



US STATE VAPING INDEX 2024



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INTRODUCTION

Despite the early embrace of the technology, America's state governments are becoming increasingly hostile to flavored vaping devices containing nicotine. Only three states (Alaska, North Dakota, and Tennessee) are bucking the trend and receive an A+ in our study in that they do not mistakenly treat vapes as tobacco products, do not attempt to ban flavors, do not burden consumers with taxation, do not enact indirect prohibitions via state registries and do not make it impossible to order any vaping products online (though not for lack of trying). By contrast, twelve states – Utah (0 points), California (second to last at 5 points), Vermont (10 points), Oregon, New York, New Jersey, Nebraska, Massachusetts, Illinois, Hawaii, D.C., and Colorado (all at 15 points) – have overwhelmingly embraced new restrictive policies on vapers and vaping.

Inaccurate portrayals of vaping are driving this negative trend. State-level messaging has implicitly drawn an equivalence between smoking and vaping (by only allowing vapes to be sold from specific vape stores, for instance) and amplified [speculative threats related to e-liquids](#). The result is that tens of millions of Americans hold incorrect beliefs about the dangers of these products – the National Cancer Institute's most recent [Health Information National Trends Survey from 2020](#) found that around 82.7 million (or 34.9% of the total population) now wrongly consider vaping just as harmful as smoking. Around 2.1% even think the practice is more damaging than cigarettes. Unfortunately, [some policymakers](#) are among this number of people, consequently pushing for ever stricter measures against vaping.

The other major driver of current restrictions is a growing moral panic surrounding teens, vaping flavors, and a supposed gateway effect. The worry is that an increasing number of young people are lured into vaping via the colorful temptations of candy, fruit, or mint flavors. The habit then acts as a springboard for them to become addicted to cigarettes and other substances later in life. The federal Food and Drug Administration has [subsequently refused to approve](#) any non-tobacco flavors, with some states following suit and enacting their own bans.

It is, therefore, more vital than ever to present a complete and empirically sound picture of flavored vaping devices that millions of consumers have used to quit smoking. In that sense, classifying and treating vapes as tobacco products defies common sense and flies in the face of science. After all, vapes contain nicotine, not tobacco, and [far fewer chemicals](#) than cigarettes, leading to a significantly lower risk profile. Negative accounts focus on formaldehyde, glycerol (vegetable



glycerin), and propylene glycol as problem substances in vapes. However, it is essential to note that such chemicals generate issues solely [under “dry puff”](#) when the device is overheated, or there is insufficient liquid; both situations create an unpleasant vapor. Consumers will consequently avoid such conditions, if only because it leads to a very unpleasant taste, smell, and experience. [Scientific articles](#) detect little to no formaldehyde under normal usage that reflects actual vaping.

Unsurprisingly, the best available research by authorities such as [Public Health England](#) recognizes that vaping is 95% safer than combustible tobacco for users. At the same time, it is less dangerous to bystanders. A [full 85%](#) of toxic second-hand smoke comes from the side-stream effect of a lit cigarette, whereas vaping aerosols only come from users’ breaths. Therefore, even early (2014) [technical reviews of vaping chemistry](#) found that “exposures of bystanders are likely to be orders of magnitude less [than those of direct users] and those pose no apparent concern” (emphasis added by [subsequent texts](#) reinforcing this finding).

Neither does the idea of a “gateway effect” enjoy support from research. [A review of fifteen studies](#) found little evidence of a supposed gateway effect. Factors like stress, anxiety, parental smoking, and life attitudes better explained the phenomenon. [Other articles](#) find that the effect is more a question of selection than treatment. Vaping does not encourage people to take risks and switch to cigarettes and hard substances. Instead, some teens take up smoking based on personality traits (intense thrill seekers with a high tolerance for risk) or adverse personal circumstances (like a stressful home environment or family tragedy).

Going further, [evidence in the New England Journal of Medicine](#) finds that vaping is twice more effective at smoking cessation than any nicotine tablet, patch, or spray at helping people quit smoking. Moreover, [a 2023 online cross-sectional survey](#) of 69,233 participants found that the most popular and practical options for those looking to quit smoking were the options most likely to be banned – (83.3%), followed by dessert/pastry/bakery (68.0%) and candy/chocolate/sweet (44.5%). If anything, vape flavor bans are a barrier to smoking cessation.

