



EXPOSING JUUL

**New Vaping Titan is Deploying
Big Tobacco's Old Playbook**

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About True North Research

Launched in September 2019 by Lisa Graves, former Deputy Assistant Attorney General in the Office of Legal Policy at the U.S. Department of Justice, **True North Research** is a new watchdog group illuminating disinformation by corporations and special interests that distort federal, state, and local policies on our democracy, our economy, and our environment, bringing together Graves' research into the powerful companies, trade groups, and people undermining good policies and institutions, including fair courts. For more information, please visit truenorthresearch.org.



About Local Solutions Support Center

Local Solutions Support Center (LSSC) is a national hub that connects, coordinates and creates efforts to counter the increasing misuse of preemption and strengthen local democracy. LSSC goals are to raise awareness of state preemption and its consequences, reduce the use of this threat to democracy, and strengthen the power of cities to advance policies that promote equity, inclusion, public health, and civic participation. For more information, please visit supportdemocracy.org.

TABLE OF CONTENTS

4 An Introduction to Juul

7 Juul 101: The Key Facts And Players

8 Juul's Strategy: Attract Teens And New Users To Nicotine

12 Recruiting New Users On Social Media

13 Juul's Lobbying Machine

15 Staffing Up

16 Trade Groups

17 Juul Has Sought Influence with the Congressional Black Caucus

19 The Crown Juul: Advancing Empty T21 Laws

19 Congressional Bill Would Aid Tobacco in State Efforts

21 In the States

22 Juul and Tobacco's Tactics: A "Blitzkrieg"

25 Legislation in the States

26 States to Watch

30 Case Study: California

31 Where Do We Go From Here?

AN INTRODUCTION TO JUUL

Juul seems to be everywhere these days – social media accounts featuring its products, sponsorships of influential and agenda-setting newsletters like *POLITICO Playbook*, and – until recently – commercials on TV. But behind the glossy public relations campaigns is a seedier truth: Juul is owned and backed by Big Tobacco, and the vaping giant is increasingly turning to Big Tobacco's old playbook as it ramps up an unprecedented lobbying presence on Capitol Hill and in state legislatures across the country.

Juul has turned into an industry powerhouse, and quickly – the company's revenue has increased astronomically over just the last two years – from \$200 million in 2017, to \$1.3 billion in 2018, to a projected \$3.2 billion this year; although that projection may falter with the breaking news of several young people

developing fatal illnesses after vaping with various products.¹

It dominates the e-cigarette market, holding about 75 percent of the market-share. Driven by Juul's meteoric rise, the e-cigarette market grew 97 percent from June 2017 to June 2018. Juul's sales over this same period grew nearly 800 percent. Juul employed 200 people in September 2017 and grew to include 1,500 staffers by the end of last year. The number of Juul employees had risen to 3,800 people by September 25, 2019 when the company announced a staff shakeup and reduction.²

Late last year, Altria – formerly Philip Morris – purchased a 35 percent stake in Juul. The \$12.8 billion deal shattered the previous record investment for a U.S. venture-backed company, which had been Uber at \$5.6 billion in 2015.³ And on September 25, amid a firestorm of controversy, CEO Kevin Burns stepped down to be replaced by Altria executive K.C. Crosthwaite. As chief growth officer, Crosthwaite oversaw Altria's expansion into e-cigarette alternatives and spearheaded Altria's work in submitting its iQOS heatnot-burn for FDA review, which gained market approval in April. Juul is

1 <https://www.bloomberg.com/news/articles/2019-02-22/juul-expects-skyrocketing-sales-of-3-4-billion-despite-flavored-vape-ban>

2 <https://www.cnn.com/2018/07/02/juul-e-cigarette-sales-have-surged-over-the-past-year.html>

