

New York tries to keep alive flavored e-cigarette ban

December 12 2019, by Marina Villeneuve



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New York's ban on flavored e-cigarettes is still held up in court, but a state council voted Thursday to keep it alive in case the judge rules in the state's favor.

The state's Public Health and Health Planning Council voted Thursday to keep the emergency ban on the books for another 90 days. The council had approved the ban in September, but a state appeals court blocked the state in October from enforcing it.

The state also plans to seek public comment on banning menthol e-cigarette flavoring.

In October, a state appeals court temporarily blocked New York from enforcing its prohibition on sales of flavored e-cigarettes after the vaping industry sued to block the ban. The rules were set to expire this month, but the council wants to renew the regulations for another 90 days.

A spokeswoman for the Department of Health said the vote to keep it alive would make sure New York has the emergency regulations on the books if the courts uphold the ban.

"While our scheduled enforcement of this ban has been delayed by pending litigation, we are confident that the court will agree that this is a public health emergency demanding immediate action to help ensure the wellbeing of our children," spokeswoman Jill Montag said.

New York's prohibition covering flavored e-cigarettes and other vaping products except for menthol and tobacco flavors went into effect immediately in September. Retailers initially had two weeks to remove merchandise from store shelves.

Health officials issued the regulations in response to worries that vaping may cause illnesses and that its use is growing among teenagers. According to data from the state health department, use among high-school students increased from 10.5% in 2014 to 27.4% in 2018.

Critics including the Vapor Technology Association sued the state over

the ban, which they called governmental overreach that would hurt small businesses selling e-cigarettes and adult smokers who say flavors help them quit. The opponents have argued states should address improper marketing to kids and follow New York's move to raise the statewide smoking age to 21.

But supporters such as the American Cancer Society's advocacy group said they'll continue pushing for New York's ban on flavored e-cigarettes and for laws to make similar restrictions permanent. The groups want New York to ban all flavored tobacco, and argue flavoring can attract kids to tobacco products and get them hooked.

Democratic Gov. Andrew Cuomo had said he would move to expand New York's flavor ban to include menthol.

Anti-tobacco and -vaping groups say there's no scientific basis for leaving menthol alone. They warn that menthol has been unethically marketed toward African Americans, and that mint and menthol flavors can still increase the appeal of e-cigarettes for young people who aren't smokers by overcoming the harshness of nicotine.

New York City Council separately passed its own bill last month banning flavored vaping products including menthol. The bill has the support of Democratic Bill de Blasio and is expected to take effect in July 2020, barring legal challenges.

The Centers for Disease Control and Prevention said Thursday over 2,400 confirmed and probable cases of lung illnesses and 52 deaths nationwide have been attributed to vaping. The CDC says laboratory findings suggest vaping products with vitamin E or THC has played a major role in the outbreak.

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Citation: New York tries to keep alive flavored e-cigarette ban (2019, December 12) retrieved 21 December 2023 from <https://medicalxpress.com/news/2019-12-york-alive-flavored-e-cigarette.html>

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