

## Flavored E-Cigarette Bans



### Federal Partial Ban on Flavored E-Cigarettes

In 2016, the federal Food and Drug Administration (FDA) extended its regulatory authority under the federal Family Smoking and Tobacco Control Act to include the manufacturing, sale, and use of e-cigarettes ([81 C.F.R. § 28973](#)).

Recently, the FDA announced a partial ban on the sale of flavored e-cigarettes, which are believed to primarily appeal to minors. The ban begins in February 2020 and applies to cartridge-based e-cigarettes, other than menthol and tobacco flavors (e.g., fruit, mint, and dessert flavors) ([FDA-2019-D-0661](#)). According to the FDA's [2019 National Youth Tobacco Survey](#), these cartridge-based products are the typical brand used by the majority of the nation's 5 million e-cigarette users in middle and high school. They generally contain a higher percentage of nicotine than other systems and are sold online and at convenience stores and gas stations.

The FDA ban does not apply to open-tank vaping systems, which are generally sold in age-restricted establishments and used by adults. Additionally, the ban does not prohibit states from enacting stricter regulations on flavored e-cigarette products.

### *What Are E-Cigarettes?*

Connecticut law defines an “electronic nicotine delivery system” as an electronic device used to deliver nicotine or another substance to a person who inhales from it. It includes electronic cigarettes, cigars, cigarillos, pipes, and hookahs. It also includes related devices, cartridges, or other components, including e-cigarette liquid.

The law defines a “vapor product” as a product that uses a heating element; power source; electronic circuit; or other electronic, chemical, or mechanical means, regardless of shape or size, to produce a vapor that users inhale. The vapor may or may not include nicotine ([CGS § 21a-415](#), as amended by [PA 19-13](#)).

## What Is the Legal Age to Purchase E-Cigarettes?

In December 2019, the President signed legislation to amend the federal Food, Drug, and Cosmetic Act to raise, from 18 to 21, the federal minimum age to purchase tobacco products and e-cigarettes ([P.L. 116-94, § 604](#)).

Prior to the enactment of the federal law, the following 19 states (including Connecticut) had already raised the minimum age for the sale of all tobacco products and e-cigarettes from age 18 to 21: Arkansas, California, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, New Jersey, New York, Ohio, Oregon, Pennsylvania, Texas, Utah, Vermont, Virginia, and Washington.

For more information on Connecticut's law, see [PA 19-13](#).

### State Bans on Flavored E-Cigarettes

In November 2019, Massachusetts became the first state to enact a permanent ban on all flavored tobacco products, including e-cigarettes, menthol cigarettes, and flavored chewing tobacco. The new law takes effect on June 1, 2020, and limits the sale of flavored tobacco products to licensed smoking bars, where they may only be smoked on-site ([2019 Session Laws, Ch. 133](#) and [105 CMR 665.000](#)).



In January 2020, New Jersey enacted a similar ban that applies to all flavored e-cigarettes, but excludes tobacco cigarettes and other tobacco products ([2019 SB 3265](#)). The new law takes effect on April 20, 2020.

In 2019, seven other states (Michigan, Montana, New York, Oregon, Rhode Island, Utah, and Washington) issued emergency rules to temporarily ban the sale of e-cigarettes, generally for a period of 90 to 120 days. Some states' emergency bans have undergone legal challenges and are currently only in effect in Montana, Rhode Island, and Washington. These states will likely require legislative action in order to permanently enact these bans. (Massachusetts's [temporary statewide ban](#) was rescinded upon passage of the legislation described above.)

According to the [Pew Charitable Trusts](#), 16 states are considering legislation in 2020 to ban flavored e-cigarettes: Florida, Georgia, Hawaii, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, and West Virginia.

Connecticut currently does not restrict the sale of flavored e-cigarettes beyond the federal requirement.

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[2019-R-0096](#), *State E-Cigarette Taxes*  
[2019-R-0280](#), *E-Cigarettes and Minors*

[2019-R-0279](#), *Connecticut's E-Cigarette Laws*



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