

# Tobacco and Vape Industry Opposition Messages

“Tobacco companies must be actively excluded from all policymaking because the goals of tobacco companies are diametrically opposed to those of public health. They seek to increase profits by addicting new customers. Public health seeks to end the tragic death and disease caused by the normal use of their products.” Action on Smoking and Health (ASH)

The following are messages used by the tobacco and vape industry to counter tobacco prevention policy. These messages are communicated through letters to local leaders, testimony at local council meetings, sound bites in the media and on social media.

## Who Are the Messengers?

- Rocky Mountain Smoke Free Alliance (RMSFA)
- Smoke-Free Alternatives Trade Association (SFATA)
- National Association of Tobacco Outlets (NATO)
- American Vaping Association
- Smoker-Friendly
- Consumer Advocates for Smoke Free Alternatives Association (CASAA)
- Vapor Technology Association
- Local Vape Shop Owners/Staff

## What Are the Messages?

<i>Vaping and Harm Reduction</i>	
<i>Opposition Message</i>	<i>The Facts</i>
The UK study – “The Royal College of Physicians in the United Kingdom concluded that vaping products are 95% safer than cigarettes.”	<ul style="list-style-type: none"><li>• This “study” was debunked years ago but is used by the vape industry over and over again.</li><li>• The 95% safer was not based off a comprehensive review of evidence but the summary of a meeting of twelve people - several of whom had taken money from e-cigarette or tobacco companies.</li></ul>

	<ul style="list-style-type: none"> <li>• “A systematic review which the report surprisingly fails to cite, came to a different conclusion. It found serious methodological problems in many of the 76 studies it reviewed, and one third of the studies (34%) were published by authors with conflicts of interest.”</li> <li>• Here are more quotes from the opinion piece in the British Medical Journal commenting on Public Health England: <a href="https://www.bmj.com/content/351/bmj.h4863.full?ijkey=JjRWRNooX0euEdK&amp;keytype=ref">https://www.bmj.com/content/351/bmj.h4863.full?ijkey=JjRWRNooX0euEdK&amp;keytype=ref</a></li> </ul>
<p>“The New England Journal of Medicine concluded vapor products to be twice as effective at helping smokers quit than traditional Nicotine Replacement Therapy Products.”</p>	<ul style="list-style-type: none"> <li>• 18% of people who’d been assigned e-cigarettes were non-smokers at 1 year but 80% of them were still using e-cigarettes.</li> <li>• 9.9% of people who’d been assigned NRT products were non-smokers at 1 year.</li> </ul>
<p>“The American Cancer Society and the CDC have both concluded that using vaping devices are less harmful than cigarettes.”</p>	<ul style="list-style-type: none"> <li>• Less harmful doesn’t mean harmless.</li> <li>• This statement is taken out of context. (While the ACS and CDC have both stated this, the message revolves around the adult use of switching from combustibles to vaporizers or dual use and were not in reference to youth use.)</li> </ul>
<p>Rocky Mountain Smoke Free Alliance (RMSFA) statement: “One cigarette contains approximately 7,000 chemicals, including tar and carbon monoxide, which have been proven to cause heart disease, lung cancer, and multiple forms of cancer.</p> <p>One vaping device has approximately 10 chemicals, including nicotine, but none of the most harmful chemicals, which cause the most common forms of cancer.”</p>	<ul style="list-style-type: none"> <li>• Less harmful does not mean harmless.</li> <li>• This statement is a way to avoid the discussion about the danger of vapes. It is a misdirection.</li> <li>• The current public health crisis of youth vaping in addition to injuries and deaths disproves the theory that e-cigarettes are harmless devices. These products are not regulated at this time therefore it is unknown what is actually in them. For example,</li> <li>• 99% of e-cigarettes sold in the US in outlets like convenience stores and supermarkets have been found to contain nicotine.</li> <li>• Cancer-causing chemicals and others are often found in vapes: <b>formaldehyde, toluene, acetaldehyde, and acrolein, heavy metals such as cadmium, lead and nickel, nitrosamines,</b> and tiny particles of matter that can lodge themselves in the deepest parts of the lungs.</li> <li>• Not harmless vapor, it’s an aerosol.</li> </ul>
<p>The members of the RMSFA sell low-dosage nicotine products with the most</p>	<ul style="list-style-type: none"> <li>• This is a comparison to JUUL that has (6) MG’s per vaping device. This messaging is usually a counter argument when health advocates discuss the high nicotine content of JUUL products.</li> </ul>

