



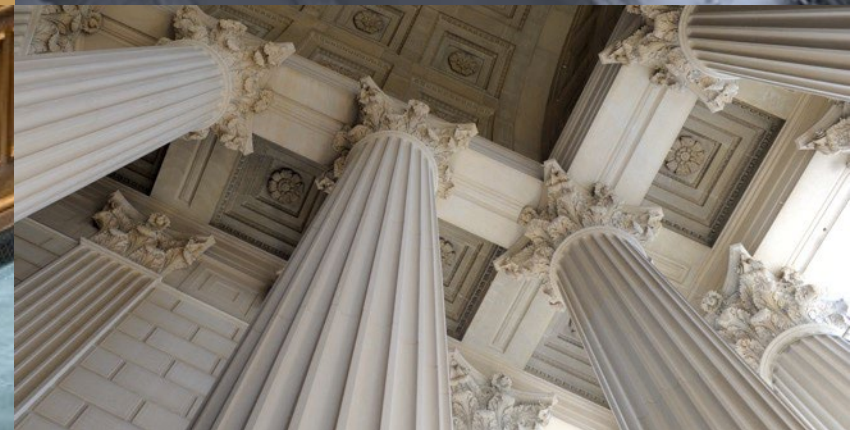
Youth Vaping

National Data and Current Prevention Mechanisms

New Mexico Tobacco Settlement Revenue Oversight Committee

Tammy Hill, project manager, NCSL

August 22, 2024



HOW NCSL STRENGTHENS LEGISLATURES



Policy Research

NCSL provides trusted, nonpartisan policy research and analysis



Connections

NCSL links legislators and staff with each other and with experts



Training

NCSL delivers training tailored specifically for legislators and staff



State Voice in D.C.

NCSL represents and advocates on behalf of states on Capitol Hill



Meetings

NCSL meetings facilitate information exchange and policy discussions



NCSL links to outside organizations and websites for information purposes only.

Please note some information in this presentation is derived from advocacy organizations.

Links to outside content do not indicate support from NCSL.



Overview

- National Youth Vaping Data and Trends
 - *Highlighted health concerns and current federal regulations*
- State Prevention and Intervention Considerations
- Tobacco Cessation Program, ROI Studies
- Committee Questions

Health Concerns: E-Cigarettes and Youth

Nicotine is highly addictive and exposure during adolescence can harm the developing brain.

Youth who use e-cigarettes are more likely to go on to use traditional cigarettes.

In the short term, e-cigarette aerosol can irritate your lungs, throat and eyes. It can also make it more likely that you'll catch colds or get the flu.

E-cigarettes can contain harmful chemicals such as formaldehyde, which is known to cause cancer, and acrolein which is used as a weed killer and can cause irreversible lung damage.

Youth vaping and cigarette use are associated with mental health symptoms such as depression.



[American Lung Association](#), [Centers for Disease Control and Prevention](#)

AMERICAN LUNG ASSOCIATION



Current E-Cigarette Use Trends by Youth

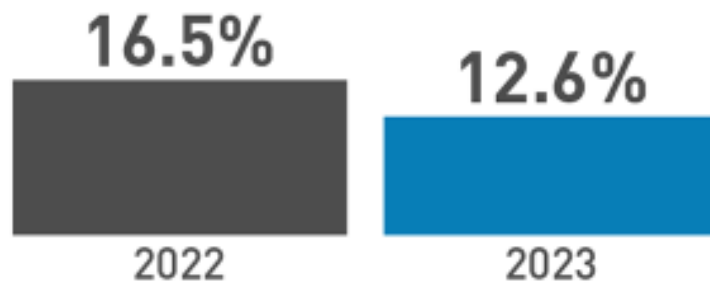
2023 Findings on Youth Tobacco Use

Content current as of June 26, 2024

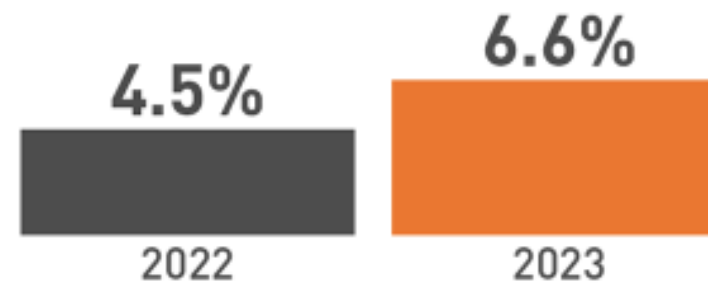
NYTS
2023

About **2.8 million**
youth currently use any tobacco product

Any tobacco use **decreased** among
high school students



Any tobacco use **increased** among
middle school students



Youth Use for All Tobacco Products

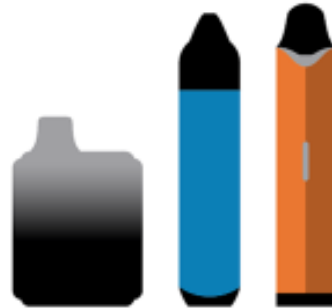
Content current as of June 26, 2024

NYTS
2023

10% of students
reported current use of any tobacco product

Among those who currently use a tobacco product:

