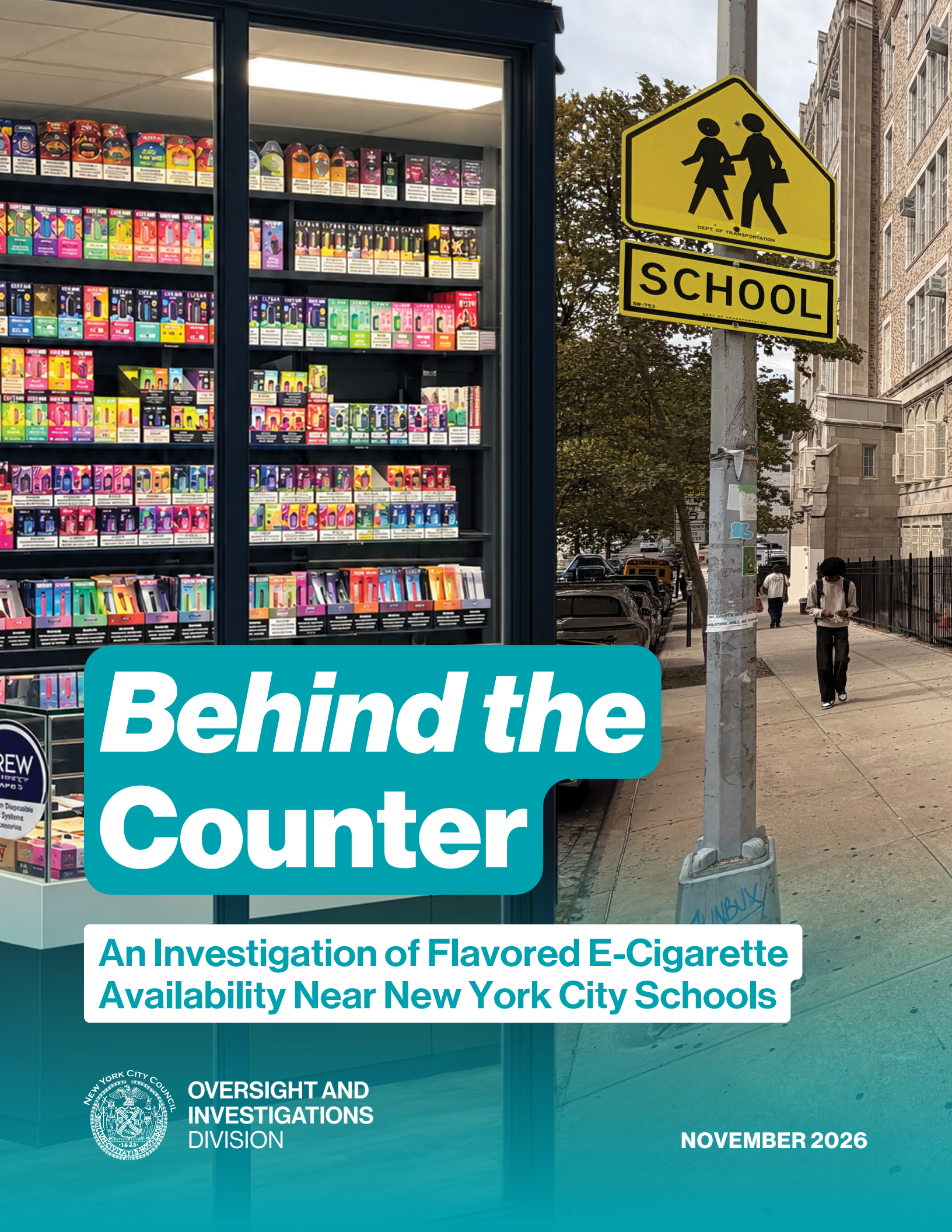
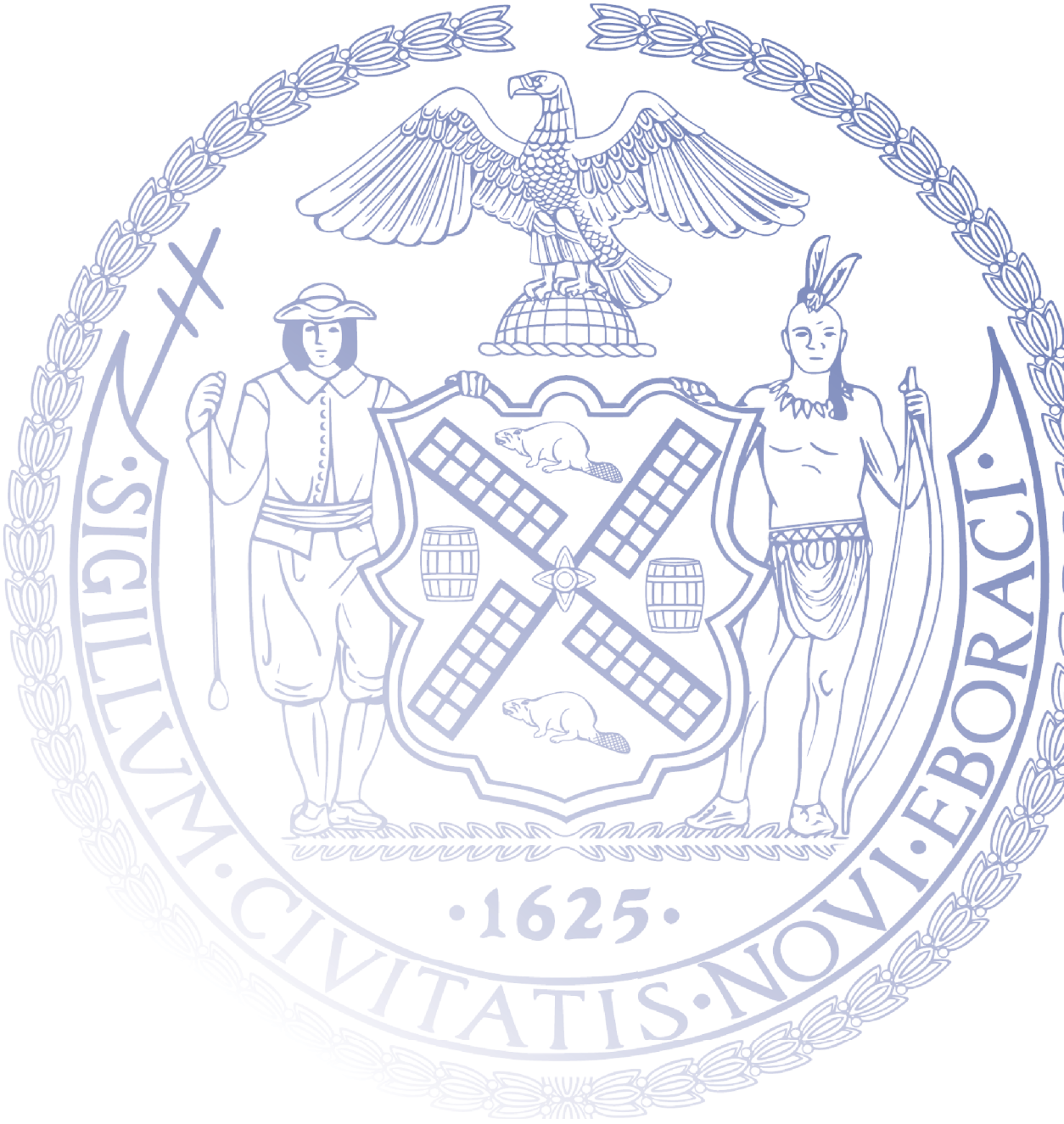


Behind the Counter

An Investigation of Flavored E-Cigarette Availability Near New York City Schools

NEW YORK CITY COUNCIL
OVERSIGHT AND INVESTIGATIONS DIVISION

NOVEMBER 2026



ABOUT THE NEW YORK CITY COUNCIL OVERSIGHT AND INVESTIGATIONS DIVISION

The Oversight and Investigations Division (OID) is an interdisciplinary team of investigators, policy and data analysts, and attorneys dedicated to strengthening the City Council's oversight and legislative work. Through comprehensive, fact-based investigations, OID brings clarity to matters of public significance by identifying issues, presenting findings, and improving transparency in City government.

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EXECUTIVE SUMMARY

Flavored e-cigarettes are prohibited for sale in New York City,[1] yet they remain easy to find near many of the City's public middle and high schools. The New York City Council's Oversight and Investigations Division (OID) found prohibited flavored products readily available within walking distance of schools across the city, at both licensed retailers and businesses selling e-cigarettes without an active license.[2] Some retailers displayed the products openly, while others kept them out of sight and produced specific flavors only when investigators asked. The continued availability of flavored e-cigarettes near schools undermines the law, increases the visibility and accessibility of nicotine products in the areas surrounding schools, and raises significant public health concerns.

To assess compliance with city and state e-cigarette laws, OID selected 222 businesses located within 500 feet of a New York City public middle or high school. These included every licensed e-cigarette retailer within that distance and a sample of businesses without an active e-cigarette retail dealer license that had prior complaints or enforcement actions related to the unlicensed sale of tobacco or nicotine products. Of the 222 businesses selected, 193 were open when investigators visited and were included in OID's analysis.[3] During the survey of retailers, investigators posed as customers, documented the availability of flavored e-cigarettes, recorded any prohibited advertising and smoking-related paraphernalia visible from outside stores,[4] and later reviewed enforcement and penalty data associated with prior Department of Consumer and Worker Protection (DCWP) inspections, summonses, penalties, payments, and sealing actions.[5]

OID found e-cigarettes available at 121 of the 193 businesses included in the site-visit analysis. 48 of those 121 businesses, or 40%, offered at least one product with a recognizable prohibited flavor.[6] At the school level, 65 of the 201 schools located within 500 feet of at least one surveyed retailer, or 32%, had a nearby retailer offering a recognizable prohibited flavored e-cigarette. Of the 101 licensed retailers offering e-cigarettes for sale (of 130 licensed retailers surveyed), 28, or 28%, offered at least one prohibited flavor. All 20 businesses without active e-cigarette licenses that offered e-cigarettes for sale offered prohibited flavored products.[7]

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[1] *See* N.Y.C. Admin. Code § 17-715(b)(1) (banning the sale, offering for sale, or possession with intent to sell or offer for sale of "flavored electronic cigarette or flavored e-liquid"); N.Y.C. Admin. Code § 17-713 (defining "flavored electronic cigarette" as "any electronic cigarette that imparts a characterizing flavor," and further defining "characterizing flavor" as "a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product, electronic cigarette or e-liquid, including, but not limited to, tastes or aromas relating to any menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, spice, or any 'concept flavor' that imparts a taste or aroma that is distinguishable from tobacco flavor but may not relate to any particular known flavor"). *See also* N.Y. Pub. Health L. § 1399-mm-1(1)– (3) (defining and banning all flavored vapes with penalties). *But see also* NY Pub. Health L. § 1399-mm-1(4) (exempting from that "any flavored vapor product intended or reasonably expected to be used with or for the consumption of nicotine that the U.S. Food and Drug Administration has authorized to legally market as defined under 21 U.S.C. § 387j and that has received a premarket review approval order under 21 U.S.C. § 387j(c) et seq.").

[2] New York City and New York State laws require e-cigarette retailers to obtain licenses and comply with extensive regulations governing the sale of these products. See N.Y.C. Local L. No. 144 (2017) (including several distinct effective dates for various parts of the law, all of them in 2018), codified as N.Y.C. Admin. Code § 20-561 et seq.; see also, e.g., N.Y.C. Admin. Code § 17-715; N.Y. Pub. Health L. § 1399-mm-1(1)–(3).

[3] Of the 144 licensed businesses with e-cigarette retailer licenses, 130 were open when OID visited, and of the 78 businesses without an active e-cigarette license, 63 were open when OID visited.

