

# STATE OF COLORADO

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John W. Hickenlooper  
Governor

## B 2018 011

### EXECUTIVE ORDER

#### **Amending Executive Order D 0036 90 Regarding Smoking in State Buildings and Further Directing State Agencies to Take Action to Limit the Use of Tobacco Products, Vaping Products, and E-Cigarettes by Youth**

Pursuant to the authority vested in the Office of the Governor of the State of Colorado, and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order directing state agencies to take action to limit the use of tobacco products, vaping products, and e-cigarettes by youth.

#### **I. Background and Purpose**

Tobacco products continue to threaten public health. Tobacco is responsible for the deaths of at least 5,100 Coloradans annually. Thousands more suffer from illnesses and poor health brought on by the use of tobacco. Tobacco-related deaths and illnesses cost the state over \$2 billion each year in direct healthcare costs and lost productivity. Taxpayers bear much of the brunt of these costs to the tune of roughly \$855 per Colorado household per year.

Tobacco products, vaping products, and e-cigarettes are particularly harmful to children. Even as we have made progress discouraging cigarette use among youth, use of e-cigarettes and vaping devices among youth has increased, reaching epidemic proportions that are putting the health of our children at risk. In Colorado, almost 27 percent of high school students currently use e-cigarettes, giving Colorado the highest rate of e-cigarette use among youth in the nation. Nearly 60 percent of Colorado youth say that e-cigarettes are easy to get, and, compared to cigarettes, fewer youth believe vaping to be risky.

Health experts know that vaping puts children's health at risk. According to the U.S. Department of Health and Human Services and the Centers for Disease Control, nicotine is a highly addictive drug that can have lasting, damaging effects on children's brains. The Surgeon General concludes that the use of products containing nicotine in any form is unsafe for youth. Some e-cigarette and vaping products contain high levels of nicotine. For example, "JUUL" devices contain as much nicotine in a single cartridge as in an entire pack of cigarettes. Additionally, e-cigarette products can contain other cancer causing chemicals such as formaldehyde and heavy metals such as lead. Youth that use e-cigarettes are six times more

likely to become cigarette smokers than those that do not smoke. Vaping products expose bystanders to air pollutants that are not safe to inhale. These can include cancer-causing chemicals, heavy metals, and nicotine.

Vaping is often targeted at children. E-cigarette flavors like gummy bear, cotton candy, and fruit punch appeal to kids, and 81 percent of youth who vape do so because vaping products come in flavors that appeal to children. Eighty percent of youth who try tobacco for the first time start with a flavored product. Congress recognized that flavored tobacco products posed a risk to children and eliminated flavored cigarettes when it passed the Family Smoking Prevention and Tobacco Control Act in 2009. This Act does not, however, ban other flavored tobacco or nicotine products.

Youth who vape are more likely to engage in other risky behaviors. The 2017 Healthy Kids Colorado Survey found that, among youth who currently vape, 57 percent binge drank one or more days in the past 30 days compared to 5.6 percent of youth who don't vape. Youth who vape are also much more likely to misuse prescription medications or use marijuana or cocaine.

Colorado's tobacco taxes currently do not apply to vaping products. The less expensive price of vaping products makes them more attractive to youth. In order to combat youth use of tobacco and vaping products, we need to ensure that vaping products are taxed in a similar manner to other tobacco products and that Colorado's prices do not lag behind the rest of the nation. Youth are particularly sensitive to price and less likely to experiment with tobacco and delay or forego purchasing tobacco completely as the price goes up. A majority of adult smokers have tried to quit smoking in the past year and price increases are proven to help smokers cut back or even quit for good. Studies show a 10 percent increase in price per pack results in a five to 15 percent decrease in smoking among youth and a three to seven percent decrease in smoking among adults. Evidence indicates that people are also less likely to use vaping products as the price increases.

Colorado has taken important steps to protect children and all Coloradans from the harmful effects of tobacco and vaping products, including the passage of the Colorado Clean Indoor Air Act and restricting the sale of vaping products and e-cigarettes to those over 18. However, as the industry adapts to new consumer demands and a changing regulatory environment, more action needs to be taken to protect youth from the effects of these products.