E-Cigarettes
were the most popular
product for the
10th year in a row



**Cigarette
and Cigar**



use remain at an all-time low

Youth Use for E-Cigarette Products

Content current as of June 26, 2024

NYTS
2023

More than **2.1 million**
youth currently use e-cigarettes,

with a decline in high school students currently using e-cigarettes in 2022-2023

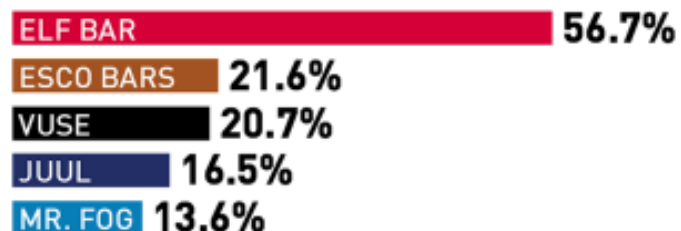
Among youth who reported current use of e-cigarettes:

More than **1 in 4**



use e-cigarettes daily

The most popular brands include disposable and cartridge-based products, and the most commonly reported products were:



Almost

9 out of 10



use flavored e-cigarettes

Federal Regulations

As of March 2024, **34 tobacco- and menthol-flavored e-cigarette products and devices** had been **authorized by the FDA.**

- FDA has authorized marketing 45 products all together.
- Received **6.7 million applications** for tobacco products.
- Agency has “acted on 99% of these products, including denying the marketing of more than 1 million flavored electronic-nicotine devices.”

[Searchable Tobacco Products Database, FDA](#)