[4] *See* N.Y. Pub. Health L. § 1399-dd-1 (restricting the display of tobacco, electronic cigarette, or vapor product advertisements and smoking paraphernalia in storefronts, exterior windows, or public entry doors within 500 feet of a New York City school).

[5] DCWP Inspections, NYC OpenData, https://data.cityofnewyork.us/Business/DCWP-Inspections/jzhd-m6uv/about_data (last visited Aug. 7, 2026); DCWP Consumer Complaints, NYC OpenData, https://data.cityofnewyork.us/Business/DCWP-Consumer-Complaints/nre2-6m2s/about_data (last visited Aug. 7, 2026); DCWP Charges data provided by DCWP to OID (data through July 30, 2026; file dated Sept. 29, 2026), on file with Council; OATH Hearings Division Case Status, NYC OpenData, https://data.cityofnewyork.us/City-Government/OATH-Hearings-Division-Case-Status/jz4z-kudi/about_data (last visited Oct. 22, 2026). OID used the DCWP violation date to apply the July 1, 2023 through March 30, 2026 review period.

[6] "Prohibited flavor" is used throughout this report to represent e-cigarettes labeled with flavors other than "tobacco," "clear," or unflavored. "Clear" is treated as a separate category of flavor.

[7] Because these businesses were selected based on prior complaints or enforcement activity, this finding should not be interpreted as representative of all businesses without active e-cigarette retail dealer licenses.

At 52, or 51%, of the licensed retailers offering e-cigarettes for sale, OID observed that they offered e-cigarettes labeled or marketed as "clear"-flavored but did not offer other recognizable prohibited flavors. During its investigation, OID identified two distinct concerns regarding these "clear"-labeled products. First, published research, product marketing, retailer statements, and OID's observations suggest that some "clear"-labeled products may have a characterizing non-tobacco flavor or aroma. Second, investigators encountered instances in which "clear"-labeling appeared to disguise another prohibited flavor such as watermelon, peach, or mint. OID did not, however, determine that every "clear" product violated city law and therefore analyzed "clear"-labeled products as a distinct category throughout this report.[8] In total, nearly four in five of the surveyed licensed retailers offering e-cigarettes for sale (80 of 101) offered either a product marketed or labeled as "clear" or an e-cigarette with a prohibited flavor.[9]

Investigators also found frequent violations of laws restricting tobacco- or smoking-related advertisements and paraphernalia near schools. OID investigators observed smoking-related advertisements or smoking paraphernalia, such as pipes and bongs, visible from public sidewalks outside of 66 businesses located within 500 feet of public middle and high schools and, therefore, visible to NYC students as they travel to and from school. 70 of the 201 schools, or approximately 35%, had a retailer with smoking- or tobacco-related advertisements or paraphernalia nearby.

Many surveyed businesses appeared to continue to offer prohibited products for sale despite prior enforcement activity, substantial penalties, and, in some cases, repeat-violation histories. Specifically, OID's review of the city's prior enforcement activity revealed substantial penalties and comparatively low recorded payments among surveyed businesses without DCWP e-cigarette licenses. Of the 193 businesses included in the analysis, 47 businesses had received DCWP summonses for selling flavored vapes or selling to people under age 21, carrying approximately $1.62 million in penalties,[10] including $492,000 for licensed businesses and approximately $1.12 million for businesses without an active e-cigarette retail dealer license. DCWP records showed approximately $297,000 in net payments associated with the relevant cases involving licensed retailers, compared with $5,300 associated with the cases involving businesses without active licenses.[11] For businesses without active licenses, recorded net payments equaled approximately 0.5% of reported penalties.[12]

Based on a review of available records and conversations with the agency, OID found that DCWP does not appear to have sealed businesses based solely on e-cigarette violations. DCWP indicated to the Council that legislation clarifying its authority to seal businesses for qualifying e-cigarette violations in addition to tobacco violations would assist its enforcement efforts, and the Council may consider legislation to address this issue.

The following findings highlight that stronger guidance around prohibited flavors, more targeted enforcement, enhanced collection of fines and fees, and greater public-health education may be necessary to address the availability of flavored e-cigarette products near New York City public schools.

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[8] Published research, retailer marketing, investigators' conversations with store clerks, and OID's informal sensory survey of several clear-labeled products suggest that at least some may have distinguishable aromas or flavors. In addition, investigators observed retailers offering e-cigarettes with other flavors, such as watermelon, for sale in packaging labeled as "clear." *See* Finding 3 *infra* for a more detailed discussion of OID's investigation into "clear"-labeled products.

[9] OID did not determine whether all products marketed as "clear"-flavored violated city law. As such, this report treats recognizable non-tobacco flavored products and clear-labeled products separately.

[10] DCWP Charges, supra note 5; OATH Hearings Division Case Status, supra note 5. Includes only summonses with a sustained or default result at OATH, or a guilty finding at DCWP that is not contradicted by a dismissal or withdrawal in OATH records.

[11] DCWP Payments Received, NYC OpenData, https://data.cityofnewyork.us/Business/DCWP-Payments-Received/2xab-argn/about_data (last visited Oct. 22, 2026). OID limited the data to adjudication payments, which run from July 1, 2023 through Sept. 24, 2026. OID included a case if OATH showed a sustained or default result, or if DCWP showed a guilty finding and OATH had not dismissed or withdrawn it. OID used the OATH penalty where available and otherwise the DCWP fee amounts described in note 80. Payments were counted on those same DCWP fees. Cases without a payment record were counted as having no payment.

[12] *Id.*

KEY FINDINGS

1. **Flavored e-cigarettes remain widely available near public middle and high schools despite city and state restrictions.** Among the 121 surveyed businesses offering e-cigarettes for sale, 40% offered prohibited flavors (48 of 121). Of the 101 licensed retailers offering e-cigarettes for sale 28, or 28%, offered at least one prohibited flavor. All 20 businesses without active e-cigarette licenses that offered e-cigarettes for sale offered prohibited flavored products. Nearly one third of the 201 schools analyzed (65 of 201) had at least one business within 500 feet offering e-cigarettes with prohibited flavors for sale.

2. **Many surveyed businesses offered e-cigarettes for sale without a license.** Investigators found e-cigarettes for sale at 20 of the 63 businesses surveyed without an e-cigarette retailer license. All of these shops offered prohibited flavored varieties of e-cigarettes. These businesses were drawn from a sample of retailers with prior complaints or enforcement activity related to the unlicensed sale of tobacco or nicotine products.

3. **Some e-cigarettes labeled as "clear"-flavored may impart a distinct non-tobacco taste or aroma, and others may correspond to identified prohibited flavors such as watermelon, peach, and mint.** Nearly two-thirds of licensed shops found selling e-cigarettes (66 of 101), openly displayed e-cigarettes labeled as "clear"-flavored.

4. **Prohibited advertisements and displays of smoking paraphernalia were common near schools.** Investigators observed prohibited storefront advertising or smoking paraphernalia at 66 of 193 surveyed businesses, including businesses located near 70 of the 201 schools analyzed.

5. **Many surveyed businesses had accumulated substantial penalties, and businesses without active e-cigarette retail dealer licenses had substantially lower recorded payments relative to those penalties.** Businesses without active licenses accounted for approximately $1.12 million in reported penalties that included a violation for selling flavored vapes or for selling vapes to people under 21 years old, but recorded just $5,300 in recorded net payments, (a payment rate of 0.5%).

6. **DCWP does not appear to have sealed businesses based solely on e-cigarette violations.** In conversations with the Council, DCWP indicated that legislation clarifying its authority to seal businesses for e-cigarette violations would assist its enforcement efforts.

RECOMMENDATIONS

1. DCWP should determine the compliance status of e-cigarettes marketed or labeled as "clear"-flavored and issue public guidance accordingly. DCWP should also investigate how "clear"-labeling is being used to obscure prohibited e-cigarette flavors.

2. DCWP and New York State Department of Health (NYS DOH) should strengthen enforcement of advertising and display restrictions near schools.

3. DCWP, OATH, and DOF should review penalties, recorded payments, and current balances associated with repeat violations and strengthen collection and enforcement efforts where appropriate.

4. The Administration, including DCWP, NYC Department of Health and Mental Hygiene (DOHMH), and the NYC Department of Education (DOE), should coordinate retail enforcement with youth-facing public-health messaging.

BY THE NUMBERS



193

STORES SURVEYED

130 Licensed Stores
63 Unlicensed Stores



40%

of all surveyed retailers offering vapes offered prohibited flavors



32%

of schools had nearby stores offering vapes with prohibited flavors



65%

of licensed retailers offering vapes offered ones labeled “clear”



0.5%

For unlicensed stores, recorded payments equaled 0.5% of reported penalties



35%

of schools had stores nearby with prohibited ads or displays

INTRODUCTION

In the Belmont neighborhood of the Bronx, around the corner from a New York City public middle school, an investigator from the New York City Council's Oversight and Investigations Division (OID) entered a licensed e-cigarette retailer. Posing as a customer, she looked around, observing only products that appeared to be permissible under city law, but no e-cigarettes. The investigator then approached the store's counter and asked if the shop sold vapes and what kind they had to offer. In response, the store clerk pulled out an iPad which displayed a list of dozens of vape brands and hundreds of flavored options like Blue Razz, Gummi Bear, Strawberry Cream, and Cookie Butter. After looking through the list, the investigator said she would return later, thanked the clerk, and left.

Despite both New York City and New York State restrictions on the sale of flavored e-cigarettes,[13] vaping remains a significant concern for schools, families, and public-health officials. Vaping is the most common form of tobacco use among youth in New York State,[14] and studies have found that most youth who vape use flavored products.[15] Tobacco and nicotine are particularly dangerous to adolescents and young adults due to potential harm to the developing brain and an increased risk of nicotine dependence.[16] As New York City schools and other City agencies work to reduce vaping through education and health initiatives,[17] as well as other preventative measures,[18] regulating the availability and visibility of these products in the areas surrounding schools remains an important component of broader public-health efforts.

At a 2019 hearing before the City Council's Committee on Health, prior to the passage of New York City's flavored e-cigarettes ban, an eighth grade student testified that "there are many" smoke shops and convenience stores "within a few blocks of my school or my apartment who advertise flavored e-cigarettes and pods."[19] To better understand the availability of flavored e-cigarette products near schools today, OID conducted an investigation of 222 businesses located within 500 feet of New York City Department of Education (DOE) public middle and high schools. The investigation examined the presence of flavored e-cigarettes, including products labeled or marketed as "clear"-flavored, the presence of prohibited advertising and smoking paraphernalia at the selected stores, and the retailers' enforcement and penalty histories.

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[13] N.Y.C. Admin. Code § 17-715(b)(1) (banning the sale, offering for sale, or possession with intent to sell or offer for sale of "flavored electronic cigarette or flavored e-liquid"); N.Y. Pub. Health L. § 1399-mm-1(1-3) (defining and banning all flavored vapes with penalties). *But see* N.Y. Pub. Health L. § 1399-mm-1(4) (exempting from that "any flavored vapor product intended or reasonably expected to be used with or for the consumption of nicotine that the U.S. Food and Drug Administration has authorized to legally market as defined under 21 U.S.C. § 387j and that has received a premarket review approval order under 21 U.S.C. § 387j(c) et seq.").

[14] N.Y. State Tobacco Control Program, N.Y. Dep't of Health & Mental Hygiene, *High School Youth Tobacco Use Continues to Decline, One in Six Youth Still Use Tobacco,* 17 StatShot 1 (Oct. 2025), https://www.health.ny.gov/prevention/tobacco_control/reports/statshots/volume17/n1_tobacco_high_school.pdf.

