



Proposed Tobacco Control Amendments

Eugene Barros, Director, Division of Healthy Homes and Community Supports

Nikysha Harding, Director, Tobacco Control Program

PJ McCann, Deputy General Counsel

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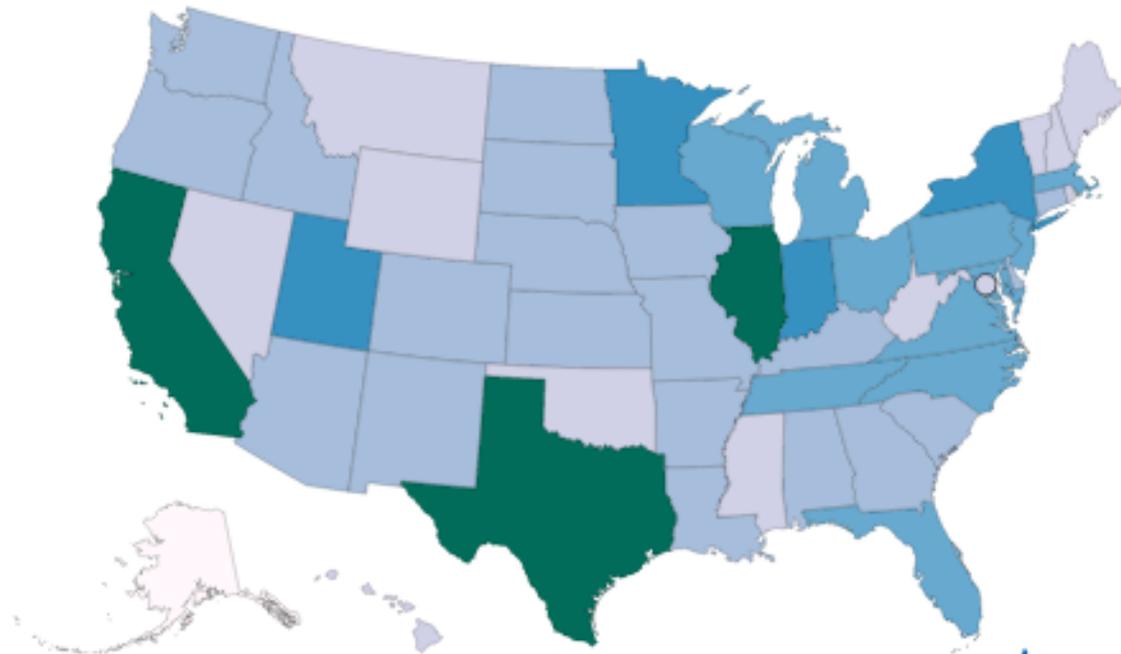
Overview

- Mayor Walsh directed BPHC staff to work with the Board to respond to vaping epidemic and longstanding health inequities reinforced by menthol tobacco products.
- Vaping illness update
- Review of relevant data
- Summary of public comment
- Review of proposed amendments
- Discussion and vote



US Vaping Related Illness Update

Number of Lung Injury Cases Reported to CDC as of November 19, 2019



Legend

Number of lung injury cases per state

- 0 cases
- 1-9 cases
- 10-49 cases
- 50-99 cases
- 100-149 cases
- 150-199 cases