Emerging State Action

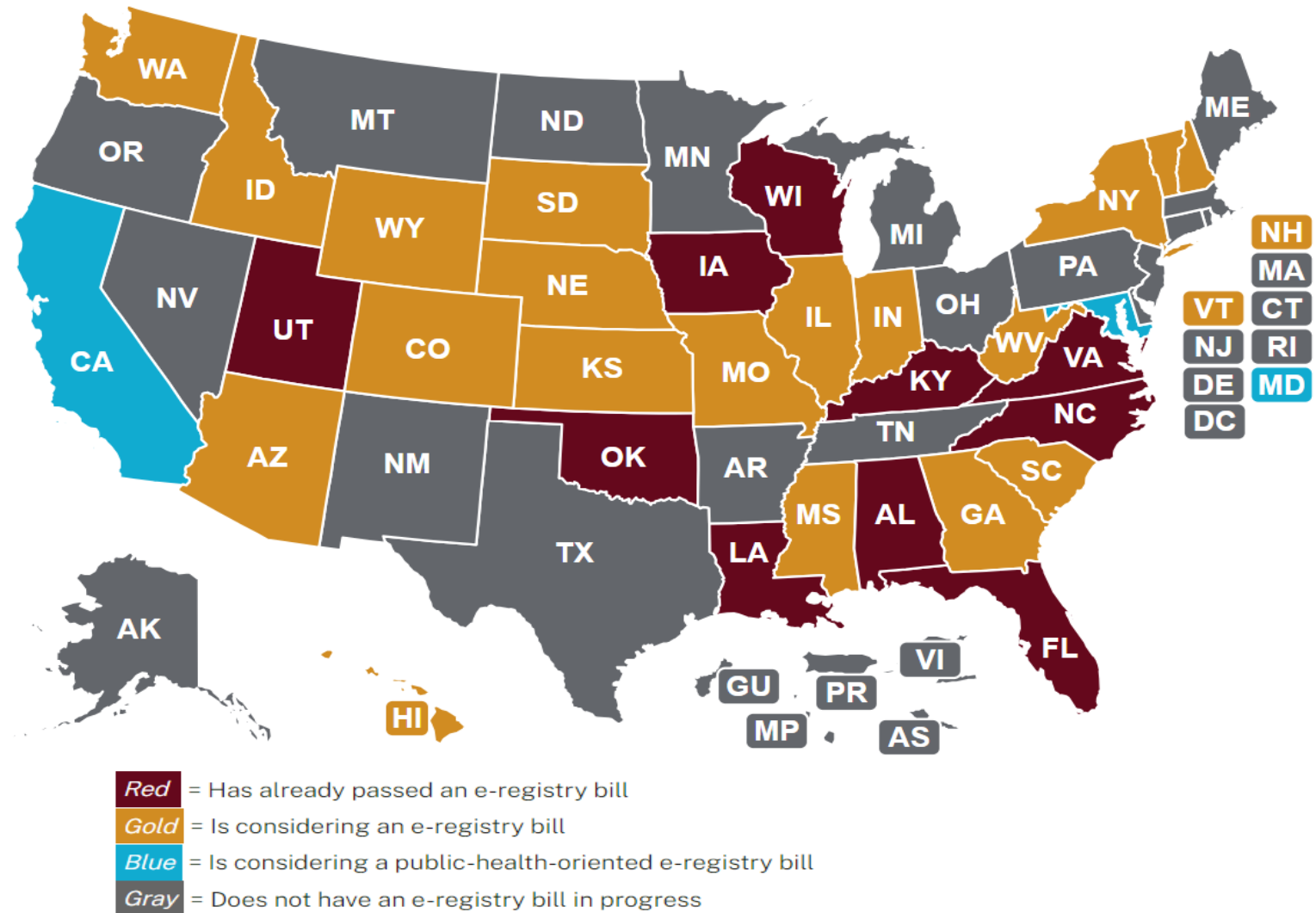
Federal regulation response

E-Cigarette Registries

Alabama Department of Revenue published a [directory containing all e-liquid manufacturers and manufacturers of alternative nicotine products](#) certified by May 1, 2022, and is required to be updated monthly to add or remove manufacturers or products.

Virginia SB 550 (2024), Requires manufacturers to submit a form for each liquid nicotine or nicotine vapor product sold in the Commonwealth. Manufacturers that falsely represents any of the information required by the certification requirement is guilty of a Class 3 misdemeanor for each violation.

Public Health Law Center, State E-Cigarette Registry Bill Map





Preventing and Supporting Youth from E-Cigarette Initiation



State Policy Actions



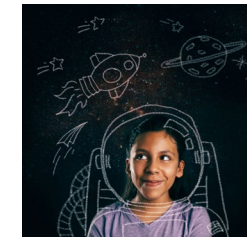
Tax Policies



Preemption Laws



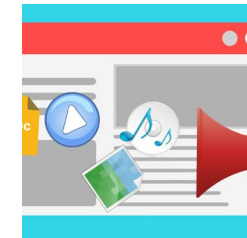
Regulatory Actions



School-Based Policies and Support



Smokefree Policies



Smokefree, Vape-Free Campaigns

Vaping Tax Policies

Higher taxes can be a way to reduce tobacco use, especially among youth.

As of June 2024,

- Federal cigarette excise tax **per pack: \$1.01**
- State average cigarette excise tax **per pack: \$1.96**

Tobacco products are taxed differently,

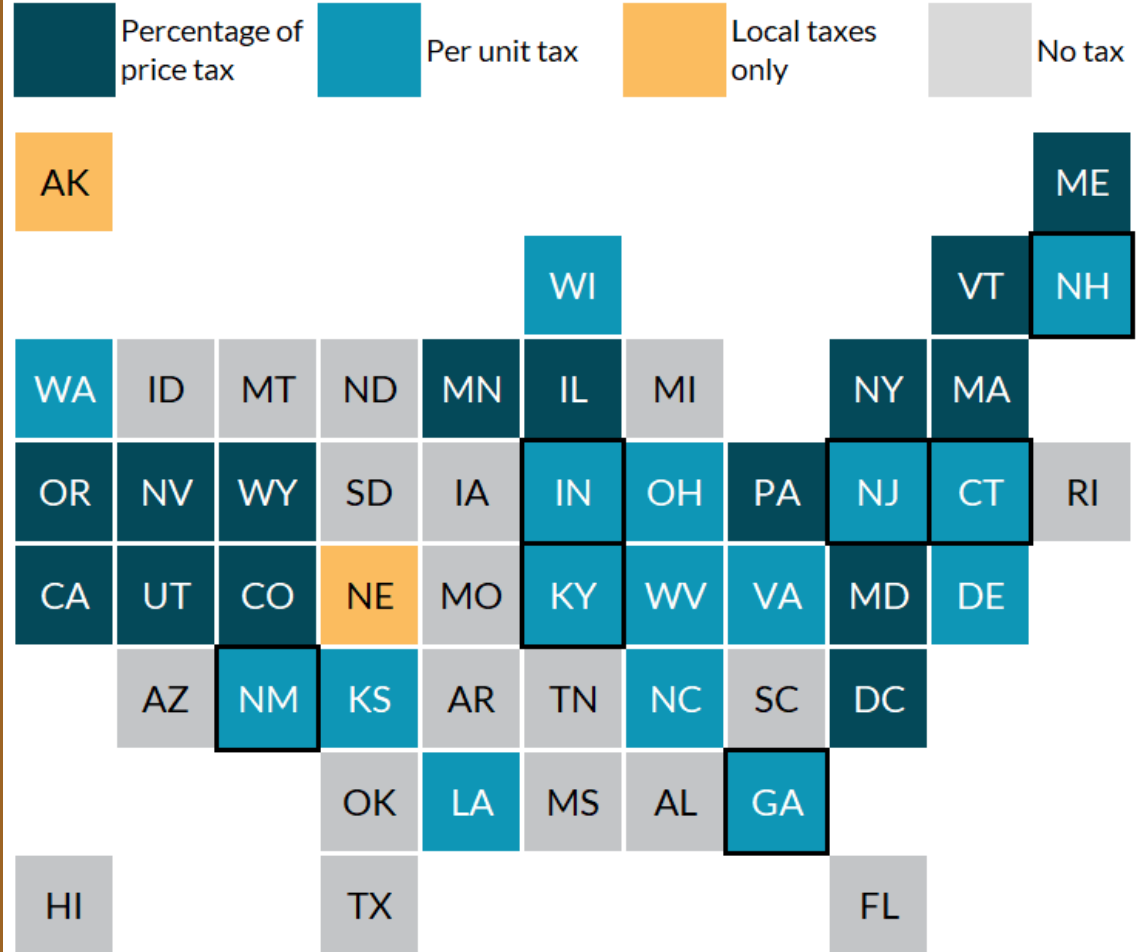
- Cigarettes: per pack.
- Other tobacco products (typically): as a percentage of price.
- **Vaping products:** either per ounce or percentage of price.