[15] A.C. Villanti et al., *Association of Flavored Tobacco Use with Tobacco Initiation and Subsequent Use Among US Youth and Adults, 2013-2015* (JAMA Netw Open., 2019), https://pmc.ncbi.nlm.nih.gov/articles/PMC6820032/.

[16] U.S. Dep't of Health & Hum. Servs., E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General, 6, 104–107 (2016), https://www.ncbi.nlm.nih.gov/books/NBK538680/pdf/Bookshelf_NBK538680.pdf.

[17] *See, e.g., Substance Misuse Prevention,* N.Y.C. Dep't Edu., www.schools.nyc.gov/school-life/special-situations/substance-abuse-prevention-and-intervention (last visited Aug. 18, 2026).

[18] *See, e.g., Locked doors, vape detectors: Students explore NYC school bathroom rules,* Chalkbeat (May 15, 2025), https://www.chalkbeat.org/newyork/2025/05/15/students-discuss-nyc-school-bathroom-policies-and-vaping-issues/.

[19] *Oversight – Banning the Sale of Flavored Vaping Products and Flavored Cigarettes in New York City: Hearing Before the N.Y.C. Council Comm. on Health, 104* (N.Y.C. Jan. 30, 2019), https://legistar.council.nyc.gov/View.ashx?M=F&ID=7058370&GUID=8EF6B8E4-5DCF-44A5-A970-9BB56E9E9866.

OID found that flavored e-cigarettes remained widely available at retailers near schools, including at licensed retailers and businesses without active e-cigarette licenses. Products marketed or labeled as "clear"-flavored were common among retailers, and although often presented as unflavored, retailers' own descriptions of these items and OID's investigation raise questions about the legality of such products. Investigators further observed prohibited advertisements and smoking paraphernalia visible outside of surveyed retailers near schools. Together, these findings demonstrate the need for regulatory clarity, effective retailer oversight, and timely, consistent action for businesses with repeated relevant enforcement activity.

BACKGROUND

E-CIGARETTES – WHAT ARE THEY?

E-cigarettes (or **"vapes"**) are electronic devices that heat a liquid to produce an aerosol for inhalation.[20] The aerosol—or vapor—often contains nicotine.[21] E-cigarette aerosol may also contain harmful substances, including cancer-causing chemicals, heavy metals, fine particles that can be inhaled deeply into the lungs, and flavorings such as diacetyl, which has been associated with serious lung disease.[22]

E-cigarettes may be unflavored or tobacco-flavored but also come in a variety of other flavors such as candy, fruit, mint, or menthol.[23] During its investigation, OID encountered flavored products with names such as "Mexican Mango," "Peach Ice," and "Watermelon Ice." OID also frequently encountered products marketed or labeled as "clear"-flavored, which is discussed in greater detail in the Findings below.



FIGURE 1:
Photo of "Peach Ice"-flavored E-Cigarette.

[20] *About E-Cigarettes (Vapes),* U.S. Ctrs. for Disease Control & Prevention (Oct. 24, 2024), https://www.cdc.gov/tobacco/e-cigarettes/about.html. For an overview of the terms used in this report, *see Appendix A: Glossary of Terms.*
[21] *Id.*
[22] U.S. Dep't of Health & Hum. Servs, *supra* note 16.
[23] *Flavored e-cigarettes like candy to youth: More protection needed,* CDC Found. (Nov. 21, 2024), https://www.cdcfoundation.org/stories/flavored-e-cigarettes-more-protection-needed.

FLAVORED E-CIGARETTES APPEAL TO YOUTH

Research indicates that flavors are an important factor in why youth first try and continue to use e-cigarettes.[24] According to the 2025 Annual National Youth Tobacco Survey, which surveys U.S. middle and high school students, e-cigarettes were the most commonly used tobacco product (5.2% of students surveyed stated they currently use e-cigarettes).[25] Among students surveyed who currently used e-cigarettes, more than eight out of ten used flavored e-cigarettes.[26] Fruit was the most popular flavor category reported, followed by candy and dessert flavors, mint, and then menthol.[27]

E-cigarette use poses particular health risks for youth. Nicotine use during adolescence can impact brain development and harm areas of the brain related to attention, mood, learning, and impulse control.[28] Adolescents can also display signs of nicotine dependence quickly, even before developing patterns of regular or daily use.[29]



FIGURE 2: *Source: Substance Misuse Prevention, N.Y.C. Dep't Edu., www.schools.nyc.gov/school-life/special-situations/substance-abuse-prevention-and-intervention.*

[24] U.S. Dep't of Health & Hum. Servs, *supra* note 16; Villanti et al., *supra* note 15 (showing that most youth who vape initially start with a flavored product); Ahmed Jamal et al., *Tobacco Product Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2024,* 73 Morbidity & Mortality Wkly. Rep. 917, 917–24 (Oct. 2024), https://www.cdc.gov/mmwr/volumes/73/wr/pdfs/mm7341a2-H.pdf.
[25] *Results from the Annual National Youth Tobacco Survey (NYTS),* U.S. Food & Drug Admin. (Jun. 23, 2026), https://www.fda.gov/tobacco-products/youth-and-tobacco/results-annual-national-youth-tobacco-survey-nyts.
[26] *Id.*
[27] *Id.*
[28] U.S. Dep't of Health & Hum. Servs, *supra* note 16.
[29] J.R. DiFranza et al., *Initial Symptoms of Nicotine Dependence in Adolescents,* 9 Tobacco Control 313, 313–19 (2000), https://pmc.ncbi.nlm.nih.gov/articles/instance/1748379/pdf/v009p00313.pdf; Joseph J.R. DiFranza et al., *Symptoms of Tobacco Dependence After Brief Intermittent Use: The Development and Assessment of Nicotine Dependence in Youth-2 Study,* 161 Archives Pediatric & Adolescent Med. 704, 704–10 (2007), https://jamanetwork.com/journals/jamapediatrics/fullarticle/570706#26147916.

NYC AGENCY EFFORTS TO CURB E-CIGARETTE USAGE IN NYC SCHOOLS

Youth vaping presents both a public health concern and a practical challenge for New York City schools. In 2023, 14% of NYC public high school students reported having vaped in the past 30 days, and youth were more than three times as likely to vape than smoke cigarettes.[30] Vaping can interfere with students' health, well-being, and education. As New York City Schools Chancellor Kamar Samuels recently stated, "Vaping is taking a real toll on our students, and its effects are showing up in our schools every day: undermining their ability to learn, their mental health, and their futures."[31]

Because e-cigarettes are easily concealable and less readily detectable by odor than traditional cigarettes, preventing and responding to their use on school grounds can be difficult for school administrators and educators. In particular, the prevalence of students vaping in school bathrooms has posed a challenge. In 2019, a New York City middle schooler testified before the City Council's Committee on Health, that, "last year, when [they] would go into the bathroom, it would smell always of Juul [a brand of e-cigarette]."[32] More recently, in the 2026 NYC Public School Survey, 64% of responding middle and high school students reported that students at their school vaped "sometimes," "often," or "very often."[33] Because of this issue, some schools have adopted measures such as bathroom-access restrictions or vape detectors in an attempt to curb student vaping on school property.[34]

New York City agencies and public schools have also implemented several initiatives to address youth vaping in recent years. Recent initiatives include DOE's "NYC Raised You Strong: Don't Let Vaping Break You," a student-led campaign where peers educate fellow students about the dangers of vaping,[35] and the New York City Department of Health and Mental Hygiene's (DOHMH) media campaign, "Drop the Vape," meant to inform teens about the risks of vaping and where to access support.[36] In 2023, DOE also partnered with the CATCH Global Foundation, DOHMH, and the New York Health Foundation to address youth vaping through the Catch My Breath NYC initiative.[37] This program aims to prevent middle and high school students from vaping through an evidence-based educational curriculum.[38]

These initiatives demonstrate the city's investment in reducing youth vaping, but their effectiveness may be undermined when prohibited products and related advertising remain readily available near schools.

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[30] *See* N.Y.C. Dep't Health & Mental Hygiene, *Youth and Young Adult Vaping in New York City,* N.Y.C. Vital Signs (June 2025), https://www.nyc.gov/assets/doh/downloads/pdf/survey/vaping-youth-young-adults-2025.pdf.

[31] Press Release, N.Y.C. Dep't Health & Mental Hygiene, 'Drop the Vape': NYC Health Department Launches Campaign Reminding Teens That Vaping Is Harmful and Free Support Is Available (Apr. 27, 2026), https://www.nyc.gov/site/doh/about/press/pr2026/drop-the-vape-campaign.page.

[32] *Oversight – Banning the Sale of Flavored Vaping Products and Flavored Cigarettes in New York City: Hearing Before the N.Y.C. Council Comm. on Health,* 103 (N.Y.C. Jan. 30, 2019), https://legistar.council.nyc.gov/View.ashx?M=F&ID=7058370&GUID=8EF6B8E4-5DCF-44A5-A970-9BB56E9E9866.

[33] *2026 N.Y.C. School Survey,* N.Y.C. Dep't Edu., https://www.schools.nyc.gov/about-us/reports/school-quality/nyc-school-survey (last visited Aug. 21, 2026).

[34] *Locked doors, vape detectors: Students explore NYC school bathroom rules, supra* note 18. Schools may also address student possession or use of e-cigarettes through the Citywide Behavioral Expectations to Support Student Learning. *See* N.Y.C. Dep't Edu., Citywide Behavioral Expectations to Support Student Learning Grades 6–12, 34 (2019), https://pwsblobprd.schools.nyc/prd-pws/docs/default-source/default-document-library/discipline-code-grades-6-.

[35] *Substance Misuse Prevention, supra* note 17.

[36] N.Y.C. Dep't Health & Mental Hygiene, *supra* note 31.

[37] Press Release, N.Y.C. Dep't of Educ., New York City Public Schools Partners With Catch My Breath to Increase Access to Vaping Prevention Program City-wide (Nov. 2, 2023), https://www.schools.nyc.gov/about-us/news/announcements/2023/11/02/new-york-city-public-schools-partners-with-catch-my-breath-to-increase-access-to-vaping-prevention-program-city-wide.

[38] *Id.*

LAWS RELATED TO E-CIGARETTES

Since 2018, New York City has required a license to sell e-cigarettes.[39] New York City and New York State have also both enacted laws prohibiting the sale of flavored e-cigarettes,[40] in part to limit youth nicotine and e-cigarette use.[41]

In 2019, the New York City Council passed Local Law 228 of 2019, which banned the sale of any flavored e-cigarette or flavored e-liquid.[42] A flavored e-cigarette is defined as an electronic cigarette with a "characterizing flavor," meaning "a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product, electronic cigarette or e-liquid, including, but not limited to, tastes or aromas relating to any menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, spice, or any 'concept flavor' that imparts a taste or aroma that is distinguishable from tobacco flavor but may not relate to any particular known flavor."[43]

The following year, the State amended its Public Health Law to add a similar restriction (with limited exceptions) on sales, targeting a broad definition of flavors.[44] New York is not alone in its regulation of flavored e-cigarette products; other states have regulated and restricted the sale of flavored e-cigarettes in recent years as well.[45]

New York State law also prohibits businesses located within 500 feet of a school from displaying tobacco-, e-cigarette-, or vapor-related advertisements,[46] or smoking paraphernalia.[47] This prohibition is particularly important given that marketing has been found to contribute to youth vaping.[48] Both city and state law also require retailers to post signs in a "conspicuous place" that indicate that tobacco, e-cigarette, and other smoking products may not be sold to persons under the age of 21.[49]

On the federal level, as of May 2026, only 45 e-cigarettes, produced by five manufacturers, are authorized by the Food and Drug Administration (FDA) to be lawfully sold in the United States.[50] The FDA estimates that 54% of vaping products sold in the United States are illegal.[51]

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[39] *See* N.Y.C. Local L. No. 144 (2017) (including several distinct effective dates for various parts of the law, all of them in 2018), codified as N.Y.C. Admin. Code § 20-561 et seq.

