

JAY INSLEE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

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EXECUTIVE ORDER 19-03
ADDRESSING THE VAPING USE PUBLIC HEALTH CRISIS

WHEREAS, it is the policy of the state of Washington to support the health, safety, and well-being of all Washingtonians; and

WHEREAS, vaping devices—also known as e-cigarettes, JUULs or vape pens—and the vape juices and/or cartridges used with them (hereafter referred to, collectively, as “vapor products”), can contain nicotine, tetrahydrocannabinol (THC) and/or other substances, like flavoring or chemicals; and

WHEREAS, vapor products containing nicotine are the most commonly used nicotine products in Washington among youth; and

WHEREAS, notwithstanding state law prohibiting the sale or distribution of vapor products to minors, the 2018 Washington State Healthy Youth Survey reported that vapor product use increased dramatically among 8th, 10th, and 12th grade students between 2016 and 2018. Specifically, use of vapor products among 12th grade students increased from 20% in 2016 to nearly 30% in 2018; and

WHEREAS, preliminary results from the 2019 National Youth Tobacco Survey reported more than one in four high-school students use vapor products with an overwhelming majority reporting use of fruit, menthol, or mint flavors; and

WHEREAS, the appeal of flavored nicotine vapor products, as well as advertising and promotional activities targeted at youth, are contributing to the dramatic increase in youth vaping; and

WHEREAS, there are no manufacturing standards for non-THC vapor products, and some vapor products are sold as open containers, which allows for the addition of a broad range of substances to the vapor products without regulatory oversight or full user knowledge about the content or impact of the substances being consumed; and

WHEREAS, consumers who vape can choose from over 8,000 e-liquid flavors to use with their vaping devices. Some of those flavors can damage lung cells and may play a role in addiction; and

WHEREAS, in 2019, an outbreak of a lung injury emerged in previously healthy individuals who had recently vaped THC and/or nicotine vapor products, and the cause of this injury is not yet known; and

WHEREAS, as of September 26, 2019, over 800 cases of this vaping-related lung injury have been reported nationwide—with seven cases reported in Washington State—and including 12 deaths around the country. The number of known cases of this injury is expected to grow; and

WHEREAS, roughly 67 percent of the cases of this vaping-related lung injury were reported in 18 to 34 year olds and 16 percent of the cases involved individuals under 18 years of age; and

WHEREAS, both the U.S. Food and Drug Administration (FDA) and the U.S. Centers for Disease Control and Prevention (CDC) have expressed concern at this nationwide outbreak and have initiated investigations into this complex health emergency, including testing of a broad range of vapor products and an investigation into the supply chain of vapor products. The CDC has not yet determined the specific cause of this outbreak and has recently advised consumers to consider refraining from vaping pending the outcome of their investigation; and

WHEREAS, the FDA has announced that e-cigarette use among youth has reached epidemic proportions and that this epidemic presents a clear and present danger;

WHEREAS, no one substance has been identified as the cause of these vaping-related lung injuries; and

WHEREAS, even if/when the specific ingredient(s) or compound(s) causing this vaping-related lung injury were to be identified, the state has no viable means to identify which vapor products for sale in Washington contain the injury-inducing substance(s) so that these products can be quickly removed from the marketplace; and

WHEREAS, Washingtonians suffering from this vaping-related lung injury have experienced severe harm to their health; and

WHEREAS, in the absence of one or more known, specific harmful substances in this vapor-product health emergency, and in the absence of the ability to fully isolate and remove those harmful substances once they are identified, it is imperative that the state respond in a comprehensive and evidence-based manner to address this public health crisis.

NOW THEREFORE, I, Jay Inslee, Governor of the state of Washington, by virtue of the power vested in me by the Constitution and statutes of the state of Washington do hereby order and direct as follows:

Washington State Department of Health:

- **Emergency Rule to Ban Flavored Vapor Products:** Request that the State Board of Health use its emergency rulemaking authority to impose a ban on all flavored vapor products, including flavored THC vapor products, at the Board's next meeting on October 9.
- **Immediately Ban Identified Causes of Outbreak:** Once the sources or causes of this vaping-related lung injury outbreak are identified, take immediate action to ban products containing those identified sources from sale, and work with other agencies and local partners to remove those products from retail stores to the extent those harmful products can be identified.
- **Consumer Warnings:** Develop a warning sign regarding the health risks of vaping. Request that all local health officers in Washington require the posting of these warning signs at all licensed retailers of non-THC vapor products.
- **Ingredient Disclosure:** Develop a plan to require manufacturers of non-THC vapor products to disclose all compounds (including ingredients, solvents, additives, etc.) used in the production and processing of their vapor products, as well as the sources of all vapor products. Incorporate this plan into a legislative proposal for 2020.
- **Provider Reporting:** Encourage health care providers to report all suspected cases of this severe vaping-related lung injury to their local health department.
- **Education Campaign:** Redirect available cannabis education program funds for a vaping awareness campaign, to include digital and social media messaging focused on youth, young adults, and parents.
- **Legislation:** In collaboration with the Liquor and Cannabis Board, and other agencies as appropriate, develop 2020 Governor-request legislative proposals to, at a minimum:
 - Ban all flavored vapor products, including those containing nicotine or THC, and take any other actions that deter youth access to and initiation of these products;
 - Disclose ingredients in vapor products to consumers to the extent permitted by federal law;
 - Increase regulatory oversight of vapor products;
 - Expand the educational campaign focused on the significant health impacts from vaping nicotine and THC;
 - Limit bulk sales at retail stores;
 - Clarify and expand the Department of Health's authority to take action when a harm or risk to public health is present but the specific cause is unknown; and,
 - Seek funding to increase oversight and enforcement, including enforcement related to illicit markets.

Washington State Liquor and Cannabis Board:

- **Immediately Ban Identified Causes of Outbreak:** Once the sources or causes of this vaping-related lung injury outbreak are identified, take immediate action to ban products containing those identified sources from sale, and work with other agencies and local partners to remove those products from retail stores.

- Consumer Warnings: Require the posting of warning signs regarding the health risks of vaping at retailers where vapor products containing THC are sold.
- Ingredient Disclosure: Require manufacturers of THC vapor products to disclose all compounds (including ingredients, solvents, additives, etc.) used in the production and processing as well as the sources of all vapor products.

This Executive Order shall take effect immediately.

Signed and sealed with the official seal of the state of Washington, on this 27th day of September, 2019, at Seattle, Washington.

By:

/s/

Jay Inslee

Governor

BY THE GOVERNOR:

/s/

Secretary of State