
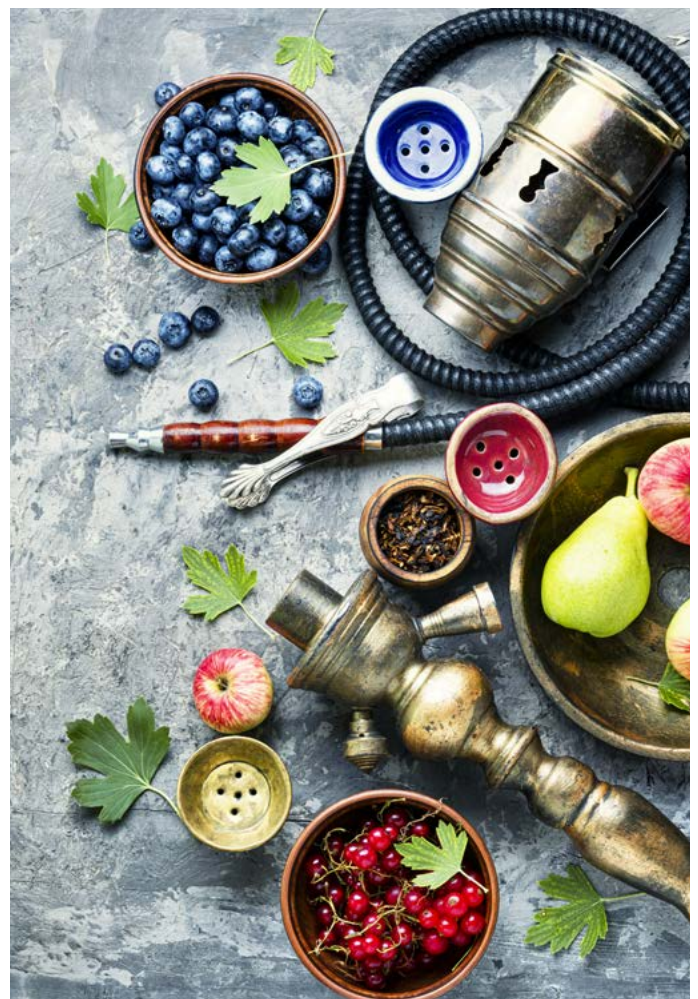


# KEEPING HOOKAH TOBACCO IN FLAVORED SALES RESTRICTIONS

## Why It's Important for Health Equity

 The e-cigarette epidemic has drawn attention to the commercial tobacco industry's decades-long tactic of using flavored products to addict young people to nicotine.<sup>1</sup>

Several U.S. states, tribes, and other jurisdictions have reacted by prohibiting the sale of flavored tobacco products.<sup>2</sup> Studies have shown that these measures, when effectively implemented and enforced, can prevent thousands of people — particularly youth — from initiating tobacco use, which can lead to numerous health harms.<sup>3</sup> Although many people use hookah<sup>4</sup> (that is, water pipes) to smoke flavored tobacco, some communities exempt hookah tobacco in their flavored tobacco product sales restrictions. This fact sheet describes the growing popularity of hookah use among young people and the importance of including hookah in flavored tobacco sales restrictions.<sup>5</sup>



## Comprehensive Policies Minimize Health Disparities

Studies have shown that flavored tobacco products play a crucial role in initiating youth use of tobacco and sustaining nicotine addiction.<sup>6</sup> One of the most effective ways to prevent tobacco initiation and reduce use is to restrict the sale of *all* flavored tobacco products, including menthol cigarettes, flavored cigars, e-cigarettes, and hookah. Because some of these products are used disproportionately in certain communities, a selective flavored tobacco sales restriction that allows access to these products can entrench existing health disparities and increase the health harms borne by these communities.