Notes: Connecticut, Georgia, Indiana, Kentucky, New Hampshire, New Jersey and New Mexico use both percentage of price and per unit taxes on vaping products.

Vaping Taxes by State



Type of tax, as of January 2023

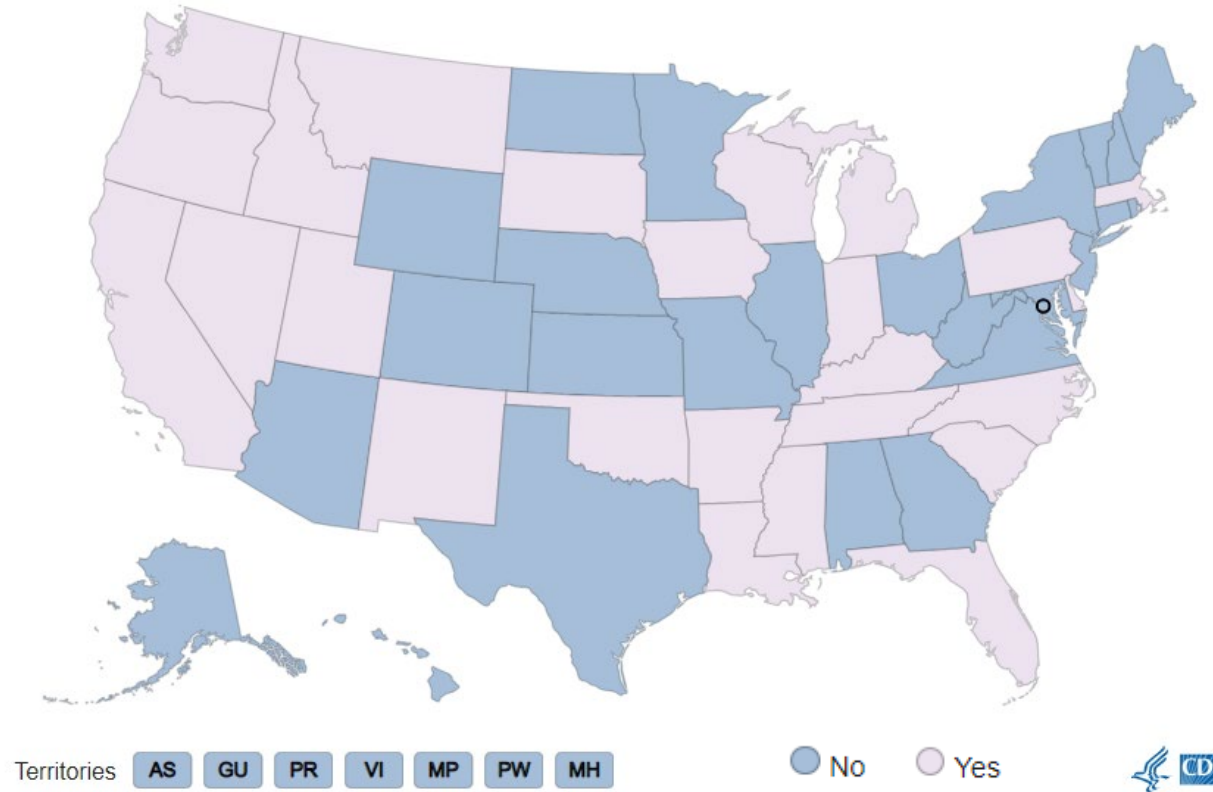


Source: "State Excise Tax Rates for Non-Cigarette Tobacco Products,"

Preemption Laws and Youth Access

- **Prevent local communities** from passing local laws that are more stringent or differ from a state's tobacco control policies – often related to licensure, smokefree indoor air and youth access.
- State preemptive laws are generally difficult to repeal.
- Since 2004, seven states have repealed provisions that preempted local smoking restrictions in some or all settings.
 - **States that have repealed smokefree indoor air preemption** are Illinois, Louisiana, Mississippi, Montana, Nevada, New Jersey, and Oregon.

