

TOBACCO

AAFP Position

Despite significant research outlining the dangers of tobacco and a significant decrease in the number of United States adults who smoke, tobacco, and in particular cigarettes, remains the leading cause of death and preventable disease in the U.S. The AAFP recognizes that the majority of states have laws restricting the sale of cigarettes to minors and urges the federal government and remaining states to enact and strictly enforce laws restricting the sale of tobacco products to youth. The AAFP supports:

- Requiring active enforcement of age-at-sale laws for tobacco and nicotine product retailers
- Increased excise taxes on tobacco and nicotine products and using this tax revenue to fund comprehensive, evidence-based tobacco prevention, control, and cessation programs
- Prohibiting the use of all tobacco and nicotine products that emit a vapor or any form of inhalable substance in public places and workplaces
- Improved access to tobacco cessation services for all patients, regardless of health insurance

The Problem

The prevalence of cigarette smoking among adults has declined from 42.4 percent in 1965 to 14 percent in 2017. Despite this encouraging trend, more than 34 million Americans still smoke, and approximately half a million people die annually due to the use of tobacco products and related causes, including secondhand smoke.^{1,2} Smoking remains the leading preventable cause of premature disease and death in the U.S. If the U.S. continues on its current trajectory, 5.6 million children younger than 18 years of age today will die prematurely as a result of smoking. According to the Centers for Disease Control and Prevention, the total economic costs due to tobacco are now over \$300 billion.

Tobacco 21

In December 2019, after years of state-level advocacy, the federal minimum age for sale of tobacco and e-cigarette products was [raised](#) from 18 to 21 years of age for all retail establishments and individuals, with no exceptions. Additionally, the law places responsibility on retailers rather than youth purchasers. Prior to the federal law, eighteen states (AR, CA, CT, DE, HI, IL, ME, MD, MA, NJ, NY, OH, OR, TX, UT, VT, VA, WA) and DC had already raised the minimum tobacco sale age to 21, as well as more than 500 municipalities nationwide. While this is an accomplishment, the law lacks in that it does not require states to pass laws to raise the sales age to 21, complicating implementation and enforcement, and the law does not restrict the sale of flavored e-cigarette or cigar products. Many groups, including the [AAFP](#), are calling for the FDA to exercise their full power to actively enforce the Tobacco 21 law across states.

Smoking Bans

Smoking bans or clean indoor air ordinances encourage people to quit smoking, support those who have quit by providing a smoke-free environment, and protect others from secondhand smoke. [California](#) became the first state to enact a comprehensive statewide smoking ban in 1995 and has since been joined by 26 other states (AZ, CO, DE, HI, IL, IA, KS, ME, MD, MA, MI, MN, MT, NE, NJ,

¹ "Smoking and Tobacco Use." (2019). *Centers for Disease Control and Prevention*. Web.

² "The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General." (2014). *U.S. Department of Health and Human Services*. Web.

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NM, NY, ND, OH, OR, RI, SD, UT, VT, WA, WI) and DC in banning smoking in all private and government workplaces, bars, and restaurants.³ These 100 percent smoke-free indoor air policies protect 49.5 percent of the total U.S. population. Most of the remaining states have smoke-free laws in at least one setting of workplaces, restaurants, or bars, but six states (KY, MS, SC, TX, WV, WY) do not have any smoker protection laws (smoke-free, designated smoking areas, or ventilated smoking areas) for any of these settings. However, these states may establish laws for local areas and schools, such as [Kentucky](#), while private restaurants are free to enact their own smoking bans. Sixteen states (CA, CO, DE, FL, HI, MA, MN, NJ, NM, NY, ND, OR, RI, SD, UT, VT) include e-cigarettes in their smoking bans for workplaces, restaurants, and bars for more comprehensive clean indoor air policies.⁴

E-Cigarette Regulations

Use of electronic cigarettes, or e-cigarettes, has increased significantly, especially among youth. Approximately 20.8 percent of all high schoolers, or 3.05 million students, currently use e-cigarettes.⁵ Youth exposed to e-cigarettes, often attracted by flavors like mint, mango, and cotton candy, are [more likely](#) to use these and traditional tobacco products over time, further contributing to a cycle of nicotine dependence and tobacco use. Although research suggests that e-cigarette use may be less harmful than smoking combustible tobacco cigarettes, there is insufficient evidence regarding the safety or efficacy of e-cigarettes as a smoking cessation device. As a result of these concerns, all 50 states have taken some action to regulate e-cigarettes, including requiring vendors to obtain an e-cigarette retail license and enacting e-cigarette excise taxes, flavor bans, and product packaging requirements. For more information on e-cigarettes, check out our legislative backgrounder on the subject.

Tobacco Taxes

Since 2009, the federal tobacco tax has held steady at \$1.01 per pack of cigarettes. Currently, the average state tobacco tax is \$1.70 per pack, with many states introducing legislation to increase their tobacco excise taxes. [New York](#) has the highest tobacco tax at \$4.35 and [Missouri](#) the lowest at \$0.17. At this time, 29 states (AK, AZ, AR, CO, FL, GA, ID, IN, IA, ME, MD, MI, MS, MO, MT, NE, NJ, NY, NC, ND, SC, SD, TN, TX, UT, VA, WA, WI, WY) have not increased their tobacco tax in 10 years.⁶

Tobacco Retail Licenses

Tobacco retail licensing laws can limit youth access to tobacco products and allow states to better enforce tobacco control policies. Currently, 31 states (AL, AK, AR, CA, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, LA, ME, MD, MA, MN, MS, MT, NV, NH, NY, ND, PA, TX, UT, VT, WA, WV) require retailers to have a license to sell cigarettes and other non-cigarette tobacco products over the counter.⁷ Eight states (KS, NE, NJ, OH, OK, RI, VA, WI) require retailers to have a license only to sell cigarettes over the counter, and no license to sell chewing tobacco is required. See [Arkansas](#) for an example requiring a license for all tobacco products and [New Jersey](#) for a cigarette license requirement.

Comprehensive Medicaid Coverage of Smoking Cessation

Adult Medicaid enrollees smoke cigarettes at over double the rate that privately insured adults smoke and 15 percent of total annual Medicaid spending goes towards health care for smoking-related diseases. There are nine FDA approved, evidence-based smoking cessation strategies, including individual and group counseling, nicotine patches and other gums and sprays, and other treatments. All state Medicaid programs cover some of these treatments for their enrollees while 15 states (CA, CO, CT, IN, KS, KY, ME, MA, MN, MO, OH, OR, RI, SC, WI) provide comprehensive Medicaid coverage of all nine smoking cessation treatments, with [Colorado](#) as a good example.¹²

Updated: July 2020

³ "State Smoking Restrictions for Worksites, Restaurants, and Bars." (2020). *Kaiser Family Foundation*. Web.

⁴ "States and Municipalities with Laws Regulating Use of Electronic Cigarettes." (2020). *American Nonsmokers' Rights Foundation*. Web.

⁵ Cullen K, Ambrose B, Gentzke A, Apelberg B, Jamal A, King B. (2018). "Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students – United States, 2011-2018." *CDC Morbidity and Mortality Weekly Report*. Retrieved from https://www.cdc.gov/mmwr/volumes/67/wr/mm6745a5.htm?s_cid=mm6745a5_w

⁶ "State Cigarette Excise Tax Rates & Rankings." (2020). *Campaign for Tobacco-Free Kids*. Web.

⁷ "State Tobacco Activities Tracking and Evaluation System." (2020). *Centers for Disease Control and Prevention*. Web.