Territories AS GU MH FM PW PR VI



BPHC Vaping Response Efforts

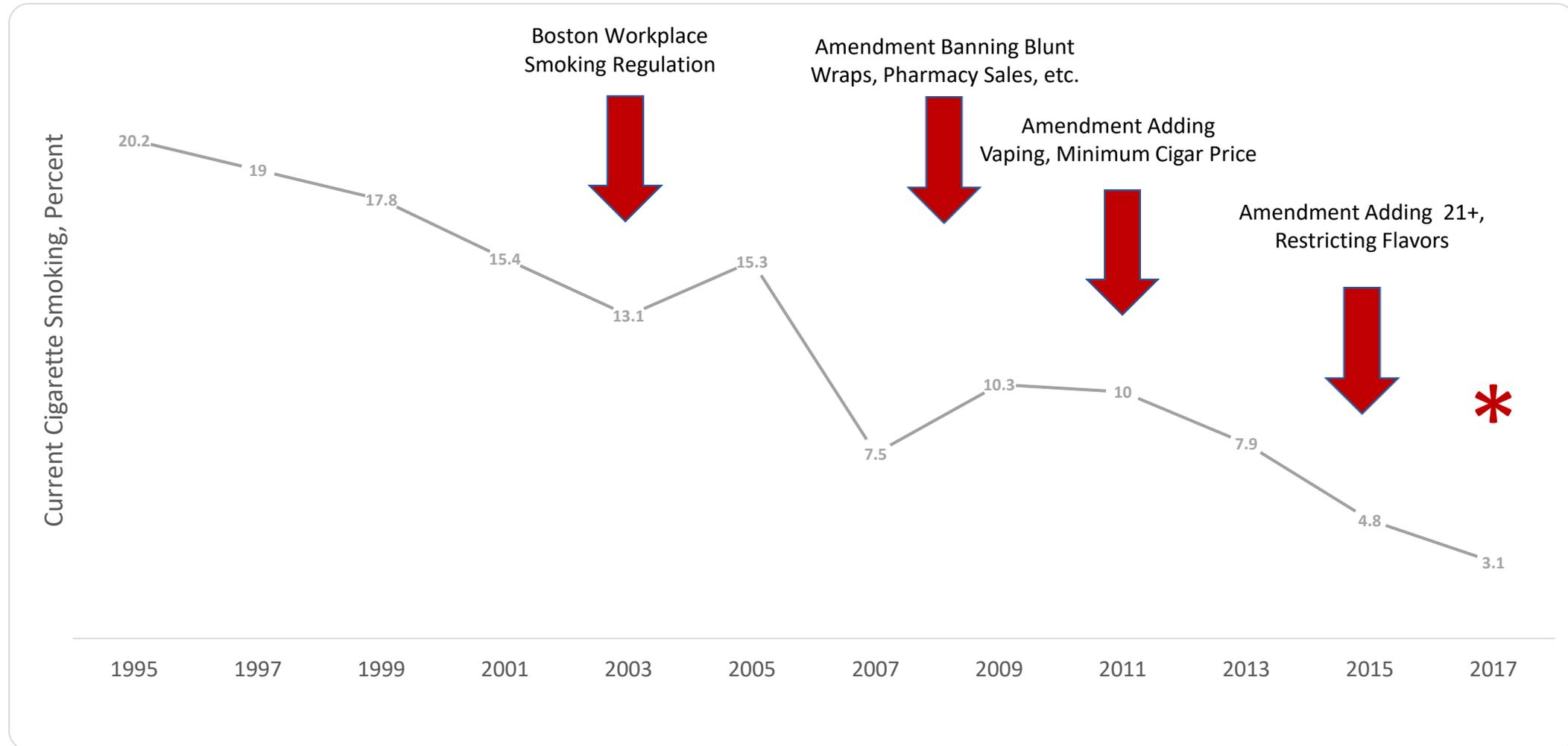
- Governor's Emergency Order enforcement support
 - Inspected all 800+ Boston tobacco retailers to ensure compliance
 - Nearly all stores were found to be in compliance on initial visit
- Clinical advisory to Boston providers regarding vaping-related illness
 - Included case definition and reporting requirements
- Cessation supports
 - To expand the pool of cessation counselors to meet increased need, BPHC scheduled the three-day “Basic Skills for Working with Smokers” for December 11th, 12th and 16th.
 - Available to BPHC programs and any Boston community partners that directly work with clients experiencing tobacco dependence.

Data Summary

- Boston has enjoyed a long-term downward trend in overall nicotine and tobacco use.
- After Board's flavoring restrictions were implemented, Boston public high school current vaping rate decreased from 14.5% in 2015 to 5.7% in 2017.
 - In comparison, the 2017 statewide rate in Massachusetts was 20.1%.
- Most recent national data showed that youth vaping rates have continued to increase; now over **27% of youth report current vaping**.
- Over 80% of youth initiate tobacco use with a flavored product.
- Menthol tobacco products disproportionately impact youth and people of color.
 - Nationally over 50% of youth smokers use menthol products, far higher than the adult rate.
 - 93% of Black smokers started with menthol cigarettes.
- Youth vaping rates are related to sexual orientation.
 - 16% of BPS high school students identifying as LGB reported current vaping, compared to 5% of students identifying as heterosexual (2017 YRBS).
- FDA's Tobacco Products Scientific Advisory Committee concluded that menthol cigarettes pose a threat to public health above and beyond that posed by regular cigarettes and that removal of menthol cigarettes from the marketplace would benefit public health in the United States.