## Hookah Poses Significant Health Risks

Hookah smoking poses considerable short- and long-term health risks and some unique aspects of hookah may pose a *greater* risk to human health than other commercial combustible tobacco products. Second, as with all flavored tobacco products, hookah flavored products are often targeted to youth. Thus, the same rationale for restricting the sale of flavored e-cigarettes and other flavored tobacco products applies equally to hookah. Third, exemptions perpetuate health inequities by failing to address public health concerns of the communities that disproportionately use those products. Fourth, exempting certain tobacco products from flavored tobacco sales restrictions compounds already existing enforcement problems in many hookah establishments, including their inability to enforce or monitor age restrictions and other point-of-sale restrictions.

Despite a widely held perception that hookah smoking is less harmful than the use of other commercial tobacco products, this is not true. In addition to the health risks posed by all combustible tobacco products, hookah smoking carries many other significant health risks.

### Short- and Long-term Health Risks

Hookah pipes are typically used in communal settings, meaning the shared act of smoking carries with it the risk of transmitting infectious diseases such as oral herpes, hepatitis, and other viruses — including COVID-19.<sup>7</sup> For more information, see the publication *Hookah, COVID-19, and Policy Options*. Further, hookah tobacco — a combination of tobacco mixed with dried fruit, molasses, honey, and artificial flavors — is heated over coals, exposing the user to harmful carcinogens, heavy metals, and volatile flavor compounds.<sup>8</sup> Similar to e-cigarettes, some hookah tobacco flavor mixtures also contain glycerin, which is often used to create bigger “clouds” of aerosol and can be harmful when inhaled.<sup>9</sup> In addition, the burning of coal exposes the hookah smoker to high carbon monoxide levels, which may lead to carbon monoxide poisoning.<sup>10</sup> Short-term hookah use has also been associated with acute health effects, including increased heart rate, elevated blood pressure, and reduced pulmonary function.<sup>11</sup>



Because hookah users typically spend more time in a hookah smoking session than they spend smoking a cigarette, they are exposed to up to 1.7 times more nicotine than cigarette smokers.

Given the length of a hookah smoking session, which can last an hour or longer, the average user takes roughly 10 times more “puffs” than the average cigarette smoker.<sup>12</sup> This extended exposure to carbon monoxide, carcinogens, and heavy metals is greater than that experienced by the typical cigarette smoker.<sup>13</sup>

Hookah smoking carries with it many long-term health impacts that mirror those caused by cigarette smoking. For example, long-term hookah use is linked to lung, bladder, oral, gastric, and esophageal cancers, cardiovascular disease, and chronic obstructive pulmonary disease.<sup>14</sup> Also, as with cigarettes, hookah use exposes non-users to secondhand smoke.<sup>15</sup>

## Nicotine Addiction

Because hookah tobacco contains nicotine, users are at high risk of nicotine addiction. Many hookah users may believe that because hookah is typically smoked less often than cigarettes, the risk of addiction is not as great.<sup>16</sup> For instance, a 2011 study of high school students in San Diego found that 46.3 percent of students thought hookah was safer or less addictive than cigarettes.<sup>17</sup> Yet, because hookah users typically spend *more* time in a hookah smoking session than they spend smoking a cigarette, they are exposed to up to 1.7 times more nicotine than cigarette smokers.<sup>18</sup> The risk of addiction is worrisome for young people, as studies show that the developing brain is particularly susceptible to nicotine addiction.<sup>19</sup> It stands to reason that policymakers should be as concerned about the risk hookah poses for youth nicotine dependence as they are for combustible and electronic cigarettes.

### Industry Marketing Tactics

Most flavored tobacco sales restrictions are intended to prevent tobacco use initiation and dependence — especially among youth.<sup>20</sup> As with e-liquid, hookah tobacco comes in a wide variety of fruit, candy, and dessert flavors, such as birthday cake and gummi bear, as well as flavored hookah pipe mouth tips. The availability of these kid-friendly flavors indicates that hookah tobacco manufacturers and retailers are intentionally targeting young people.

Using flavorings to addict youths to tobacco use is a well-known tobacco industry tactic.<sup>21</sup> In fact, flavored products are often the first tobacco products young people use.<sup>22</sup> Given the growing prevalence of hookah tobacco, there is reason to be concerned about the tobacco industry use of flavored hookah products to initiate young people into tobacco use, just as it does with other flavored tobacco products. The rationale for restricting the sale of flavored e-cigarettes and other flavored tobacco products applies equally to hookah, because hookah is used to target youth and poses health harms similar to those of other flavored tobacco products.

