

Heated Tobacco Products Need to Be Included in Tobacco Control Laws

All tobaccoⁱ products, including heated tobacco products, are unsafe. Heated tobacco products involve heating rather than burning the tobacco leaf, which is why the tobacco industry refers to them as “heat-not-burn” or non-combustible cigarettes. These products differ from e-cigarettes which heat a liquid. Heated tobacco products come in different shapes and sizes and may resemble cigarettes. Federally, heated tobacco products meet the definition of a cigarette and as a result are required to be taxed as cigarettes, display cigarette specific warning statements, and can only be sold in menthol or tobacco flavors.

Current Use

In 2023, 230,000 high school students and 130,000 middle school students reported ever having used heated tobacco products.ⁱⁱ Additionally, 260,000 reported current use of heated tobacco products.ⁱⁱⁱ Any tobacco use by youth is a problem.

Health Effects

Heated tobacco products contain more than 20 toxic chemicals, including nicotine.^{iv} Studies have found heated tobacco products emit aldehydes, including acetaldehyde, acetone, formaldehyde – all of which have been shown to be toxic.^v In addition, the smoke released from heated tobacco products has been shown to contain toxic compounds of nicotine, tar, carbon monoxide, and tobacco-specific nitrosamines, all of which have been shown to cause harm.^{vi}

The long-term health effects from heated tobacco use are still unknown. However, studies have found short term health risks associated with the use of heated tobacco products, including increased heart rate, increased blood pressure, arterial stiffness, cardiovascular stress, and lung inflammation.^{viii}

False and Unsubstantiated Product Claims

No manufacturer of a heated tobacco product can advertise their product for cessation. While there is a regulatory pathway for a manufacturer to have its product approved by the Food and Drug Administration (FDA) as a safe and effective cessation product, no heated tobacco product has received such approval. Therefore, it is illegal to make cessation claims.

Further, all tobacco products are unsafe, including heated tobacco products the FDA has issued a premarket tobacco product marketing granted order or a modified risk marketing order. In fact, the FDA has rejected the manufacturer’s requests to claim these products are less harmful or reduces the risk of



tobacco-related disease, noting there is not sufficient evidence to support such a claim.^{ix} ACS CAN has opposed modified risk marketing orders for heated tobacco products based on the applications being insufficient in proving the claims.

ACS CAN's Position

ACS CAN advocates for evidence-based tobacco control policies that are comprehensive and include all tobacco products, including heated tobacco products, to reduce tobacco use and exposure to secondhand smoke. The exemptions for specific products in tobacco control laws in a locality or state can contribute to disparities in tobacco use. State and local governments should not exempt tobacco products, including heated tobacco products, that the FDA has granted a premarket tobacco product marketing order or modified risk order. Any tobacco products on the market without a premarket tobacco product marketing order issued by the FDA is illegally on the market.

Heated tobacco products should be defined as tobacco products and regulated as such as part of a comprehensive approach to reducing tobacco use and exposure to secondhand smoke in the United States. This includes:

- ❖ **Taxing heated tobacco products at the same rate as cigarettes:** Under federal law, heated tobacco products meet the definition of cigarettes and therefore are subject to the same federal cigarette taxation requirements. To reduce the deadly and costly burden of tobacco use, all heated tobacco products must be taxed at rates equivalent to cigarettes.
- ❖ **Prohibiting heated tobacco product use where smoking and tobacco use is prohibited:** Secondhand smoke and emissions from heated tobacco products poses significant health risks to people who use them and those around them and should be included as part of any smoke-free or tobacco-free law. This includes prohibiting heated tobacco product use in tobacco retailers, restaurants, bars, gaming facilities and wherever else smoking or tobacco use is prohibited.
- ❖ **Prohibiting flavored heated tobacco products:** Under federal law, heated tobacco products meet the definition of cigarettes and therefore can only be sold in menthol or tobacco flavors. The FDA has proposed a rule to prohibit menthol as a characterizing flavor in cigarettes which would include menthol flavored heated tobacco products that meet the federal definition of a cigarette. The sale of all flavored tobacco products should be prohibited.

ⁱ ACS CAN recognizes the important role of ceremonial tobacco for many indigenous communities. This term is intended to address commercial tobacco, not the provision, possession, or use of tobacco products as part of an indigenous practice or other recognized religious or spiritual ceremony or practice. All references to tobacco and tobacco products in this fact sheet refer to commercial tobacco.

ⁱⁱ Birdsey J, Cornelius M, Jamal A, et al. Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023. *MMWR Morb Mortal Wkly Rep* 2023;72:1173–1182. DOI: <http://dx.doi.org/10.15585/mmwr.mm7244a1>.

ⁱⁱⁱ Ibid.

^{iv} E-cigarettes, heat-not-burn and smokeless tobacco products. *Breathe (Sheff)*. 2020 Mar;16(1):161ELF. doi: 10.1183/20734735.ELF161. PMID: 32494306; PMCID: PMC7249783.

- ^v Yu SJ, Kwon MK, Choi W, Son YS. Preliminary study on the effect of using heat-not-burn tobacco products on indoor air quality. *Environ Res.* 2022 Sep;212(Pt A):113217. doi: 10.1016/j.envres.2022.113217. Epub 2022 Apr 4. PMID: 35381261.
- ^{vi} Bekki, Kanae, et al. Comparison of Chemicals in Mainstream Smoke in Heat-Not-Burn Tobacco and Combustion Cigarettes. *Journal of UOEH.* 2017, Vol. 39, 3, pp. 201-207.
- ^{vii} Collins L, Glasser AM, Abudayyeh H, Pearson JL, Villanti AC. E-Cigarette Marketing and Communication: How E-Cigarette Companies Market E-Cigarettes and the Public Engages with E-cigarette Information. *Nicotine Tob Res.* 2019 Jan 1;21(1):14-24. doi: 10.1093/ntr/ntx284. PMID: 29315420; PMCID: PMC6610165.
- ^{xii} *Sottera, Inc. v. Food Drug Admin.*, 627 F.3d 891 (D.C. Cir. 2010).
- ^{xiii} Office of the Surgeon General. E-cigarette Use among Youth and Young Adults: A Report of the Surgeon General. Washington, DC: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention; 2016. Retrieved from https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf.
- ^{xiv} Office of the Surgeon General, "Surgeon General's Advisory on E-Cigarette Use Among Youth," December 18, 2018. <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf> Statement from FDA
- ^{xv} CBS News, CBS MORNINGS, How companies like Puff Bar have avoided FDA regulation: "The industry can innovate around it." December 15, 2021, retrieved from <https://www.cbsnews.com/news/puff-bar-fda-regulation-loopholes/>.
- ^{xvi} Filter Magazine, Denied FDA Authorization, Vaping Companies Start to Explore Loopholes, August 30, 2021, retrieved from <https://filtermag.org/fda-vaping-marketing-synthetic-nicotine/>.
- ^{viii} Fried, N, Gardner J. Heat-not-burn tobacco products: an emerging threat to cardiovascular health. *American Journal of Physiology-Heart and Circulatory Physiology* 2020 319:6, H1234-H1239. <https://doi.org/10.1152/ajpheart.00708.2020>.
- ^{ix} U.S. Food and Drug Administration, News Release: FDA Authorizes Marketing of IQOS Tobacco Heating System with 'Reduced Exposure' Information, July 7, 2020, available at <https://www.fda.gov/news-events/press-announcements/fda-authorizes-marketing-iqos-tobacco-heating-system-reduced-exposure-information>.