probably)

“Shall . . . promulgate regulations regarding the sale and distribution of tobacco products . . . that occur through means other than a direct face-to-face exchange”
Internet Tobacco Sales

16 years of industry surveillance to guide state and federal policy

Rebecca S. Williams, PhD, MHS

The ITV Study is supported by grant 5R01CA169189-02 from the National Cancer Institute
WHY SHOP AT 200CheapCigarettes.com?

There'll be no more clicking frantically from site to site, chasing for the lowest price on your cigarettes! No more tossing and turning all night, worrying that you paid too much. Why, you say? Because the best price is here!

At 200CheapCigarettes.com, it is our goal that all of our customers have a positive shopping experience that will leave them wanting to come back for more. Offering premium quality and cheap cigarettes along with excellent customer service gives true value to your purchase. We understand that customers have choices and demand honest and friendly customer service during their shopping experience. With live customer service personnel just a call away, we will make your shopping experience as pleasant and secure as possible!

Cigarettes made in Europe

Marlboro Red Cigarettes
Made in Europe
Price $ 18.30
Buy now

Marlboro Lights Cigarettes
Made in Europe
Price $ 18.30
Buy now

Cigarettes made in USA
All Your Vape & Juice Supplies for less.

All New Look.
All New Products.
All New Prices.
Welcome to the All New ELECTRONIC cigarettes inc

NEW PRODUCTS FOR MAY

Efest IMR purple 18650 2500mAh 35A flat top
Vapor King eTank Starter Kit (510-T)
Bullet Drip Tip (5S)
M-Flux Drip Tip (Black)
Welcome to blu

We're glad you're here...

“Take Back Your Freedom”

When we started in 2009, we only had a few bucks, an intense passion and one goal—freedom. Most people had never even heard of...
FDA To Propose E-Cigarette Regulations For The First Time

AP | by MICHAEL FELBERBAUM

Posted: 04/24/2014 12:18 am EDT | Updated: 04/24/2014 3:59 pm EDT
Threats posed by Internet tobacco sales

1. Most online vendors offer cheap prices through tax avoidance, depriving governments of revenue
2. Access to cheap tobacco online undermines public health benefits increasing taxes: reduced initiation and increased cessation
3. Poor youth access prevention
Buysmokeonline.com was created to provide tobacco enthusiasts with the most prosperous collection of the popular tobacco cigarette manufacturers as Marlboro, LM, Winston, Parliament, Camel at most competitive prices. $26.20 for carton of Marlboro Red or $21.00 for carton of cigarettes Winston Blue will not be an false impression! It is now definitely achievable in our cigarette retail store. Just enter in cigarette shop buysmokeonline.com, pick the brand you want and click on 'buy now' button.
66% make one or more tax evasion claims
Threats posed by Internet tobacco sales

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Cig prices vs. consumption

Source: Chaloupka, 2009
Buying Marlboros: Retail vs. Internet

Retail NYC avg price: ~$150
- Cost for 1 pack a day smoker per year:
  - ~$5,400

Internet lowest price: $15.60
- Annual savings: over $4,800/year!
Another way to save: Switch to LCCCs

NYC Marlboro smoker spending
~$150/carton ($5400 annually)

Switching to...

LCCs - lowest price: $0.59
  - Annual savings: over $5300/year!
LCCs - lowest interquartile: $14.00
  - Annual savings: $4896/year!
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LCCs - lowest interquartile: $14.00
  - Annual savings: $4896/year!

LCCs should be considered equivalent products to cigarettes and be subject to the same laws as cigarettes
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Ecig Central
I say: “Amazing prices on

Welcome to the New
Smokers Outlet
Online

AGE CERTIFICATION
UNDER 18  18+ (ENTER)

Intended for sale to adults 18 years or older. If you are not legally able to purchase tobacco products in the state where you live, please do not enter this site.
Cig Vendors: 26% rely on click-through to verify age
Cig Vendors: 26% rely on click-through to verify age.
38% ask user to enter birthdate to verify age
Poor youth access prevention

• 2001 youth cigarette purchase survey
• 83 Purchase attempts
• Buyers never provided ID
• 92% sales rate to youth

Internet Sales of Cigarettes to Minors

Kurt M. Ribisl, PhD
Rebecca S. Williams, MHS
Annie E. Kim, MPH

There is growing concern that the Internet might become a source of tobacco products for minors.1-3 Recent studies suggest that 2% to 3% of adolescent smokers report purchasing cigarettes through the Internet.4-6 Minors appear to have easy access to tobacco via the Internet because most vendors do not have age verification systems. There is a growing concern that the Internet might become a source of tobacco products for minors. Although researchers have studied youth access prevention for more than a decade, there are no published studies that have investigated the Internet as a source of tobacco products for minors.