Boston Youth Tobacco Smoking Trends

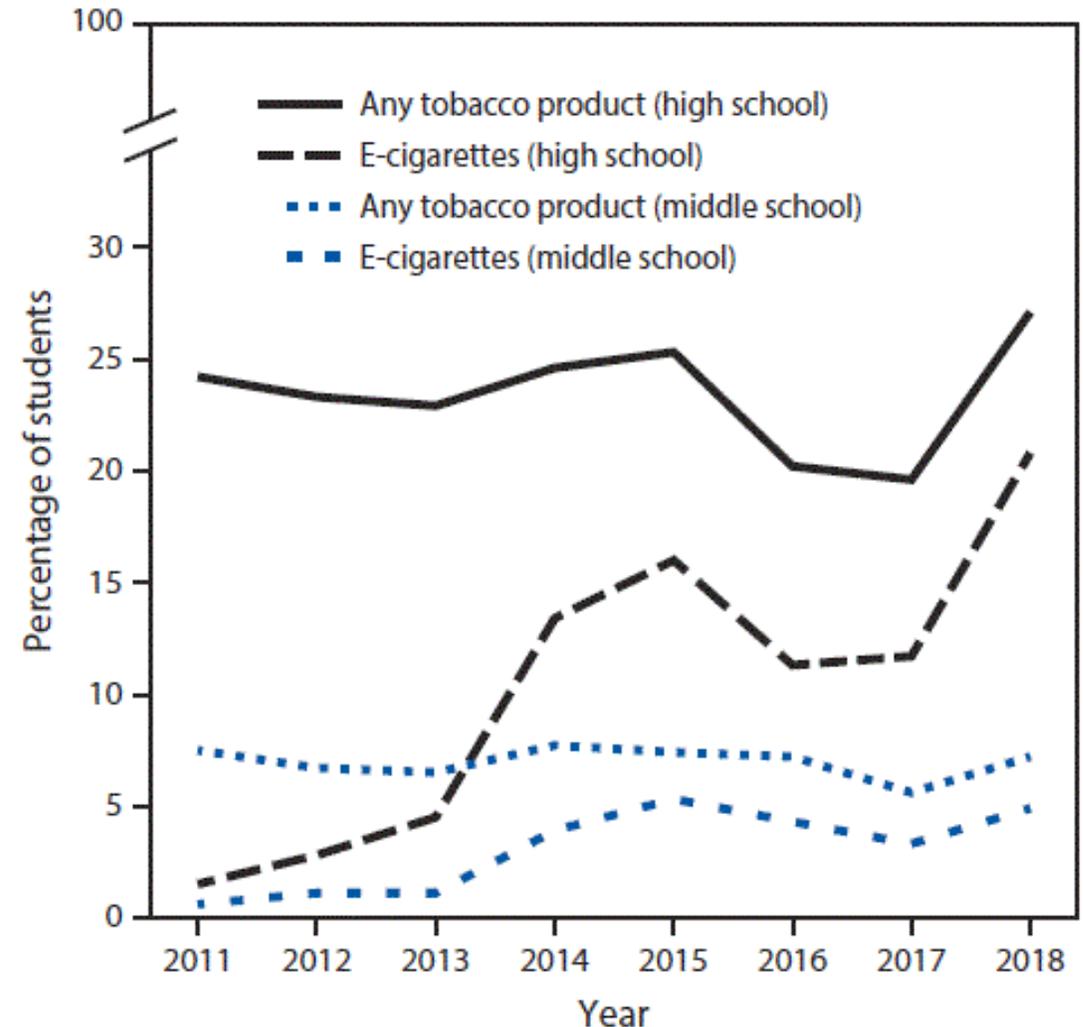


Source: BPHC, YRBS, Boston Public Schools High School Students, Smoke cigarettes in last 30 days. * Combined tobacco product and nicotine use, 2017 (id)