<p>common amount of three (3) MG's per vaping device.</p>	
<p>E -products are life-saving cessation devices. "We aren't JUUL"...trying to distance themselves from tobacco industry and JUUL. Claim they are "cessation counselors" and "helping people quit".</p>	<ul style="list-style-type: none"> <li>• E-cigarettes are not medical devices.</li> <li>• Vape shops are not pharmacies nor medical facilities.</li> <li>• Vape shop employees are not licensed cessation counselors.</li> <li>• Vape shop owners have a business interest in people continuing to use their products.</li> </ul>

<p><b><i>Tobacco Retail Licensing</i></b></p>	
<p><b><i>Opposition Message</i></b></p>	<p><b><i>The Facts</i></b></p>
<p>Cost of the license hurts the mom and pop shops.</p>	<ul style="list-style-type: none"> <li>• Colorado retailers report earning an average of \$18,000 per month from the sale of tobacco products. The nominal annual license fee effectively reduces youth use without harming local business.</li> <li>• The average tobacco retailer can attribute over 50% of their sales to tobacco products.</li> <li>• Law abiding retailers benefit when competing retailers no longer benefit from illegal tobacco product sales.</li> </ul>
<p>Youth get tobacco products from social sources such as older friends and family members. Tobacco retail restrictions only burden retailers but have little effect on curtailing youth tobacco product use.</p>	<ul style="list-style-type: none"> <li>• Although some youth obtain tobacco products from social sources a significant percent of youth purchase tobacco products directly from retailers.</li> <li>• The Colorado Department of Revenue (DOR) and the Federal Drug Administration (FDA) compliance checks demonstrate that retailers continue to sell tobacco products to youth.</li> <li>• Local communities can prevent youth access to tobacco products in retail environments by requiring retailers who sell tobacco products to obtain a license; a license that can be suspended or taken away if the retailer sells to underage customers.</li> <li>• Reducing youth access to tobacco should be a multi-pronged approach that includes retailer licensing, as well as elimination of social sources of tobacco and underage online sales of tobacco.</li> </ul>

<p>Businesses already pay for/have a license.</p>	<ul style="list-style-type: none"> <li>• A local sales tax license and/or a business and occupational tax license is different from a tobacco retail license.</li> <li>• Colorado will soon have a state law requiring tobacco retailers to obtain a license to sell tobacco. This does not negate the need for a local tobacco retail license as a local license allows a community to more closely monitor tobacco sales in their communities. For more information on this topic refer to the document titled "<a href="#">Why Local TRL Still Matters</a>".</li> </ul>
<p>Businesses do not get anything in return for paying for a license.</p>	<ul style="list-style-type: none"> <li>• Selling age-restricted products is a privilege and with this privilege comes responsibility.</li> <li>• Much like alcohol and marijuana retailers, tobacco retailers are required to demonstrate compliance with the law. Responsible business owners do not sell tobacco products to those who are underage. With frequent compliance checks, funded by nominal licensing fees, law abiding retailers benefit when their competitors no longer profit from illegal sales.</li> </ul>
<p>Requiring a clerk to be at least 18 years of age to sell tobacco is a burden.</p>	<ul style="list-style-type: none"> <li>• Clerks that are 18 years of age or older are less likely to sell tobacco to a minor.</li> <li>• Clerks are required to be at least 18 to sell alcohol. This should be no different for tobacco.</li> </ul>
<p>Requiring a clerk to be 21 to sell tobacco products is a burden.</p>	<ul style="list-style-type: none"> <li>• We recognize the burden this may place on a business, but if the goal is to decrease youth access to tobacco and youth use, the clerk age should match the minimum legal sales age.</li> </ul>
<p>Tobacco is already highly regulated in the retail setting. We are under State and Federal regulation and get inspected by the DOR and the FDA.</p>	<ul style="list-style-type: none"> <li>• State enforcement efforts are inconsistent, lack meaningful penalties and only check a small percentage of retailers at infrequent intervals (sometimes not even every year). A local licensing law supports consistent local enforcement of all retailers and is an effective strategy for reducing illegal tobacco product sales.</li> <li>• Local agencies that conduct compliance checks are more likely to work with the retailer to provide necessary training and materials to bring the business into compliance.</li> <li>• Federal and State programs are slow, bogged down by bureaucracy and generally lacking in surveillance.</li> </ul>
<p>This ordinance is unnecessary over-reach and is a way for the City to collect more money from small business owners to fill the City's coffers.</p>	<ul style="list-style-type: none"> <li>• In Colorado pursuant to the Taxpayers Bill of Rights (TABOR), fees can only be used to defray the direct and indirect costs of providing a service or regulating an activity. Fees, unlike a tax do not raise revenue for general expenses of the government. Tobacco retail licensing fees can only be used to support the tobacco retail licensing program (e.g. administration, implementation, enforcement and education).</li> <li>• The revenue from a local license and fees stay in the community for administration and enforcement and can and should be utilized for public health measures.</li> </ul>

