



Free markets. Real solutions.

California witnessed a decrease of



10 percentage points

in smoking among adults from 2001 to 2022. This reduction can be attributed to comprehensive tobacco control policies.

Despite the seemingly impressive transition to e-cigarette use, the state of California passed legislation that would act to ban flavored e-cigarettes, putting these positive gains at risk.

EXPLAINER

Over-regulation Creates More Problems Than It Solves: California

February 2025



According to the California Department of Public Health, the smoking rate among adults [decreased](#) from approximately 16.3 percentage points in 2001 to about 6.0 percentage points in 2022, representing a decline of nearly 10 percentage points. This reduction can be attributed to comprehensive tobacco control policies, including high tobacco taxes, extensive public education campaigns, and robust smoke-free laws that have created environments [less conducive](#) to smoking.

An essential tool in helping those who smoke to move away from combustible tobacco products is having a wide range of reduced-risk products available for consumers. Products like electronic cigarettes (ECs), heated tobacco products (HTPs), and oral tobacco and nicotine products provide [options for consumers](#) to move away from cigarettes. California has seen a [significant transition](#) from cigarette smoking to vaping. [Research suggests](#) that the introduction of vaping products has provided smokers with an alternative that is perceived as less harmful than traditional cigarettes, leading to increased adoption of ECs among former and current smokers. The California Department of Public Health [reported](#) that EC use among adults increased from 5.2 percent in 2016 to 12.5 percent in 2020, indicating a substantial shift in nicotine consumption patterns.

Despite this seemingly impressive transition to EC use, the state of California [passed legislation](#) that would ban flavored ECs, putting these positive gains at risk. Following the implementation of flavor bans in other locations, states saw increased sales of non-flavored tobacco products and a [rise in consumption](#) of exempted products, such as combustible cigarettes. In California, the ban may likewise shift consumer behavior negatively, with some users potentially seeking out alternative products or turning to the illicit market to obtain flavored items. One study also highlights that the availability of flavored products in neighboring states could undermine the effectiveness of a



Free markets. Real solutions.



Beyond banning flavors in reduced-risk products, California also enacted a ban on menthol cigarettes and modified the law to include any additive that produces a “cooling” sensation. Some studies raised concerns that the ban could lead to an increase in the illegal market of menthol cigarettes.

Contact us

For more information on the subject, contact:

Jeffrey Smith

Resident Senior Fellow
Integrated Harm Reduction

jsmith@rstreet.org

EXPLAINER

Over-regulation Creates More Problems Than It Solves: California

February 2025

California ban, as consumers can [travel across state lines](#) to purchase these products, causing [illicit products](#) to enter the state.

Several studies have identified the importance of flavors for those trying to use ECs as a tool to help move away from smoking. A [recent study](#) evaluating how flavored ECs impact switching behavior noted that states with restrictions on flavors saw increases in cigarette smoking, estimating that every 80 percent reduction in flavored EC use leads to a 22 percent increase in cigarette use. Additionally, the adoption of [Tobacco 21](#) in 2019 reduced underage access to all nicotine products. By banning flavors, the state hampers potential public health gains under the guise of protecting youth and instead impairs the pathway to a smoke-free life for California residents who smoke.

Beyond banning flavors in reduced-risk products, California also [enacted a ban](#) on menthol cigarettes and modified the law to include any additive that produces a “cooling” sensation. Several factors, including the availability of alternative products and the potential for illicit trade, have influenced the ban’s effectiveness. Some studies [raised concerns](#) that the ban could lead to an increase in the illegal market of menthol cigarettes, as smokers may seek out these products from neighboring states or through illicit channels. The rise in illicit trade in California is an ongoing issue. [Smuggling rates](#) for cigarettes are estimated at nearly 47 percent (second highest in the United States), with almost 475 million smuggled packs entering the state each year. Additionally, following flavor bans for electronic cigarettes, illegal, unregulated disposable flavored products have continued to [flood California’s ports](#). This influx of untaxed products leads to over \$1.4 billion of lost revenue for the state and [additional challenges](#) for law enforcement agencies who struggle to keep up with the extra load that illicit tobacco brings.

The unfortunate reality is that bans on legal products only create additional problems that can surpass the problems they were intended to solve. There is now [an abundance of literature](#) providing clear evidence that the availability of reduced-risk products is an effective tool in helping adult smokers transition away from combustible cigarettes. The right pathway forward is to understand these issues and consider both the science and the needs of the entire community instead of experimenting with laws and regulations that attempt to carve out one aspect of the problem as a solution to all. States that model prohibition in tobacco control like California should also expect the negative unintended consequences that follow.