National Tobacco and Nicotine Trend

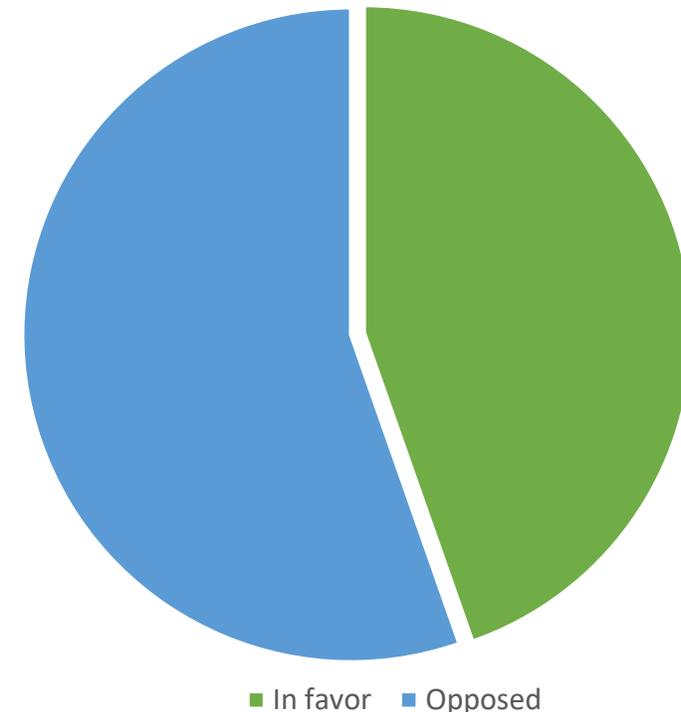
- Among high school students, current e-cigarette use increased from 1.5% in 2011 to 20.8% in 2018.
- Reverses a decline observed after 2015.
- Result: Increasing overall combined tobacco and nicotine product use rates.



Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. *Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students — United States, 2011–2018.* MMWR Morb Mortal Wkly Rep 2018;67:1276–1277.

Public Hearing Overview

- Public hearing and comment period was published in Globe and online.
- Outreach made via direct mail to all Boston tobacco retailers
- Held on November 7th at 5pm.
- 56 people offered oral testimony.
 - 25 testified in opposition
 - 31 testified in support
- Themes echoed written comment
- Full transcript provided for review



Public Comment Overview

- Public Comment period ran from September 18th to November 8th.
- 210 total written comments received.
 - 118 total comments in opposition
 - 30 comments submitted through the Board office
 - 88 were auto-generated emails sent to other offices and forwarded to Board office
 - 92 total comments in support
 - Includes several letters submitted on behalf of coalitions, including
 - 74 chapters of The 84 Movement
 - 34 Tobacco Free Mass member organizations
 - 22 Massachusetts League of Community Health Centers
 - 30 Fight All Flavors Campaign member organizations

Public Comment – Organizations Represented in Opposition

- Boston Convenience Store Owners Association
- New England Convenience Store & Energy Marketers Association
- Law Firm Fletcher and Tilton

Public Comment – Opposition Summary

- Focused on menthol tobacco rather than menthol vaping products, seeking an exemption for cigarettes, cigars, and smokeless tobacco.
- Argued that retailers take the responsibility of age compliance seriously, highlighted FDA inspection compliance rates.
- *“Proposed bans would severely limit the choices of our adult customers when purchasing a legal product...”*
- *“Prohibition for adults doesn't work when there is a patchwork of local laws...”*
- *“It could shift sales of these products from law-abiding retailers, like us, to potentially illegal sources who don't check IDs.”*
- Economic impact.

Public Comment – Organizations Represented in Support

- Mayor Martin J. Walsh
- African American Tobacco Control Leadership Council
- American Heart Association
- Asian Pacific Partners for Empowerment, Advocacy, and Leadership
- BOLD Teens
- Boston Public Schools Superintendent Dr. Brenda Cassellius
- Campaign for Tobacco-Free Kids
- Dana-Farber Cancer Institute
- Fight All Flavors Coalition Massachusetts Dental Society
- Geographic Health Equity Alliance (CADCA)
- Health Resources in Action

Public Comment – Organizations Represented in Support

- Massachusetts Association of Health Boards
- Massachusetts Asthma Action Partnership
- Massachusetts Environmental Health Association
- Massachusetts League of Community Health Centers
- Massachusetts Organization for Addiction Recovery
- Municipal Tobacco Control Technical Assistance Program (MMA)
- National African American Tobacco Prevention Network
- National Alliance for Hispanic Health
- National Behavioral Health Network for Tobacco and Cancer Control
- National LGBT Cancer Network
- National Native Network (Keep It Sacred)