<p>Retailers are not informed about upcoming hearings and are not invited to participate in the process of developing an ordinance.</p>	<ul style="list-style-type: none"> <li>• This is a standard tactic used by opponents to local tobacco control policies. Opponents claim that they have not been informed about meetings to attempt to delay hearings, weaken momentum to pass policies and to attempt to organize opposition.</li> <li>• City councils and boards of supervisors always provide public notice about upcoming meetings and retailers have the same access to this information as the public health community. In many cases, elected officials make a concerted effort to reach out to tobacco retailers when considering ordinances perceived to impact local business.</li> </ul>
<p>Local policies that prohibit self-service displays of tobacco products do not make sense for adult only shops. These “nanny state” policies inhibit the experience of premium cigar customers who prefer to personally select the product.</p>	<ul style="list-style-type: none"> <li>• Self-service displays are an easy way for youth to access tobacco products. Even though it is illegal for youth to be present in adult-only stores strict compliance protocols that restrict under-aged access are not ensured. It is critical that a responsible adult such as an off-duty law enforcement officer or other reliable adult prevent youth access to adult-only tobacco establishments. Furthermore, premium cigar customers will not miss out on the experience of holding and selecting the cigar of their choice, the only difference is that they do so with the assistance of a clerk.</li> </ul>
<p>Vape shops are small businesses and should be exempt because they’re “life-saving”</p>	<ul style="list-style-type: none"> <li>• E-cigarettes and vaping products are tobacco products and are not FDA approved smoking cessation devices. TRL will help to ensure that vape shop owners comply with the law.</li> </ul>
<p>“We don’t sell to kids”.</p>	<ul style="list-style-type: none"> <li>• Local and state enforcement efforts show otherwise – information can be provided as a follow up to the council/decisionmakers.</li> <li>• Write down opposition that’s saying this (Business/Corporation), check their Tobacco Retailer Access Colorado (<a href="#">TRAC</a>) data, and provide enforcement/violation data to decisionmakers if appropriate.</li> <li>• Re-state low frequency of checks (we don’t really know who is violating or not, when retailers are checked, here are the violation numbers)</li> <li>• Industry should not be allowed to regulate/monitor themselves.</li> </ul>

<i>Minimum Legal Sales Age (MLSA) to 21</i>	
<i>Opposition Message</i>	<i>The Facts</i>
This is addressed at the federal level. We don't need to do anything at the local level.	It is important to update local code to match federal law and state law to be consistent and clear. This should not dissuade communities from passing more progressive policies.
We support the legal sales age of 21.	We have years of evidence of heavy industry pushback – the tobacco/vape industry is “aligning” with 21 because they cannot push back against it anymore.
Clerks don't need to be 21 to sell tobacco products.	We recognize the burden this may place on a business, but if the goal is to decrease youth access to tobacco and youth use, therefore the clerk's age should match the minimum legal sales age.