Objective To determine the proportion of Internet cigarette purchases by minors.

Design, Setting, and Participants Cross-sectional study conducted among adolescents aged 11 to 15 years. Minors aged 11 to 15 years were recruited from 55 Internet cigarette vendors located in 12 states. These vendors were contacted via email, phone, or snail mail. Minors were asked to purchase cigarettes via the Internet by credit card (n = 47) and by mail (n = 36).

Main Outcome Measure Proportion of Internet cigarette purchases by minors.

Results Minor successfully purchased cigarettes via the Internet for 23 of 83 attempts (27.7%).
Poor youth access prevention

- 2003 purchase survey
- 101 purchase attempts
- Assessed compliance with CA ICV youth access law (6 provisions)
- ZERO vendors complied with law
Purpose: To disrupt the distribution channel for Internet cigarette vendors that violate laws designed to prevent illegal tobacco sales to minors and tax evasion.

<table>
<thead>
<tr>
<th>Distribution Channel for Internet Cigarette Sales</th>
<th>Policies and Strategies to Disrupt the Distribution Channel</th>
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<tbody>
<tr>
<td>Internet vendor acquires cigarettes from manufacturers, distributors, or retailers</td>
<td>State/federal agencies can monitor and regulate the sales and distribution of cigarettes from the manufacturer/distributor/retailer to Internet vendors to ensure that they are abiding by existing laws</td>
</tr>
<tr>
<td>Internet vendor sets up business with one or multiple websites/web storefronts</td>
<td>Enforcement agencies monitor website practices and work with Internet service providers/ICANN to shut down noncompliant sites</td>
</tr>
<tr>
<td>Online orders are processed by payment companies</td>
<td>Credit card/payment processing companies can stop processing payments</td>
</tr>
<tr>
<td>Paid online orders delivered to consumer by delivery services</td>
<td>Delivery services can: a) verify age of buyer, b) refuse to deliver products sold by noncompliant Internet vendors</td>
</tr>
<tr>
<td>Customers receive and use Internet-purchased product</td>
<td>Policies can be enacted that: a) make it illegal for customers to possess untaxed cigarettes purchased via the Internet; b) require customers to remit taxes for cigarettes purchased online</td>
</tr>
</tbody>
</table>
Regulatory Reform

1. >30 state laws – little effect, jurisdiction issues
2. 2005 federal agreements to ban CC and PayPal
   - Hard to enforce
   - Loophole: e-checks and other payment options
3. 2005 agreements to ban shippers
   - Gaping loophole: USPS
   - 93% of vendors just shipped via USPS
4. Results:
   - Huge attrition, but more new vendors entering the market
   - Vendors exploiting loopholes in legislation
   - Vendors moving overseas to avoid regulatory compliance
P.A.C.T. Act
Prevent All Cigarette Trafficking Act

1. Closed USPS loophole with shipping ban
2. Verification of ID information against gov’t databases
3. Shipper age verification at delivery
P.A.C.T. Act
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1. Closed USPS loophole with shipping ban
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3. Shipper age verification at delivery
4. PACT Should be expanded to apply to all tobacco products, judiciously enforced.
Finding ITVs: Sources

- Highly complex automated search algorithms
  - Developed and annually updated since 2004
  - Searches 180 million websites, newsgroups, message boards, & spam emails
  - Yielded 14,171 potential ITVs

- Huang et al Twitter ecig analysis
  - 17,102 links, tweeted 1-219,087 times
  - Links tweeted <20 times not valid ITV links – removed 16.705

- Prior waves our research surveillance: 522 links
- RJ Reynolds: 129 links
- Promo sites identified during screening: 474 links

- 32,398 URLs manually screened for eligibility (sells tobacco products for home delivery)
2,514 ITVs found

Cigarettes: 560

Little Cigars: 479

E-Cigs: 1010

Other Tobacco Products: 1407
Get it here: Pure Nicotine; Poison by the Gallon!

• Many websites sell pure nicotine for DIY e-liquids
• Sizes ranging from 500ml to 55 gallon drums!
• Could easily lead to accidental or intentional poisonings
Get it here: Pure Nicotine; Poison by the Gallon!

