

Durbin Again Urges FDA To Use Its Authority To Protect Children, Stop Unlawfully Marketed Vaping Products In 2024

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WASHINGTON – U.S. Senate Majority Whip Dick Durbin (D-IL) again urged the Food and Drug Administration (FDA) to use its authority to protect children from the dangers of vaping as the agency continues to miss and delay critical deadlines in a letter to FDA Commissioner Dr. Robert Califf. Durbin has repeatedly criticized FDA for its long-overdue review of pre-market tobacco product applications (PMTAs) from e-

cigarette manufacturers, which had a federal court deadline of September 9, 2021. FDA has missed that court-ordered deadline by 28 months as unauthorized e-cigarettes flood the market and addict America's children.

“This repeated failure to meet FDA's own stated projections tells us FDA is not meeting its obligations under the court order. Given these delays, and with no end in sight, there is absolutely no reason why FDA continues to permit unauthorized e-cigarettes to remain on store shelves. FDA has the tools and the authority to clear the market of unauthorized products today, yet the agency instead is granting a free pass to scores of vaping products that are harming the health of children in our country,” the letter stated.

In the letter, Durbin cited other ways FDA had missed crucial deadlines, including failing to meet a statutory deadline for the regulation of synthetic nicotine products—an authority that FDA itself asked for. Durbin and Senator Susan Collins (R-ME) successfully secured a bipartisan provision in the Fiscal Year 2022 Omnibus Appropriations bill that clarified FDA's ability to regulate products containing synthetic nicotine as tobacco products. This legislative fix was necessary to close legal loopholes that manufacturers of kid-friendly, flavored e-cigarettes sought to sidestep FDA regulation, which had the potential to erase recent progress made toward curbing the nationwide youth vaping epidemic. The new law required FDA to clear the market of all unauthorized synthetic nicotine products by July 13, 2022—18 months ago.

The letter continued, “I have sought to assist FDA in its mission through legislative, regulatory, funding, and public awareness efforts. But the simple truth is that FDA does not appear to want to meet court orders or statutory requirements. Your unwillingness to utilize FDA's arsenal of enforcement tools and the repeated apparent deference to industry is at the expense of our children. What could be more important than the health of our children?”

Durbin has been a vocal leader in the fight against Big Tobacco, particularly since he lost his father to lung cancer at the age of 14. He went after Big Tobacco when he served in the House of Representatives and led the charge to ban smoking on airplanes, which eventually led to restaurants, office buildings, trains, and much more. Durbin has also led efforts to grant FDA jurisdiction over tobacco, raise tobacco taxes to prevent youth initiation, and enhance support for tobacco cessation tools.

Full text of the letter can be found [here](#).