<i>Possession, Use, Purchase (PUP)/ Minor in Possession (MIP)</i>	
<i>Opposition Message</i>	<i>The Facts</i>
We should hold underaged minors responsible for possessing, purchasing and using tobacco products.	<ul style="list-style-type: none"> <li>Some legislative bodies passed Possession, Use and Purchase (PUP) laws with the intention of reducing youth smoking by making kids more personally responsible for buying and using tobacco products. Penalizing children, however, <b>has not been proven to be an effective strategy for reducing youth smoking</b>; and some experts argue that PUP laws could actually detract from more effective enforcement measures and tobacco control efforts.</li> <li>PUP laws also unfairly punish and stigmatize children, many of whom became addicted at a young age as a result of the tobacco industry's aggressive marketing to kids (the industry spends \$9.5 billion a year in marketing and 96% of that is in the point of sale setting).<sup>1</sup> In this way, PUP laws shift the blame away from the industry's irresponsible marketing and retailers' irresponsible sales, to its victims.</li> <li>These policies have been found to disproportionately impact African American and Latino</li> </ul>

<sup>1</sup> ibid.

	<p>students.<sup>2</sup> We will not support policy that continues to marginalize communities.</p> <ul style="list-style-type: none"> <li>• Tobacco companies and their allies have a history of supporting PUP laws as alternatives to other laws that would produce greater declines in youth smoking.<sup>3</sup></li> </ul>
Our community isn't that diverse.	<ul style="list-style-type: none"> <li>• All communities have a role to play in addressing inequities locally and statewide.</li> <li>• Regardless, studies have shown that PUP/MIP laws are not effective in decreasing youth use of tobacco, therefore they should not be implemented as solutions.</li> </ul>

<b>Wait for State/Feds</b>	
<b>Opposition Message</b>	<b>The Facts</b>
Federal law already addresses flavor....	<ul style="list-style-type: none"> <li>• Local policies are stronger and more effective because they are usually better enforced with real, meaningful penalties for violation.</li> <li>• Federal Law: Companies that do not cease manufacture, distribution and sale of unauthorized flavored cartridge-based e-cigarettes (other than tobacco or menthol) risk FDA enforcement actions. The FDA intends to prioritize enforcement against these illegally marketed ENDS products by focusing on the following groups of products that do not have premarket authorization: <ul style="list-style-type: none"> <li>• Any flavored, cartridge-based ENDS product (other than a tobacco- or menthol-flavored ENDS product);</li> <li>• All other ENDS products for which the manufacturer has failed to take (or is failing to take) adequate measures to prevent minors' access; and</li> <li>• Any ENDS product that is targeted to minors or likely to promote use of ENDS by minors.</li> </ul> </li> </ul> <p><b>This guidance is not a comprehensive response to the epidemic of youth use of flavored tobacco products; it does not restrict all flavors, does not include all e-cigarettes, and does not apply to other tobacco products such as flavored cigars.</b></p>
State Law (HB20-1001)	<ul style="list-style-type: none"> <li>• Effective July 1, 2021, all retailers who sell cigarettes, tobacco products or nicotine</li> </ul>

<sup>2</sup> Gottlieb NH, Loukas A, Corrao M, et al. (2004). Minors' tobacco possession law violations and intentions to smoke: implications for tobacco control. *Tobacco Control*, 13:237-243.

<sup>3</sup> Campaign for Tobacco Free Kids. (2018). Youth purchase, use, or possession laws are not effective tobacco prevention. <https://www.tobaccofreekids.org/assets/factsheets/0074.pdf>

	<p>products are required to obtain a state license.</p> <ul style="list-style-type: none"><li>• The minimum age for the sale of these products has been increased from 18 to 21 years of age.</li><li>• Due to COVID-19 implementation of the licensing portion of the law is on hold. It is unknown when the law will actually require retailers to obtain a license nor when enforcement will begin.</li><li>• CSPH Technical Assistance Document – <a href="#">Overview of HB20-1001</a>.</li></ul>

