



RESEARCH & COMMENTARY: MICHIGAN FLAVOR BAN IS BAD POLICY

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By Lindsey Stroud

Michigan Gov. Gretchen Whitmer's proposal to ban sales of flavored e-cigarettes is unlikely to reduce youth use e-cigarette use and her fearmongering campaign against THR products will likely lead to an increase in combustible use.



On September 4, Michigan Gov. Gretchen Whitmer unilaterally “[ordered the Michigan Department of Health and Human Services \(MDHHS\) to issue emergency rules](#)” that would ban retail and online sales of flavored e-cigarettes and vaping devices. The order would also “ban misleading marketing of vapor products, including the use of terms like ‘clean,’ ‘safe,’ and ‘healthy.’” In her “[press conference](#)” on MSNBC’s *Morning Joe*, Whitmer claimed youth in Michigan are “inhaling ... formaldehyde and other toxic chemicals,” including “metal fragments.”

The ban would go into effect 30 days after MDHHS issues the order and would last for six months.

Although reducing youth use of e-cigarettes is laudable, flavor bans have not deterred youth e-cigarette use. Rather, these intrusive policies limit tobacco harm reduction options for adult smokers and will likely lead current adult e-cigarette users back to combustible cigarettes. Further, many (if not most) of the recent vaping-related hospitalizations have been caused by black market products, with many of these devices being used to vape tetrahydrocannabinol (THC) oils. Moreover, Whitmer’s statements on how *legal* and *regulated* e-cigarettes are being marketed and the chemicals they contain are false and misleading. Unfortunately, it is likely her claims will be used by health departments in other states to further restrict electronic cigarettes.

[The Heartland Institute analyzed results](#) from the 2017-18 California Youth Tobacco Survey (CYTS) and found that despite flavor restrictions in place in some localities, youth use of e-cigarettes in those areas *increased* after the bans when into place.

- Santa Clara County, California, banned flavored tobacco product sales to age-restricted stores in 2014. Despite this, youth e-cigarette use *increased* while the ban was in effect. For example, in the [2015-16 CYTS](#), 7.5 percent of Santa Clara high school students reported current use of e-cigarettes. In the [2017-18 CYTS](#), this *increased* to 10.7 percent.

Flavors are vital for the success of electronic cigarettes as tobacco harm reduction tools. A study of nearly 70,000 American adults found that [83.2 percent and 72.3 percent of survey respondents](#) reported vaping fruit and dessert flavors, respectively.

As more states enact draconian flavor bans, it is likely a large number of adults who have used e-cigarettes to quit smoking will go back to combustible cigarettes. A 2017 study by the [National Bureau of Economic Research](#) concluded banning flavors “would result in the increased choice of combustible cigarettes.” In fact, the authors expect e-cigarette use to *decrease* by approximately 10 percent if flavors are banned.

It should be noted that public health departments are linking vaping-related hospitalizations to THC-containing products, which are often purchased on the black market. [The Wisconsin Department of Health Services](#) noted 89 percent of patients with vaping-related hospitalizations had “reported using e-cigarettes or other vaping devices to inhale THC products.” [The Oregon Health Authority](#) admitted a resident died who “had recently used an e-cigarette or vaping device containing cannabis.” Further, the [Minnesota Department of Health](#) reported an individual died from a “lung injury [that] was associated with vaping illicit THC products.”

[A September 6 report in *The New England Journal of Medicine \(NEJM\)*](#), examined vaping-related hospitalizations in Illinois and Wisconsin. The researchers found 84 percent of patients “reported having used [THC] products in e-cigarette devices.”

Whitmer’s proposal is misleading and full of false claims on the marketing of, and substances found in e-cigarettes. Per the U.S. Food and Drug Administration’s (FDA) 2016 deeming regulations, e-cigarette manufacturers and retailers are barred from making any health claims. The deeming regulations specifically prohibit the distribution of products whose [“labeling, or advertising claim are ‘lower risk,’ ‘less harmful,’ ... without an FDA order in effect.”](#) In fact, to market a tobacco product as less harmful, the manufacturer must have an approved [modified risk tobacco product \(MRTP\)](#) application by the FDA. To date, no electronic cigarette or vaping device has been approved a MRTP.

Even more troublesome is Whitmer’s complete unawareness regarding the safety of *legal* and *regulated* e-cigarette products. Baseless claims of formaldehyde in e-cigarettes have been debunked. [A 2015 NEJM](#) article first alarmed the public to exaggerated formaldehyde levels in e-cigarettes. The researchers of this study used biased techniques to produce such levels, including overheating the electronic cigarette. A different set of researchers recreated the study using

normal conditions mimicking how vapers actually use the device, finding formaldehyde to be practically absent, and at levels “[far below what \[cigarette\] smokers inhale.](#)”

Moreover, Whitmer’s alarmism negates the abundant data finding e-cigarettes to be significantly less harmful than combustible cigarettes. Indeed, [Public Health England](#), the [Royal College of Physicians](#), the [National Academies of Sciences, Engineering and Medicine](#), and the [American Cancer Society](#) all support this position.

Instead of reducing tobacco harm reduction options for adults, Michigan lawmakers should direct more of the state’s tobacco moneys on tobacco education and prevention programs. Of the [\\$1.2 billion Michigan received in 2019 in tobacco settlement payments and taxes](#), the state dedicated only \$1.6 million, or 0.001 percent, on tobacco prevention programs.

Whitmer’s ban on flavored e-cigarette products is unlikely to reduce youth use. Even worse, her fearmongering campaign against tobacco harm reduction products will put thousands of Michiganders in jeopardy of returning to deadly cigarettes.

