



# FACT SHEET

## NEW MEXICO TOBACCO REGULATIONS

The Tobacco Products Act goes into effect **January 1, 2021**. The **Tobacco Products Act** contains **statewide tobacco licensure** and increases the state minimum legal sales age of tobacco products to 21. The Tobacco Products Act:<sup>1</sup>

- Requires all New Mexico **tobacco distributors, manufacturers and retailers** to apply for and **attain a license** to distribute, manufacture or sell tobacco products.
- Requires New Mexico tobacco distributors, manufacturers and retailers to pay an **initial fee up to \$750 to attain a license** while paying an additional **annual fee up to \$400 to renew and maintain a license**.
  - The fees from tobacco retail licensing will provide self-sustaining funding for stronger and more frequent enforcement.
- Ensures **up-to-date and accurate information** is obtained about **where** tobacco is being distributed, manufactured and sold in New Mexico.
- **Prevents future licenses** from being granted to retail stores within **300 feet** of New Mexico schools.
- Penalizes **store owners**, not store clerks or youth as was previously the case, on a graduated penalty structure through **monetary fines, license suspension or revocation** when illegal tobacco product sales take place.
- Given this is a state law, the Tobacco Products Act does not apply to federally recognized Indian tribes or reservations.
- Defines tobacco products as **made or derived from tobacco or nicotine** that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means which include;
  - Cigarettes
  - Cigars
  - Chewing Tobacco
  - Pipe Tobacco
  - Snuff
  - E-Cigarettes or Electronic Nicotine Delivery Systems (ENDS)

## FEDERAL TOBACCO REGULATIONS

The federal minimum age of sale of tobacco and nicotine products is 21 years old. It is now illegal for a retailer to sell any tobacco product—including cigarettes, cigars and e-cigarettes—to anyone under 21.<sup>2</sup>

- There are no exemptions for sales to members of the military who are under 21 years of age.<sup>3</sup>
- The law applies to tribal lands, given that federal and tribal laws apply to members of the tribe.<sup>3</sup>
- The law does not phase-in age restrictions (i.e., there is no “grandfathering”) of those who are currently 18, 19 or 20.<sup>3</sup>
- Federal regulation prohibits the sale of flavored, other than menthol or tobacco flavored, cartridge-based (closed system) electronic nicotine delivery systems (ENDS).<sup>4</sup>
  - E-liquids designed for customizable, refillable e-cigarette pods, often referred to as ‘tank systems’ or ‘mod systems’ are not included in the ban.<sup>4</sup>
  - The ban also does not include flavored cigars, menthol or tobacco flavored cartridge-based ENDS, or mentholated cigarettes and other combustible tobacco products.<sup>4</sup>

## KEY FACTS

- Nearly **90%** of tobacco users start using tobacco **before they turn 18** – making youth tobacco **prevention** one of the single most **powerful strategies** we have to reduce tobacco use and improve health in New Mexico.<sup>5</sup>
- **Nicotine** is the country’s **most commonly used addictive substance**.<sup>6</sup>
- Between July 1, 2015 and June 30, 2016, nearly **1 of 6 assessed retail stores sold to minors in New Mexico**.<sup>7</sup>
- A study found that **74%** of kids purchase JUUL flavor pods at a retail location while only 6% purchase them online.<sup>8</sup>
- A study found that youth smoking was significantly higher at schools in neighborhoods with the **highest density of tobacco retailers** than it was at schools in neighborhoods without any tobacco retail stores.<sup>9</sup>
- Young people who use e-cigarettes are **4 times more likely** to go on to **smoke combustible cigarettes**.<sup>10, 11, 12</sup>
- Nicotine levels in e-cigarettes can exceed levels in combustible cigarettes.<sup>13</sup>
- **84%** of people who use e-cigarettes but have never smoked combustible cigarettes, **prefer** their e-cigarettes **flavored and flavors are frequently listed as one of the top three reasons this population uses e-cigarettes**.<sup>14, 15, 16</sup>

## WHY IT MATTERS

- If youth **perceive that it is easy** to access tobacco, they are **more likely to use** tobacco.<sup>17</sup>
- A study of 14 Minnesota communities showed that an intervention involving **local ordinances and enforcement** to limit youth access to tobacco **significantly reduced** adolescent smoking rates.<sup>18</sup>
- Students living in states with **no or minimal tobacco regulations** are **more likely** to be daily smokers when compared to those living in states with strong regulations.<sup>19</sup>
- **Restricting** youth access **reduces** the likelihood that a youth will become an established smoker.<sup>19</sup>
- **High school students** in states with **lenient laws** on youth access and indoor smoking were **more likely** to be daily or experimental smokers.<sup>19</sup>
- The impact of nicotine exposure on youth and young adult brain development can be **long-lasting**, and can include lower impulse control and mood disorders and can **disrupt growth of brain circuits** that control attention, learning and susceptibility to addiction to other drugs.<sup>20</sup>
- Tobacco use remains the **leading cause of preventable death and disease** in New Mexico. About **2,630** New Mexicans die each year from smoking.<sup>21</sup>
- **40,000** New Mexico youth now under the age of 18 will ultimately **die prematurely from smoking**.<sup>22</sup>
- **Tobacco use in New Mexico costs a total of \$1.44 billion each year** – including \$597 million in annual smoking-caused productivity losses and \$844 million in annual healthcare costs directly caused by smoking.<sup>22</sup>