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<b>Flavor Restrictions/Bans</b>	
<b>Opposition Message</b>	<b>The Facts</b>
Some tobacco products should be exempt.	<ul style="list-style-type: none"> <li>• Tobacco products from little cigars and chewing tobacco to cigarettes and e-juices come in hundreds of flavors that are attractive to youth. At least two-thirds of youth tobacco users report using tobacco products “because they come in flavors I like.”<sup>4</sup></li> <li>• Of teens and young adults who have ever used tobacco, 81% of teens and 86% of young adults reported that their first product was flavored.<sup>5</sup></li> <li>• Flavors, from menthol to mango, can mask the harsh taste of tobacco, making it easier to get hooked on nicotine.<sup>6</sup></li> <li>• Most youth use flavored e-cigarette products, including mint and menthol.<sup>7</sup></li> </ul>
Flavors are not just for kids; adults also like flavors in electronic cigarettes and it helps adults quit smoking cigarettes.	<ul style="list-style-type: none"> <li>• E-cigarettes are not FDA approved cessation devices.</li> <li>• Menthol cigarettes may actually be more difficult to quit than traditional, flavorless tobacco.<sup>8</sup></li> <li>• If e-cigarettes were truly only for cessation (and not just a replacement smoking device), it wouldn’t need to come in flavors that entice new smokers and young people.</li> <li>• Allowing harmful flavored tobacco products, which are proven to encourage initiation of youth tobacco use, to stay on the market in the hope that adults will use them to quit smoking cigarettes is not a defensible public health strategy.</li> </ul>
Mint and menthol e-cigarette flavors are favored by quitters.	<ul style="list-style-type: none"> <li>• These are also flavors favored by youth.</li> </ul>
Black/African American communities will be impacted by full flavor bans	<ul style="list-style-type: none"> <li>• African-American smokers predominantly use menthol cigarettes. Nearly 9 in 10 African-American smokers (88.5%) aged 12 and older use menthol cigarettes.<sup>9</sup> The tobacco industry</li> </ul>

<sup>4</sup> Ambrose, BK, et al. (2015). “Flavored Tobacco Product Use Among US Youth Aged 12 – 17 Years, 2013 – 2014,” *JAMA*, 314 (17):1871-1873.

<sup>5</sup> *ibid.*

<sup>6</sup> U.S. Food and Drug Administration. How Cigarettes are Made and How You Can Make a Plan to Quit. Retrieved from <https://www.fda.gov/tobacco-products/products-ingredients-components/how-cigarettes-are-made-and-how-you-can-make-plan-quit>

<sup>7</sup> National Youth Tobacco Survey. (2018). Youth and Tobacco Use Facts from CDC: [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/youth\\_data/tobacco\\_use/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm)

<sup>8</sup> U.S. Food and Drug Administration Tobacco Products Scientific Advisory Committee. (2011). Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations.

<https://wayback.archive-it.org/7993/20170405201731/https://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>; Villanti AC, Collins LK, Niaura RS, Gagosian SY, Abrams DB. (2017). Menthol cigarettes and the public health standard: a systematic review. *BMC Public Health*, 17:983. <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-017-4987-z>

<sup>9</sup> Giovino GA, Villanti AC, Mowery PD et al. (2013). Differential Trends in Cigarette Smoking in the USA: Is Menthol Slowing Progress? *Tobacco Control*, 24(1).

<https://tobaccocontrol.bmj.com/content/24/1/28>

<p>because of menthol cigarettes.</p>	<p>intentionally and successfully targeted Black communities with intensive menthol cigarette marketing in the latter half of the 20th century and lobbied for menthol to be excluded from the FDA’s cigarette flavor ban in 2009.</p> <ul style="list-style-type: none"> <li>• NAACP unanimous resolution supporting flavor bans on all tobacco products, including menthol cigarettes: <ul style="list-style-type: none"> <li>“The NAACP is pleased to hear of the Food and Drug Administration’s (FDA) plan to ban the sale of menthol cigarettes and restrict the sale of flavored e-cigarettes. For decades, data have shown that <b>the tobacco industry has successfully and intentionally marketed mentholated cigarettes to African Americans and particularly African American women as “replacement smokers;”</b> that <b>menthol smokers have a harder time quitting smoking;</b> and that tobacco use is a major contributor to heart disease, cancer, and stroke – three leading causes of death among African Americans. The recognition of this harsh reality led the NAACP to adopt a unanimous resolution at our 2016 National Convention supporting state and local policy efforts to restrict the sale of menthol cigarettes and other flavored tobacco products, as well as advocating for the FDA’s careful oversight and review of all tobacco products.</li> <li>“<b>The proposed measure by the FDA is long overdue to protect the health of African Americans and to reduce the deleterious impact of menthol smoking and tobacco use overall on America’s health,</b>” Marjorie Innocent, NAACP Senior Director of Health Programs.<sup>10</sup></li> </ul> </li> </ul>
<p>“Research shows that of the black adults who choose to smoke, nearly 80% prefer menthol cigarettes — this includes black smokers in Colorado. A ban on menthol cigarettes can put a selective target on black smokers and essentially add fuel to a police accountability fire that continues to burn on a daily basis.”</p>	<ul style="list-style-type: none"> <li>• Banning the sale of menthol flavored tobacco products DOES NOT criminalize the menthol smoker – it is only prohibiting the sale, not possession – and the tobacco industry knows that.</li> <li>• Let’s talk about ‘choice’... (tobacco industry targeting, media representation, marketing, peer pressure...once you try...it’s not a “choice” anymore – marketing and manipulation...)</li> </ul>
<p>Allow exemption for “adult-only” locations.</p>	<ul style="list-style-type: none"> <li>• “Adult-only” locations are allowed to use self-service displays for tobacco products and are responsible for barring minors from entering the store. This is like asking the fox to guard the hen house. Adult-only tobacco stores have been receiving FDA warning letters regarding a</li> </ul>

