

MEDICAL SOCIETY
of the
STATE OF NEW YORK

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MEMORANDUM IN SUPPORT

In Senate Health Committee

S. 8531 (HOYLMAN-SIGAL)

In Assembly Health Committee

A. 9110 (ROSENTHAL)

AN ACT to amend the public health law and the tax law, in relation to prohibiting the storage of flavored vapor products near where vapor or tobacco products are sold at retail or wholesale

This measure would allow local health departments to enforce the state prohibition on the sale of flavored vapor products. The Medical Society of the State of New York strongly supports this measure.

In 2020, New York enacted landmark legislation to end the sale of flavored e-cigarette products. However, there was language that was included to exempt any product that receives a "Pre-Market Tobacco Product Authorization" from the FDA to be sold in NY. While none have been approved, this has led to confusion regarding products which may be sold in New York. In fact, out of the six states that have comprehensive flavored e-cigarette policies, New York is the only one with this exemption and has the highest continued retail availability of prohibited products.

Further, several other loopholes and vague language in the existing law have made it possible for retailers to deny retail inspections of their premises, keep flavored e-cigarettes in stock in their retail establishments, and for distributors to sell and ship these products to stores within the State. The tobacco industry has also worked around the law by developing new products that contain additional additives which produce a flavor that does not taste like tobacco and creates a cooling sensation for the user. This measure would close these loopholes and provide local health departments with more enforcement abilities against unauthorized sales.

Nearly a fourth of high schoolers in New York use electronic cigarettes containing highly addictive nicotine and almost all kids who use tobacco products today are using flavored products. It is time to effectively enforce the flavored e-cigarette ban and put an end to the continued availability and promotion of these products in New York. The [National Youth Tobacco Survey](#) shared findings recently that about half of students who ever tried e-cigarettes report currently using them still. Effective enforcement of New York's law is critical to end the tobacco and vape industries exploitation of our youth with these highly addictive products. Closing loopholes in the existing law will also provide local public health officials and staff, schools, parents, and many others in New York communities with support urgently needed for responding to the e-cigarette epidemic and the challenges that these products create.

This legislation is essential to reduce youth e-cigarette use and prevent youth initiation of tobacco products in the first place, saving lives across New York for generations to come. **The Medical Society of the State of New York strongly supports this measure and urges that it be included in the New York State budget.**

PFC/support
3/13/24