



May 30, 2023

Dear Representative:

We write to express our concerns about H.R. 901, the Disposable ENDS Product Enforcement Act of 2023, which requires the Food and Drug Administration (FDA) to prioritize enforcement against disposable e-cigarettes.

While our groups agree that disposable e-cigarettes are a significant problem and that FDA needs to take action to have illegal, unauthorized disposable products removed from the market, the same is equally true for other illegal, unauthorized flavored e-cigarettes still on the market. For example, Juul's products and R.J. Reynolds's Tobacco Company's Vuse Alto products are popular e-cigarettes with youth but would not be prioritized under H.R. 901. It is critical for FDA to prioritize the removal of all flavored e-cigarettes.

One concern with H.R. 901 is that if FDA prioritizes enforcement against disposables, but not other flavored e-cigarettes, youth will simply shift to the flavored products that remain on the market. This is exactly what happened when Juul pulled its fruit-flavored e-cigarettes from the market in 2018. Youth simply shifted from using fruit-flavored Juul cartridges to using mint-flavored cartridges. When Juul later pulled its mint-flavored cartridges from the market due to high youth use, youth migrated to using menthol-flavored Juul cartridges. This same pattern happened again in February 2020 when FDA prioritized enforcement against flavored cartridge-based e-cigarettes (except menthol) and youth shifted to disposables and menthol-flavored cartridge-based products. The loopholes in prior efforts that left many flavored e-cigarettes on the market did not reduce youth use but were used as an excuse by industry to falsely argue that the problem had been solved. In that way, the partial solutions did not serve as a step forward, but as an impediment to meaningful progress. In that way, they made the problem worse.

Further, H.R. 901 does not provide FDA with any new authority or resources and does not directly address what we think are the fundamental problems: FDA is not moving quickly enough across all e-cigarette product categories to finalize its review of pending applications and is not, along with the Department of Justice, taking swift and meaningful action to remove illegal products from the market.

R.J. Reynolds Tobacco Company's recent citizen petition asking FDA to prioritize enforcement of disposable e-cigarettes further underscores our concerns about this legislation. Reynolds' Vuse e-cigarettes are not disposable and would not be impacted by their citizen petition or H.R. 901. Reynolds' goal is to divert FDA's attention away from its own products, not to protect America's kids.

To ensure that FDA takes the long overdue actions that are needed to remove all flavored e-cigarettes from the market, we urge you to not support H.R. 901.

Sincerely,

African American Tobacco Control Leadership Council

American Academy of Pediatrics

American Cancer Society Cancer Action Network

American Lung Association

Campaign for Tobacco-Free Kids

Parents Against Vaping E-Cigarettes