<sup>10</sup> NAACP 2016 resolutions, starting on p. 41: <http://www.naACP.org/wp-content/uploads/2016/03/Resolutions.2016.pdf>

	<p>failure to ensure that no minors enter the store, and for failure to have a staff member checking IDs at the door.</p> <p>Restricting product availability helps to de-normalize tobacco use, decreases exposure to tobacco industry point of sale marketing and increases the success of quit attempts.<sup>11</sup></p>
Alcohol is offered in flavors too. Should we just get rid of all flavored products? Where does it stop?	<ul style="list-style-type: none"> <li>• Alcohol is not the topic.</li> <li>• There is strong evidence to support that flavored tobacco is used to addict youth.</li> <li>• It would be great to regulate flavored alcohol too – this is also attractive to kids—but not under discussion today.</li> </ul>

### **Mental Illness and Nicotine Use**

<b>Opposition Message</b>	<b>The Facts</b>
Nicotine helps with my mental illness.	<ul style="list-style-type: none"> <li>• People with mental illness smoke at two to four times the rate of the general population.<sup>12</sup></li> <li>• Smoking is believed to be more prevalent among people with depression and schizophrenia because nicotine may temporarily lessen the symptoms of these illnesses, such as poor concentration, low mood, and stress.<sup>13,14,15</sup> But it is important to note that smoking cessation has been linked with improved mental health—including reduced depression, anxiety, and stress, and enhanced mood and quality of life.<sup>16</sup></li> </ul>

<sup>11</sup> Restricting Product Availability, Counter Tobacco <https://countertobacco.org/policy/restricting-product-availability/>

<sup>12</sup> Center for Behavioral Health Statistics and Quality. *Behavioral Health Trends in the United States: Results from the 2014 National Survey on Drug Use and Health*. Rockville (MD): SAMHSA; 2015. <https://www.samhsa.gov/data/sites/default/files/NSDUH-FRR1-2014/NSDUH-FRR1-2014.pdf>. Accessed September 14, 2017.

<sup>13</sup> Aubin H-J, Rollema H, Svensson TH, Winterer G. Smoking, quitting, and psychiatric disease: a review. *Neurosci Biobehav Rev*. 2012;36(1):271-284. doi:10.1016/j.neubiorev.2011.06.007.

<sup>14</sup> Minichino A, Bersani FS, Calò WK, et al. Smoking behaviour and mental health disorders—mutual influences and implications for therapy. *Int J Environ Res Public Health*. 2013;10(10):4790-4811. doi:10.3390/ijerph10104790.

<sup>15</sup> Wing VC, Wass CE, Soh DW, George TP. A review of neurobiological vulnerability factors and treatment implications for comorbid tobacco dependence in schizophrenia. *Ann N Y Acad Sci*. 2012;1248:89-106. doi:10.1111/j.1749-6632.2011.06261.x.

<sup>16</sup> Taylor G, McNeill A, Girling A, Farley A, Lindson-Hawley N, Aveyard P. Change in mental health after smoking cessation: systematic review and meta-analysis. *BMJ*. 2014;348:g1151.

