



Episode Details:

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Title: Episode 21: On Your Radar – September Spotlight on Flavor Bans

Description: 'On Your Radar' is a new episode format designed to put the most relevant and recent news stories and research on countering tobacco product sales, promotions, and marketing in the retail environment *on your radar*. This episode spotlights flavor bans. From the West Coast (California) to the Midwest (Edina and Fridley, MN & Chicago, IL), we've got you covered on the most recent news surrounding restrictions on the sale of flavored tobacco products.

Transcription:

I'm Allie Rothschild and you're listening to the Counter Tobacco Podcast.

Welcome to 'On Your Radar' - a format that puts *on your radar* this month's most recent and relevant news stories and research on countering tobacco product sales, promotions, and marketing in the retail environment. September's spotlight will be entirely on flavor bans. So, let's dive right in.

I'm going to first start off by telling you about some new findings from the [2020 National Youth Tobacco Survey](#), which is a nationally representative, school-based survey. The data, which was released by the FDA and CDC this month, was collected between January and March of 2020. While the report provides prevalence of youth e-cigarette use (which, by the way, totals more than 3.6 million youth in grades 6 through 12) and unveils a major transition to disposable e-cigarette use, for the purpose of this episode, I want to focus on the findings related to flavor. So, in 2020, more than 80% of youth reported using flavored varieties of e-cigarettes, with the most commonly used flavors being fruit, mint, candy, and menthol. In past years, due to the way questions were worded, we weren't able to capture and analyze menthol as its own variable, but this year 'menthol' was assessed independently. And, what we're seeing from the data is that nearly half of youth and young adults who use e-cigarettes have used a menthol flavored pod or cartridge, and one quarter have used a menthol flavored disposable vaping product. I'd also be remiss to not briefly mention that from 2019 to 2020 rates of current e-cigarette use dropped from 27.5% to 19.6% in high school students and 10.5% to 4.7% in middle school students. It's no coincidence that this year's data was collected right after the FDA prohibited the sale of most flavored pods and cartridges, which had been incredibly popular among this age group.

This most up-to-date data highlights two very important points – (1) youth are overwhelmingly turning to flavored e-cigarettes and (2) menthol flavoring, which as a reminder is the only flavor available in cigarettes, is now showing to be a very popular e-cigarette flavor among youth. Now beyond the National Youth Tobacco Survey, there are just a few facts I want to mention about flavored tobacco products that will help support the case for the flavor bans I'll be talking about. With young-looking models in advertisements, stealth vaping devices, packages that look like kids toys, and aromas and tastes of your favorite cereal and candy, flavors, especially for e-cigarettes, are certainly targeted to youth. It's no surprise, then, that most youth initiate tobacco use with a flavored product, and youth and young adults who do so are more likely to use tobacco products long term. Menthol is linked to higher rates of tobacco initiation. The flavoring also allows users to inhale more deeply and greater quantities – make it easier to become nicotine dependent and harder to quit use. Also,



menthol was and is still strongly targeted to Black and African American individuals and communities at the point of sale through targeted ads, price promotions, and other industry tactics. As a result, 85% of Black and African American individuals who smoke use menthol cigarettes, and over half of youth and young adults who smoke also use menthol cigarettes.

A promising means of reducing the availability and accessibility of these flavored products, and achieving some degree of equitable tobacco control, is to restrict or prohibit the sale of all flavored tobacco products, including menthol cigarettes. A few places have done that this month, so let's shift our focus to the news.

In California, Governor Newsom officially signed into law [Senate Bill 793](#), which prohibits the sale of most tobacco products with 'characterizing flavor', meaning the presence of a distinguishable taste or aroma other than tobacco. This includes flavored e-cigarettes, little cigars and cigarillos, and smokeless tobacco in all flavors, as well as menthol cigarettes, but exempts flavored hookah tobacco, 'premium' cigars, and loose leaf "pipe" tobacco. The bill's passing was a major legislative and public health victory for the state of California; however, the industry is still putting up a [fight](#). Individuals with industry ties submitted a proposal to the California Attorney General to send the law to a voter referendum. The referendum will need to get a certain number of signatures, but if it does and qualifies for this ballot, the bill will be suspended until the next applicable general election, which will be November of 2022. At that point, California voters would take to the ballot box to decide the fate of the bill. While the referendum certainly represents an attack against the bill, it most definitely does not signify a certain end to the flavor ban; a similar process occurred in San Francisco after the city passed a comprehensive ban on the sale of flavored tobacco products, and ultimately, voters in the city upheld the bill.

Now, moving over to Minnesota - one city upheld a flavor ban and one passed a flavor restriction. In [Edina](#), a federal judge ruled that the city's comprehensive ban on the sale of all flavored tobacco products was constitutionally legal and not preempted by federal law, which the industry plaintiffs had tried to claim. As a result of the ruling, Edina's [flavor ban](#), which was enacted in June of this year, was allowed to go into effect as planned on the 1st of September. This ruling sets an important precedent for other local jurisdictions hoping to pass flavored tobacco policies. In the city of [Fridley](#), the City Council voted to restrict the sale of all flavored tobacco products, including mentholated ones, to adult-only tobacco retailers. Fridley now joins a growing list of cities in Minnesota cities restricting the sale of flavored tobacco products and the sale of menthol tobacco products in particular.

The final flavor-related policy we're going to be talking about comes out of [Chicago, Illinois](#). This month, the City Council passed an ordinance banning the sale of flavored e-cigarettes within city limits. The legislation particularly targets all flavored e-liquids. The Mayor of Chicago, Lori Lightfoot, has recognized that this bill is not as comprehensive as it could be, stating "The ordinance is an important step, but more must be done to protect our young people's health from vaping and the tobacco industry's efforts to have them to develop life-threatening habits." To this end, the Mayor and City Council also introduced a resolution committing themselves to work towards a comprehensive policy that bans the sale of all flavored tobacco products, including menthol cigarettes.

Lastly, in flavor-related news, the [American Medical Association](#) (or AMA) has joined as a co-plaintiff in the lawsuit against the FDA brought by the African American Tobacco Control Leadership Council and Action on Smoking and Health. The lawsuit, which was initially filed in June, compels the FDA to fulfill its duty and follow through on their own findings and add menthol to the list of characterizing flavors banned in cigarettes. The addition of the AMA to the list of plaintiffs is an important show of solidarity from the medical field and certainly adds force to the lawsuit. We hope that it can further pressure the FDA to take action. While this lawsuit will hopefully result in more expedient federal action, tobacco control advocates and lawmakers at the state and local don't have to wait and can take independent action to protect their



communities' health by enacting their own bans on all flavored tobacco products, including menthol, as showcased by the jurisdictions we highlighted in our show today.

That wraps up this month's On Your Radar episode. Any feedback on this format or our podcast in general is highly welcomed. You can email us at info@countertobacco.org or reach out to us on our social media channels - @CounterTobacco on both Facebook and Twitter. As usual, all sources, and some great additional resources, will be linked in the show notes that you can find on the CounterTobacco.org website. I appreciate you listening to the Counter Tobacco Podcast and I look forward to you joining me again next time!