



WHERE DO YOUTH GET THEIR E-CIGARETTES?

According to the 2018 Monitoring the Future Survey, more than 60% of 10th grade students say it is easy to get vaping devices and e-liquids.¹ In the summer of 2018, the FDA's undercover enforcement efforts yielded over 1,300 warning letters and fines to brick-and-mortar and online retailers for illegally selling e-cigarettes to minors.²

Where and how youth smokers get their e-cigarettes can vary considerably from state to state or city to city, depending on factors such as whether the jurisdiction strictly enforces the laws prohibiting tobacco sales to minors or requires retailers to keep all tobacco products behind the counter. Some youth buy the e-cigarettes they use, either directly from retailers or other kids, or by giving money to others to buy for them. Others get their cigarettes for free from social sources (usually other kids).

In-Store Purchases of E-Cigarettes

According to the 2018 National Youth Tobacco Survey (NYTS), 14.8% of middle and high school e-cigarette users under 18 report obtaining e-cigarettes from a vape shop in the past month and 8.4% from a gas station or convenience store.³ Another national study, the 2017 Youth Risk Behavior Surveillance (YRBS) survey of high school students in grades 9-12, found that 13.6% of current e-cigarette users aged <18 years had directly purchased their cigarettes from a store (including convenience stores, supermarkets, gas stations and vape shops), with over one-fifth (22.9%) of all twelfth grade smokers aged <18 years making such direct purchases.⁴

Online Purchases of E-Cigarettes

According to the 2018 NYTS, 6.5% of middle and high school e-cigarette users under 18 report buying e-cigarettes from the Internet.⁵ Data from the 2016-2017 wave of the FDA's Population Assessment of Tobacco and Health (PATH) study found that 7.2% of current youth (ages 12-17) e-cigarette users reported that they usually get their e-cigarettes online.⁶

Studies have found that youth successfully purchased e-cigarettes over the internet in 94 to 97 percent of their online purchase attempts.⁷ Many online retailers do not have adequate age verification, with some retailers simply requiring purchasers to check a box affirming that they are over age 18 to enter the site.

In addition to purchasing through online tobacco retailers, many e-cigarettes are available through sites like ebay and Craigslist, which have no age verification whatsoever. Ebay policy prohibits sale of tobacco products; however, JUUL products have been found for sale on the website under other categories such as electronics, sometimes with product listings that neglect to use the terms "tobacco" and/or "nicotine." In April 2018, FDA contacted ebay regarding these violations and ebay has worked to remove JUUL listings and implement measures to prevent new JUUL listings.⁸ Despite these efforts, some JUUL products continue to be listed for sale on ebay.⁹

Social Sources of E-Cigarettes

Youth smokers also identify social sources, such as friends and classmates, as a common source of e-cigarettes. A 2018 study found that among surveyed youth JUUL users (ages 12-17), half had gotten JUUL from a social source.¹⁰ While the up-front cost of some e-cigarettes, like JUUL, is high (a JUUL starter kit, which includes the device, charger and four JUULpods of various flavors, is \$29.99 on the JUUL website), there have been anecdotal reports of kids pooling together money to share a device and sell "hits" from the device to recoup the cost. In addition, these social sources have to get the products they distribute from somewhere, so they likely purchased from the Internet or from a retail store before distributing to others.

Making it More Difficult for Kids to Buy E-Cigarettes Reduces Youth Smoking

Numerous research studies have found that making obtaining tobacco products as inconvenient, difficult and expensive as possible for kids reduces both the number of kids who try or regularly use tobacco products.¹¹ To the extent that these measures directly affect youth who buy their own e-cigarettes or be sources for other youth, then they could also reduce the supply to other kids.

Increasing the price of e-cigarettes is an effective way to discourage youth use because youth are particularly price sensitive.¹² Price hikes may also make it less likely that parents and other adults will give e-cigarettes to kids.

Restricting the sale of flavored tobacco products is another strategy that can help reduce youth access to e-cigarettes. According to PATH data, 97% of current youth e-cigarette users have used a flavored e-cigarette in the past month and 70.3% say they use e-cigarettes “because they come in flavors I like.”¹³ Restricting or prohibiting the sale of flavored e-cigarettes will therefore reduce the availability of the products most popular among youth. At least 200 localities have passed restrictions or complete prohibitions on the sale of flavored e-cigarettes, along with other flavored tobacco products.¹⁴

Raising the sale age of tobacco to 21 is likely to make both direct retail purchase and social source acquisition more difficult for underage youth, especially for 15-, 16-, and 17- year olds, “who are most likely to get tobacco from social sources, including from students and co-workers above the [minimum legal age of access] MLA.”¹⁵ With the minimum legal sale age set at 21 instead of 18, legal purchasers would be less likely to be in the same social networks as high school students and therefore less able to sell or give cigarettes to them. Eighteen states – Arkansas, California, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, New Jersey, New York, Ohio, Oregon, Texas, Utah, Vermont, Virginia, and Washington – have raised the tobacco age to 21, along with Washington, DC and at least 480 localities.¹⁶

Finally, FDA must require that online retailers implement effective measures to block youth from accessing and purchasing e-cigarettes and e-liquids, such as using a third party vendor to verify age before entering the website and purchasing products and requiring ID verification upon delivery. Self-regulation by retailers is insufficient to prevent youth purchases online, given the high levels of successful purchases by youth.