Keeping this empirical background in mind, we ranked all fifty states, plus the District of Columbia, to inform consumers on vaping policies in their locality and highlight the urgent need for more informed and level-headed decision-making. We used five factors: whether the state considers vapes to be tobacco products, state-level vaping flavor restrictions, state registries (which mirror the FDA-approved database), additional excise taxes on vaping, and the presence/absence of online sales bans.



Our second annual edition builds on our existing analysis using information from the [Public Health Law Center](#) at the Mitchell Hamline School of Law, [statements by state authorities](#), [real-time legal updates](#), [tax authority records](#), and press articles on the topic. Readers will discover two new categories, tobacco product classification and state registries, among the assessment criteria. With new scores comes an expansion in score ranges and corresponding final marks, now A+, A, B, C, D, and F. Lastly, we expanded on the methodology section to explain how we operationalized each criterion in more detail and why we chose the variables we did.

Please note that legal developments reflect the latest available information at the time of this report (October 2024).

OVERALL SCORE AND ANALYSIS

State (plus the District of Columbia)	Total score	Final Mark
Alaska	50	A+
North Dakota	50	A+
Tennessee	50	A+
Arizona	45	A
Michigan	45	A
Mississippi	45	A
Missouri	45	A
Montana	45	A
Texas	45	A
Alabama	40	A
Arkansas	40	A
Oklahoma	40	A
Wisconsin	40	A
Connecticut	35	B
Florida	35	B
Idaho	35	B
Iowa	35	B
Kansas	35	B
South Dakota	35	B
Delaware	30	C
Kentucky	30	C
Louisiana	30	C
Nevada	30	C
Ohio	30	C
Pennsylvania	30	C



State (plus the District of Columbia)	Total score	Final Mark
Wyoming	30	C
South Carolina	30	C
Georgia	25	C
Indiana	25	C
Maryland	25	C
Minnesota	25	C
New Mexico	25	C
Rhode Island	25	C
Washington	25	C
West Virginia	25	C
Maine	20	D
New Hampshire	20	D
North Carolina	20	D
Virginia	20	D
Colorado	15	F
D.C.	15	F
Hawaii	15	F
Illinois	15	F
Massachusetts	15	F
Nebraska	15	F
New Jersey	15	F
New York	15	F
Oregon	15	F
Vermont	10	F
California	5	F
Utah	0	F

Immediately noticeable is the sharp decline in scores since our last edition of this indicator. In 2020, the median result in the rankings was an A, as indicated by the 26th result that divided the database into equal halves (Missouri). Moreover, an A was also the modal figure for the entire analysis, the most common result in the data, achieved by 25 out of 50 states.

The same cannot be said in 2024. Despite adding more categories than ever before, the median figure in the rankings is now a C (Wyoming) and the modal option (at 16 states in total). Tellingly, the number of absolute lowest-ranking results doubled, from 6 in 2020 to 12 today.

Examining the state with the fewest points provides more clues into what has changed. Unfortunately, Utah received zero points in the entire index, replacing California as the most anti-vaping legal and regulatory jurisdiction in the United States. Though Third District Judge Keith Kelly issued a temporary stay on the Utah Department of Health's emergency rule, he did allow for some provisions of the decision to go into effect, including the need for stores to place warning signs regarding vapes. Building on this momentum, policymakers in Utah returned with [bill SB61](#) which encompasses all aspects of the anti-vaping approach: it treats electronic devices as "tobacco products", bans all products (and flavors) not approved by the FDA, creates and enforces a PMTA register and [prohibits online sales](#).

The justification is that a "[youth vaping epidemic](#)" has captured teens in Utah, with accounts depicting a skyrocketing consumption of nicotine-based vapes. Rigid laws against vapes are, therefore, necessary to protect them from harm. Lawmakers point toward [declining vaping rates](#) among Utah teens from 12.4% in 2019 to 7.4% in 2023 as confirmation of their views and a sign of regulatory success.