Preemption on Youth Access (CDC STATE System Tobacco Legislation - Preemption) In effect as of March 31, 2024 (n=58)



<https://www.cdc.gov/statesystem/factsheets/Preemption/preemptionyouthaccess.html>

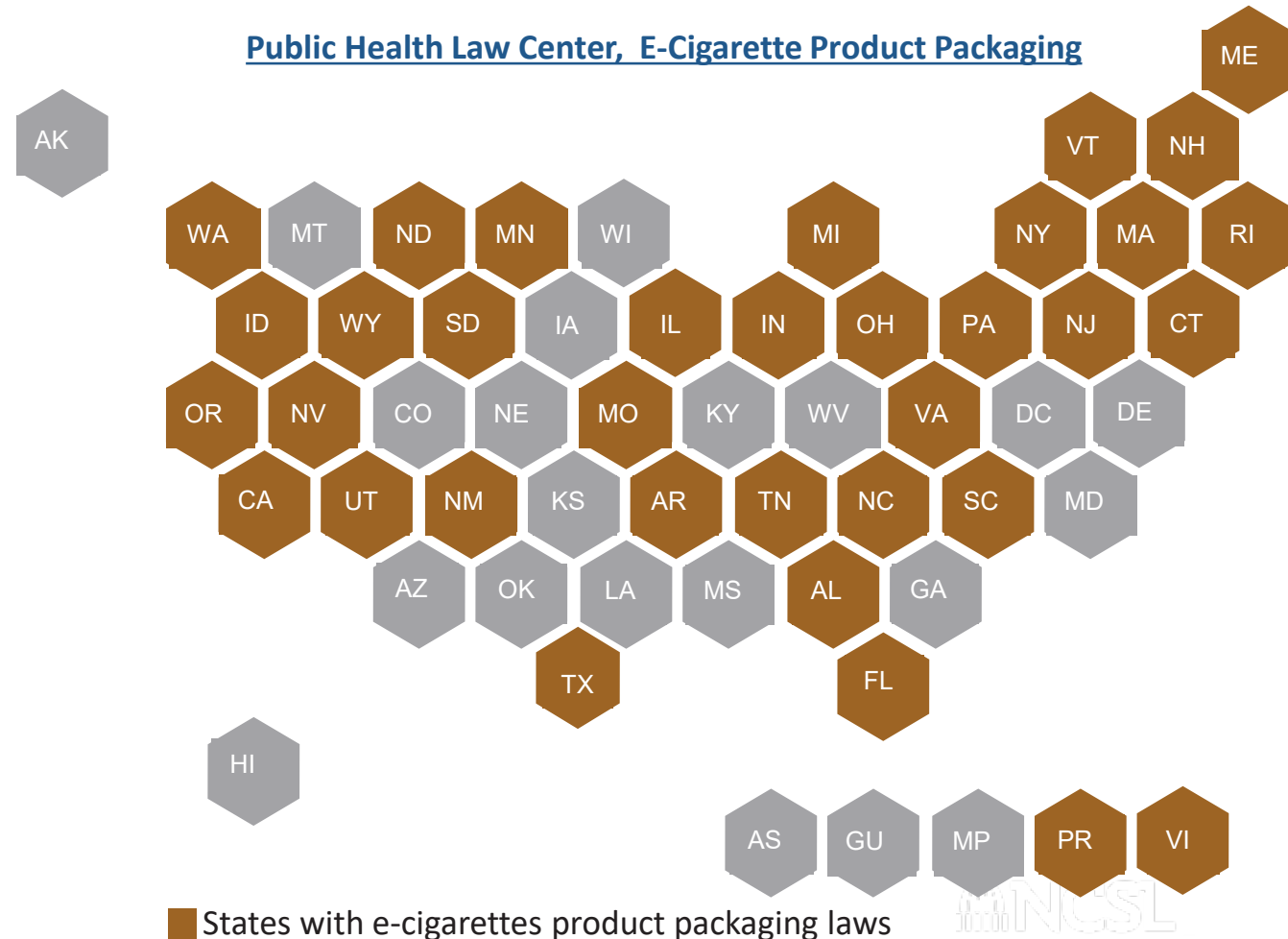
Regulatory Actions

E-cigarette product packing

Minnesota (2015) For purposes of this section, "**child-resistant packaging**" is defined as set forth in Code of Federal Regulations, title 16, section 1700.15 (b)(1), as in effect on January 1, 2015, when tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.

South Carolina (2019) E-liquid containers (except those that are sealed and not intended to be opened by consumers) must be **child-resistant** and be **labeled appropriately with warnings as prescribed by federal regulation**.