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Regulatory recommendations: establish limits on sizes/concentrations of e-liquid purchased without valid tobacco product manufacturer/wholesaler license; require full ingredient disclosure
Claims About Advantages of E-cigs Over Cigs

– Health: 69%
– Price: 53%
– Circumvent smoke-free laws/smoke anywhere: 59%
– Safer for others than SHS: 48%
– Help quit smoking: 32%
E-cig Websites: Conflicting Claims

• Conflicting cessation claims on same websites: 17%
  – “<Brand> has never been tested or proven to be a cessation device, although many have used it as such”
  – ‘Official’ claims that ecigs are “not a smoking cessation product” accompanied by prominently featured ‘customer testimonials’
    • “It can be very difficult for a chain smoker to quit her/his habit, but with an e-cigarette this is no longer necessary.”
    • “Even if you feel that smoking is an impossible habit to quit, this tool has helped millions around the world to stop smoking once and for all”
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    • “Even if you feel that smoking is an impossible habit to quit, this tool has helped millions around the world to stop smoking once and for all”

• Regulatory recommendation: Prohibit pro health claims (inc. customer testimonials and blogs) on websites/marketing materials unless FDA-approved for that product
Internet E-cig Vendors: Payment & Shipping

- 97% accept CC, 23% accept PayPal
  - Both banned for cigs
- USPS most common shipper (79%)
  - No age verification at delivery in recent youth purchase studies
- All offer shippers banned for cigarettes
  - UPS/FedEx/DHL/USPS
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- All offer shippers banned for cigarettes
  - UPS/FedEx/DHL/USPS
- Extending PACT Act to include e-cigarettes would cut off most payment/shipping options
Internet E-cig Vendors: Age Verification

- 62% rely exclusively on age verification strategies that don’t work
- 6% do not verify age at all
- 2.5% require driver license
- 6.5% *claim* to verify age @ delivery
  - Actual practices vary
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  • Actual practices vary
- Extending PACT Act to include e-cigarettes would put in place strong age verification requirements; enforcement crucial
NC E-cig Law & Age Verification

Requires verification of ID information against government databases

North Carolina Public Health Law

S.L. 2013-165 (S 530). Prohibit E-Cigarette Sales to Minors

S.L. 2013-165 amends G.S. 14-313 to prohibit the sale of electronic cigarettes (e-cigarettes) and similar products to persons under age 18. E-cigarettes do not burn tobacco. They work by heating a cartridge with a liquid nicotine solution to produce a vapor. Use of the products is often described as “vaping”—inhaling the vapor—rather than smoking.

Prior law defined “tobacco product” as any product containing tobacco and intended for human consumption. The new law amends the definition of “tobacco product” to include “tobacco-derived products” and “vapor products.” A tobacco-derived product is further defined as a noncombustible product that contains nicotine and is intended for human consumption, not including vapor products or products regulated by the federal Food and Drug Administration (FDA). (FDA-regulated products that might otherwise fall under this definition include smoking cessation products, such as nicotine patches.) A vapor product is further defined as a noncombustible product that uses a mechanical heating element, battery, or electronic circuit to heat a liquid nicotine solution in a vapor cartridge. The term includes electronic cigarettes, e-cigars, and pipes, as well as e-cigarettes, but it specifically excludes any product regulated by the FDA.

It is a class 2 misdemeanor to sell or distribute any tobacco product—a term which now includes vapor products—to a person under age 18. Proof of age is required if the seller reasonably believes a prospective purchaser is younger than 18. Other provisions in the new legislation make the following additional changes to G.S. 14-313:

- The language of signs that retail distributors must post to inform consumers of the prohibition on sales to minors must now specifically include tobacco-derived products, vapor products, and cigarette wrapping papers.
- Vending machine sales of tobacco-derived products, vapor products, or components of vapor products are prohibited. There is an exception for vending machines in establishments that are open only to persons age 18 or older, or in establishments where the vending machine is under the continuous control of the owner, a licensee, or an employee.
- Persons who distribute tobacco products via the Internet must perform age verification through an independent, third-party age verification service.

A statewide uniformity provision prohibits local ordinances or rules concerning the sale, distribution, display, or promotion of tobacco-derived products or vapor products. The provision does not appear to affect local regulation of use of the products, which is governed by other laws.
Youth E-cig Purchase Study (N=98)

- Only 5 rejected due to age verification
- 95% of rec’d orders left at door
- **No** age verification at delivery
- **None** complied with PACT-level age verification
- 7 claimed to use age verif that complied with NC law, only 1 actually did
- All orders delivered via companies banned from shipping cigs (88% USPS)
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- **PACT Act should be expanded to include e-cigarettes as well**
Youth Cigarette Purchase Survey

- **PACT Impact:**
  - Many vendors went out of business
  - Many vendors moved overseas
  - Aimed for sample N=100, ended up with N=70

- **22 orders of cigarettes actually received**
  - No orders failed to age verification at point of order
  - No attempts to verify age at delivery
  - All delivered by banned shippers

- **Widespread fraud**
Buying Cigarettes Online: FRAUD ALERT

- Over $7000 in fraudulent charges
- Many sites appeared broken, likely actually collecting credit card information for fraudulent use
- Some double charged for products
- Some charged for products they didn’t deliver
- Some waited months to make fraudulent charges
- Many creative attempts at fraud
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• **PACT enforcement crucial to limit cigarette shipments to US and diminish opportunities for fraud by overseas vendors**
FLAVORS!!!
Flavors Banned From Cigarettes to Deter Youths

By GARDINER HARRIS
Published: September 22, 2009

WASHINGTON — Federal health officials banned the sale of flavored cigarettes on Tuesday in the first major crackdown since the Food and Drug Administration was given the authority to regulate tobacco.

