

FDA Warns Retailers to Stop Selling Illegal Youth-Appealing E-Cigarettes Disguised as Everyday Items

Products Look Like Toys and Drink Containers That Can be Easily Concealed by Youth

On Nov. 16, FDA issued [warning letters \(/inspections-compliance-enforcement-and-criminal-investigations/compliance-actions-and-activities/warning-letters\)](#) to seven online retailers for selling and/or distributing unauthorized e-cigarettes. The unauthorized e-cigarettes are packaged to look like youth-appealing toys and drink containers, including milk cartons, soft drink bottles, and slushies. The products' design may also help youth conceal the e-cigarettes from adults or be confused with an everyday object and the contents accidentally ingested by young children.

“As we continue into the school year, it’s critical that parents, teachers, and other adults are aware of illegal e-cigarettes deceptively packaged to look like everyday items,” said Brian King, Ph.D., M.P.H., director of FDA’s Center for Tobacco Products. “These types of products can be easily concealed and contain nicotine, which is highly addictive and can harm the developing adolescent brain.”

It is important for educators and those that work with youth to be aware of these illegal youth-appealing products, which can be deceiving and easily concealed, including among younger students. The [Vaping Prevention and Education Resource Center \(https://digitalmedia.hhs.gov/tobacco/educator_hub\)](#) is an online hub with free science-based lesson plans and materials for teachers, including how to spot stealth and disposable e-cigarettes and to help youth understand the dangers associated with e-cigarette use and nicotine addiction. The unauthorized products described in the warning letters issued today include e-cigarettes that:

- Imitate drink containers for youth-appealing drinks such as milk, soft drinks, and slushies.



E-Cigarette



Drink Container



E-Cigarette



Drink Container



E-Cigarette



Drink Container



E-Cigarette



Drink Container



E-Cigarette



Drink Container



E-Cigarette



Drink Container

- Are designed to look like youth-appealing toys such as dice, phones, and action figures.



E-Cigarette



Toy



E-Cigarette



Toy



Findings from the 2023 National Youth Tobacco Survey (NYTS)

(https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm?s_cid=mm7244a1_w) showed an encouraging decline in e-cigarette use among high school students since 2022. However, an increase occurred in overall tobacco product use among middle school students, which includes e-cigarettes. E-cigarettes remained the most commonly used tobacco product among both high school and middle school students for the 10th year in a row, with 2.1 million youth reporting they currently used the products in 2023.

“FDA uses a variety of surveillance tools to monitor the rapidly evolving e-cigarette landscape and to identify emerging threats to public health,” said Ann Simoneau, J.D., M.B.A, director of the Office of Compliance and Enforcement within FDA’s Center for Tobacco Products. “We use data from these tools to help prioritize investigations of youth-appealing products across the supply chain to ensure illegal products stay off the shelves.”

The retailers receiving these warning letters sell and/or distribute e-cigarettes in the United States that lack authorization from FDA, which is a requirement under the Federal Food, Drug, and Cosmetic (FD&C) Act to legally market a new tobacco product. In addition to the specified products mentioned in the warning letters, the retailers were warned to address any violations that are the same as or similar to those stated in the warning letter, and promptly take any necessary actions to bring the tobacco products that they offer for sale in the United States into compliance with the FD&C Act. The seven retailers issued warning letters were given 15 working days to respond with the steps they will take to correct any violations and to prevent future violations. Failure to promptly correct the violations can result in additional FDA actions such as an injunction, seizure, and/or civil money penalties.

Today’s warning letters are the latest in a series of FDA’s efforts across the supply chain to address illegal e-cigarettes that appeal to youth. As of November 2023, FDA has issued approximately 630 warning letters (<https://www.fda.gov/tobacco-products/compliance-enforcement-training/advisory-and-enforcement-actions-against-industry-unauthorized-tobacco-products#2>) to firms for manufacturing and/or distributing illegal e-cigarette products and devices, issued more than 400 warning letters to retailers for the sale of unauthorized e-

cigarettes, [filed civil money penalty complaints \(https://www.fda.gov/tobacco-products/compliance-enforcement-training/advisory-and-enforcement-actions-against-industry-unauthorized-tobacco-products#5\)](https://www.fda.gov/tobacco-products/compliance-enforcement-training/advisory-and-enforcement-actions-against-industry-unauthorized-tobacco-products#5) against 35 e-cigarette manufacturers and 42 retailers for manufacture or sale of unauthorized products, and worked with the Department of Justice to seek injunctions against 6 manufacturers of unauthorized e-cigarettes.

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