[40] N.Y.C. Admin. Code § 17-715(b)(1); N.Y. Pub. Health L. § 1399-mm-1(1)–(3) (defining and banning all flavored vapes with penalties). *But see* N.Y. Pub. Health L. § 1399-mm-1(4) (exempting from that "any flavored vapor product intended or reasonably expected to be used with or for the consumption of nicotine that the U.S. Food and Drug Administration has authorized to legally market as defined under 21 U.S.C. § 387j and that has received a premarket review approval order under 21 U.S.C. § 387j[c] et seq.").

[41] *See, e.g.,* N.Y.C. Council, Transcript of the Stated Meeting, 33–36 (Nov. 26, 2019) (statement of Council Member Mark Levine describing the bill as "acting to protect our kids").

[42] N.Y.C. Admin. Code § 17-715(b)(1) ("It shall be unlawful for any person to sell or offer for sale, or to possess with intent to sell or offer for sale, any flavored electronic cigarette or flavored e-liquid.").

[43] N.Y.C. Admin. Code § 17-713 (defining "[f]lavored electronic cigarette" as "any electronic cigarette that imparts a characterizing flavor"). DOHMH also publishes a non-exhaustive list of flavored products that may not be sold in NYC, which includes some guidance on how flavors may be identified. *See Flavored Tobacco and E-Cigarette Products List,* N.Y.C. Dep't of Health & Mental Hygiene (Mar. 2024), https://www.nyc.gov/assets/doh/downloads/pdf/smoke/prohibited-product-list.pdf.

[44] N.Y. Pub. Health L. § 1399-mm-1(1)-(3). *But see* N.Y. Pub. Health L. § 1399-mm-1(4).

[45] *See, e.g.,* Mass. Gen. Laws ch. 270, § 28(b) (restricting the sale of flavored tobacco products, including flavored electronic cigarettes); Cal. Health & Safety Code § 104559.5(b)(1) (prohibiting retailers from selling, offering for sale, or possessing with intent to sell flavored tobacco products, including flavored e-cigarettes).

[46] *See* N.Y. Pub. Health L. § 1399-dd-1(2).

[47] *See* N.Y. Pub. Health L. § 1399-cc(1)(c) (defining "smoking paraphernalia" as "any pipe, water pipe, hookah, rolling papers, vaporizer or any other device, equipment or apparatus designed for the inhalation of tobacco").

[48] U.S. Dep't of Health & Hum. Servs, *supra* note 16.

[49] N.Y.C. Admin. Code § 17-706(c); N.Y. Pub. Health L. § 1399-cc(2).

[50] *See E-Cigarettes, "Vapes" and Other Electronic Nicotine Delivery Systems (ENDS) Authorized by the FDA,* U.S. Food & Drug Admin. (May 5, 2026), https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/e-cigarettes-vapes-and-other-electronic-nicotine-delivery-systems-ends-authorized-fda. The FDA authorized manufacturers are Glas Inc., JUUL Labs Inc., Logic Technology Development LLC, NJOY LLC, and R.J. Reynolds Vapor Company. *Id.*

[51] Martin A. Makary, *A Statement from FDA Commissioner Marty Makary, M.D., M.P.H.: Encouraging Retailers to Stop Selling Illegal Vapes,* U.S. Food & Drug Admin. (Sept. 30, 2025), https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-marty-makary-md-mph-encouraging-retailers-stop-selling-illegal-vapes.

REGULATORY AUTHORITY

Several city and state agencies share responsibility for enforcement and regulation of e-cigarette sales in New York City. For example, DCWP licenses and inspects e-cigarette retailers, DOHMH oversees relevant public-health regulation and education, and DOE administers school-based policies and student-facing prevention initiatives. The issuance of fines and penalties as well as the authority to seal businesses for certain violations rests with multiple agencies including DCWP and the Department of Finance (DOF).[52] The adjudication of these penalties rests with the Office of Administrative Trials and Hearings (OATH).[53] For a more detailed overview of the relevant agencies involved in the regulation of e-cigarettes, please refer to Appendix B: Overview of Enforcement Authority.

[52] *See, e.g.,* N.Y.C. Admin. Code § 17-715(b)(1) (ban on flavored e-cigarettes); § 17-716(a-1) (penalties for such violations); § 17-717 ("The [health] department, the department of consumer and worker protection, and the department of finance shall enforce the provisions of this subchapter."). *See also* N.Y.C. Admin. Code § 20-104(e)(1)(general authority of DCWP to suspend and revoke licenses, as well as impose penalties on its licensees); §§ 20-561–562 (requirement that e-cigarette sellers be licensed by DCWP and conditions for revocation thereof); § 11-4023(a)–(b)(2) (citing N.Y.C. Admin Code 17-715) (commissioner of finance's authority to seal premises based on repeated violations of certain prohibitions, including the ban on flavored e-cigarettes).
[53] N.Y.C. Admin. Code § 17-717 (citing City Charter §§ 558, 1048, and 2203) (providing that a notice of violation seeking a penalty for, inter alia, sale of flavored e-cigarettes or e-liquids is returnable to OATH).

METHODOLOGY

To determine whether businesses near schools were complying with e-cigarette regulations, OID selected 222 businesses within 500 feet of public middle and high schools. The selected businesses included all locations licensed to sell e-cigarettes (licensed e-cigarette retailers) within 500 feet and a sample of retailers that did not have active e-cigarette licenses but did have consumer complaint or inspection histories related to e-cigarette or tobacco sales (unlicensed retailers).[54]

PICKING THE SCHOOLS AND RETAILERS

OID used the DOE's published list of all public schools to create a list of all public middle and high schools.[55] OID focused on public schools under the DOE's purview since, generally, all such schools are subject to the same policies and initiatives aimed at minimizing e-cigarette use among students. The review was limited to public middle and high schools because research has shown that the risk of starting to use e-cigarettes drastically increases after age 12.[56]

To select licensed e-cigarette retailers, OID utilized DCWP licensee business address data to identify all active Electronic Cigarette Retail Dealer licensees located within 500 feet of a school serving grades six through 12.[57] OID visited all 144 such licensees.[58] OID selected a 500-foot radius, in part, because New York State law imposes specific tobacco advertising and display restrictions within that distance of schools.[59]

To select a sample of businesses that may have been selling e-cigarettes without a license, OID reviewed DCWP Consumer Complaints[60] and Inspections[61] data to identify businesses with recent tobacco- or e-cigarette-related complaint(s) or inspection activity,[62] no active DCWP Electronic Cigarette Retail Dealer or Tobacco Retail Dealer license,[63] and that were located within 500 feet of the schools identified above. After removing duplicate entries and businesses that DCWP labeled as "Out of Business" or "Unable to Locate," 398 locations remained. OID then selected a stratified random sample of 78 businesses allocated proportionally to the overall number of retailers that met OID's criteria for review in each borough: 19 in the Bronx, 23 in Brooklyn, 29 in Manhattan, six in Queens, and one in Staten Island. Because the sample of businesses without active licenses was selected from businesses with prior tobacco- or e-cigarette-related complaint or inspection histories, the findings for this group should not be interpreted as representative of all businesses without active e-cigarette licenses or as directly comparable to the findings for licensed retailers.

In total, OID selected 222 businesses for site visits: 144 licensed e-cigarette retailers and 78 businesses without e-cigarette licenses.

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[54] DCWP Inspections, *supra* note 5; DCWP Consumer Complaints, *supra* note 5.

[55] School Point Locations, NYC OpenData, https://data.cityofnewyork.us/Education/School-Point-Locations/jfju-ynrr/about_data (last updated Nov. 26, 2024); 2019–2020 School Locations, NYC OpenData, https://data.cityofnewyork.us/Education/2019-2020-School-Locations/wg9x-4ke6/about_data (last updated Nov. 26, 2024); NYC DOE Public School Location Information, NYC OpenData, https://data.cityofnewyork.us/Education/NYC-DOE-Public-School-Location-Information/3bkj-34v2/about_data (last updated Nov. 26, 2024).

[56] *See* Xinguang Chen et al., *Initiation of Electronic Cigarette Use by Age Among Youth in the U.S.,* 53 Am. J. Preventive Med. 396, 396–99 (Sept. 2017), https://www.researchgate.net/publication/315790844_Initiation_of_Electronic_Cigarette_Use_by_Age_Among_Youth_in_the_US.

[57] Distances were measured point-to-point based on the coordinates of schools and retailers provided by DOE and DCWP respectively. The data was pulled on March 19, 2026. For the DOE, *see supra* note 55

[58] Issued Licenses, NYC OpenData, https://data.cityofnewyork.us/Business/Issued-Licenses/w7w3-xahh/about_data (last visited Aug. 7, 2026).

[59] *See* N.Y. Pub. Health L. § 1399-dd-1.

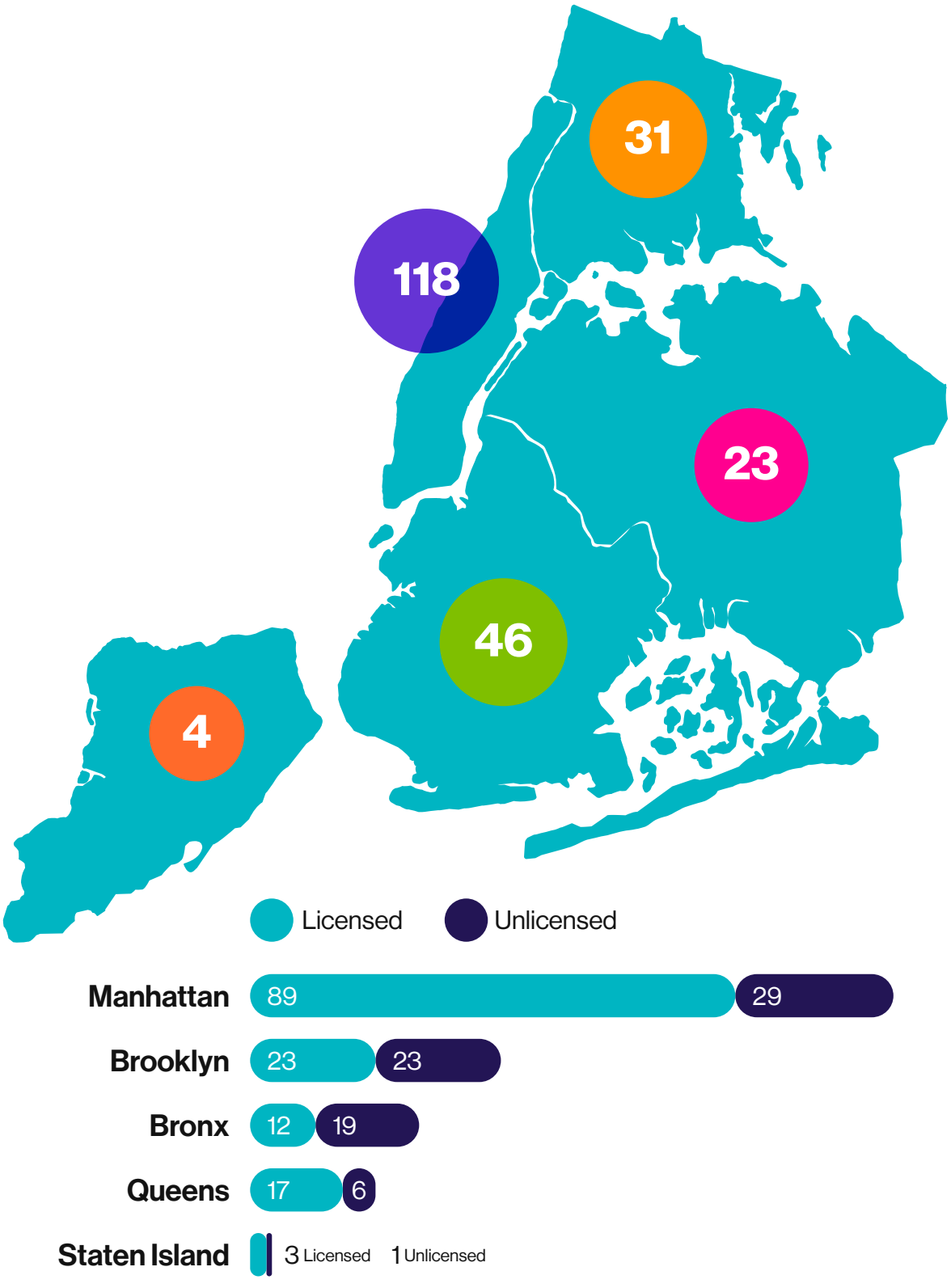
[60] DCWP Consumer Complaints, *supra* note 5.