Public Comment – Organizations Represented in Support

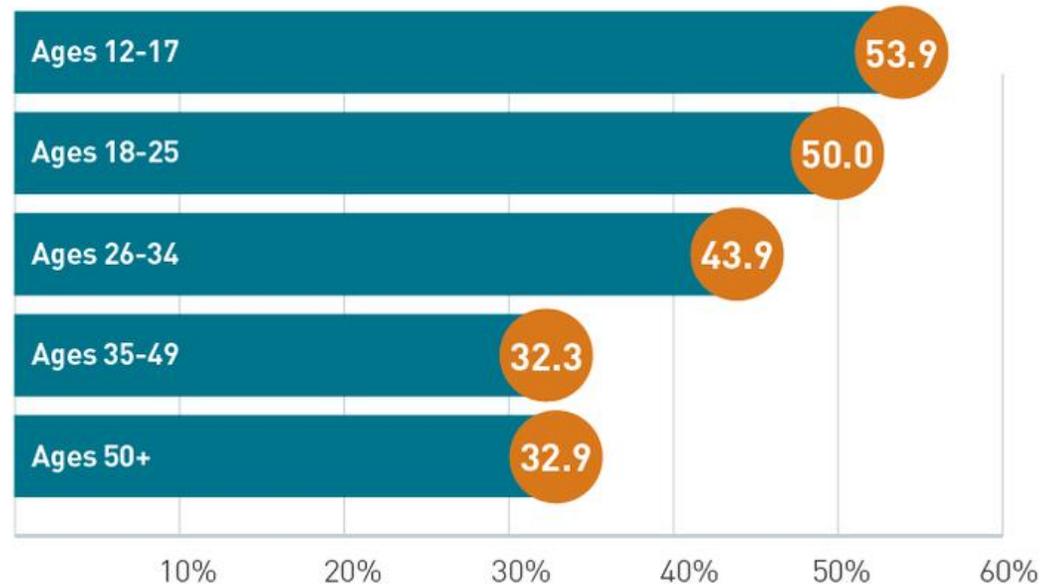
- Networking for Health Equity
- Northeast Tobacco-Free Community Partnership
- Public Health Advocacy Institute
- Revere CARES Coalition
- SelfMade Health Network
- Substance Abuse Prevention Collaborative
- The 84 Movement Chapters
- Tobacco Free Mass
- Whittier Street Health Center

Public Comment – Arguments in support

- Reducing menthol tobacco use remains an important public health priority that would have significant impacts on persistent health inequities.
- Over 80% of youth report starting tobacco use with a flavored product.
- Over 50% of youth who smoke cigarettes report smoking menthol.
- Menthol is preventing further reductions in tobacco smoking.
- As other vaping flavors are restricted, youth switch to mint, menthol, and wintergreen.
- The retail environment is key to reducing youth access. 74% of youth reported that they access nicotine products through retail stores and 52% through social sources, compared with 6% online.
- Reducing nicotine addiction and tobacco would generate economic benefits that outweigh negative economic impacts to industry and retail stakeholders.
- *“For a lot of older generations, it wasn’t their fault - we as a society didn’t know how terrible smoking was for your health. But now we do.”*