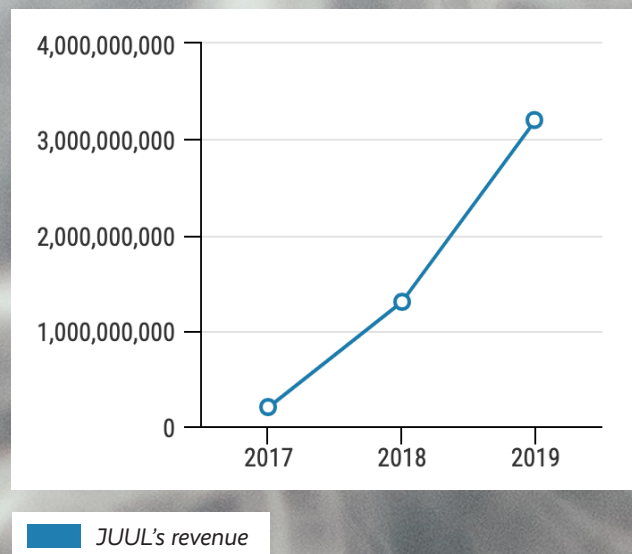
3 <https://www.bizjournals.com/sanjose/news/2018/12/21/juuls-12-8b-deal-is-the-biggest-u-s-funding-ever.html>

facing a May deadline for the same FDA review process.

Juul's reach now includes 142 registered lobbyists in 48 states, according to American Public Media reports in September – a lobbying presence that has increased by over 800 percent over the last two years – lobbyists funded by corporate special interests who profit most when it's as easy as possible to market and sell tobacco and e-cigarette products.⁴ That is why Juul has aggressively pushed a strategy to advance T-21 legislation – bills that appear to benefit the public health by raising the age of sale of tobacco or e-cigarettes to 21 – but which often include poisonous and sweeping preemption measures that gut the ability of local municipalities to actually enact new or enforce already-passed public health policies locally.

San Francisco, home to Juul Labs, has been ground zero in the fight for local control to regulate Big Tobacco. The city is a historic bellwether for innovative policy solutions to public health crises and is frequently a leader in combatting big tobacco's influence. San Francisco again led the way and intervened in efforts to combat teenage e-cigarette use. In 2018 it banned flavored tobacco products and then in June 2019 became the first major city to ban the sale and distribution of e-cigarettes outright. The city's tough stance against big tobacco's latest effort to draw in teens made it an industry target. The industry was determined not only to reverse the ban, but to roll back earlier regulations and prevent the city council from enacting future tobacco regulations and put a measure (Prop C) on the city's November 2019 ballot to accomplish those aims. But suddenly, after spending \$18.6 million, Juul pulled the plug on its San Francisco ballot campaign to replace the e-cigarette ban with industry-supported regulations.

Fig. 1: Juul's skyrocketing revenue since 2017



<https://www.bloomberg.com/news/articles/2019-02-22/juul-expects-skyrocketing-sales-of-3-4-billion-despite-flavored-vape-ban>

Juul likely perceived the San Francisco ban, which spurred similar action around the U.S., as an existential threat. For example, across the bay, the city of Livermore banned the sale of flavored tobacco products and e-cigarettes shortly after the San Francisco ordinance was passed. And in September, Michigan governor Gretchen Whitmer exercised executive authority to issue a six-month moratorium on the sale of flavored vaping products, the first state to take such action, followed by the Trump administration's proposal to ban e-cigarette flavors nationally. Massachusetts Governor Charlie Baker declared a public emergency and announced a four-month temporary ban on all vaping products, the first state to take such action. As regulatory agencies in the U.S. have now signaled serious action to address the epidemic and mysterious illnesses tied to vaping, retailers in the private sector have also distanced themselves from the industry. A number of major retailers have already begun to raise the age of sale for tobacco to 21.