<b><i>We Need to Do Education Instead</i></b>	
<b><i>Opposition Message</i></b>	<b><i>The Facts</i></b>
Parents need to do a better job/education is the answer.	<ul style="list-style-type: none"> <li>• We all have a role to play in this. Schools, parents, health departments, and public officials should use a comprehensive approach to protecting young people from the predatory practices of the tobacco industry. While education is key, public policy works; it is one of the most effective strategies to reducing rates of tobacco use among young people.</li> <li>• In 2016, the tobacco industry spent \$9.5 billion dollars marketing their products.<sup>17</sup> Parents are doing the best they can, but they cannot single handedly push back against a billion-dollar industry that seeks to hook their kids.</li> </ul>

<b><i>Online Sales</i></b>	
<b><i>Opposition Message</i></b>	<b><i>The Facts</i></b>
Flavored tobacco users will simply order products online.	<ul style="list-style-type: none"> <li>• Online sales are only a part of the issue, and we have to start by fixing these issues in our own backyard. There are entities exploring ways to combat online sales as well.</li> <li>• Although many users have the ability to purchase e-cigarettes online, the 2018 National Youth Tobacco Survey found that middle and high school e-cigarette users under 18 overwhelmingly obtain e-cigarettes from vape shops and gas stations or convenience stores.<sup>18</sup></li> </ul>
Kids are buying online/How will you regulate online sales?	Some communities have passed policies to restrict online sales but are having difficulty with enforcement. The existence of online sales does not negate the importance of policy to address local illegal sales.

<sup>17</sup> Federal Trade Commission. (2018). Federal Trade Commission Cigarette Report for 2016. Washington: Federal Trade Commission. [https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2016-federal-trade-commission-smokeless-tobacco-report/ftc\\_cigarette\\_report\\_for\\_2016\\_0.pdf](https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2016-federal-trade-commission-smokeless-tobacco-report/ftc_cigarette_report_for_2016_0.pdf)

<sup>18</sup> Food and Drug Administration. (2019). Modifications to Compliance Policy for Certain Deemed Tobacco Products. <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/modifications-compliance-policy-certain-deemed-tobacco-products>

<b><i>Black/Illicit Market</i></b>	
<b><i>Opposition Message</i></b>	<b><i>The Facts</i></b>
Policy initiatives from MLSA 21 to Flavor Bans will create a black market.	There are major problems with this industry-funded argument. When compared with independent sources, they consistently overestimate the scale of illicit tobacco. They also frequently fail to meet the quality and transparency standards of peer-reviewed research. This raises fresh questions about an industry that has a long history of using research and obfuscation to deceive policymakers and the public – not to mention an intimate involvement with the tobacco smuggling it now claims it helps to prevent.

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**Below is what RMSFA advocates for:**

- Annual license fees for vaping stores.
- **Smoke free zones that do not include vaping stores.**
- Preventing minors from entering the store.
- **Allowing vaping flavor products to be purchased by adults.**
- Mandated ID scanners to prevent minors from using fake ID's.
- **Limiting number of products sold per person to prevent and reduce minor vaping product distribution.**
- Excessive fines for any vaping store who sells vaping products to minors

**Excerpts of a Letter Sent to a Colorado Town from NATO:**

- Driving business to surrounding communities that do not have the same tobacco restrictions.
- Providing surrounding businesses an unfair competitive advantage by banning my business from selling the products adult consumers desire.
- Providing surrounding businesses an unfair competitive advantage by forcing us to sell our products at a higher price.
- Forcing police departments to regulate a new tobacco ordinance while issues with opioid abuse and homicide continue to plague the U.S.
- Opening up an opportunity for criminals to sell banned tobacco products illegally on the black market, which can result in an increase in crime, violence and youth access to tobacco products.
- These ordinances limit the freedoms and choices of legal adults who can get married, serve our country and vote for leaders, such as yourself.
- We do not sell tobacco to minors. In fact, our staff goes through extensive training to keep tobacco products away from underage individuals.
- We are doing our part to keep tobacco out of the hands of our community's youth by not selling to minors. I am in favor of any laws that will keep children from using tobacco, but I can't support an ordinance that doesn't support my livelihood.

## *Op-eds during Boulder Campaign*

Opinion: Art Way: Why the Boulder City Council should vote no on a menthol ban

By DAILY CAMERA GUEST OPINION | [openforum@dailycamera.com](mailto:openforum@dailycamera.com) | Boulder Daily Camera

August 27, 2019 at 4:58 pm

By Art Way

As a former police accountability advocate and drug policy reformer, immediate concerns come to mind when hearing Boulder City Council is considering a ban on flavored tobacco. I'll explain why that concern is amplified if menthol and menthol cigarettes are included within the ban. Regarding flavors within the vaping space that have found traction among young people, the idea is far less problematic.