Menthol Cigarettes Remain Popular Among Youth

Menthol cigarette use among current smokers in the U.S. by age, 2012-2014



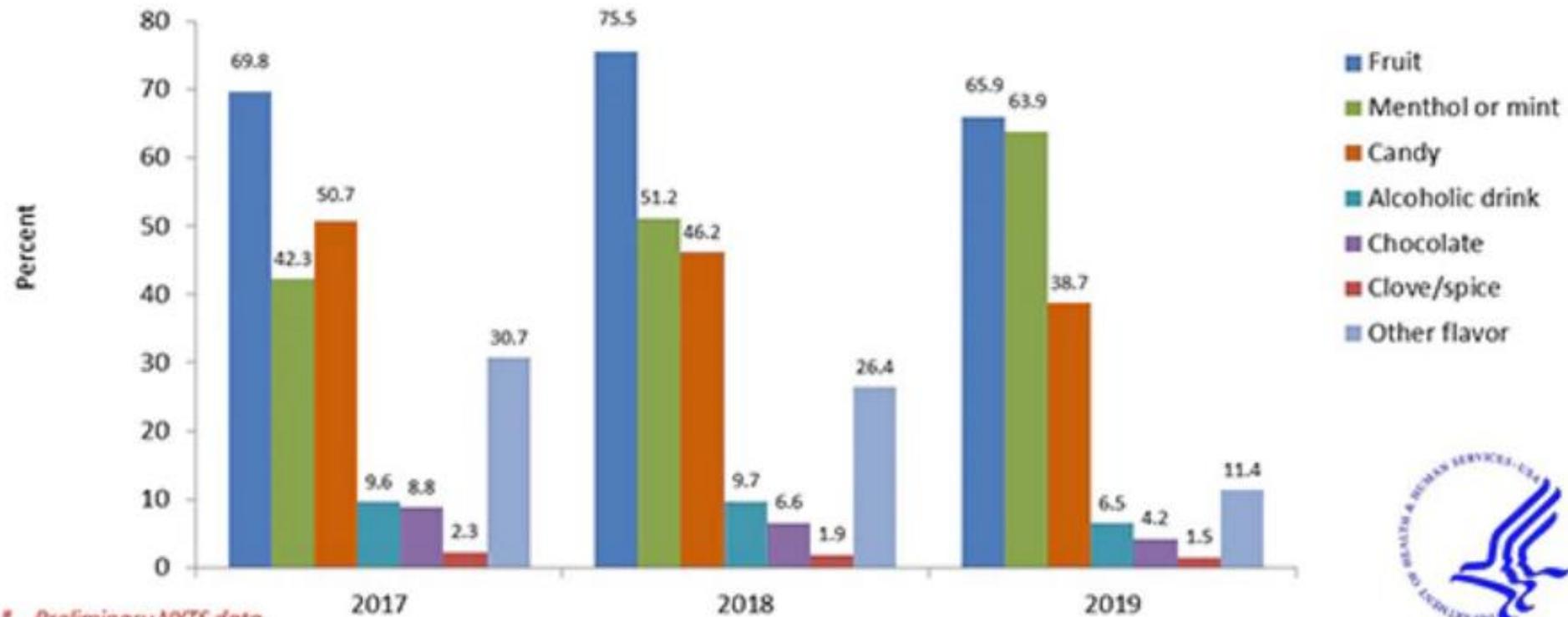
Source: Tobacco control

Graphic: Truth Initiative. Source: Villanti AC, Mowery PD, Delnevo CD, Niaura RS, Abrams DB, Giovino GA. Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004-2014. Tobacco control. 2016;25(Suppl 2):ii14-ii20; Giovino GA, Villanti AC, Mowery PD, et al. Differential trends in cigarette smoking in the USA: is menthol slowing progress? Tobacco control. 2015;24(1):28-37.

