



## MEMORANDUM IN SUPPORT

### **Closing Enforcement Loopholes to End the Youth E-cigarettes Epidemic in New York**

The New School-Based Health Alliance (NYSBHA) strongly supports S.8531, Hoylman-Sigal/A.9110, Rosenthal that would eliminate loopholes in New York State's flavored e-cigarette law. NYSBHA represents 250 school-based health clinics which provide critical medical, mental and oral health care to more than 200,000 school-age children statewide.

Nearly a fourth of high schoolers in New York use electronic cigarettes containing highly addictive nicotine and almost all kids who use a tobacco product 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.

In 2020, New York enacted landmark legislation to end the sale of flavored e-cigarette products. However, language 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 on 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 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. S.8531/A.9110 would close these loopholes and provide local health departments with more enforcement abilities against unauthorized sales.

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. NYSBHA strongly supports S.8531, Hoylman-Sigal/ A.9110, Rosenthal and urges its urgent passage and inclusion in one-house budget bills.**