
11 Leading Organizations Urge U.S. Supreme Court to Uphold FDA's Marketing Denial Orders for Flavored E-Cigarettes

WASHINGTON, D.C. – Eleven leading medical, public health and community organizations have filed an [amicus brief](#) with the U.S. Supreme Court urging the Court to reverse a decision by the U.S. Court of Appeals for the Fifth Circuit that struck down the FDA's marketing denial orders for certain flavored e-liquids.

“Allowing the Fifth Circuit decision to stand would leave more young people in the grip of nicotine addiction and exposed to the health harms of e-cigarettes. It is imperative to public health that this Court reverse the decision...to protect the public, and especially the nation's youth, from flavored e-cigarettes,” the brief concludes.

The Supreme Court has agreed to hear the [case](#) – *Food and Drug Administration v. Wages and White Lion Investments, LLC, dba Triton Distribution* – in its upcoming term. The case involves FDA marketing denial orders for nicotine e-liquids with flavors that clearly appeal to kids, including “Jimmy the Juice Man Peachy Strawberry,” “Suicide Bunny Mother's Milk and Cookies,” “Pink Lemonade,” “Iced Pineapple Express” and “Killer Kustard Blueberry.”

The amicus brief makes three key points: First, flavored e-cigarettes appeal to youth and are responsible for a persistent public health crisis. Second, the FDA's marketing denial orders (MDOs) were legally and scientifically sound. Third, preserving FDA authority to protect youth from the harms of flavored e-cigarettes is critical to protecting public health.

“The FDA's decision to issue MDOs for Respondents' products was based on (1) overwhelming evidence of harm to youth from flavored e-cigarette products, including Respondents' flavored e-liquids, and (2) a lack of demonstrated benefit from those flavored products to adults who smoke,” the brief states.

According to the [2023 National Youth Tobacco Survey](#), over 2.1 million U.S. youth reported current e-cigarette use in 2023, and nearly 90% of them reported using flavored products.

“E-cigarettes pose unique health risks for youth, as adolescent brains are more susceptible to nicotine's effects due to ongoing neural development. Adolescents are thus especially vulnerable to nicotine addiction, which can lead to permanent effects on the developing brain,” the brief states.



The brief further explains that “the tobacco industry has long known that flavors are important to its ability to successfully market its products to young people” and “flavored e-cigarette products have fueled persistently high rates of youth usage of highly addictive and harmful products.”

The brief was filed by the American Academy of Family Physicians, American Academy of Pediatrics, American Cancer Society Cancer Action Network, American Heart Association, American Lung Association, American Medical Association, American Thoracic Society, Campaign for Tobacco-Free Kids, Louisiana State Medical Society, Parents Against Vaping E-Cigarettes and Truth Initiative.

About Truth Initiative®

Truth Initiative is a national nonprofit public health organization committed to a future free from lifelong addiction, fostering healthier lives and a more resilient nation. Our mission is to prevent youth and young adult nicotine addiction and empower quitting for all. Through our evidence-based, market-leading cessation EX Program and the nationally recognized **truth**® public education campaign, we are leading the fight against youth and young adult tobacco use, which threatens to put a new generation at risk of nicotine addiction. Our first-of-its-kind text message quit vaping program, This Is Quitting, has enrolled over 750,000 young people across the country, and our youth e-cigarette prevention curriculum, *Vaping: Know the truth*®, is currently implemented in over 9,000 schools nationwide, reaching a total of over one million students thus far. Our rigorous scientific research and policy studies, community and youth engagement programs supporting populations at high risk of using tobacco, and innovation in tobacco dependence treatment continue to contribute to ending one of the most critical public health battles of our time. Based in Washington, D.C., our organization was established and funded through the 1998 Master Settlement Agreement between attorneys general from 46 states, five U.S. territories, and the tobacco industry. To learn more, visit truthinitiative.org.

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