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FOR IMMEDIATE RELEASE

March 26, 2024

**'LOOPHOLES ARE HARMING OUR KIDS'
LAWMAKERS URGED TO QUICKLY PASS LEGISLATION TO IMPROVE
ENFORCEMENT OF BAN ON FLAVORED E-CIGS**

(S08531/A9110) Hoylman-Sigal/Rosenthal will close enforcement loopholes that tobacco industry has exploited to keep illegal flavored vapes on shelves

(Albany, N.Y.) Today, organizations representing parents, teachers, schools, physicians, health officials, social justice groups, and public health advocates from across New York State came to the capitol to urge lawmakers to quickly take action on legislation filed in the Senate by Senator Brad Hoylman-Sigal and in the Assembly by Assemblymember Linda Rosenthal ([S08531/A9110](#)) that addresses loopholes in existing law that the tobacco industry is exploiting to continue to sell flavored e-cigarettes in the state.

Despite adoption of a complete ban of flavored e-cigarettes in New York in 2020, retailers and manufacturers are undermining the ban to keep these illegal products on store shelves across the state.

Senator Brad Hoylman-Sigal said: “We worked hard in 2020 to ban the sale of flavored e-cigarettes and vaping products, which are used to get young people addicted to tobacco products at a young age. Unfortunately, but unsurprisingly, the tobacco industry and local smoke shops have found ways to exploit our laws to continue to sell flavored tobacco products that are targeted towards children. My bill with Assembly Member Rosenthal ([S.8531](#)) would close the loopholes in our existing laws by prohibiting tobacco sellers from distributing flavored products and from keeping these products in their inventory. The bill will also empower local health departments to better enforce our laws. We must stay vigilant in the fight against big tobacco because the industry will stop at nothing to get our kids hooked on their products.”

“When we passed my legislation in 2020 to ban the sale of flavored e-cigarettes, we did so to protect the next generation of young people from being preyed upon and tricked by Big Tobacco into developing a lifelong addiction to nicotine,” said **Assemblymember Linda B. Rosenthal (D/WF - Manhattan)**. “Now, we must pass my new bill to empower local health departments to enforce the ban by allowing inspectors access to all store areas, ensuring illegal flavored products can no longer be hidden away in a back room and prohibiting the storage of illegal flavored products on-site. In addition, the bill closes a loophole that has allowed tobacco companies to skirt flavor bans by selling products that provide a cooling sensation designed to mimic menthol. Enticing flavors and trendy marketing have already hooked far too many teens, causing unnecessary damage to their health. New York State's ban on flavored e-cigarettes remains the best way to protect public health, but it cannot do so without proper enforcement.”

Legislation to eliminate the sale of flavored e-cigarettes in New York was passed and signed into law through the SFY 2020-21 budget. Retailers routinely stock prohibited products on shelves that they falsely claim are not being sold to customers, refuse access to inspectors without penalty, and even

threaten health inspectors who are just doing their jobs. Additionally, the final law includes language that would exempt products that have received a “Pre-Market Tobacco Product Authorization (PMTA)-from the Food and Drug Administration (FDA). This creates confusion among retailers, health inspectors and consumers. Despite six other states having passed and implemented laws prohibiting the sale of flavored e-cigarettes, New York is the only one to have this exemption. According to the CDC Foundation, New York has the highest continued availability of these products in retail settings.

“It never fails, just when we think we’ve protected kids by eliminating a highly addictive, harmful product from the market, the tobacco industry finds a workaround,” said **Kevin O’Flaherty, Director of Advocacy, Northeast Region, Campaign for Tobacco Free Kids**. “New York has been a leader in regulating products that are targeted at kids with fun flavors and deceptive marketing and we’re grateful that Senator Hoylman-Sigal and Assemblymember Rosenthal are working to ensure that the laws on the books are enforced to keep these products off New York shelves.”

Lawmakers heard first-hand about the availability of these products and the prevalence of their use from **Syosset high school student and PAVE (Parents Against Vaping E-cigarettes) volunteer, Sajan Shah**:

“Kids know they can easily get their hands on these products, and for many they’re not even aware they are illegal. So many kids my age and much younger are not only using flavored vapes, but they’re totally addicted.”

Combatting kids vaping addictions is a major challenge for school districts across the state, causing schools to take extreme measures to ensure vaping isn’t happening on school grounds or in the classroom. It is not uncommon for schools to be forced to lock bathrooms and other unattended rooms and eliminate or curtail the use of backpacks, which impacts all students.