This Executive Order amends Executive Order D 0036 90 regarding smoking in state buildings and directs state agencies to take action to limit the use of tobacco products, vaping products, and e-cigarettes by youth. The amendments, directives, and declarations set forth in this Executive Order are intended to make Colorado a leader in addressing the negative impact of tobacco products, vaping products, and e-cigarettes on public health.

## II. Amendments

Paragraph 1 of Executive Order D 0036 90 is hereby amended as follows:

Smoking, vaping, and the sale of tobacco products, vaping products, and e-cigarettes are prohibited in all buildings and on all grounds owned or leased by the state under the control of the executive branch except as provided below.

Paragraph 4 of Executive Order D 0036 90 is hereby amended as follows:

Signs shall be posted at building entrances and other obvious public areas stating that the sale and use of tobacco products, vaping products, and e-cigarettes are prohibited in all buildings and on all grounds owned or leased by the state, except as otherwise provided in this Executive Order.

### III. Directives and Declarations

- A. I hereby direct the Colorado Department of Revenue (“DOR”) to increase enforcement of existing Colorado law in order to prevent the sale of e-cigarettes and vaping products to underage persons. By the end of the year, DOR is directed to double its compliance checks of retailers to ensure they are not selling to underage persons. DOR must maintain this level of enforcement as long as resources allow.
  
- B. I hereby direct the Colorado Department of Public Health and Environment (“CDPHE”) to increase prevention and education efforts related to the use of e-cigarettes and vaping products. Specifically, CDPHE is directed to issue a health advisory related to e-cigarettes and vaping products, with a particular emphasis on the effects on youth. For the 2019 legislative session, CDPHE will work with other state agencies and the General Assembly to propose legislation to extend tobacco excise taxes to e-cigarette and vaping product retailers, in addition to tobacco retailers. I further direct CDPHE to study the association between vaping among youth and other risky behaviors, such as binge drinking or other substance use, and to identify effective programs to prevent risky behaviors.

### IV. Legislative Efforts

Comprehensively addressing the use of tobacco products, vaping products, and e-cigarettes among youth will require action by the legislature and Colorado voters. Price increases are a proven tool for protecting public health and discouraging youth use, but Colorado currently ranks 39th among states in cigarette taxes and does not extend any excise taxes to vaping products.

In order to be the healthiest state in the nation, Colorado needs to pass common sense measures that will protect public health from the harmful effects of tobacco products, vaping products, and e-cigarettes. Along with this executive order, we are releasing the Colorado Tobacco Prevention Blueprint (“Blueprint”), which includes six important steps that our state can take to protect youth and all Coloradans from the dangerous effects of tobacco products,

vaping products, and e-cigarettes. In order to implement the Blueprint, we encourage the legislature to consider the following:

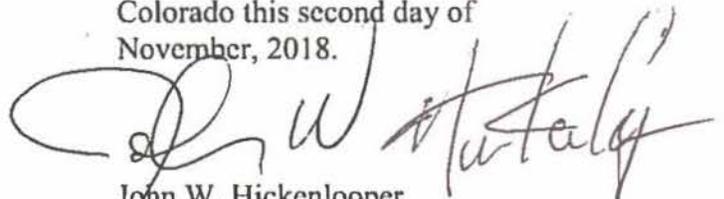
- Extend the existing excise tax on tobacco products to vaping products and e-cigarettes or impose a fee on these products.
- Require all retailers of tobacco products, vaping products, and e-cigarettes to be licensed.
- Require internet retailers that sell vaping products to implement age verification procedures, billing and shipping address matching, and the use of mail carriers that offer point-of-delivery age verification.
- Update the Colorado Clean Indoor Air Act to restrict the use of e-cigarettes in public places where cigarette and marijuana use is already prohibited.
- Consistent with the sale of marijuana and alcohol, raise the minimum age to purchase tobacco and e-cigarette products to 21 years of age.
- Prohibit the sale of flavored tobacco products and vaping products in Colorado.

V. Duration

This Executive Order shall remain in effect unless modified or terminated by further Executive Order of the Governor or until superseded by state or federal law.



GIVEN under my hand and  
Executive Seal of the State of  
Colorado this second day of  
November, 2018.



John W. Hickenlooper  
Governor