Tobacco and E-cigarettes
2020 Key Issues

Federal lawmakers and regulators continue to focus on addressing e-cigarette and tobacco policies, particularly as they relate to kids. The summary below highlights recent actions in this policy area.

Vaping Key Statistics

- A condition known as EVALI (E-cigarette, or Vaping, Product Use-Associated Lung Injury) has been tracked by the Centers for Disease Control and Prevention (CDC) and defined as an epidemic. As of Jan. 7, 2020, a total of 2,602 hospitalized cases had occurred and 57 deaths had been confirmed—with more under investigation. Children’s hospitals are at the front lines, treating many of these cases. Children’s Hospital of Wisconsin was the first hospital in the nation to identify a vaping-related lung disease case.

- According to a report derived from the 2019 Youth Tobacco Survey—conducted by the Food and Drug Administration (FDA) and the CDC—there was a 78% increase in current e-cigarette use by high school students and a 48% increase among middle school students from 2017 to 2018. This is troubling—little is known about the health effects of e-cigarettes.

Vaping Regulations

- On Jan. 6, 2020, the FDA released long-awaited guidance detailing enforcement actions related to flavored e-cigarette products currently on the market without premarket approval. The guidance bars the sale of pre-filled fruit or mint flavored nicotine pods and cartridges typically sold at convenience stores and gas stations, though an exemption for menthol or tobacco flavored pods is included. Additionally, the guidance excludes open-tank vaping systems sold in vape shops. It is important to note that this guidance is unlikely to capture many products since Juul pulled many of these products off the market in 2019.

- A federal court has set May 12, 2020, as a deadline for e-cigarette companies to apply to the FDA and submit products for a public health review. All vaping products currently on the market have not undergone any FDA review and are technically on the market illegally. Under this ruling, products that do not submit a pre-market review application can be taken off the market. Those that do submit will be on the market for a year while under review.

Legislation

- T21, a bill that raises the legal purchase and sale age of tobacco to 21 years old, was signed into law on Dec. 20, 2019, as part of the FY 2020 spending package.
In April of 2019, Rep. Pallone, D-N.J., introduced H.R. 2239, the **Reversing the Youth Tobacco Epidemic Act of 2019**. The legislation would prohibit all flavored tobacco products—including e-cigarettes—increase the minimum age for purchasing tobacco products to 21, ban all non-face-to-face sales for tobacco products and make it unlawful to market tobacco products to individuals younger than age 21. This bill is widely supported by anti-tobacco and children’s health groups.

- Opponents of the Pallone bill cite the possibility a ban will create a black market for these products, specifically those with menthol flavoring, due to their popularity. Critics also believe there is potential for racial bias when enforcing any potential new laws created by the legislation.
- There are several other pieces of legislation regarding vaping and tobacco related products, however, the Pallone bill is the most universal and complete. Currently, 106 members of Congress have signed on as co-sponsors.
- The Senate companion bill, [S. 3174](#), led by Sen. Sherrod Brown, D-Ohio, was introduced in the Senate on Jan. 9, 2020. This bill mirrors H.R. 2239 while adding provisions regarding cessation and treatment.

A variety of other bills have been introduced this Congress on topics including: taxes on these products, location and sale regulations, flavor bans and labeling. CHA is monitoring these bills and will provide additional updates as they progress.

The FY 2020 continuing resolution (CR) included funding for tobacco and e-cigarette initiatives:
- a $20 million increase for the CDC’s Office on Smoking and Health, for a total allotment of $128.6 million
- a $1 million increase for the CDC’s National Asthma Control Program, for a total allotment of $30 million