

Sen. Durbin Urges New FDA Commissioner To Finally complete E-Cigarette Review

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FDA is currently seven months delinquent on acting on a court-order to review e-cigarette applications, which has allowed companies like JUUL to continue hooking kids

WASHINGTON – U.S. Senate Majority Whip Dick Durbin (D-IL) today spoke by phone with Food and Drug Administration (FDA) Commissioner Dr. Robert Califf about the agency's delay in comprehensively regulating the e-cigarette marketplace to protect public health. During today's call, Durbin urged new Commissioner Califf to finally conclude FDA's review of premarket tobacco product applications (PMTAs) for

e-cigarette products, now seven months past the court-ordered deadline for the review. While FDA has reviewed nearly seven million PMTAs it received, the agency has yet to act on e-cigarette products most often used by children, including JUUL.

Under the *Tobacco Control Act*, e-cigarette manufacturers must prove to FDA that entry on the market would be “appropriate for the protection of public health.” However, FDA’s nonexistent enforcement of e-cigarette products over the past decade has allowed these products to illegally enter the market without authorization, hooking millions of children on nicotine in the process.

“More than a decade ago, Congress gave FDA the authority to regulate tobacco products. To my dismay, the agency refused to take the threat of e-cigarettes seriously and, as a result, millions of our kids are now hooked on nicotine. Today, I reminded Dr. Califf of his responsibility to protect the health and well-being of all Americans, especially our nation’s children,” Durbin said. “It is unacceptable that we continue to see dangerous delays in the regulation of vaping and tobacco use, but I am hopeful that we will soon have action out of FDA. I urged Dr. Califf to finally conclude the review of these products and remove harmful e-cigarettes from the market before more kids develop a lifetime addiction to nicotine.”

Commissioner Califf also thanked Durbin for his work to close the “synthetic nicotine” loophole in law that allowed certain e-cigarette companies—like PuffBar, especially popular with children—to evade FDA regulation. As part of the Fiscal Year 2022 omnibus appropriations bill that was recently signed into law by President Biden, Durbin included a provision to strengthen FDA’s ability to regulate these products.

For decades, Durbin has led congressional efforts to investigate and regulate tobacco products, especially kid-friendly e-cigarettes. Durbin’s bipartisan [*Resources to Prevent Youth Vaping Act*](#) would require that e-cigarette manufacturers pay user fees to FDA to help to fund more activity at FDA to conduct stronger oversight of the e-cigarette industry and increase awareness of the danger of e-cigarettes. And in 2019, Durbin and U.S. Senator Lisa Murkowski (R-AK) introduced [*bipartisan, bicameral legislation*](#) to crack down on kid-friendly flavorings in highly-addictive e-cigarettes and cigars. Durbin has also introduced the [*Tobacco Tax Equity Act*](#) to update and strengthen federal tobacco taxes to ensure they remain effective public health tools to prevent and reduce tobacco use.