Public Health Law Center, E-Cigarette Product Packaging



Regulatory Actions

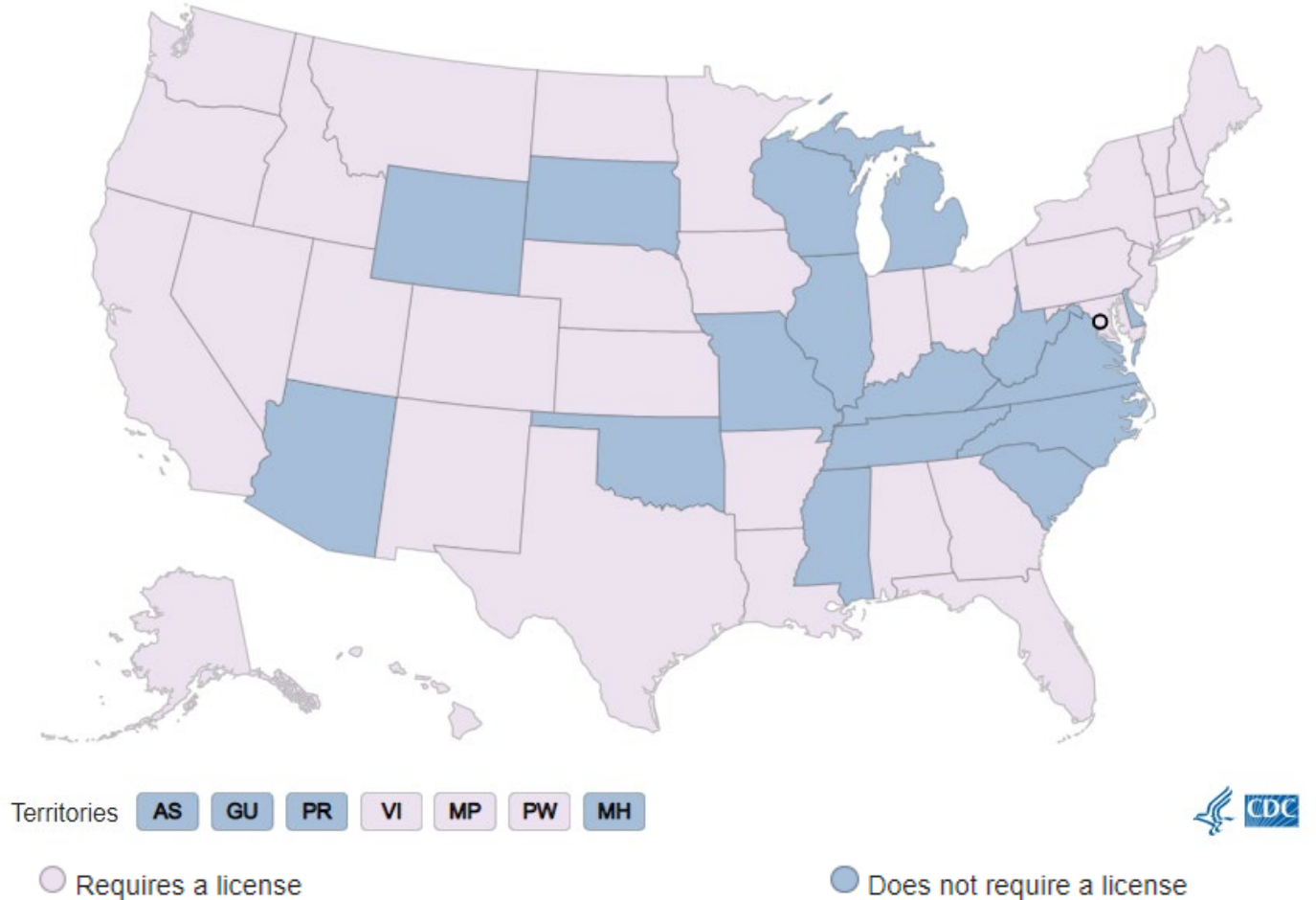
Retail Licensing

North Carolina vapor products license. - A wholesale dealer or a retail dealer must obtain a vapor products license for:

- (1) **Each location** where a wholesale dealer **makes** vapor products
- (2) **Each location** where a wholesale dealer or a retail dealer **receives or stores** non-tax-paid vapor products.
- (3) **Each location** from where a retail dealer that is a **delivery seller or a remote seller** receives or stores non-tax-paid vapor products for delivery sales if the location is different than initial location.

Colorado retailer doing business in this state shall not sell or offer for sale cigarettes, tobacco products, or nicotine products in this state without first obtaining a state license as a retailer from the division. A state license is **valid for one year and may be renewed** by application.

Retail Licensure on E-Cigarette: States with Laws Requiring Licenses For Over-the-counter Sales of E-Cigarettes (Enacted as of March 31, 2024 (n=58))



Regulatory Actions

Licensing - Online Sales

Federal Action, [Preventing All Cigarette Trafficking Act](#) (PACT Act) Congress amended the PACT Act to include new regulations regarding the delivery and sales of electronic nicotine delivery systems (ENDS), which includes vapes and e-cigarettes, flavored and smokeless tobacco.

[Massachusetts](#) (f) A person outside the commonwealth who ships or transports electronic nicotine delivery systems to retailers to be sold may apply for a license as a nonresident electronic nicotine delivery system distributor.

[Utah](#) only “**licensed persons**” can place orders or make purchases via the internet, mail, phone, or other electronic means. Retailers may only sell tobacco products and e-cigarettes to consumers **[in face-to-face exchanges](#)**. Tobacco specialty stores and adult facilities may have vending machines or self-service displays.



Regulatory Actions

Retail Licensing – Sale Penalties



North Dakota

12.1-31-03.3. Sale of flavored e-liquid to minors prohibited - Penalty.