Another common tobacco industry marketing tactic is the promotion of some products as “safer” than other tobacco products.<sup>23</sup> Studies have repeatedly shown that key reasons for continued hookah use are social acceptability coupled with the persistent notion that hookah smoking is less harmful, less addictive, and more of a social activity than other forms of tobacco use.<sup>24</sup> While the perception that hookah use is safer than other forms of combustible tobacco use may not be the sole driver of hookah use among young people, evidence points to a lack of access to information about hookah’s health harms and a skepticism among young people about the need for policy intervention.<sup>25</sup> The industry commonly uses unsubstantiated claims of harm reduction about products — particularly those marketed towards youth — such as filtered cigarettes and e-cigarettes, and hookah is no exception.<sup>26</sup> In fact, tobacco industry documents



**In California, 9.2 percent of high school students reported ever using hookah.**

show that since the 1950s, the tobacco industry has tried to capitalize on the perception that waterpipes offer a “safer” way to ingest tobacco smoke.<sup>27</sup> The industry’s use of marketing and advertising tactics, such as harm reduction claims and flavorings, to target and addict young people in particular further supports the need for policy interventions that protect public health.

### The Problem with Exemptions

Exempting hookah from flavored tobacco sales restrictions can have a disproportionate health impact on users and can be challenging to enforce in hookah lounges.

### Exemptions Perpetuate Health Disparities

Some Southern California communities that have attempted to pass comprehensive flavored tobacco sales restrictions have encountered pushback from hookah businesses. These establishments claim that because using hookah is a cultural practice, flavored hookah tobacco should be exempt from flavored tobacco sales restrictions. Thus, while all tobacco retailers would be restricted from selling flavored products, hookah lounges and hookah tobacco retailers would continue to sell flavored hookah products. Recent data, however, indicates that hookah use is not unique to any community or culture, and that it is becoming increasingly common among young people from many different backgrounds.<sup>28</sup>

In fact, data from the 2019 National Youth Tobacco Survey (NYTS) indicates that 3.4 percent of high school students reported using hookah in the past 30 days.<sup>29</sup> In California, 9.2 percent of high school students reported ever using hookah.<sup>30</sup> Moreover, the most recent 2019 NYTS data indicates that high school students who identify as either “Hispanic” or “Black, non-Hispanic” currently use hookah at rates of 6.4 percent and 4 percent, while high school students who identify as “White, non-Hispanic” currently use hookah at a rate of 2.5 percent.<sup>31</sup> These statistics illustrate how hookah use disproportionately affects different groups of people.

In California, the demographic differences in hookah use may be even more pronounced. One study found that those identifying as Latinx comprised 40 percent of the population that used hookah.<sup>32</sup> Communities historically targeted by the tobacco industry tend to use hookah at higher rates than the general population and therefore disproportionately bear the health burdens from tobacco use. Thus, exempting hookah from flavored tobacco sales restrictions perpetuates health inequities by failing to address public health concerns of those that disproportionately use those products.

## Exemptions Can Pose Enforcement Burdens

Yet another reason for not allowing hookah establishments to continue to sell hookah flavored products is the current challenge in enforcing public health regulations in hookah lounges. For example, even though California law prohibits hookah establishments from offering food service,<sup>33</sup> many of these businesses advertise themselves as hookah-café or restaurant hybrids. This has been a particular problem in Southern California.<sup>34</sup> Some establishments also violate state and local law in other ways, such as allowing the illegal sale of alcohol and indoor smoking.<sup>35</sup> Enforcing existing requirements in these establishments has resulted in a significant diversion of resources towards law enforcement efforts. In Los Angeles, for instance, hookah lounges have attracted an increased police presence, especially when they operate as gathering places after other nightlife establishments with liquor licenses are required to close.<sup>36</sup>

In addition, law enforcement often encounters violations of existing age-limitations in hookah lounges. Thus, any locality attempting to narrow the scope of a hookah exemption by restricting admission to hookah establishments to those over 21 should consider the difficulties that may already exist with enforcement.

