

News Release

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Comptroller Announces First-in-the-Nation Prohibition on Sales of Disposable Flavored E-Cigarettes

FDA action fails to close loophole on disposable products marketed to kids with flavors like Mango Bomb, Berry Gelato and O.M.G.

ANNAPOLIS, Md. (February 10, 2020) - Maryland Comptroller Peter Franchot today announced that his Field Enforcement Division (FED) is taking a first-in-the-nation approach to prohibiting the sale of certain Electronic Smoking Devices (ESDs) marketed towards kids.

"Today, in addition to the FDA's prohibition of flavored e-cigarette cartridges, I have directed our enforcement agents to take more aggressive action by prohibiting the sale of disposable ESDs with flavors other than tobacco or menthol," Comptroller Franchot said. "As the state's tobacco regulator, it's my legal and moral responsibility to protect consumers, especially children, from the hazardous substances contained in these unauthorized products."

Last October, the Comptroller created the [e-facts Task Force on Electronic Smoking Devices](#) to learn more about the industry and to consider what regulatory and legislative action should be taken. The task force has met three times and will be holding its final session on February 17 to weigh recommendations.

"In recent months, we've heard troubling reports of health-related issues, including deaths, that have been directly attributable to the use of ESDs," Franchot said. "At the same time, the use of ESDs among teens has skyrocketed. I will not stand idly by letting kids get addicted to nicotine and hurt by these unregulated products that

are marketed directly towards them.”

Last month, the FDA announced enforcement actions against “illegally marketed” ESD products – particularly, “flavored, cartridge-based [ESD] product[s],” which took effect on February 6.

However, flavored disposable e-cigarettes, which are growing in popularity among youngsters, are not covered under the FDA prohibition – a loophole that precipitated the Comptroller’s announcement today. The FED will prioritize its enforcement actions towards unauthorized disposable products most widely used by children – those bearing names such as Strawberry Hard Candy, Pineapple Lemonade, Mango Bomb, Berry Gelato, Lush Ice and O.M.G.

“The federal flavor ban left a gaping hole for disposable flavored vape products,” said Dr. Kathleen Hoke, a University of Maryland Law School Professor and Director of the Legal Resource Center for Public Health Policy. “I am happy to know Comptroller Franchot is putting children first by closing that gap.”

Earlier today, the Field Enforcement Division notified industry leaders to make them aware of this state policy change. In addition, the agency posted an [informational bulletin](#) about the targeted enforcement on the Comptroller’s website.

As the state’s tobacco regulator, the Comptroller issues licenses to wholesalers and retailers of tobacco products and ESDs. If those licenses are deceptively, fraudulently or unlawfully used, the Comptroller can suspend or revoke those licenses or assess additional penalties.

Agents from the Comptroller’s Field Enforcement Division will immediately begin license checks and product inspections to ensure compliance.

"As a parent of two teenagers whose family has been directly impacted by the vaping epidemic, I applaud the Comptroller's enforcement actions against those ESD products that are most commonly used by kids," said John Brennan, an Anne Arundel County resident and a member of the e-facts Task Force. "Disposable ESDs give children a relatively inexpensive and easily accessible path toward nicotine addiction. Keeping unregulated highly addictive ESDs out of the hands of our children is a step in the right direction."

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