DANGEROUS DELAYS: THE FAILURE TO REGULATE E-CIGARETTES

E-cigarettes have been allowed to stay on the market for years without undergoing a full review of their public health impact, sparking a sustained and ongoing epidemic of youth use.

2009

The Tobacco Control Act grants the Food and Drug Administration (FDA) the authority to regulate tobacco products.

2016

FDA finally "deems" e-cigarettes – which were first introduced in the U.S. market in 2006 – **as part of its jurisdiction**. It gives e-cigarette manufacturers two years to prepare premarket applications to stay on the market.

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E-cigarette use among adolescents in the US increased nearly 10-fold between 2011 and 2016, when more than 11% of youth reported that they currently use the devices.

2017

FDA extends the premarket application deadline to August 2022.

2018

Public health groups, including Truth Initiative, sue FDA over the delays surrounding e-cigarette reviews.

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U.S. Surgeon General Jerome Adams releases an advisory declaring youth e-cigarette use — now at 20.8% — an **epidemic**.

2019

A federal judge ruled in favor of public health groups and set a May 12, 2020 deadline for companies to submit premarket applications.

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To avoid further restriction by FDA, top brand, JUUL, suspends in-store sales of some sweet and fruity flavors in response to backlash over its leading role in the youth e-cigarette epidemic.

2020

FDA issues an enforcement policy that prohibits flavors, except menthol, in closed-system e-liquid cartridges, like JUUL and its pods, but does not apply to refillable cartridges or disposable products.

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The premarket review application deadline changed again to September 9, 2020, following FDA and tobacco industry requests for more time due to the COVID-19 pandemic.

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Flavored disposable e-cigarettes, which were exempted from FDA's enforcement compliance policy, rise in popularity.

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FDA begins reviewing millions of premarket applications to determine if those products are appropriate for the protection of public health, a standard set by the Tobacco Control Act.

2021

FDA authorizes Vuse Solo, which has no significant market share, to continue selling its tobacco flavor. It has **yet to complete** reviews from the largest companies with the most popular products like Juul, other Vuse products, NJOY, blu, Smok and Suorin.

2022

FDA tells a federal court in May that **it won't finish** its review of marketing applications for the most popular e-cigarette products until June 2023 – nearly two years after the September 9, 2021, court-ordered deadline to remove products that have not received FDA permission to stay on the market.

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In order to avoid FDA regulation, some companies began using synthetic nicotine, but a bipartisan legislative agreement in Congress enables the FDA to regulate synthetic nicotine products as tobacco products.

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In its first major decision on a popular e-cigarette brand, FDA issues marketing denial orders for JUUL and states the products must be removed from the market. Two weeks later, FDA administratively stays the marketing denial order to re-review JUUL's application, citing "scientific issues," allowing JUUL to remain on the market for now.