

FDA MUST FINISH THE JOB: GET ILLEGAL, DISPOSABLE, FOREIGN-MADE VAPES IN KID-FRIENDLY FLAVORS OFF THE SHELVES

Add Your Voice to the Broad, Bipartisan Campaign Demanding FDA Enforcement

FDA Admits Illegal, Disposable, Flavored Products Are Driving Youth Vaping Epidemic

Over the past three years, a loophole in federal policy has allowed millions of illegal, disposable e-cigarettes in youth-enticing flavors, which are predominantly manufactured in China and often marketed to minors in the United States, to flood the U.S. market. The FDA is finally waking up to the threat and taking action. In announcing that illegal, flavored, disposable e-cigarettes will be a compliance and enforcement priority, Brian King, Director of the FDA’s Center for Tobacco Products, finally acknowledged that these are the products fueling the youth vaping epidemic. He said, “The science clearly shows that a majority of youth who use e-cigarettes report that the products they are using are disposable and flavored.” The FDA’s own data bears that out.

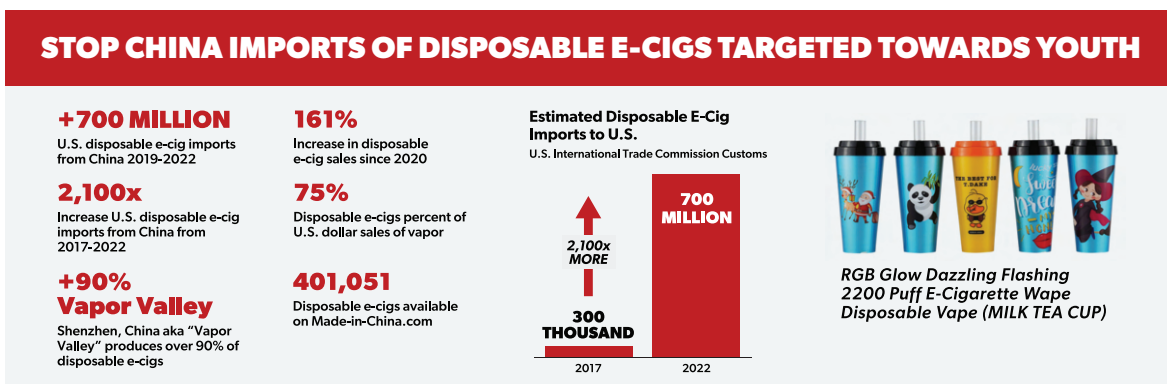
According to the Annual National Youth Tobacco Survey released by the Centers for Disease Control and Prevention (CDC) and the FDA in October 2022, more than 2.5 million middle and high school students nationwide reported using an e-cigarette in the past thirty days. The study also highlighted the overwhelming preference for flavored products, specifically candy or dessert flavors. There has been a 2188% increase in disposable vape use amongst high school students since 2019.



FDA Targets Chinese Manufacturers Flooding the U.S. Market with Dangerous Products

Recent FDA actions have zeroed in on Chinese manufacturers that are flooding the U.S. market with illegal products. Around 90% of disposable vapes are made in Shenzhen, China, dubbed the world’s “Vapor Valley.” These products are banned in China, so unscrupulous manufacturers have created a new market amongst America’s kids. That demand is being driven by products like Elf Bar and Puff Bar that offer youth-enticing flavors backed by a barrage of targeted social media advertising. These two brands alone top two billion views on TikTok. With numerous ‘Made-in-China’ websites offering low-cost, bulk order options, these illegal products are just a few clicks away. They are being smuggled into the United States with little to no regulatory oversight, making it impossible to account for the true nicotine content in these vapes or what other dangerous compounds they contain.

The FDA has added several foreign manufacturers to its red list; sent warning letters to illegal, China-made vape brands that are hugely popular with kids; and begun enforcement efforts against retailers and distributors. Taken together, the FDA has put bad actors at every level of the illicit supply chain on notice: illegal, disposable products will no longer get a pass and are subject to enforcement.





Fentanyl & the Growing Threat to Kids

The danger to kids is growing greater by the day as the illegal, flavored, disposable vaping epidemic collides head on with the fentanyl crisis. Parents, teachers, and school administrators, along with law enforcement officers and elected officials, are raising the alarm after students have suffered severe medical emergencies from unknowingly using fentanyl-laced vapes. We know China is exporting fentanyl precursors to Mexico where the lethal drug is then finished and trafficked over the border. As fentanyl continues pouring into the United States, even FDA Commissioner Robert Califf has acknowledged that “it is no surprise” the drug is ending up in vapes.

FDA Must Finish the Job

The FDA is taking important steps in the right direction, but now they must follow through. To finish the job and get all illegal, disposable vape products off shelves, the FDA and the Biden administration must:

- Provide enforcement guidance to all retailers, distributors, and state and local tobacco regulating authorities in the U.S.
- Update and release a legal for sale directory so retailers can remove all illegal disposable vape products from store shelves.
- Allocate resources for federal authorities to enforce these actions across all jurisdictions, at all ports, and at border control points of entry.
- Partner with state and local law enforcement to remove illegal disposable vape products from store shelves.

“Protecting our nation’s youth from tobacco products – including disposable e-cigarettes – is a top priority for the FDA. We’re committed to holding all players in the supply chain – not just manufacturers but also retailers and distributors – accountable to the law.”

— FDA Commissioner Robert M. Califf, M.D.

Congress also has a role to play by making sure the disposable loophole is closed permanently. Congresswoman Sheila Cherfilus-McCormick (Fla.) has introduced bipartisan legislation, H.R. 901, to require the FDA to prioritize enforcement of these illegal products. This effort is backed by advocacy groups across the political spectrum. Congress should pass the bill and get it to the president’s desk.

We are asking for your support in this critical mission by calling on the Biden Administration and the FDA to take all necessary action to protect kids and save young lives.

About Consumer Action for a Strong Economy

CASE is committed to serving as the voice of American consumers and wage-earners by advocating strongly for free-markets, fiscal responsibility and reasonable consumer protections. Through these time-tested principles, CASE aims to create more prosperity and opportunity for every American.

CASE is further working to fill the void of consumer advocacy organizations who largely ignore free-market solutions and lean heavily toward more government regulation and control over our national, state and local economies. As an aggressive and vocal advocate for less government interference with American enterprise and industry, CASE seeks to serve the interests of U.S. consumers through common-sense policies that allow our economy to innovate and expand, giving consumers more freedom, greater choice, more purchasing options, at less cost.