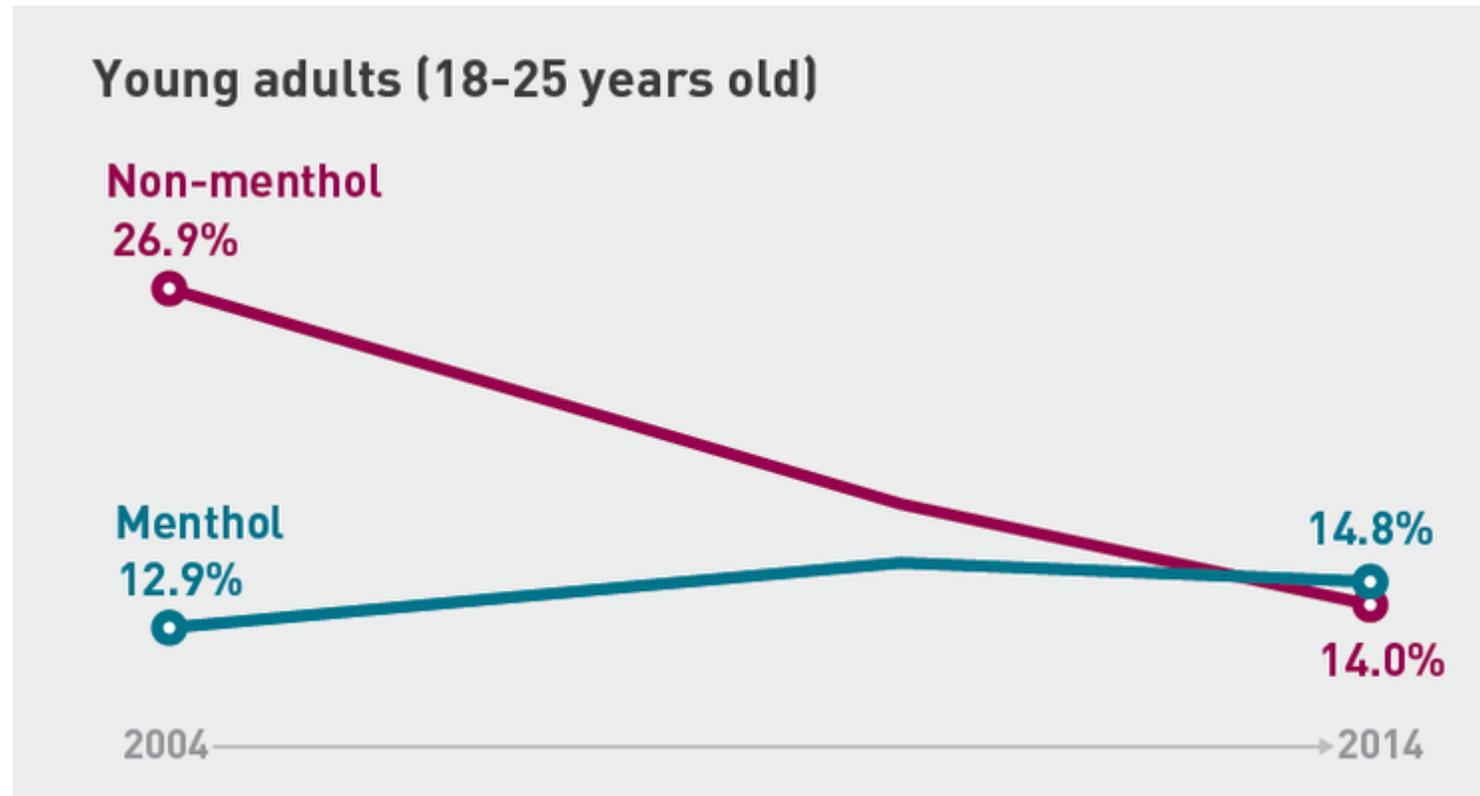


Youth Switch to Mint and Menthol

FLAVORS POPULAR AMONG HIGH SCHOOL USERS OF E-CIGARETTES*



Menthol Prevents Reductions in Smoking



Graphic: Truth Initiative. Source: US Substance Use and Mental Health Services Administration, National Survey on Drug Use and Health (NSDUH) 2014

State Legislation Retail Comparison

STATE LEGISLATIVE PROVISION	BOSTON REGULATION
Increases the fines for selling a tobacco product to a person under the age of 21 from: \$100 to \$1000 for a first offense; \$200 to \$2000 for a second offense; and from \$300 to \$3000 for a third or subsequent offense.	Not included in proposed amendment. Existing fine structure covers violations of all rules and allows for suspensions. If increased sales to minor fines take effect at state level, BPHC could potentially enforce.
Bans selling, distributing or causing to be sold or distributed, offering for sale or marketing or advertising any flavored tobacco product or tobacco product flavor enhancer.	Included in proposed amendment restrictions, except for advertising provisions.
Exempts only sales for on-site consumption at smoking bars from the favor ban.	Proposed amendment retains broader exception for adult only stores. State provision would be enforceable locally if it becomes law.
Prohibits the sale of any electronic nicotine delivery system with nicotine content greater than 20 milligrams per milliliter; exempts retail tobacco stores or smoking bars.	No amendment proposed. State law provision would be enforceable locally if it becomes law.
Implements most provisions immediately; flavored <i>tobacco</i> products and maximum nicotine content of electronic nicotine delivery systems effective June 1, 2020.	Included in proposed amendment.

Recommendations

SECTION	PROPOSED AMENDMENT
II(1)	Defines “Adult-Only Retail Tobacco Store,” clarifies adult-only distinction; prohibits the sale of products that attract youth to 21-plus stores
II(4)	Closes menthol loophole by amending definition of characterizing flavor to include mint, menthol, and wintergreen
II(21)	<u>Adds new “Tobacco Product Flavor Enhancer” definition</u>
III(2)	Requires mandatory ID check of all entrants into Adult-Only stores; <u>requires other stores to check ID for all customers at point of purchase</u>
III(5)	<u>Incorporates adult-only retail tobacco store and tobacco product flavor enhancer definitions into flavored tobacco product restrictions</u>
III(18), XI	<u>Clarifies that violation of state or federal law constitutes a violation</u>
IV(1)	Clarifies that exemption from cigar packaging and self-service display rules only apply to business that are exempt from Workplace Smoking Regulations
XIII	<u>Sets an immediate effective date; allows until June 1, 2020 to implement flavored tobacco restrictions.</u>

Discussion and Motion