“Vaping continues to be a threat to our children’s health. NYSSBA supports efforts to ensure that legal loopholes in the current law are closed. In addition,

we believe that language prohibiting the distribution and advertising of vapor and tobacco products to our youth should be clear and effective. These addictive products should not be on the market. Closing legal loopholes will, in effect, greatly reduce youth flavored e-cigarette consumption,” said **Robert Schneider, Executive Director, New York State School Boards Association.**

“Many times, students do not understand that these products are illegal for teens to possess and utilize. Schools have to face students utilizing these types of devices within classrooms and bathrooms, because they have a physical addiction to the nicotine that is within these vaping devices. A majority of a high school's disciplinary actions are now focused around students usage of vaping devices and their possession of these substances,” said **Sidney Joyner, parent and Board Member, South Huntington Union Free School District.**

Data shows that 1 in 5 high schoolers in New York use electronic cigarettes and 90 percent of those using vapes are using flavored products.

“Parents and educators are keenly aware of the tactics employed by the tobacco industry to get the next generation addicted to their products, using fun flavors as a gateway, said **Kyle Belokopitsky, Executive Director of NYS PTA.** “Let’s be clear—youth vaping is not our children’s fault—they are simply the victims of deceptive marketing. Thank you to Senator Hoylman-Sigal and Assemblymember Rosenthal for recognizing this issue and for going back to their colleagues to make this law work as intended. We can’t allow the sale of these products to continue—these loopholes are harming our kids.”

Tobacco manufacturers have also developed new technologies that were not directly addressed in the existing flavors ban, which use additives to provide a cooling taste for the user. This loophole would be addressed in the legislation.

“Closing these loopholes will be a critically important step in better protecting our young people but also allowing our county health officials to have the ability to enforce the law,” said **Maxwell Ferris, P.E., County Health Official, Director, Division of Environmental Health, Albany County Department of**

Health. “As the law stands now, retailers can refuse inspectors entry to their stores and often falsely claim that products they have in stock are for sale to other states. Our staff has little they can do to push back and when they have, they’ve often been threatened and, in some cases, assaulted.”

“Closing the loopholes protects our children and public health by enforcing laws in place to prevent addiction, lung disease, and other chronic health problems” said **Jeanine Santelli, PhD, RN, AGPCNP-BC, FAAN, Executive Director of the American Nurses Association – New York (ANA-NY).**

“New York’s family physicians see the harmful effects of rampant tobacco industry circumvention of prohibitions on the sale of tobacco products to children, every day. Addiction, respiratory disease, anxiety and other symptoms of illness and injury associated with tobacco use are an unfortunate but common occurrence among children. The New York State Academy of Family Physicians supports S8531/A9110 because it would update New York law and close several serious loopholes which the tobacco industry has exploited to entice children into using harmful products” said **Vito Grasso, Executive Vice President, New York State Academy of Family Physicians.**

Similar proposals were included in the SFY 2023-24 Executive Budget and Senate one-house budget bill but were not enacted in the final budget last year.

Both bills (S08531/A9110) have been referred to health committees in their respective chambers and require urgent advancement this session.

The following organizations support the Flavors Hook Kids NY campaign:

Action on Smoking & Health
African American Tobacco Control Leadership Council
Albany College of Pharmacy and Health Sciences
American Cancer Society Cancer Action Network

American Heart Association
American Lung Association
American Nurses Association – New York (ANA-NY)
Boys & Girls Clubs of the Capital Area
Campaign for Tobacco-Free Kids
Community Health Care Association of New York State
Healthcare Association of New York State
Healthy Capital District
Korean Community Services of Metropolitan New York, Inc.
March of Dimes
Medical Society of the State of New York
NAACP New York State Conference
New York Chapter American College of Physicians Services, Inc.
New York Public Interest Research Group
New York School-Based Health Alliance
New York State Council of School Superintendents
New York State Radiological Society
New York State Academy of Family Physicians
New York State American Academy of Pediatrics, Chapters 1, 2 & 3
New York State Association for Rural Health
New York State Association of School Nurses
New York State Council of Health-system Pharmacists
New York State County Health Officials of New York
New York State Parent Teacher Association
New York State Public Health Association
New York State School Boards Association
New York State Society of Anesthesiologists
New York State United Teachers
Parents Against Vaping (PAVe)
Pharmacists Society of the State of New York
St. Peter's Health Partners
Stan Martin Consulting

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