However, this oft-repeated argument against vaping (present across poorly performing states such as [California](#), [Vermont](#), and [New York](#)) does not stand up to the statistics. An epidemic is hardly the case if the trend has been a decline in both vaping and smoking rates. Utah already enjoyed one of the [lowest smoking prevalence](#) in the US at 6.9% of the total population (compared to America's average of 13.4%). Furthermore, harsher rules do not explain [why half a million fewer teens](#) vaped across the United States from 2023 to 2024, both in states with severe rules and in those that neither adopted nor enforced such regulations. The theory does not fit the data.

Utah's decision-makers are only inviting more harm. Higher taxes, registries, and bans create a host of negative consequences, from downtrading (meaning consumers have every reason to

switch to lower-quality products) to incentivizing smokers to switch to the far riskier option of smoking by discouraging them from vaping. Banning the online sales of vaping products pushes sales to the black market, which endangers consumers and removes governmental regulation of these transactions altogether.

None of these developments help save the [1,300 lives](#) lost to smoking every year in Utah, nor offer comfort to the [40,000 people who die yearly in California](#) due to smoking-related issues. The tragic reality is that [6.6 million people could be saved](#) across America if only states began listening to the evidence on vaping and incorporated it in a well-grounded harm-reduction approach.

IMPLICATIONS AND BENEFITS FOR CONSUMERS

Conversely, the thirteen entries that received an A or A+ in this assessment are best positioned to harness vaping's potential against cigarette smoking. The upsides to living in any of the highest-ranked states are clearer policy-level perspectives on the differences between vaping and smoking (and the ability to educate consumers on the topic), higher taxes on cigarettes than vapes (incentivizing the far less harmful option), allowing consumers to better tailor their vaping experience to their needs via online sales, promoting local independent businesses (which are likelier to suffer from onerous operating and maintenance costs derived from stringent regulations), and look for ways to protect young people while preserving consumer choice for adults.

- The A+ options (Alaska, North Dakota, Tennessee) show the most potential; however, whether they will adopt a harm-reduction approach in the future or not remains to be seen.
- The number of state flavor bans has sharply increased, from 12 cases in 2020 to 20 in 2024
- There is a dramatic rise in partial and complete online sales bans, from just 4 states in 2020 to 18 cases today
- PMTA registries dominate the list, with 32 states having passed or attempted to pass one

Research note: We strive to improve the quality of this index's underlying data every year and aim to refine its methodology further. We sometimes face contradictory information, indicators measured differently by different states, and constant shifts in legislation (where a stalled bill may be adopted or a law is suddenly abandoned). We ask the index readers to acknowledge the difficulties in working with heterogeneous data and caution users to be aware of the underlying complications.

Furthermore, what makes a state "good" for each individual can have a distinct qualitative element. Please remember, then, that our assessments are strictly quantitative and non-normative. We are not passing moral judgment on a state's goodness and badness or downplaying personal experiences by ranking one state lower than another. We are simply highlighting takeaways based on the data available at the time of this index.

METHODOLOGY

The maximum score is 50. The index uses an equal weighting scheme with a simple sum aggregation scheme. In other words, each category nets a state a maximum of ten points, and the final tally merely adds up all the points from the five variables.

This model reflects the vital importance of all five criteria to the state of vaping policy in America and highlights their interconnectedness. For instance, mistakenly classifying vapes as tobacco products justifies online sales prohibitions, pre-market tobacco application registries, and outright flavor bans through the same false equivalence between vaping and smoking. In turn, registries may substitute for outright prohibitionist laws and introduce the idea of vaping as a "tobacco product" in that state.

Moreover, the composite indicator's methodology avoids making subjective judgments on the importance of one vaping policy over another while remaining easy to read and understand for both consumers and policymakers.

1. State considers vapes to be tobacco products

The category consists of a dyad – a yes/no option based on whether the state in question lists vapes among tobacco products in its legislation (whether legal age limits, taxation, or any other tobacco or vape-related bill).