For each of these policies, it is important to have strict enforcement to ensure high retailer compliance, including penalties on the tobacco retailer.

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¹ University of Michigan, 2018 Monitoring the Future Study, *Trends in Availability – Tables 15-17*. See

<http://monitoringthefuture.org/data/18data/18drtbl15.pdf> and <http://monitoringthefuture.org/data/18data/18drtbl16.pdf>.

² FDA, “Modifications to Compliance Policy for Certain Deemed Products: Guidance for Industry, Draft Guidance,” March 13, 2019, <https://www.fda.gov/media/121384/download>.

³ FDA, “Modifications to Compliance Policy for Certain Deemed Products: Guidance for Industry, Draft Guidance,” March 13, 2019, <https://www.fda.gov/media/121384/download>.

⁴ CDC, “Youth Risk Behavior Surveillance—United States, 2017,” *MMWR*, 67(8), June 15, 2018. <https://www.cdc.gov/healthyyouth/data/yrbs/pdf/2017/ss6708.pdf>.

⁵ FDA, “Modifications to Compliance Policy for Certain Deemed Products: Guidance for Industry, Draft Guidance,” March 13, 2019, <https://www.fda.gov/media/121384/download>.

⁶ FDA, “Modifications to Compliance Policy for Certain Deemed Products: Guidance for Industry, Draft Guidance,” March 13, 2019, <https://www.fda.gov/media/121384/download>.

⁷ Williams, RT, Derrick J, & Ribisl, KM, “Electronic cigarette sales to minors via the internet.” *JAMA Pediatrics* 169(3):e1563, doi: 10.1001/jamapediatrics.2015.63, Epub March 2, 2015. Nikitin, D, Timberlake, DS, & Williams, RS, “Is the E-Liquid Industry Regulating Itself? A Look at E-Liquid Internet Vendors in the United States,” *Nicotine & Tobacco Research* 18(10):1967-72, 2016.

⁸ FDA, “Statement from FDA Commissioner Scott Gottlieb, M.D., on new enforcement actions and a Youth Tobacco Prevention Plan to stop youth use of, and access to, JUUL and other e-cigarettes,” April 24, 2018, <https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-new-enforcement-actions-and-youth-tobacco-prevention>.

⁹ Laestadius, L and Wang, Y, “Youth access to JUUL online: eBay sales of JUUL prior to and following FDA action,” *Tobacco Control*, published online September 5, 2018. Kelly, M, “Teen vapers are using eBay to dodge age restrictions,” *The Verge*, June 5, 2019, <https://www.theverge.com/2019/6/5/18652706/teen-vapers-ebay-purchase-age-restrictions-vaping-cigarettes-juul>.

¹⁰ Truth Initiative, “Where are kids getting JUUL?” May 29, 2018, <https://truthinitiative.org/news/where-are-kids-getting-juul>.

¹¹ See related Campaign fact sheets, *Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (and the Cigarette Companies Know It)*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0146.pdf> and *Enforcing Laws Prohibiting Cigarette Sales to Kids Reduces Youth Smoking*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0049.pdf>.

¹² Pesko, MF, et al., "E-cigarette price sensitivity among middle- and high-school students: evidence from Monitoring the Future," *Addiction* 113(5):896-906, May 2018.

¹³ FDA, "Modifications to Compliance Policy for Certain Deemed Products: Guidance for Industry, Draft Guidance," March 13, 2019, <https://www.fda.gov/media/121384/download>.

¹⁴ Campaign for Tobacco-Free Kids, *States & Localities That Have Restricted the Sale of Flavored Tobacco Products*, <https://www.tobaccofreekids.org/assets/factsheets/0398.pdf>.

¹⁵ Institute of Medicine, *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*, Washington, DC: The National Academies Press, 2015, <http://iom.nationalacademies.org/Reports/2015/TobaccoMinimumAgeReport.aspx>

¹⁶ Some of the localities are in the states that subsequently enacted statewide laws. See: http://www.tobaccofreekids.org/content/what_we_do/state_local_issues/sales_21/states_localities_MLSA_21.pdf.