

May 1, 2019

ATTORNEY GENERAL RAOUL URGES FDA TO STRENGTHEN E-CIGARETTE GUIDANCE

Chicago — Attorney General Kwame Raoul, along with a coalition of seven attorneys general filed comments urging the Food and Drug Administration (FDA) to take stronger action to address the scourge of e-cigarette use among youth by prioritizing enforcement action against all flavored e-cigarettes, including menthol, and mint; beginning enforcement sooner than its proposed date; and banning the online sale of e-cigarettes.

On March 14, 2019, the FDA published the Draft Guidance entitled “Modifications to Compliance Policy for Certain Deemed Tobacco Products” to explain its proposed changes to the compliance policies for certain deemed tobacco products, including e-cigarettes, and to describe how the FDA intends to prioritize its enforcement resources with regard to the marketing of those products. As part of its rulemaking process, the FDA sought comments to inform the final version of the guidance.

“It is no surprise young people are drawn to flavored tobacco products, especially when they are so easily accessible,” Raoul said. “I urge the FDA to take steps to protect young people from the harmful effects of nicotine and take stronger enforcement actions against e-cigarettes.”

In the comments, Raoul and the coalition advocated that the FDA’s enforcement actions should include menthol and mint flavors, which the FDA proposed to exclude. The coalition also urged the FDA to move up the date it will begin enforcement actions against all flavored e-cigarettes that the FDA has not approved. Flavored e-cigarettes contribute to the ongoing epidemic of youth use because they have been shown to lead middle and high school students to begin tobacco use at a young age. Additionally, the coalition pressed the FDA to ban the online sale of e-cigarettes.

Research has shown that current use of menthol or mint e-cigarettes increased from 42.3 percent to 51.2 percent among all current e-cigarette using high school students during 2017-2018. Additionally, online sales of e-cigarettes make such products less expensive through evasion of state taxes, which makes them more readily available to youth.

In 2009, Congress enacted the Family Smoking Prevention and Tobacco Control Act (TCA), which effectively banned cigarettes that contained flavors other than tobacco or menthol, and granted the FDA the authority to regulate tobacco products. The TCA was passed in order to reduce the number of youth who smoke and become addicted to tobacco products.

Joining Raoul in sending the letter were the attorneys general of California, Connecticut, New York, Pennsylvania, Rhode Island and Vermont.