⁴ <https://www.apmreports.org/story/2019/09/17/juul-lobbying-youth-vaping>

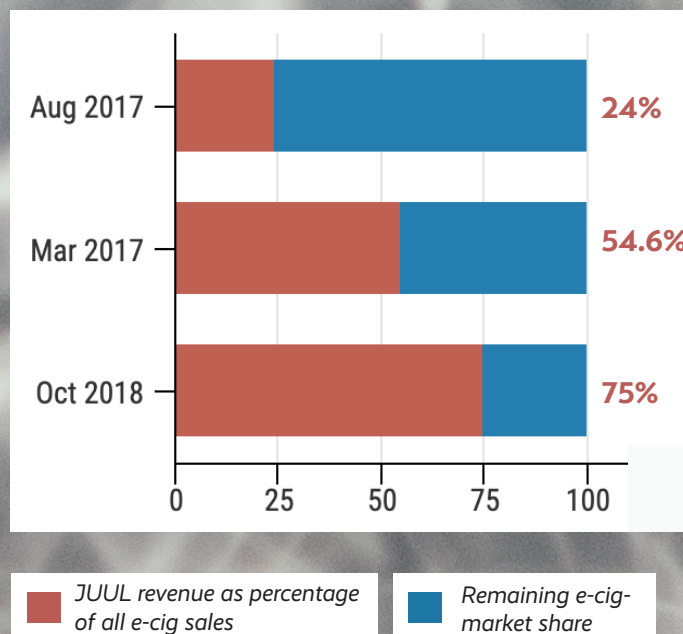
And Walmart, the country's largest retailer, recently announced it will stop selling e-cigarettes entirely after its inventory is exhausted. Walmart's action is expected to spur other retailers to remove e-cigarettes, while other companies such as Rite Aid and Costco had already pulled e-cigarette products from shelves earlier this year. But public health advocates believe JUUL is playing a long game, waiting for FDA approval for e-cigarettes in 2020, which would give it the predominate place in the market and address restrictions imposed in some states which are requiring FDA-approval.

On September 20, a bipartisan group of Senators sent a letter to FDA Chief Ned Sharpless urging the agency to pull all pod and cartridge-based e-cigarettes from the market entirely, "unless and until they can prove they benefit the public health."⁵ That same month, the FDA issued a warning to Juul that said the company was illegally marketing its product as less harmful than cigarettes.

The U.S. isn't the only nation to take action against Juul. India banned e-cigarettes in September, as its health department echoed concerns raised by the CDC and FDA of a youth vaping epidemic.

In addition to a surge of local, national and international efforts to regulate e-cigarettes, Juul is bogged down with lawsuits alleging that the company's ads targeted teens and other suits linking the use of e-cigarettes to serious health issues. In 2019 so far, there have been 18 deaths and 1,080 lung illnesses linked to vaping.⁶ The CDC came out to warn citizens against using vaping products, saying, "people should consider not using e-cigarette products." Juul is also under investigation by five state Attorneys

Fig. 2: Juul's increasing market share of e-cig sales



<https://truthinitiative.org/research-resources/emerging-to-bacco-products/behind-explosive-growth-juul>

General – Colorado, Connecticut, Illinois, Massachusetts, and North Carolina, as well as D.C. – and faces numerous class action lawsuits.

As more and more users become addicted, it has become clear that while Juul and its defenders have previously claimed that its product is that of harm reduction, the evidence is less clear than the company has presented it.

This report offers a deep look into the people, organizations, and strategies driving Juul's meteoric rise – and harming our public health.