1. A person may not sell, offer for sale, or distribute in this state any flavored e-liquid or electronic smoking device containing flavored e-liquid to an individual under twenty-one years of age.
2. A person that violates subsection 1 and is not a manufacturer is subject to a fine of five hundred dollars for each individual package of flavored e-liquid product or electronic smoking device containing flavored e-liquid sold or offered for sale.

Washington

(b) A violation of this subsection is punishable as a **class C felony** according to chapter [9A.20 RCW](#).

(2) No person engaged in or conducting business as a retailer, distributor, or delivery seller in this state may refuse to allow the enforcement officers of the board, on demand, to **make full inspection of any place of business or vehicle where any of the vapor products regulated under this chapter are sold, stored, transported, or handled, or otherwise hinder or prevent such inspection**. A person who violates this subsection is guilty of a gross misdemeanor.

Regulatory Actions

E-cigarette flavor restrictions.



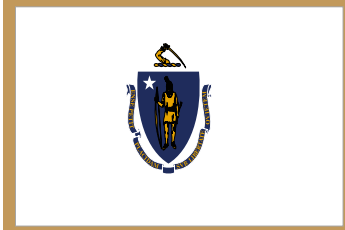
Maryland prohibits the sale of all flavored cartridge-based and disposable e-cigarettes except for menthol-flavored products, and Utah prohibits the sale of flavored e-cigarettes in non-retail tobacco specialty businesses, except mint- and menthol-flavored products.

All flavored tobacco products, including menthol.

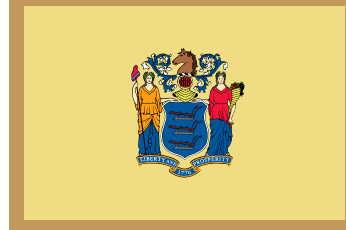
California,
2022



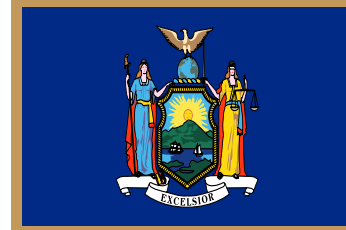
Massachusetts,
2019



New Jersey,
2020



New York, 2020



Rhode Island,
2020



Banned the sale of flavored e-cigarettes.

School-Based Policies and Support

Prevention and Intervention Considerations

- Create vape-free campuses.
- Create or support a healthy school environment.
- Support educators with educational materials and resources for students.
- Educate students on possible harms, addiction and effects of targeted advertising.

Juul Labs, Inc. Settlement

[Colorado](#) Department of Law awards \$17.4 million to schools and organizations to combat youth vaping crisis.

Louisiana Smoking or **carrying** electronic cigarettes and advanced personal vaporizers **prohibited on any school property.** [La. Stat. Ann. §§ 17:240\(A\)\(2\)](#)

[Virginia](#) The *Virginia Foundation for Healthy Youth* shall develop and the Department of Education shall distribute to each local school division **educational materials concerning the health and safety risks of using tobacco products, nicotine vapor products, and alternative nicotine products**, as defined in [§ 18.2-371.2](#).

Smokefree Policies

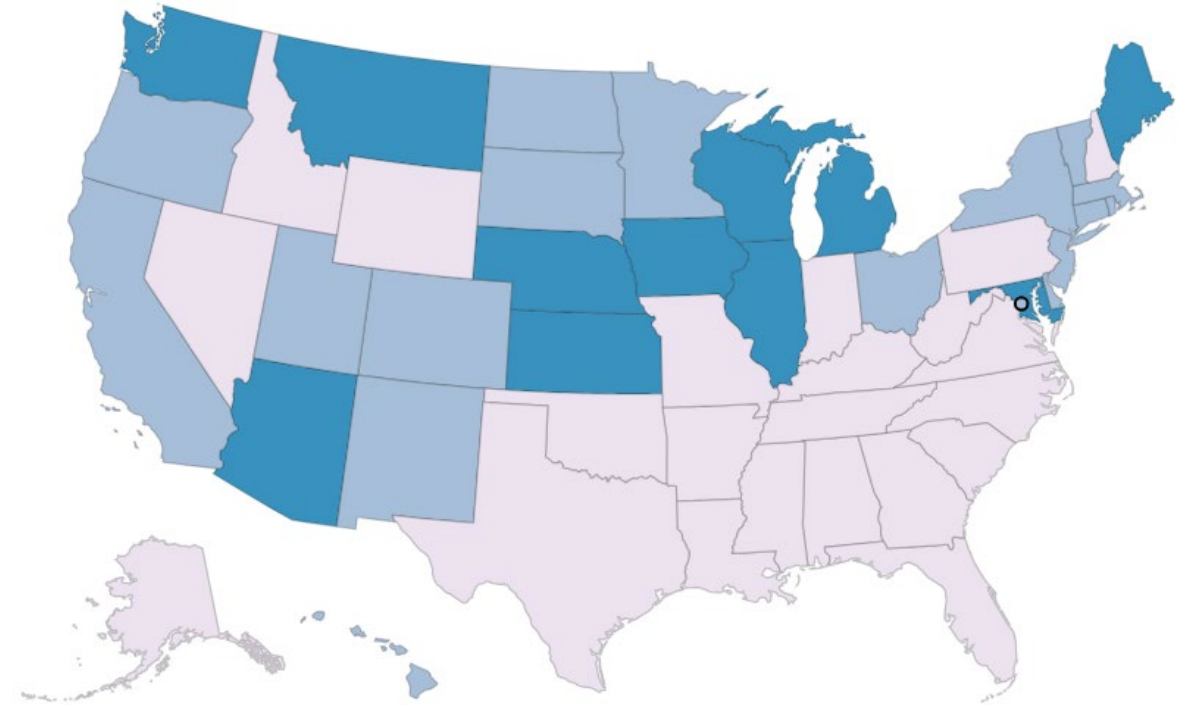
Office buildings, public places, schools and childcare facilities.