[61] DCWP Inspections, *supra* note 5.

[62] Complaints or inspections from March 30, 2025 to March 30, 2026 were included in this analysis.

[63] Investigators checked the license status of the businesses as of March 30, 2026. Tobacco retail dealer licensees were excluded as OID wanted to inspect shops that would not have been included in routine DCWP licensee inspections and only would have been inspected based on complaints from the public or based on non-routine inspections.

FIGURE 3:
Borough Breakdown of 222 Businesses Selected



Counts reflect businesses selected for the investigation.

SURVEYING THE STORES

In March and April 2026, OID investigators visited each of the 222 selected businesses. During site visits, OID investigators posed as potential customers, sometimes alone and other times in pairs. Upon entering the location, investigators first sought to observe whether flavored vapes were openly displayed for sale. If not, or if only "clear"-labeled e-cigarettes were displayed,[64] investigators next asked an employee for a specific e-cigarette flavor, such as Watermelon Ice or Peach Ice, to determine whether they were available upon request.

Following the visit, investigators used a standardized form to record information about the availability of vapes, how they were displayed, the availability of flavored variants, and about tobacco advertisements.

Of the 222 sites visited, 29 were closed when investigators arrived resulting in their exclusion from the analysis: specifically, 14 licensed and 15 unlicensed businesses. In total, OID evaluated 193 retailers, including 130 that were licensed and 63 that did not have a license.

CLASSIFYING E-CIGARETTES

Based on product packaging, investigators classified the e-cigarettes available for purchase according to the categories described in Figure 4:

OID classified these products based on product labeling, packaging, marketing, and retailer representations. For some of the key elements investigators noted on e-cigarette packaging and for things consumers should keep an eye out for when purchasing an e-cigarette, see Appendix C: What to Look For. OID classified "clear"-labeled products separately because the label alone did not establish whether the product imparted a distinguishable non-tobacco taste or aroma. OID did not conduct laboratory testing to classify products.



FIGURE 4:
E-Cigarette Classification Categories

[64] For a discussion of e-cigarettes labeled or marketed as "clear"-flavored, *see infra Findings.*

CHECKING SIGNAGE AND STOREFRONT DISPLAYS

OID also checked whether the required DCWP age-restriction sign was posted inside each business and whether any advertisements or paraphernalia were displayed that could be seen from outside of the store.

ANALYZING PRIOR VIOLATIONS AND USAGE OF SEALING AUTHORITY

Finally, OID analyzed prior DCWP complaint and inspection data for the businesses visited as part of this investigation. OID examined whether any locations had previously been charged with unlicensed electronic cigarette retail dealer activity, flavored e-cigarette sales, or other violations. In addition, investigators reviewed whether the violations accrued were sufficient to grant DCWP the authority to seal the businesses, assuming that certain e-cigarette violations did, in fact, make a business eligible for sealing.



FIGURE 5:
Shop displaying improper external signage.

FINDINGS

OID identified the following key findings related to the availability of flavored e-cigarettes near NYC public middle and high schools:

ONE
Flavored e-cigarettes remain widely available near public middle and high schools despite city and state restrictions.

Investigators visited 193 open businesses located within 500 feet of public middle and high schools across all five boroughs, consisting of 130 retailers with an active e-cigarette license and 63 without an active e-cigarette license. Among the 121 businesses that offered e-cigarettes for sale (101 licensed; 20 unlicensed):[65]

- 48, or 40%, offered at least one prohibited flavor (28 licensed; 20 unlicensed);
- 52, or 43%, offered at least one product labeled as "clear"-flavored, but no prohibited flavors (52 licensed; 0 unlicensed); and
- 21, or 17%, offered only products marketed or labeled as tobacco-flavored or unflavored (21 licensed; 0 unlicensed).

In total, 83% of e-cigarette sellers offered either products labeled as "clear"-flavored or a prohibited flavor, while 17% offered only tobacco-flavored or unflavored products, *as shown in Figure 6 below.*

At more than two-thirds of businesses selling e-cigarettes with prohibited flavors (33 of 48), the products were only offered after OID investigators requested a flavor rather than being openly displayed. This "by-request-only" pattern appeared at 22 of 28 licensed retailers and at 11 of 20 businesses selling flavored vapes without an e-cigarette license, *as shown in Figure 7.*

In New York City, 201 public middle and high schools are located within 500 feet of at least one retailer evaluated by OID.[66] As shown below in Figure 8: Overview of School-Level Findings, of those schools, half (101 of 201) had at least one surveyed retailer nearby offering either a flavored e-cigarette product other than "clear" or tobacco or a "clear"-labeled product. Nearly one-third of schools (65 of 201) had a nearby retailer offering a product with a flavor other than tobacco or "clear" and 44 schools, or 22%, had a nearby retailer offering only "clear"-labeled products.

FIGURE 6:
Types of E-cigarettes Offered for Sale by Retailer License Status

Surveyed Retailer Group	Businesses Selling E-Cigarettes	Offered Prohibited Flavors	Offered "Clear"-Products without Another Prohibited Flavor	Offered Only Tobacco Flavored or Unflavored Products
All businesses	121 of 193	48 (40%)	52 (43%)	21 (17%)
Licensed retailers	101 of 130	28 (28%)	52 (51%)	21 (21%)
Businesses without an e-cigarette license	20 of 63	20 (100%)	0 (0%)	0 (0%)

[65] Investigators found that 29 businesses with an active e-cigarette license did not offer e-cigarettes for sale at the time they visited.
[66] School Point Locations, *supra* note 55; 2019–2020 School Locations, *supra* note 55; NYC DOE Public School Location Information, *supra* note 55.



FIGURE 7:
Retailers Only Offering Prohibited Flavors Upon Request

FIGURE 8: Overview of School-Level Findings

TWO
Many surveyed businesses offered e-cigarettes for sale without a license.

Investigators found e-cigarettes available for purchase at 20 of the stores surveyed without an active e-cigarette retailer license. At every one of these businesses selling e-cigarettes without a license (20 of 20), prohibited-flavored e-cigarettes were offered for sale. This accounts for nearly a third of the 63 unlicensed stores in OID's sample, which was drawn from a population of businesses that had previously received complaints related to e-cigarette sales, been inspected by DCWP during routine patrols, or had prior enforcement interactions with the agency.[67] Any business in New York City selling e-cigarettes is required to have a license.[68]

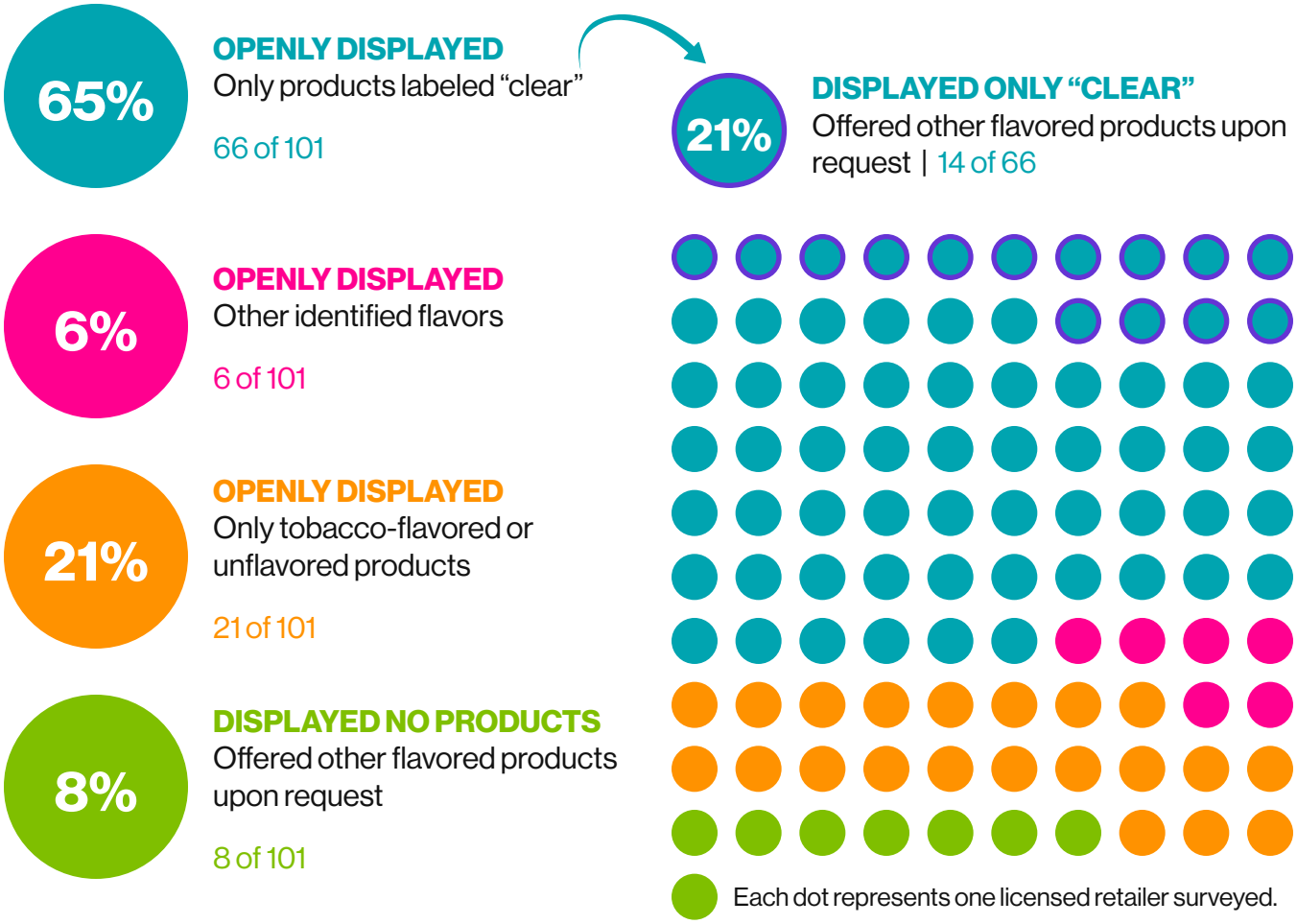
THREE
Some e-cigarettes labeled as "clear"-flavored may impart a distinct non-tobacco taste or aroma, and others may correspond to identified prohibited flavors such as watermelon, peach, and mint.

Investigators noted an unexpected pattern while visiting businesses: many licensed retailers that displayed e-cigarettes with a tobacco flavor or unflavored e-cigarettes also openly offered products marketed or labeled as "clear"-flavored. As seen in Figure 9 below, sixty-six of the 101 total licensed retailers offering e-cigarettes, or 65%, had "clear"-labeled products openly displayed, compared with six retailers, or 6%, that openly displayed products with another identified flavor other than tobacco. In addition, fourteen retailers that displayed only "clear"-labeled products also produced other flavors when asked, often retrieving them from under the counter or another location outside customers' view. The open display of "clear"-labeled products alongside plainly legal products, combined with the concealment, but availability, of non-tobacco flavors at other locations, suggests that retailers treat the two categories differently and led investigators to ask the question: Is the term "clear" used by e-cigarette manufacturers and retailers to denote unflavored products, or is it a distinct flavor category?