Vaping is a fairly novel public health concern, where early intervention against potentially targeting youth via certain flavors is warranted. Moreover, data shows vaping can have the potential to cause actual smoking in young adults, whereas data as to adults generally reveal vaping as a promising cessation tool. That said, the argument aimed at eliminating flavors such as bubble gum on behalf of youth holds less weight in theory and in practice if menthol is included as a banned flavor. This is because menthol is a well-established and popular adult-use flavor.

As a state known for its independent political streak, we know that simply prohibiting adults from popular substances or activities runs the risk of inherent unintended consequences. Such efforts have the ability to become shallow and superfluous in regards to their original intent. An immediate illicit market of some kind will result, opening the door for a whole new set of problems that police would inevitably have to address. We've seen how the prohibition of marijuana possession and use among adults essentially became a joke that even many police grew weary of enforcing.

Moreover, we simply don't need another reason for police/civilian interactions that can have life-threatening or life-altering results. This is especially so for black and brown communities, as the tragic murder of Eric Garner has proven. Research shows that of the black adults who choose to smoke, nearly 80% prefer menthol cigarettes — this includes black smokers in Colorado. A ban on menthol cigarettes can put a selective target on black smokers and essentially add fuel to a police accountability fire that continues to burn on a daily basis. The Boulder Police Department have just recently proven they aren't immune to this problem.

Colorado is showing an ability and willingness to address potential public health concerns via aggressive public health efforts as opposed to an overreliance on law enforcement. We should consider leaving knee-jerk policies aimed to provide political wins, despite the societal

consequences, to elected officials elsewhere. Although flavor bans as a whole are questionable, to include menthol and especially menthol cigarettes is a problem just waiting to happen.

I urge members of the Boulder City Council to thoughtfully consider those Boulderites who are going to be most affected by a menthol cigarette ban and who have always borne the brunt of inequity.

Art Way is former Colorado state director for Drug Policy Alliance and founder of Equitable Consulting.

### Opinion: Terri Richardson: The truth about why a menthol ban is critical

By DAILY CAMERA GUEST OPINION | [openforum@dailycamera.com](mailto:openforum@dailycamera.com) | Boulder Daily Camera

September 5, 2019 at 3:40 pm

By Terri Richardson

As a physician who sees the ravages of tobacco use, I read with interest Art Way's recent op-ed in the Camera, "Why the Boulder City Council should vote no on a menthol ban."

Way's opinion piece attempted to convince readers that banning the sale of menthol tobacco products would harm black adults and could even lead to law enforcement targeting black adults, since more than 80% of black adult smokers choose menthol cigarettes. His opinion piece ignores the tobacco companies' own secret documents, the science on menthol and its impact on use, as well as past and present data on menthol use.

Menthol is harming our kids and communities — and the black community is being harmed the most.

Menthol has been a key flavor in addicting children, particularly black youth and adults. Menthol makes it more difficult to quit. So, smokers continue to smoke these cancer sticks despite knowing the harm, and the tobacco companies keep going to the bank.

One secret tobacco industry document in reference to Newport cigarettes (a leading menthol brand) said, "Our profile taken locally shows this brand being purchased by black people (all ages), young adults (usually college age), but the base of our business is the high school student." Is that the legacy we want to leave this generation?

Two comprehensive scientific reports from the U.S. Food and Drug Administration and a scientific advisory committee were clear — menthol helps to addict youth, makes it harder to quit, and poses a risk above that of non-menthol cigarettes. And tobacco companies know that banning



the sale of flavored tobacco products does not penalize an adult for possessing a flavored product (they will not be fined, arrested, or go to jail) — stores just cannot sell them.

More than 80% of black youth smokers are using a menthol cigarette. And the newest data on e-cigarettes (vaping) shows almost 70% of high school e-cigarette users are using a flavored e-cigarette, with half of those choosing to use a menthol or mint flavored e-cigarette — accident? Of course not.

Don't believe the tobacco industry smokescreen. The truth is that banning the sale of all flavored tobacco products, including menthol, will save lives. We are about preserving health and saving lives.

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