## Conclusion

Communities restrict the sale of flavored tobacco products to protect the public health of *all* their residents. Given the health risks of hookah, the proliferation of flavored hookah products, and the popularity of hookah among youth and diverse populations, to exclude hookah from flavored tobacco sales restrictions could exacerbate health inequities in those groups most prone to nicotine addiction. The weight of the evidence surrounding hookah use indicates that communities should not exempt it from any regulation intended to protect public health.<sup>37</sup>

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## Endnotes

- 1 The Public Health Law Center recognizes that traditional and commercial tobacco are different in the ways they are planted, grown, harvested, and used. Traditional tobacco is and has been used in sacred ways by Indigenous communities and tribes for centuries. Comparatively, commercial tobacco is manufactured with chemical additives for recreational use and profit, resulting in disease and death. For more information, visit <http://www.keepitsacred.itcml.org>. When the word “tobacco” is used throughout this document, a commercial context is implied and intended.
- 2 See, e.g., Public Health Law Center, *States and Tribes Stepping in to Protect Communities from the Dangers of E-cigarettes: Actions and Options* (2020), <https://www.publichealthlawcenter.org/resources/states-and-tribes-stepping-protect-communities-dangers-e-cigarettes-actions-and-options>. See also Catherine Ho, *California Bill Would Ban Flavored Tobacco Sales, Going Further than Feds*, SAN FRANCISCO CHRONICLE, Jan. 6, 2020, <https://www.sfchronicle.com/business/article/California-lawmakers-try-again-to-ban-sale-of-14953894.php>.

As of the date of publication, a statewide law that would prohibit the sale of flavored products is making its way through the California Legislature. The bill, SB793, as amended, includes a proposed hookah/shisha exemption. As of this writing, exemptions for premium cigars and pipe tobacco have also been added. If the bill passes, it would prohibit the sale of flavored tobacco products like menthol cigarettes, which is an important step forward in the fight for health equity. That said, the action at the state level would not stymie local efforts to restrict the sale of all flavored tobacco products. In fact, the state law as drafted would expressly allow local jurisdictions to go further and prohibit all flavored tobacco products, including flavored hookah tobacco/shisha.

- 3 See, e.g., Melissa Harrell et al., *Flavored Tobacco Product Use among Youth and Young Adults: What if Flavors Didn't Exist?*, 3 TOBACCO REG. SCIENCE 168-73 (2017), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5536860>.
- 4 Various terms are used to describe “hookah,” including “shisha” and “narghile.”
- 5 For more information about regulating the use of hookah, see Public Health Law Center, *Regulating Hookah and Water Pipe Smoking* (2016), <https://www.publichealthlawcenter.org/sites/default/files/resources/tclc-guide-reg-hookah-2016.pdf>.
- 6 See, e.g. Andrea Villanti et al., *Menthol Cigarettes and the Public Health Standard: A Systematic Review*, 17 BMC PUBLIC HEALTH 983 (2017), <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-017-4987-z#citeas>.
- 7 Sreenivas Veeranki et al., *Waterpipe Use and Susceptibility to Cigarette Smoking Among Never-Smoking Youth*, 49 AM. J. PREVENTIVE MEDICINE 502 (2015); American Lung Association. *A Growing Threat to Public Health*, <https://www.lung.org/getmedia/4460faae-7e9f-4510-87d6-65821ad02c1a/hookah-policy-brief-updated.pdf> (last visited Mar. 23, 2020). The likelihood that hookah can transmit disease and impair a user’s ability to fight off infection makes hookah use particularly concerning in light of the global COVID-19 pandemic. See, e.g., Wael Al-Delaimy, *Hookah and Covid-19: How Hookah Puts You at Risk*, TOBACCO FREE CA, <https://tobaccofreeca.com/health/hookah-and-covid-19-how-hookah-puts-you-at-risk>; World Health Organization Tobacco Free Initiative, *Tobacco and Waterpipe Use Increases the Risk of Suffering from COVID-19*, <http://www.emro.who.int/tfi/know-the-truth/tobacco-and-waterpipe-users-are-at-increased-risk-of-covid-19-infection.html> (last visited May 1, 2020).
- 8 Peyton Jacob et al., *Nicotine, Carbon Monoxide and Carcinogen Exposure After a Single Use of a Water Pipe*, 20 CANCER EPIDEMIOLOGY BIOMARKERS PREV. 2345-53 (2011), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3210932>; Alan Shihadeh, *An Investigation of Mainstream Smoke Aerosol of the Argileh Water Pipe*, 41 FOOD AND CHEMICAL TOXICOLOGY 143-52 (2003); Ziad El-Zaatar et al., *Health Effects Associated with Waterpipe Smoking*, 24 TOBACCO CONTROL i31-i43 (2015), <https://www.ncbi.nlm.nih.gov/pubmed/25661414>; Jens Schubert et al., *Waterpipe Smoking: Analysis of the Aroma Profile of Flavored Waterpipe Tobaccos*, 115 TALANTA 665-74 (2013).
- 9 Schubert et al., *supra* note 8.