## YOUTH TOBACCO USE IN NEW MEXICO

- Every year, **700** youth in New Mexico become new daily smokers.<sup>22</sup>
- 13.5% of New Mexico youth smoked their first cigarette before age 13 and is showing a rising trend.<sup>23</sup>
- **One in three New Mexico high school youth** (32.7%) use some form of tobacco (cigarettes, smokeless, cigars, hookah, or e-cigarettes). Youth use rates for **each form of tobacco** in New Mexico were **higher than national rates**.<sup>23</sup>
  - 24.7% use e-cigarettes
  - 10.6% use cigarettes
  - 10.2% use cigars
  - 9.3% use hookah
  - 8.2% use spit tobacco
- **14.9% of New Mexico middle school youth** use some form of tobacco (cigarettes, smokeless, cigars, hookah, or e-cigarettes).<sup>24</sup>

- <sup>1</sup> S.B. 131, 2020 2nd Session, 2020 Reg. Sess. (New Mexico, 2020).
- <sup>2</sup> Legislation Raises Minimum Age of Sale of Tobacco Products to 21. (n.d.). Retrieved from <https://www.fda.gov/tobacco-products/ctp-newsroom/newly-signed-legislation-raises-federal-minimum-age-sale-tobacco-products-21>
- <sup>3</sup> FEDERAL TOBACCO 21 FAQ. (n.d.). Retrieved from <https://tobacco21.org/federal-tobacco-21-faq/>
- <sup>4</sup> Flavored Tobacco Products. (n.d.). Retrieved from <https://countertobacco.org/resources-tools/evidence-summaries/flavored-tobacco-products/>
- <sup>5</sup> U.S. Department of Health and Human Services (HHS), Preventing Tobacco Use Among Youth and Young Adults, A Report of the Surgeon General, (2012). <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobaccouse/index.html>.
- <sup>6</sup> Nicotine Addiction and Tobacco, American Society of Addiction Medicine. (n.d.). Retrieved from <https://www.asam.org/advocacy/find-a-policy-statement/view-policy-statement/public-policy-statements/2011/12/15/nicotine-addiction-and-tobacco>
- <sup>7</sup> Synar, Office of Substance Abuse Prevention, New Mexico Health Services Division
- <sup>8</sup> Truth Initiative, Where are kids getting JUUL? (n.d.), <https://truthinitiative.org/research-resources/emerging-tobacco-products/where-are-kids-getting-juul>
- <sup>9</sup> Henriksen, L., Feighery, E. C., Schleicher, N. C., Cowling, D. W., Kline, R. S., & Fortmann, S. P. (2008). Is adolescent smoking related to the density and proximity of tobacco outlets and retail cigarette advertising near schools? *Preventive Medicine*, 47(2), 210–214. doi: 10.1016/j.ypmed.2008.04.008
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- <sup>11</sup> Primack, B. A., Soneji, S., Stoolmiller, M., Fine, M. J., & Sargent, J. D. (2015). Progression to Traditional Cigarette Smoking After Electronic Cigarette Use Among US Adolescents and Young Adults. *JAMA Pediatrics*, 169(11), 1018. doi: 10.1001/jamapediatrics.2015.1742
- <sup>12</sup> Soneji, S., Barrington-Trimis, J. L., Wills, T. A., Leventhal, A. M., Unger, J. B., Gibson, L. A., ... Sargent, J. D. (2017). Association Between Initial Use of e-Cigarettes and Subsequent Cigarette Smoking Among Adolescents and Young Adults. *JAMA Pediatrics*, 171(8), 788. doi: 10.1001/jamapediatrics.2017.1488
- <sup>13</sup> E-cigarettes: Facts, stats and regulations. (n.d.). Retrieved from <https://truthinitiative.org/research-resources/emerging-tobacco-products/e-cigarettes-facts-stats-and-regulations>
- <sup>14</sup> Bonhomme, M.G., Holder-Hayes, E., Ambrose, B.K., Tworek, C., Feirman, S.P., King, B.A., & Apelberg, B.J. (2016). Flavoured non-cigarette tobacco product use among US adults: 2013–2014. *Tobacco Control*, 25(Suppl 2), ii4–ii13. doi: 10.1136/tobaccocontrol-2016-053373
- <sup>15</sup> Tsai, J., Walton, K., Coleman, B. N., Sharapova, S. R., Johnson, S. E., Kennedy, S. M., & Caraballo, R. S. (2018). Reasons for Electronic Cigarette Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2016. *MMWR. Morbidity and Mortality Weekly Report*, 67(6), 196–200. doi: 10.15585/mmwr.mm6706a5
- <sup>16</sup> Ambrose, B. K., Day, H. R., Rostron, B., Conway, K. P., Borek, N., Hyland, A., & Villanti, A. C. (2015). Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. *Jama*, 314(17), 1871. doi: 10.1001/jama.2015.13802
- <sup>17</sup> Doubeni, C. A., Li, W., Fouayzi, H., & Difranza, J. R. (2008). Perceived Accessibility as a Predictor of Youth Smoking. *The Annals of Family Medicine*, 6(4), 323–330. doi: 10.1370/afm.841
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- <sup>20</sup> Health Indicator Report of Tobacco Use - Youth Smoking Prevalence. (n.d.). Retrieved from [https://ibis.health.state.nm.us/indicator/view/Tobacco-SmokeYouth.Year.NM\\_US.html](https://ibis.health.state.nm.us/indicator/view/Tobacco-SmokeYouth.Year.NM_US.html)
- <sup>21</sup> American Lung Association. State of Tobacco Control (2017). <http://www.lung.org/assets/documents/tobacco/state-of-tobacco-control.pdf>.
- <sup>22</sup> Campaign for Tobacco Free Kids. The Toll of Tobacco in New Mexico. (n.d.) [https://www.tobaccofreekids.org/problem/toll-us/new\\_mexico](https://www.tobaccofreekids.org/problem/toll-us/new_mexico)
- <sup>23</sup> CDC, Youth Risk Behavior Surveillance System (2017).
- <sup>24</sup> New Mexico Youth Risk and Resiliency Survey (YRRS) (2015).

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