The ban is intended to end the sale of tobacco products with chocolate, vanilla, clove and other flavorings that lure children and teenagers into smoking. The agency will study regulating menthol products and hinted that it might soon take action against the far larger market of flavored small cigars and cigarillos.
After flavored cig ban

• Manufacturers relabeled flavored cigs as cigars
• Most still sold banned version 2 years later
  – 89% of all vendors
  – 96% of international
Google Search Trends – Djarum Cigs/Cigars
Flavored little cigars should be treated as equivalent products to cigarettes and banned under the FSPTCA.
Candy & flavored tobacco products made with the same flavor chemicals: “Truly candy-flavored tobacco”

Source: Brown, et al, NEJM
Many tobacco flavorings approved by FDA for ingestion but not inhalation

• For example:
  – Diacetyl (see: Popcorn Lung)
  – Cinnemaldehyde
Many tobacco flavorings approved by FDA for ingestion but not inhalation

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**Remember:** Safe to eat does **NOT** mean safe to vaporize and inhale
Many tobacco flavorings approved by FDA for ingestion but not inhalation

• For example:
  – Diacetyl (see: Popcorn Lung)
  – Cinnemaldehyde

Remember: Safe to eat does NOT mean safe to vaporize and inhale

FDA should ban flavoring chemicals that have not been Proven safe for vaporization @ high temps and inhalation
7,764 Unique Ecig Flavors

Internet E-cig Vendors’ Flavors

- Flavored ecigs available from 80% of ITVs selling ecigs
  - Fruit (80%)
  - Candy (75%)
  - Coffee (68%)
  - Spice (44%)
  - Alcohol (46%)

- Wild flavor names
  - Atomic Cinnacide
  - Peanut Butter Jesus
  - Energy Cow (mimicks Red Bull)
  - Purple Drank (common slang term for drink mixed with cough med)
E-cig search trends

2009-2013: 334% increase in Ecig Google
E-CIGARETTE

Conveniences of Cig2o:
- Reduced Health Risk
- No Smoke
- Half The Price of Cigarettes
- Multiple Flavors and Strengths
- Successfully Quit Smoking
- SMOKING ANY WHERE!!

Cig2o Electronic Cigarettes
& Refill Cartomizers
32% claim e-cigs are a cessation device
Ecig search trends

Few search for health concerns or cessation, most searches for brands & shopping
Ecig search trends
Little crossover between online and offline markets

<table>
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<tr>
<th>Most popular e-cigarette brands at retail stores</th>
<th>Most popular e-cigarette brands searched on Google</th>
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<tbody>
<tr>
<td>Blu</td>
<td>Nucig</td>
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<td>NJoy</td>
<td>Blu</td>
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<td>Mistic</td>
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<td>Smoker’s One Choice</td>
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Regulatory Recommendations

• Federal regulation of e-cigarettes and other tobacco products may go far toward reducing number of vendors and products reaching US customers
• Lessons learned from regulation of online cigarette sales can be applied to regulation of e-cigarettes
• Rather than writing all new legislation, some existing laws (e.g. PACT, FSPTCA flavor ban, other QUIT Framework-inspired legislation) could be amended and expanded to include all tobacco products, including e-cigarettes.
Regulatory Recommendations

• All tobacco products should require Surgeon General’s Warnings on the packaging and websites, including warnings about risks of specific constituent chemicals

• Require licensure and FDA product approval for e-cigarette and e-liquid manufacturers and retailers (as is happening with other tobacco products) to track companies that are creating/selling products, and so that licenses can be revoked if they violate regulations (and ease application of stiff penalties both for those with and without licenses)
Enforcement Crucial

• 2009 PACT ACT and FSPTCA largely ignored

• 2 years later:
  – 46% of US-based cigarette vendors used banned shipping methods
  – 84% of all vendors used USPS for shipping
  – 96% of international ICV’s and 89% of all ICV’s sold flavored cigarettes, 83% of all vendors sold light cigarettes

• Recommendation:
  – Penalties, fines, and domain seizures for violating vendors,
  – Penalties and fines for delivery companies and payment processors who are a party to illegal transactions
Still the Wild Wild West

Come to where the flavor is.
Future Directions

Inform FDA regulation with detailed analyses of ITV sales to minors, policies, products, and claims re: cigs, ecigs, little cigars, and OTP
For more information, contact:

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