

## OPINION &gt; CONGRESS BLOG

THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN AND NOT THE VIEW OF THE HILL

## Flavored cigar ban is extreme overreach by Biden's FDA

BY DAVID M. OZGO, OPINION CONTRIBUTOR - 09/23/22 6:30 PM ET

Share

Tweet

...

More



When the [Tobacco Control Act \(TCA\)](#) was signed in 2009, it had the admirable goals of eliminating youth smoking and reducing tobacco-related harms. President [Obama](#) called the bill the “kids tobacco legislation,” and vowed that the “law will reduce the number of American children who pick up a cigarette and become adult smokers.”

But he was clear that the law would allow also “adults to make their own choices.” In fact, one of the key provisions of the TCA—which gave the [Food and Drug Administration](#) (FDA) the authority to regulate tobacco products—is [to continue to permit the sale of tobacco products to adults](#).

FDA is one of the consumers of the NSDUH, author throughout this article is dismissive of the FDA's attempts to limit flavored cigar sales, but author is also president of the cigar assoc of America...

(NSDUH).

And youth usage of flavored cigars is so low as to be miniscule. Today, while just 0.75 percent of youth use cigars of any kind, only .29 percent used flavored cigars in the past 30 days, according to the FDA's own Population Assessment Tobacco and Health Survey (PATH). That borders on the unmeasurable. **not NSDUH, but they are using surveys of substance use to make decisions. "according to" treats this as a reliable source, one we should trust**

With vigilance, we are well on our way toward the goal of eliminating youth usage of cigars.

But, what about the goal of preserving adult choice? Sadly, that record is much more clouded. On May 4, 2022, FDA took the unprecedented step of proposing a flavored cigar ban. On Aug. 2, the comments closed on this historic regulatory overreach, with over 70,000 comments posted, the vast majority opposed to the ban.

A flavored cigar prohibition, based on the government's own data, hits squarely at the adult consumer. This is precisely what Congress told FDA not to do, and President Obama in signing the bill said it would not do.

While the FDA proposed ban is well intentioned, it would have little impact on youth cigar smoking rates. Basic math tells us that, when starting near a miniscule level, it's hard to go much lower. But efforts by industry, public health, and law enforcement that have been responsible for the dramatic decline are well-positioned to continue to be successful.

Further, there will be dramatic economic consequences. The Cigar Association of America estimates the U.S. flavored cigar market at approximately 6 billion flavored cigars produced annually (2021), worth over \$4.7 billion at retail.

A recent economic analysis showed that the ban would reduce sales by \$3.8 billion, causing some thousands of workers to lose their jobs across America, and leading to a massive loss in federal, state, and local tax revenues of over \$750 million per year. And those are just US impacts; the Dominican Republic and Honduras rely heavily on cigar exports and would be devastated by the lost trade.

Flavored Tobacco Has a Long History with Adult Smokers Around the World

Meanwhile, let's explore a little flavored cigar history. While the FDA is seeking to ban

In the 1600s, when Amsterdam was the tobacco capital of Europe, flavorings included lavender, nutmeg, rosemary, coriander, dill, and vinegar. In the 1700s, cigars were commonly soaked in rum or wine. In the 1800s, manufacturers were well-aware that brand preferences were related to flavor ingredients, and the most typical were licorice, molasses, honey, and rum.

There were regional differences too, with the American South favoring the sweetest cigar variations, while in the more temperate latitudes moderately or lightly flavored blends were most popular with adult smokers.

Right now, flavored cigars are sold by law-abiding, tax-paying manufacturers and retailers. Consumers can have confidence in the quality products that they purchase. But a ban on flavored cigars would take these products out of a regulated, tax-paying marketplace, and lead to them being sold in black markets where product quality will range from questionable to dangerous.

FDA justifies this drastic step on distorted scientific evidence, with a total disregard for its economic impact, and most importantly, in complete violation of the congressionally mandated guidance for rulemaking in this area.

**Investors are monopolizing affordable housing: Here's how we can stop them**

**R&D isn't a bargaining chip: Congress must support American innovation**

The proposed ban is a solution in search of a problem. To preserve the adult choice that Congress and President Obama guaranteed, when it comes to cigars, FDA should let adults be adults and withdraw the proposed ban.

*David M. Ozgo is president of the Cigar Association of America.*

**TAGS   FDA   FLAVORED CIGARS   JOE BIDEN   OBAMA   TOBACCO CONTROL ACT**