[67] DCWP Inspections, *supra* note 5; DCWP Consumer Complaints, *supra* note 5.
[68] *Electronic Cigarette Retail Dealer License,* N.Y.C. MyCity, https://nyc-business.nyc.gov/nycbusiness/description/electronic-cigarette-retail-dealer-license (last visited Aug. 21, 2026). Retailers must apply to obtain a license, and they are limited by Community District. *Id.*

The answer does not appear to be as simple as "clear" is another term for unflavored. During OID's survey of retailers, some clerks described "clear"-labeled e-cigarettes as tasting "minty" or "fresh," which indicated to investigators that they may be flavored products. In addition, OID investigators' review of product marketing, published research, and evaluation of some "clear"-labeled products themselves raises questions about whether some "clear"-flavored products impart a distinguishable non-tobacco taste or aroma, even if they are often presented as unflavored.

FIGURE 9:
Availability of Flavored E-Cigarette Products at Licensed Shops



A 2026 study found that online descriptions of "clear"-labeled e-cigarettes frequently used terms suggesting a flavored or sensory experience, including "menthol," "refreshing," "classic taste," and "smooth flavor."[69] The study also documented substantial growth in the market of these products, with U.S. sales increasing from approximately $34,000 in October 2021 to more than $1 million by August 2024.[70] A separate study found cooling agents in all 19 "clear"-labeled products analyzed and menthol flavoring in 18 of the 19 products studied.[71] Under New York City law, e-cigarettes that impart a distinguishable taste or aroma other than tobacco, including menthol, are prohibited.

To understand the retailers' experience with enforcement around "clear"-labeled products and their understanding of their legal status, OID investigators also interviewed clerks at four licensed e-cigarette shops. These clerks shared that they understood "clear"-labeled products to be legally compliant.[72] The employees based this understanding on their experience that DCWP inspectors had not flagged such products as prohibited and that their shops had not received summonses for selling them. At each of the four shops, OID investigators observed a variety of "clear"-labeled products on display, some of which were differentiated by color or additional descriptors, such as "Clear Diamond."

Does "Clear" Pass the Smell Test?

OID investigators conducted an informal survey of seven City Council staff members, using four different "clear"-labeled e-cigarettes: (1) a Geek Plus vape labeled "CLEAR," "unflavored," and "Shad P"; (2) a Geek Plus-brand vape labeled "CLEAR," "unflavored," and "Blue District"; (3) an Air Bar Nex-brand vape labeled "CLEAR"; and (4) an Air Bar Nex-brand vape labeled "CLEAR RED."

Participants were asked to smell each vape and state whether each one had a scent, and if so, to identify the scent. For the Shad P, Blue District, and Clear Red products, all participants reported detecting a distinguishable aroma. For the Air Bar Nex-brand "clear"-flavored vape, more than half of participants found it had a distinguishable aroma. This small, informal survey, while not enough to establish illegality, suggests that "clear" labeling alone may not be sufficient to determine whether a product is unflavored.



FIGURE 10: *E-cigarettes labeled as "clear"-flavored used in aroma test.*

[69] *See* Adrian Bertrand et al., *Clearly Flavoured: Rising Popularity of "Clear" Flavoured E-Cigarettes and What Online Descriptions Reveal,* Tobacco Control (Feb. 4, 2026), https://doi.org/10.1136/tc-2025-059639 (finding that 53.2 percent of reviewed online listings used cooling-related terminology, including "menthol," and that an additional 21.3 percent used nonspecific taste or flavor language such as "classic taste" and "smooth flavor").

[70] *Id.; see also Clearly Flavored: The Rise of "Clear" E-Cigarettes,* Truth Initiative (Feb. 26, 2026), https://truthinitiative.org/research-resources/emerging-tobacco-products/clearly-flavored-rise-clear-e-cigarettes.

[71] Erika T. Minetti et al., *Cardiovascular Health Effects and Synthetic Cooling Agents in E-Cigarettes Labeled as "Clear" Marketed in Massachusetts After the Tobacco Product Flavoring Ban,* J. of Amer. Heart Assoc. (Aug. 12, 2025), https://www.ahajournals.org/doi/epub/10.1161/JAHA.124.036106. This study also noted that "clear" e-cigarettes resulted in greater increases in blood pressure and heart rate as compared to other e-cigarettes. *Id.*

[72] These shops were not included in OID's survey as investigators identified themselves before initiating a conversation. In addition, they were not within 500 feet of a public middle or high school.

OID also encountered instances in which retailers and e-cigarette manufacturers may be exploiting the apparent lack of enforcement around "clear"-labeled products by offering for sale "clear" products that have another identified flavor entirely. For example, an employee at one licensed retailer told an investigator that differently colored "clear" products corresponded to different flavors. In fact, when the investigator asked for a Watermelon Ice vape, the employee told investigators that he could search on a code sheet provided by the vape distributor for the flavor. The retailer then informed investigators that a "Clear Pink" vape was Watermelon Ice flavored. At another licensed retailer, an OID investigator purchased two e-cigarettes whose packaging described the products as "CLEAR" and "unflavored," but distinguished the products using the names "Shad P" and "Blue District," *as shown in Figure 10.* After the purchase, the clerk identified the products as peach- and mint-flavored, respectively.

REGULATORY SIGNIFICANCE

Under New York City law, an e-cigarette is flavored if it imparts a distinguishable non-tobacco taste or aroma, regardless of the flavor name printed on its packaging. City regulations also permit DOHMH to presume that a product is flavored when its labeling, packaging, or marketing explicitly or implicitly communicates a characterizing flavor.[73]

OID did not conduct laboratory testing and did not determine that every product marketed or labeled as "clear"-flavored violated city law. Nevertheless, the investigation identified two distinct regulatory concerns. First, some products sold as "clear" may themselves impart a distinguishable non-tobacco taste or aroma. Second, "clear" labeling may be used to disguise products that have another non-tobacco flavor.

FOUR
Prohibited advertisements and displays of smoking paraphernalia were common near schools.

As detailed in the Laws Related to E-cigarettes section above, New York State law restricts specific tobacco- and vaping-related advertisements and smoking paraphernalia displayed in storefronts, exterior windows, or public entry doors within 500 feet of schools, such as those seen in Figure 11. OID observed such advertisements and products at 40% of open licensed e-cigarette retailers, 52 of 130, and 22% of open businesses without an active e-cigarette retail dealer license, 14 of 63, for a total of 66 surveyed businesses. Near more than one-third of schools (70 of 201), OID investigators observed a prohibited advertisement or smoking paraphernalia visible from outside a surveyed retailer, *as shown in Figure 8: Overview of School-Level Findings above.*



FIGURE 11: Example of observed prohibited advertisement display

[73] 24 R.C.N.Y. § 28-03(b)(2) (providing that DOHMH may presume a product is flavored when its labeling, packaging, or marketing explicitly or implicitly communicates a characterizing flavor).

FIGURE 12
Observed Prohibited Displays by E-cigarette Retailer License Status



FIVE

Many surveyed businesses had accumulated substantial penalties, and businesses without active e-cigarette retail dealer licenses had substantially lower recorded payments relative to those penalties.

Between July 2023 and March 2026, 28 of the 130 (22%) surveyed licensed retailers received summonses that were upheld alleging prohibited flavored e-cigarette sales or sales of e-cigarettes to people under 21 years.[74] 19 of the 63 surveyed businesses (30%) without an active e-cigarette retail dealer license received such summonses.[75]

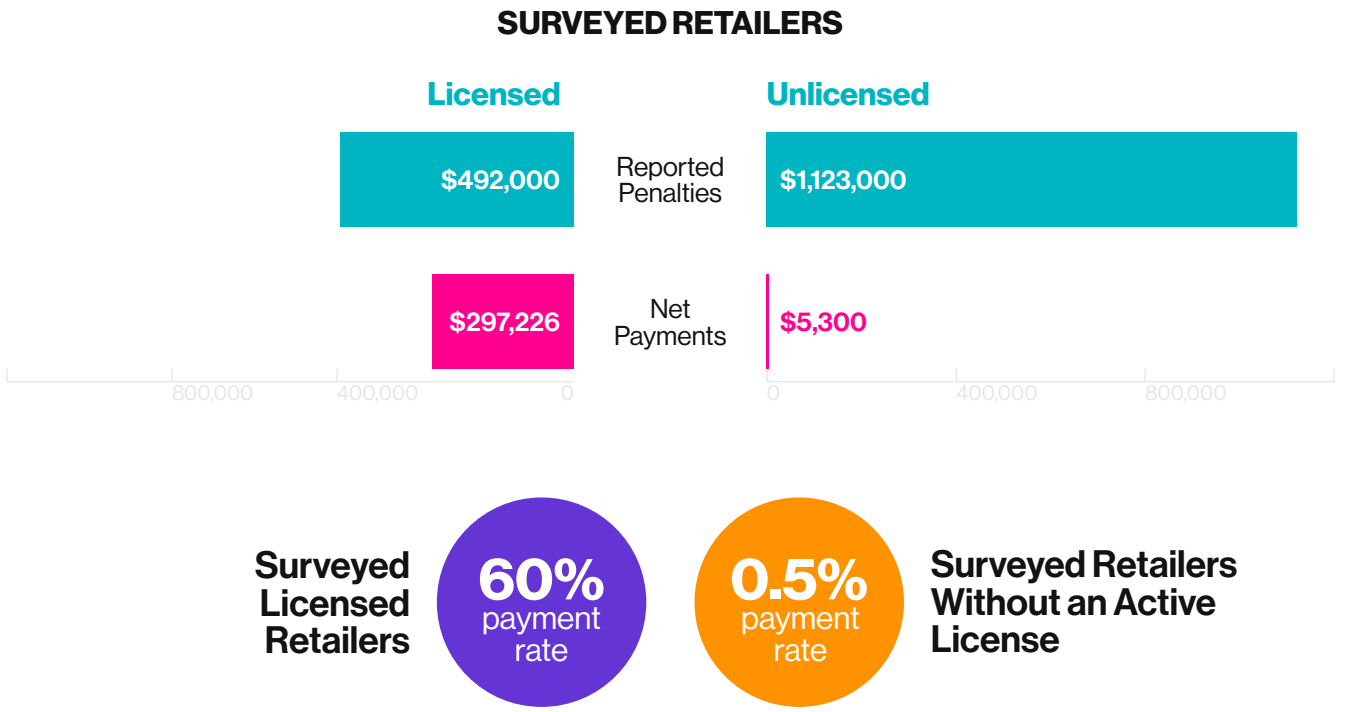
OID identified 72 upheld summonses issued to those 47 businesses during the review period.[76] Fifty-four summonses alleged prohibited flavored e-cigarette sales, 12 alleged e-cigarette sales to people under 21 years, and six alleged both types of violations.[77] A summons can contain more than one specific charge.[78]

[74] OID counted a summons as upheld if OATH showed a sustained or default result, or if DCWP showed a guilty finding and OATH had not dismissed or withdrawn it. OID counted four charges: N.Y.C. Administrative Code § 17-715(b); N.Y. Public Health Law § 1399-mm-1(2); N.Y.C. Administrative Code § 17-706(a-1); and N.Y. Public Health Law § 1399-cc(2) where the charge text specifies e-cigarettes.
[75] This sample of retailers without an active e-cigarette retail dealer license was selected from businesses with prior tobacco- or e-cigarette-related complaint or inspection histories. The results for these inspections should not be interpreted as representative of all businesses without active licenses or as directly comparable to the findings for licensed retailers.
[76] DCWP Charges, *supra* note 5.
[77] *Id.*
[78] *See, e.g., What is a "Summons"?,* Off. of Admin. Trials & Hearings, https://www.nyc.gov/assets/oath/downloads/pdf/what-is-a-summons-en-ada.pdf (last visited Sept. 4, 2026) ("A clear and concise statement sufficient to inform the respondent 'of the essential facts' that allegedly amount to the *violation/s* they were charged with, including the date, place, and time.") (emphasis added).