Policymakers should embrace e-cigarettes and vaping devices as viable alternatives for adult smokers. Additionally, they should earmark tobacco moneys to combat youth e-cigarette use.

The following articles provide more information on electronic cigarettes and tobacco harm reduction.

<https://www.heartland.org/publications-resources/publications/latest-heartland-policy-booklet-addresses-vaping-myths>

This booklet from The Heartland Institute aims to inform key stakeholders on the much-needed information on the benefits of electronic cigarettes and vaping devices. *Tobacco Harm Reduction 101* details the history of e-cigarettes, including regulatory actions on these products. The booklet also explains the role of nicotine, addresses tax policy and debunks many of the myths associated with e-cigarettes, including assertions about “popcorn lung,” formaldehyde, and the so-called youth vaping epidemic.

Research & Commentary: Flavor Bans Do Not Reduce Youth E-Cigarette Use

<https://www.heartland.org/publications-resources/publications/research-commentary-flavor-bans-do-not-reduce-youth-e-cigarette-use>

In this *Research & Commentary*, State Government Relations Manager Lindsey Stroud examines the California Youth Tobacco Survey results from 2017-18, finding youth vaping has increased in several California localities that have restricted access to flavored tobacco product. Stroud finds youth vaping has increased in both Santa Clara and Contra Costa counties. Stroud also notes that banning flavored e-cigarettes is likely to reduce the number of adult smokers switching from combustible cigarettes to tobacco harm reduction devices, and could lead former smokers back to cigarettes.

Research & Commentary: Largest Vaping Survey Finds Flavors Play Important Role in Tobacco Harm Reduction

<https://www.heartland.org/publications-resources/publications/research--commentary-largest-vaping-survey-finds-flavors-play-important-role-in-tobacco-harm-reduction>

In this *Research & Commentary*, Heartland State Government Relations Manager Lindsey Stroud examines a survey of nearly 70,000 adult vapers in the United States. The survey was completed in response to the U.S. Food and Drug Administration's recent Advanced Notice of Proposed Rulemaking seeking comment on the role of flavors in tobacco products. The authors found nearly 95 percent of survey respondents were at one time smokers and the majority reported using flavors at the point of e-cigarette initiation. Stroud compares this to other surveys. She concludes, "eliminating flavors will force [vapers] to vape only tobacco-flavored e-cigarettes, which would likely cause them to return to combustible cigarettes." Stroud also found research has found e-cigarettes are a key tobacco harm reduction product and could help alleviate state budgets by mitigating health care costs.

Vaping, E-Cigarettes, and Public Policy Toward Alternatives to Smoking

<https://www.heartland.org/publications-resources/publications/vaping-e-cigarettes-and-public-policy-toward-alternatives-to-smoking>

For decades, lawmakers and regulators have used taxes, bans, and burdensome regulations as part of their attempt to reduce the negative health effects of smoking. Recently, some have sought to extend those policies to electronic cigarettes. This booklet from The Heartland Institute urges policymakers to re-think that tax-and-regulate strategy. Policymakers should be mindful of the extensive research that supports tobacco harm reduction and understand bans, excessive regulations, and high taxes on e-cigarettes often encourage smokers to continue using more-harmful traditional cigarette products.

Podcast Series: Voices of Vapers

<https://www.heartland.org/multimedia/podcasts?fromDate=&toDate=&q=voices+of+vapers>

In this weekly podcast series, State Government Relations Manager Lindsey Stroud talks with researchers, advocates, and policymakers about tobacco harm reduction and electronic cigarettes. The series provides important information about the thousands of entrepreneurs who have started small businesses thanks to THR and the millions of adults that have used electronic cigarettes and vaping devices to quit smoking tobacco cigarettes.

Policy Tip Sheet: Vaping Hospitalizations Likely Linked to Black Markets

<https://www.heartland.org/publications-resources/publications/policy-tip-sheet-vaping-hospitalizations-likely-linked-to-black-markets>

In this *Policy Tip Sheet*, State Government Relations Manager Lindsey Stroud examines recent headlines, finding vaping-related hospitalizations are likely linked to illegal black market vaping products. Stroud examines reports from January 2019 which found youth were being hospitalized due to marijuana vaping products. Further, in 2018, the U.S. Army warned of the dangers of vaping synthetic marijuana after more than 90 military personnel were hospitalized and two died after

vaping such devices. Further, none of the reports on the recent hospitalizations have been able to identify a single product that would have caused adverse health effects.

Popcorn Lung, Formaldehyde, and Now Seizures, Oh My!

<https://townhall.com/columnists/lindseystroud/2019/04/19/popcorn-lung-formaldehyde-and-now-seizures-oh-my-n2545054>

In this opinion piece in *Townhall*, Lindsey Stroud, state government relations manager at The Heartland Institute, responds to exaggerated and false claims of e-cigarettes. Despite fearmongering news stories, myths surrounding e-cigarettes containing formaldehyde and creating popcorn lung are unfounded, and the risk of seizures is minute. Stroud urges lawmakers to refrain from enacting egregious legislation in response to these claims.

[Budget & Tax News](#) website, [The Heartland Institute's website](#), our [Consumer Freedom Lounge](#), and [PolicyBot](#), Heartland's free online research database.

The Heartland Institute can send an expert to your state to testify or brief your caucus; host an event in your state; or send you further information on a topic. Please don't hesitate to contact us if we can be of assistance! If you have any questions or comments, contact Heartland's government relations department, at governmentrelations@heartland.org or 312/377-4000.

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