- 10 Jacob et al., *supra* note 8.
- 11 El-Zaatari, *Health Effects Associated with Waterpipe Smoking*, *supra* note 8.
- 12 U.S. Department of Health and Human Services. PREVENTING TOBACCO USE AMONG YOUTH AND YOUNG ADULTS: A REPORT OF THE SURGEON GENERAL (2012), [https://www.cdc.gov/tobacco/data\\_statistics/sgr/2012/index.htm](https://www.cdc.gov/tobacco/data_statistics/sgr/2012/index.htm) [hereinafter 2012 SURGEON GENERAL'S REPORT]; American Lung Association, *An Emerging Deadly Trend: Waterpipe Tobacco Use* (2007); World Health Organization, *WHO Advisory Note: Waterpipe Tobacco Smoking: Health Effects, Research Needs and Recommended Actions by Regulators* (2005); Thomas Eissenberg & Alan Shihadeh, *Waterpipe Tobacco and Cigarette Smoking: Direct Comparison of Toxicant Exposure*, 37 AM. J. PREV. MED. 518-23 (2009), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2805076>.
- 13 2012 SURGEON GENERAL'S REPORT, *supra* note 12.
- 14 Barry Knishkowsky & Yoni Amitai, *Waterpipe (Narghile) Smoking: An Emerging Health Risk Behavior*, 116 PEDIATRICS 113-19 (2005); El-Zaatari et al., *supra* note 8.
- 15 2012 SURGEON GENERAL'S REPORT, *supra* note 12.
- 16 Kenneth Ward et al., *Characteristics of US Water Pipe Users: A Preliminary Report*, 9 NICOTINE AND TOBACCO RESEARCH 1339-1346 (Dec. 2007); Brian Primack et al., *Prevalence of and Associations with Waterpipe Tobacco Smoking among US University Students*, 36 ANN. BEHAV. MED. 81-6 (2008).
- 17 Joshua Smith et al., *Determinants of Hookah Use among High School Students*, 13 NICOTINE & TOBACCO RESEARCH 565-72 (2011).
- 18 Thomas Eissenberg & Alan Shihadeh, *Waterpipe Tobacco and Cigarette Smoking: Direct Comparison of Toxicant Exposure*, 37 AMERICAN JOURNAL OF PREVENTIVE MEDICINE 518-23 (2009); James Neergard et al., *Waterpipe Exposure and Nicotine Exposure: A Review of the Current Evidence*, 9 NICOTINE AND TOBACCO RESEARCH 987-94 (2007).
- 19 U.S. Dep't of Health & Human Services, E-CIGARETTE USE AMONG YOUTH AND YOUNG ADULTS: A REPORT OF THE SURGEON GENERAL, (2016) [hereinafter 2016 SURGEON GENERAL'S REPORT].
- 20 See, e.g., Ctrs. for Disease Control & Prevention. *Flavored Tobacco Product Use Among Middle and High School Students — United States*, 2014, 64 MORBIDITY AND MORTALITY WKLY. REP. 1066-70, (2015).
- 21 See, e.g., Ganna Kostygina & Pamela Ling, *Tobacco Industry Use of Flavourings to Promote Smokeless Tobacco Product*, 25 TOBACCO CONTROL (2016), [https://tobaccocontrol.bmj.com/content/25/Suppl\\_2/ii40.full](https://tobaccocontrol.bmj.com/content/25/Suppl_2/ii40.full).
- 22 See, e.g., U.S. Dep't of Health & Human Services, SMOKING CESSATION: A REPORT OF THE SURGEON GENERAL, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES 611 (2020).
- 23 See 2012 SURGEON GENERAL'S REPORT, *supra* note 12; 2016 SURGEON GENERAL'S REPORT, *supra* note 19.
- 24 Adam Arshad et al. *Knowledge, Attitudes, and Perceptions towards Waterpipe Tobacco Smoking Amongst College or University Students: A Systematic Review*, 19 BMC PUBLIC HEALTH 439 (2019). <https://doi.org/10.1186/s12889-019-6680-x>.
- 25 *Id.*
- 26 See, e.g., 2016 SURGEON GENERAL'S REPORT (describing past industry efforts to market tobacco products as safer or healthier in an effort to attract new, young customers).
- 27 Isra Ahmad & Lauren M. Dutra, *Imitating Waterpipe: Another Tobacco Industry Attempt to Create a Cigarette that Seems Safer*, 91 ADDICTIVE BEHAVIORS 244-52 (2019).
- 28 California Health Interview Survey (Public Use File) (2018), <https://healthpolicy.ucla.edu/chis/data/Pages/GetCHIS-Data.aspx>.