OID investigators matched all 72 summonses to summonses in the OATH case-status database.[79] OATH and DCWP data reported approximately $1.62 million in penalties for those cases: $492,000 for licensed businesses and approximately $1.12 million for businesses without an active e-cigarette retail dealer license.[80] DCWP payment records showed approximately $297,000 in net payments in the relevant cases involving licensed businesses and $5,300 in net payments in the relevant cases involving businesses without an active e-cigarette retail dealer license,[81] *as shown in Figure 13: Reported Penalties, Net Payments, and Calculated Payment Rates by Retailer License Status below.* DCWP records showed payments or payment-plan activity for 25 of the 28 licensed businesses and two of the 19 businesses without active licenses. Those amounts equaled approximately 60% and less than 1%, respectively, of the reported penalty amounts. Across both groups, DCWP recorded $302,525.78 in net payments, equal to approximately 19% of the $1,615,000 in reported penalties.

Although the records do not provide a final charge-level accounting, the disparity is substantial. Recorded payments associated with the relevant cases involving licensed retailers equaled approximately 60% of reported penalties, compared with 0.5% for businesses without active licenses. This difference raises questions about whether monetary penalties alone meaningfully promote compliance among businesses operating without active e-cigarette retail dealer licenses.

FIGURE 13
Reported Penalties, Net Payments, and Calculated Payment Rates by Retailer License Status



[79] OATH Hearings Division Case Status, *supra* note 5.
[80] DCWP Charges, *supra* note 5; OATH Hearings Division Case Status, *supra* note 5; DCWP Payments Received, supra note 11. OID used the DCWP violation date to apply the July 1, 2023 through March 30, 2026 review period. OATH reports one penalty per summons, covering every charge on it, and DCWP does not break out its fines by charge, so these amounts may include other charges on the summons. Half of the summonses (36 of 72) included another charge, most often unlicensed e-cigarette retail dealer activity (N.Y.C. Admin. Code § 20-561(a)(1)) or failure to post the age-restriction sign (§ 17-706(c)); those summonses account for $1.17 million of the $1.62 million in penalties. For the 15 summonses with no OATH penalty ($128,300), OID used the fines DCWP recorded as "Tobacco Fine Violation" or, on some 2023 summonses, "Other Violation," which appeared to be the e-cigarette fine. OID excluded state fines, surcharges, padlock fees, and late fees.
[81] DCWP Payments Received, *supra* note 11. Net payments exclude payments DCWP later voided. The percentages divide net payments by reported penalties, determined as described in note 80.

FIGURE 14:
Ten Surveyed Businesses with the Highest Reported Penalty Amounts

Business	Borough	License Status	Summonses Issued	Reported Total Penalty Amount
Shop 1	Manhattan	Unlicensed	4	$324,200
Shop 2	Manhattan	Unlicensed	4	$206,900
Shop 3	Manhattan	Licensed	4	$203,000
Shop 4	Manhattan	Unlicensed	4	$127,000
Shop 5	Bronx	Unlicensed	2	$74,100
Shop 6	Manhattan	Licensed	2	$60,000
Shop 7	Manhattan	Unlicensed	2	$59,500
Shop 8	Queens	Unlicensed	2	$56,500
Shop 9	Brooklyn	Unlicensed	2	$56,400
Shop 10	Brooklyn	Unlicensed	2	$54,300

It is important to note that the summonses issued were not evenly spread among shops. *Figure 14: Ten Surveyed Businesses with the Highest Reported Penalty Amounts* above identifies the ten surveyed businesses with the highest reported penalty amounts by dollar value. The business with the largest amount had four summonses associated with $324,200 in reported penalties, accounting for approximately 29% of the total reported penalties across all unlicensed businesses surveyed and 20% of the total reported penalties across all businesses surveyed. Collectively, the ten businesses accounted for approximately $1.22 million, or about 76% of the $1.62 million in reported penalties reviewed by OID.

SIX
DCWP does not appear to have sealed businesses based solely on e-cigarette violations.

To better understand when DCWP chooses to impose fines, to seal a business, or to pursue both remedies, OID reviewed DCWP violations issued between July 2023 and March 2026 for the 193 shops surveyed as part of this investigation.[82] The data showed that if e-cigarette violations were counted toward the applicable repeat-violation thresholds for sealing, 30 of the businesses OID visited appeared to meet thresholds for sealing: 22 businesses without active e-cigarette retail dealer licenses and eight licensed retailers.[83] Thirteen of the 30 businesses offered e-cigarettes with a flavor other than tobacco or "clear" when OID investigators visited. Available records indicate that none of the 30 businesses were sealed during the specified timeframe.[84]

[82] In addition to the authority to issue fines as well as seal certain shops, the agency can, in some circumstances, revoke or suspend a license. Given that the agency is mandated to revoke a license after a certain number of violations (i.e. it is not discretionary), OID did not review data pertaining to license suspensions or revocations. *See* N.Y.C. Admin. Code § 20-562(a) (stating that, in addition to other penalties, "an electronic cigarette retail dealer license *shall* be revoked" for certain repeat violations)(emphasis added).
[83] DCWP Charges, supra note 5; OATH Hearings Division Case Status, supra note 5.
[84] DCWP Inspections, *supra* note 5.

OID found a similar pattern citywide.[85] Applying the same criteria to DCWP records for the same period, OID identified 2,964 businesses that appeared to meet the numerical thresholds for sealing.[86] Available records indicated that 203 had been sealed, all for violations related to sales of tobacco products, not e-cigarettes, except for two cases related to cannabis enforcement.[87] Nonetheless, the remaining 2,761 businesses, or approximately 93%, had no sealing action reflected in the records OID reviewed.[88]

Importantly, OID also found no instance in which available records clearly showed that DCWP had sealed a business specifically for unlicensed sales of e-cigarettes or for flavored e-cigarette sales. The identified sealing actions appeared to rest on tobacco-product-related violations, even when the same businesses had also received e-cigarette violations.

DCWP indicated to the Council that it historically has interpreted section 20-207(c) as applying only to tobacco retailer code violations, rather than selling e-cigarettes without a license or selling flavored e-cigarettes. The gap is especially consequential for businesses operating without e-cigarette licenses, where suspension or revocation of a license provides no practical remedy. Although another provision permits DCWP to seal premises primarily used for an activity conducted without a required license, that authority may be difficult to apply to delis, convenience stores, and other businesses that sell e-cigarettes alongside other products.[89]

POTENTIAL LEGISLATIVE RESPONSE

Based on DCWP's interpretation and feedback, the Council is considering the introduction of legislation to expressly authorize sealing after qualifying repeat violations involving unlicensed or flavored e-cigarette sales. The legislation would provide the same clear sealing pathway for e-cigarette violations that section 20-207(c) provides for comparable tobacco violations, giving DCWP an additional enforcement tool when fines and licensing consequences do not produce compliance.

[85] These figures do not establish that DCWP could have sealed every identified business. OID did not independently determine whether each business met all legal and procedural requirements for sealing. Rather, the analysis measured how many businesses would satisfy the numerical thresholds if qualifying e-cigarette violations were treated like comparable tobacco violations.
[86] DCWP Charges, *supra* note 5; OATH Hearings Division Case Status, supra note 5. A business met the threshold if it had qualifying violations on at least two different dates under N.Y.C. Administrative Code §§ 20-202(a)(1) or 20-561(a)(1), or at least three different dates under §§ 17-704(a), 17-705, 17-706(a), 17-706(a-1), 17-706(b), 17-715(a), or 17-715(b).
[87] DCWP Inspections, *supra* note 5.
[88] *Id.* Please note, however, that meeting the numerical thresholds alone does not establish that all legal prerequisites for sealing were satisfied.
[89] N.Y.C. Admin. Code §§ 20-105(a) (covering activities conducted without a required Chapter 2 license); § 20-105(b)(3) (authorizing sealing when the premises are primarily used for the unlicensed activity); § 20-105(d) (staying certain orders while a timely, complete license application is pending); § 20-105(e) (addressing enforcement of the order).

RECOMMENDATIONS

Despite the robust city and state laws regulating the sale of flavored e-cigarette products, OID's investigation has revealed that these products remain readily available at both licensed retailers and shops selling e-cigarettes without a license near New York City schools. OID also found regulatory challenges around ambiguous products such as vapes marketed or labeled as "clear"-flavored, businesses that had received multiple violations but remain open and selling illegal vapes, and continued exposure of children to tobacco-related advertisements near their schools. Considering these observations, OID recommends the following:

ONE

DCWP should determine the compliance status of e-cigarettes marketed or labeled as "clear"-flavored and issue public guidance accordingly. DCWP should also investigate how "clear"-labeling is being used to obscure prohibited e-cigarette flavors.

OID found that products marketed or labeled as "clear"-flavored were openly displayed by many licensed e-cigarette retailers. Published research,[90] OID's review of manufacturer and retailer marketing, and observations made by investigators indicate that at least some of these products may have or produce a distinguishable taste or aroma and therefore be prohibited under city law.

DCWP should conduct its own research and testing to determine whether specific "clear"-labeled products meet the city's definition of a flavored or concept-flavored e-cigarette. Based on the results, DCWP should update its public guidance, website materials, inspector training, and retailer-education materials to explain how the flavored-product prohibition applies to products marketed or labeled as "clear"-flavored. The guidance should identify the factors DCWP will consider when evaluating these products and provide examples where appropriate.

DCWP should also conduct targeted outreach to licensed e-cigarette retailers, prioritizing businesses near schools, to communicate its findings and clarify retailers' compliance obligations. After providing sufficient notice and education, DCWP should conduct targeted inspections and take enforcement action as appropriate based on the results of its determinations.

OID investigators also encountered retailers offering products with fruit or other flavor variations under "clear" labeling. DCWP should conduct its own investigation to determine how prevalent this issue is among retailers. In addition, if not already part of DCWP's inspector training, DCWP should train inspectors not to treat a "clear" label as conclusive evidence that a product is unflavored or permissible and conduct further investigation of such products during inspections.

[90] Bertrand et al., *supra* note 69; Minetti et al., *supra* note 71.

TWO

DCWP and NYS DOH should strengthen enforcement of advertising and display restrictions near schools.

OID observed prohibited tobacco- and vaping-related advertisements or smoking paraphernalia visible from outside of 66 retailers located within 500 feet of public middle and high schools. DCWP and the New York State Department of Health should prioritize inspections of businesses near schools for compliance with advertising and display restrictions and ensure that observed violations are corrected promptly.

THREE

DCWP, OATH, and DOF should review penalties, recorded payments, and current balances associated with repeat violations and strengthen collection and enforcement efforts where appropriate.

OID found substantial reported penalties associated with the surveyed businesses while the matched DCWP records reflected comparatively limited payments in cases involving businesses without active licenses. The relevant agencies should review these outstanding penalties, identify any barriers to collecting fines, and pursue collection efforts against the businesses, particularly those that are identified as still operating in violation of the law. In addition, agencies should consider what other enforcement mechanisms are at their disposal to promote compliance among e-cigarette retail dealers.

FOUR

The Administration, including DCWP, DOHMH, and DOE, should coordinate retail enforcement with youth-facing public-health messaging.