Yes = 0 points

No = 10 points

2. State-level vaping flavor restrictions

This category refers to any legislation a state adopts that goes beyond the Food and Drug Administration's refusal to authorize flavored vapes. That means taking the initiative to ban all

flavors (sometimes including tobacco and menthol), the products still awaiting a pre-market tobacco authorization decision, flavored disposables, open or closed systems, or all of the above. Besides the dyad of yes or no, the composite indicator records edge cases. The latter are situations where a bill on the matter was attempted and met with mixed to no success. Edge cases include scenarios where the governor vetoed the bill (as is the case in Vermont), the law was blocked in court (Michigan), an initial ban expired (Oregon and Washington state), the legislation stalled in committee (Texas), blocked/postponed in one of the state houses (New Mexico, Minnesota, Maine). Finally, the text accounts for cases where the proposal provides meaningful exemptions. The prime example is Florida's HB1007, which exempts most open systems from a flavor ban yet prohibits disposable vapes.

Yes = 0 points

Edge cases (marked with "Yes, but" in the database) = 5 points

No = 10 points

3. State registry

In an attempt to circumvent resistance towards straightforward bans, an increasing number of policymakers have opted to champion Pre-Market Tobacco Application (PMTA) Registry Bills. Any vape manufacturer who wants to market their product in the US must submit a PMTA application and obtain a marketing granted order. This process often takes years to complete (if ever). To date, the FDA has only approved 45 products for marketing, 34 of which are approved for sale, and no other flavors besides tobacco and menthol.

Politicians who want to see a de facto ban are availing themselves of the FDA's bureaucratic process to create state-wide registries that only legally allow for the vapes on the FDA's approved or pending list. The registries vary in stringency from a small subset of FDA-approved devices (only 7 non-flavored vapes for sale online in Iowa) to more lax databases (all those companies that applied to the FDA on or before 09 September 2020 for Alabama). However, they all constitute a prohibition on the vast majority of vapes in all but name.

In addition to the yes/no answer, the variable incorporates edge cases in a manner identical to that in the previous section ("State-level vaping flavor restrictions").

Yes = 0 points

Edge cases (marked with "Yes, but" in the database) = 5 points

No=10 points

4. Additional excise taxes on vaping

States levy taxes on vapes based on formulas that consider nicotine levels, prices, and size. The two most common are ad valorem, which represents a certain percentage of the wholesale or retail price of a vape, and volume-based metrics, which incur a certain amount per ml. States that

rank low in the taxation index allow for higher levies on vapes than traditional cigarettes.

Yes = 0 points

No = 10 points

5. Online sales

Our observations from the prior index remain. The ability to buy vaping products online is a necessary tool for adult consumers who prefer custom devices, liquids, and more that they cannot find in their local communities. Using age-restricted websites to procure these products helps consumers conveniently and quickly order what they need directly home. While it empowers vapers, it also helps grow independent businesses that can stock and ship products to send directly to consumers. These online marketplaces also comply with tax and age-restriction laws, ensuring the rules are followed in compliance with both state and federal authorities. The states that do not allow online sales are, therefore, given a poor score for consumer-friendly vaping regulations.

Once more, the index makes room for edge cases in which only certain products are banned (Iowa, D.C.), prohibitions applying only to exchanges coming from outside the state (Hawaii), or where localities are the ones spearheading the restrictions (California).

Yes = 10 points

Edge cases = 5 points

No = 0 points

ABOUT THE AUTHORS

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Emil Panzaru is the Research Director at the Consumer Choice Center. He successfully defended his PhD in Political Economy (Research) at King's College London in 2022. Before working at the Center, Emil was a Teaching Assistant at King's College London, where he taught students contemporary issues at the intersection of philosophy, politics, and economics. He was also a Frederic Bastiat/Research Fellow at George Mason University's Mercatus Center. In the past, he has published and helped publish academic research on incentives, knowledge problems, and public policy.

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In the past and currently, we have received funding from multiple industries, such as energy, fast-moving consumer goods, nicotine, alcohol, airlines, agriculture, manufacturing, digital, healthcare, chemicals, banking, cryptocurrencies, and fin-tech.

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