- 29 Ctrs. for Disease Control & Prevention, *Youth and Tobacco Use* (2019), [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/youth\\_data/tobacco\\_use/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm).
- 30 Shu-Hong Zhu et al., *Statewide California Student Tobacco Survey, 2017-18* (2019), <https://www.cdph.ca.gov/Programs/CCDPPH/DCDIC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/Reports/2017-18California-StudentTobaccoSurveyBiennialReport.pdf>.
- 31 Ctrs. for Disease Control & Prevention, *Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019*, MORBIDITY AND MORTALITY WKLY REP. (2019), <https://www.cdc.gov/mmwr/volumes/68/ss/ss6812a1.htm>.
- 32 California Health Interview Survey (Public Use File) (2018), <https://healthpolicy.ucla.edu/chis/data/Pages/GetCHIS-Data.aspx>.
- 33 Cal. Att’y Gen. Op. No. 09-507 (Dec. 21, 2011).
- 34 See, e.g., Matt Hansen, *Six L.A.-Area Hookah Lounges Cited for Variety of Violations*, L.A. TIMES, June 26, 2014, <https://www.latimes.com/local/lanow/la-me-ln-six-area-hookah-lounges-cited-violations-20140626-story.html>.
- 35 See, e.g., News Release, *Van Nuys Vice Conducted Compliance Checks on Van Nuys Sherman Oaks Hookah Lounges*, Los Angeles Police Dept., Jun. 2, 2014, [http://www.lapdonline.org/van\\_nuys\\_news/news\\_view/56598](http://www.lapdonline.org/van_nuys_news/news_view/56598) (last accessed Mar. 25, 2020).
- 36 Letter from Michel Moore, Chief of Los Angeles Police Dept. to Mitch O’Farrell, Councilmember, LA City Council, Dec. 2, 2019.
- 37 While this publication focuses on the threat of exemptions from flavored tobacco sales restrictions, other policy interventions, such as location and density restrictions, can also help regulate the availability of tobacco products used by and targeted towards young people. See, e.g., Public Health Law Center, *Location, Location, Location: Tobacco and E-Cig Point of Sale; Regulating Retailers for Public Health* (2019), <https://www.publichealthlawcenter.org/sites/default/files/resources/Location-Tobacco-Ecig-Point-Of-Sale-2019.pdf>.