Retail enforcement near schools should be coordinated with public-health education for youth, parents, schools, and retailers, including materials explaining the health risks of youth vaping and the legal restrictions on flavored products.

CONCLUSION

OID's assessment of 222 selected businesses, as well as its review of DCWP inspection and violation data, found that flavored e-cigarettes remain readily available near New York City public middle and high schools. Investigators identified flavored e-cigarettes offered for sale at both licensed retailers and stores operating without active e-cigarette retail licenses. They also observed prohibited storefront advertising and smoking paraphernalia at numerous locations near schools. Although OID did not observe students purchasing products from the surveyed stores, the availability of flavored e-cigarettes and prohibited advertisements near schools potentially increases youth access to e-cigarettes.

These findings also raise concerns about the effectiveness of existing enforcement efforts. Some businesses continued to sell e-cigarettes after receiving prior violations for unlicensed sales or flavored-product violations and had substantial reported penalties and, among businesses without active licenses, very low recorded payments relative to those penalties. In addition, the widespread sale and open display of products marketed or labeled as "clear"-flavored suggests a need for greater clarity about how the flavored-product prohibition applies to these products.

OID's investigation found that prohibited flavored e-cigarettes and potentially noncompliant "clear"-labeled products remained visible and available near many New York City public schools. The findings suggest that product restrictions alone may be insufficient when prohibited products can be concealed, ambiguous labeling complicates enforcement, and monetary penalties may not effectively deter businesses operating without active e-cigarette retail dealer licenses. Addressing these conditions will require not only retailer education and inspection, but also clearer regulatory guidance, effective follow-through on repeat violations, and coordinated enforcement and public-health efforts focused on youth nicotine exposure.

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APPENDIX A: GLOSSARY OF TERMS

Age-restriction sign:
A sign that retailers are required by law (N.Y.C. Admin. Code § 17-706(c)) to post conspicuously informing customers that covered tobacco products, electronic cigarettes, or related products may not be sold to persons under 21 years of age.

Business without an active e-cigarette retail dealer license / unlicensed retailer:
A business that did not hold an active DCWP Electronic Cigarette Retail Dealer license as of March 30, 2026. Businesses in OID's survey were selected based on recent tobacco- or e-cigarette-related complaint or inspection activity. The term does not indicate that OID found every business in this group to be selling e-cigarettes.

Characterizing flavor:
A distinguishable taste or aroma other than tobacco imparted before or during consumption of a tobacco product, e-cigarette, or e-liquid. A characterizing flavor may relate to a recognized flavor or constitute a concept flavor.

"Clear"-labeled / labeled as "clear"-flavored:
Terms describing an e-cigarette's labeling or marketing. These terms do not constitute a determination that the product is unflavored, flavored, lawful, or unlawful. See the Findings section for OID's observations concerning products marketed or labeled as "clear."

Concept flavor:
A characterizing flavor that is distinguishable from tobacco but may not relate to a fruit, candy, mint, dessert flavor, or to any other particular known flavor. DOHMH's Flavored Tobacco and E-Cigarette Products List specifies prohibited concept flavors like Air Bar's "Shake Shake," and ELFBAR's "Energy," among others.

Distinguishable taste or aroma:
A taste or aroma that is perceivable by smell or taste. Under the legal provisions discussed in this report, a distinguishable non-tobacco taste or aroma may make an e-cigarette or e-liquid flavored regardless of the product's name.

Electronic cigarette / e-cigarette:
An electronic device that heats an e-liquid to produce an aerosol for inhalation. E-cigarettes may be disposable or reusable and may or may not contain nicotine. In this report, "vape" is used as a common term for an e-cigarette.

Flavored e-cigarette:
Under New York City law, an e-cigarette that imparts a characterizing flavor, meaning a distinguishable taste or aroma other than tobacco, either before or during consumption. A product may be flavored even if its labeling does not specify a particular flavor.

Licensed e-cigarette retail dealer / licensed retailer:
A business that held an active DCWP Electronic Cigarette Retail Dealer license as of OID's analysis on March 19, 2026.

Openly displayed:
Observed by an investigator inside the store without the investigator first requesting a flavored product or asking an employee to retrieve it.

Penalty imposed:
A monetary fine assessed through an administrative adjudication or default judgment. It does not necessarily indicate whether or not any amount was collected.

Prohibited-flavored product / prohibited flavor:
An e-cigarette marketed, labeled, or represented as having a characterizing non-tobacco flavor, including a fruit, candy, dessert, mint, menthol, or concept flavor. OID based this classification on an investigator's direct observations of labeling, packaging, marketing, and retailer representations rather than laboratory testing. This classification addresses only the apparent application of the City's flavor restriction. It is not a determination that the product complies with any other applicable laws.

Smoking paraphernalia:
Pipes, water pipes, hookahs, rolling papers, vaporizers, or other devices, equipment, or apparatus covered by applicable law and designed for the inhalation of tobacco. In this report, OID documented smoking paraphernalia observable from the exterior of a business located within 500 feet of a school, which state law prohibits.

Storefront advertisement:
For purposes of OID's survey, an advertisement for a tobacco product, e-cigarette, vapor product, or related covered product that was observable from the exterior of a business located within 500 feet of a school, which state law prohibits.

Summons:
A document alleging one or more violations and requiring the respondent to answer the charges through the applicable administrative adjudication process. The issuance of a summons does not by itself mean that an alleged violation was sustained.

APPENDIX B: OVERVIEW OF ENFORCEMENT AUTHORITY

Agency / Entity	Role in Flavored E-Cigarette Enforcement or Prevention
Department of Consumer and Worker Protection (DCWP)	• Licenses e-cigarette retail dealers[91] • Conducts inspections[92] • Issues violations[93] for the following: unlicensed e-cigarette sales,[94] flavored e-cigarette sales,[95] signage violations,[96] and related retail violations[97]
Department of Health and Mental Hygiene (DOHMH)	• Leads public health research on neighborhood and age-group trends for retailer violations and youth-use rates.[98] • Coordinates public education such as "Youth and Young Adult Vaping in New York City"[99] and youth vaping prevention campaigns like "Drop the Vape"[100] • With DCWP and the Department of Finance, responsible for enforcing the city's flavored electronic cigarette regulations[101]
NYC Public Schools / Department of Education (NYCPS)	• Provides school-based anti-vaping resources for students[102] • Reports violations of state[103] and city law[104] banning the use of e-cigarettes on school grounds • Enforces Disciplinary Code infractions for student possession or use of e-cigarettes[105] • Sets school bathroom access policy[106]

[91] N.Y.C. Admin. Code § 20-561(a)-(d).
[92] N.Y.C. Admin. Code § 20-104(d); N.Y.C. Admin. Code § 20-114(a).
[93] N.Y.C. Admin. Code § 20-104(e)(1).
[94] N.Y.C. Admin. Code § 20-561(a)(1).
[95] N.Y.C. Admin. Code §17-715(b)(1).
[96] N.Y.C. Admin. Code § 17-706(c).
[97] N.Y.C. Admin. Code § 20-561(a)(2)-(3).
[98] N.Y.C. Dep't Health & Mental Hygiene, *supra* note 30, at 1. ("The YRBS is a biennial self-administered, anonymous survey conducted in NYC public high schools [including public charter schools] by the NYC Health Department and the NYC Public Schools"; "CHS is conducted annually by the NYC Health Department with approximately 9,000 to 10,000 non-institutionalized adults ages 18 and older.").
[99] *See generally id.*
[100] N.Y.C. Dep't Health & Mental Hygiene, *supra* note 31.
[101] N.Y.C. Admin. Code §§ 17-715 to 17-717.
[102] *Substance Misuse Prevention, supra* note 17.
[103] N.Y. Pub. Health L. § 1399-o(5)(a).
[104] N.Y.C. Admin. Code § 17-503(d)(1).
[105] N.Y.C. Dep't Edu., Citywide Behavioral Expectations to Support Student Learning, Grades K-5, 31 (2019) https://pwsblobprd.schools.nyc/prd-pws/docs/default-source/default-document-library/discipline-code-kindergarten-grade-578c2b689c703452ebd5e7dc9d66ff94f.pdf?sfvrsn=c2c1f3e8_2; N.Y.C. Dep't Edu., *supra* note 34.
[106] Off. of Safety & Youth Dev., N.Y.C. Dep't Edu., Guidelines for Transitioning Students Safely throughout the School Day 12 (SY2015-16, reissued SY2018-19), https://www.schools.nyc.gov/docs/default-source/default-document-library/guidelines-for-transitioning-students-safely-15-16.pdf. (restricting bathroom access during and between class periods, a common opportunity for student e-cigarette use).

Agency / Entity	Role in Flavored E-Cigarette Enforcement or Prevention
Sheriff's Office, within the Department of Finance (DOF)	• After three violations of the ban on the sale of flavored e-cigarettes in a three-year time frame,[107] the Commissioner of Finance may authorize the Sheriff's Office to seal any such premises and remove or make inoperable any devices, items, or goods used in connection with such sales.[108]
New York City Police Department (NYPD)	• Possesses the authority to seal and remove, identical to that of Sheriff's Office (see above)[109] • Upon request from another agency or direction from the Mayor, may enforce court orders to abate public nuisances, including unlicensed e-cigarette retailers[110]
New York City Law Department	• Can bring an action in court to abate nuisances, including unlicensed e-cigarette retailers[111] • Affirmatively litigates on behalf of the city to compel compliance with federal, state, and local law[112]
Office of Administrative Trials & Hearings (OATH)	• Adjudicates alleged violations of sale of flavored e-cigarettes and flavored e-liquids[113]
New York State Department of Health (NYS DOH)	• State law prohibits the sale of flavored e-cigarettes[114] and restricts display of smoking paraphernalia and advertisements for tobacco, e-cigarette, and vaping products within 500 feet of schools.[115] • These bans are enforced by the New York State Department of Health.[116]

[107] N.Y.C Admin. Code § 17-717.
[108] N.Y.C. Admin. Code § 11-4023(c)(2).
[109] *Id.*
[110] N.Y.C. Admin. Code § 7-711(a)-(d).
[111] N.Y.C. Admin. Code § 7-703(f); N.Y.C. Admin. Code § 7-706(a).
[112] *See, e.g.,* Complaint, City of New York v. Puff Bar, No. 25-cv-02850 (S.D.N.Y. filed Apr. 7, 2025), at 122–32 (citing Prevent All Cigarette Trafficking Act, 15 U.S.C. §§ 376, 376a, 18 U.S.C. § 1716e; N.Y. Pub. Health L. § 1399-ll; N.Y.C. Admin. Code § 17-715).
[113] N.Y.C. Admin. Code § 17-717 (citing City Charter §§ 558, 1048, and 2203).
[114] N.Y. Pub. Health L. § 1399-mm-1.
[115] N.Y. Pub. Health L. § 1399-dd-1.
[116] N.Y. Pub. Health L. § 1399-ff.

APPENDIX C:
WHAT TO LOOK FOR

IS THAT VAPE LEGAL?

TAKE A CLOSER LOOK.

FDA AUTHORIZED?

Manufacturer names can help determine if a product is legitimate.

Check the FDA's list of authorized e-cigarette manufacturers

verify e-cigarette manufacturers at:
FDA.gov/authorizedecigs





FLAVOR NAMES

Look for words that indicate a non-tobacco flavor, such as:

- Fruit (e.g. strawberry, mango, peach)
- Mint, menthol, or ice
- Candy or dessert (e.g. cookie butter, vanilla, cake)
- Drinks (e.g. cola, lemonade)

AMBIGUOUS NAMES

Investigators have encountered e-cigarettes labeled as "clear" with ambiguous names like "Blue District" and "Shad P" that may have a distinguishable flavor

WHEN IN DOUBT, CHECK THE LABEL

Look at flavor names and manufacturer information, and check the FDA's list of authorized manufacturers