Connecticut law restricts the use of e-cigarettes in various establishments and public places, such as restaurants, health care institutions, and state buildings, similar to those placed on smoking other products.

The law makes **exceptions for e-cigarette use in certain areas and facilities**, including, among others, public housing projects, tobacco bars, and outdoor areas in establishments serving alcohol.

Nebraska LB 840 Clean Indoor Air Act **protects the public health and welfare by prohibiting smoking in public places and places of employment with limited exceptions** for guestrooms and suites, research, tobacco retail outlets, electronic smoking device retail outlets, and cigar shops. It shall **not be construed to prohibit or otherwise restrict smoking in outdoor areas**, but not where it is prohibited or otherwise restricted by other laws or rules.

States with Laws Prohibiting the Use of E-Cigarettes in Indoor Areas of Private Worksites, Restaurants, and Bars (Enacted as of March 31, 2024 (n=58))



Territories AS GU PR VI MP PW MH



- No comprehensive smokefree law or prohibition of indoor e-cigarette use
- Prohibits indoor smoking only
- Prohibits both indoor smoking and indoor e-cigarette use

Smokefree and Vape-Free Campaigns

General purpose: reduce misconceptions of harm, connect youth with peers for support and quitting resources.

Public Education Campaign

The Real Cost Campaign, FDA



Digital Quitting Programs

This is Quitting, Digital Quitting Program



Smokefree TXT for Teens, National Cancer Institute



Educator Resources

Empower Vape-Free Youth, CDC



Tobacco Prevention Return on Investment Studies

The Real Cost Campaign (2018)

- The Real Cost averted ~176,000 youth from becoming established smokers from 2014-2016 – represents > \$31 billion in cost savings
 - Overall ROI was \$128 in cost savings for every \$1 spent
 - Cost per quality-adjusted life year (QALY) for The Real Cost is \$1,337

New York Tobacco Control Program (2024)

- Relatively large ROIs for the NY TCP. Can suggest, the program is an efficient use of public funds and the benefits are considerably larger than the costs.
- Cumulative savings in smoking-attributable healthcare expenditures (SAE)= \$13.2 billion from 2001 to 2019
- 41,771 smoking-attributable deaths averted.

Bureau of Tobacco Free Florida (2021)

- ROI was 9.61 for healthcare expenditures and 112.44 for premature mortality
- Average annual savings in smoking-attributable health-care expenditures from 1999 to 2015 was nearly \$451 million.
- Estimated 29,006 SAD averted in Florida from 1999 to 2015, resulting in ~450,000 years of life lost averted by BTFF funding

State Policy Resources*

The following organizations product 50-state data and other reports.

- American Lung Association- State Legislated Actions on Tobacco Issues (SLATI): <https://www.lung.org/policy-advocacy/tobacco/slati>
- Campaign for Tobacco Free Kids: <https://www.tobaccofreekids.org/us-resources>
- Centers for Disease Control & Prevention: <https://www.cdc.gov/tobacco/e-cigarettes/index.html>
- CDC State Tobacco Activities Tracking and Evaluation (STATE) System: <https://www.cdc.gov/statesystem/index.html>
- FDA: Results from Annual National Youth Tobacco Survey: <https://www.fda.gov/tobacco-products/youth-and-tobacco/results-annual-national-youth-tobacco-survey>
- NCSL State Tax Actions Database: <https://www.ncsl.org/fiscal/state-tax-actions-database>
- National Institutes of Health: E-Cigarette Use Among Youth and Young Adults: A report of the Surgeon General: <https://www.ncbi.nlm.nih.gov/books/NBK538682/>
- Public Health Law Center: <https://www.publichealthlawcenter.org/topics/commercial-tobacco-control/e-cigarettes>
- Truth Initiative: <https://truthinitiative.org/research-resources/emerging-tobacco-products/e-cigarettes-facts-stats-and-regulations>

**Links to outside content do not indicate support from NCSL and are provided as resources relevant to this request.*





Thank you!

Tammy Hill

project manager, NCSL health program

tammyjo.hill@ncsl.org

(720) 713-0296

Support from NCSL Fiscal Team



www.ncsl.org



@NCSLorg



Denver
7700 East First Place,
Denver CO 80230

Washington D.C.

444 North Capitol Street, N.W.
Suite 515,
Washington, D.C. 20001