5 <https://www.durbin.senate.gov/imo/media/doc/E-Cig%20Cartridge%20Letter%20to%20FDA.pdf>
 6 https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html

JUUL 101: THE KEY FACTS & PLAYERS

Juul was founded by Adam Bowen and James Monsees. The two initially started the company Ploom, a marijuana vaporizer, in 2007.⁷ They later created the Pax marijuana/tobacco vaporizer, before focusing their efforts entirely on Juul. Bowen is Juul Chief Technology Officer and Monsees is Chief Product Officer. Both became billionaires following the 2018 Altria deal.⁸ Juul's former CEO Kevin Burns resigned on September 25, after leading the company since December 2017. Burns was President and COO of Chobani Yogurt from 2014 to 2016, and before that he was a longtime partner at TPG Capital⁹ Burns is a major GOP donor.¹⁰

Juul VP of Public Policy Tevi Troy is a senior fellow at the Hudson Institute and was previously the CEO of the American Health Policy Institute until 2018. Troy sat on the Board of the R Street Foundation, and ALEC Action, according to *The New York Times*.¹¹

Other Juul investors include Tiger Global, Fidelity Investments, and Tao Capital. One of the world's largest

private equity firms, TPG Capital, declined to invest in Juul, apparently on moral grounds, as reported in *Fortune*: “TPG also is not the only investment firm to stay away from the company. Om Malik of True Ventures, for instance, said that investing in Juul is an act of ‘pure greed.’”¹²

Juul pods contain propylene glycol, glycerin, flavorings, and nicotine salts and, at five percent, nicotine Juul pods had a significantly higher nicotine content than most of its competitors when it entered the market in 2015. The high nicotine concentration in Juul pods caused an industry “rush” among competitors to raise the nicotine levels of their products to compete.¹³ Also, Juul pods contain mostly protonated nicotine or “nicotine salts,” which is much less harsh than free-base nicotine. This is problematic because it allows users to inhale much higher concentrations of nicotine than they would be able to otherwise – enabling teens to vape much higher amounts of nicotine at a time.¹⁴

7 <https://www.dailyherald.com/business/20181111/founders-of-e-cigarette-maker-Juul-are-worth-843m-apiece>

8 <https://www.forbes.com/sites/kathleenchaykowski/2018/12/20/new-altria-deal-makes-Juul-cofounders-billionaires/#c3487bc5a67c>

9 <https://www.linkedin.com/in/kevin-burns-a3b912111/>

10 https://www.fec.gov/data/receipts/individual-contributions/?two_year_transaction_period=2018&contributor_name=Kevin+Burns&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018&contributor_employer=Juul9

11 <https://www.nytimes.com/2019/03/15/health/tobacco-e-cigarettes-lobbying-fda.html> <http://fortune.com/2019/01/10/tpg-Juul-pods-stock-investing-vape/>

12 <https://fortune.com/2019/01/10/tpg-Juul-pods-stock-investing-vape/>

13 <https://www.cnn.com/2019/02/07/health/juul-nicotine-arms-race-study/index.html>

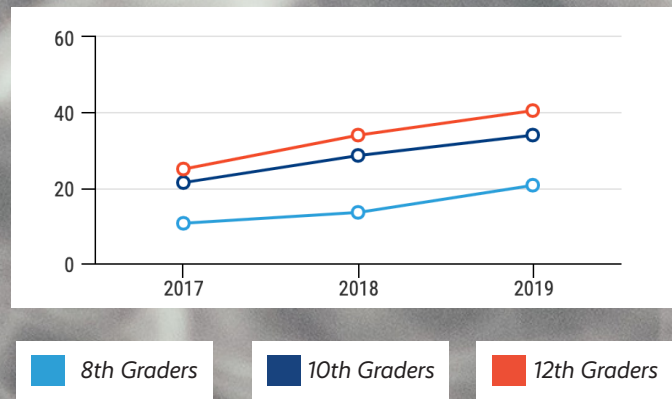
14 <https://cen.acs.org/analytical-chemistry/spectroscopy/E-cigaretteschemistry-explain-popularity-among/96/i22>

JUUL'S STRATEGY: ATTRACT TEENS AND NEW USERS TO NICOTINE

Bonnie Herzog, managing director of tobacco, beverage and convenience store research at Wells Fargo Securities, said that the company is bringing new users to nicotine more than converting smokers: "Notably, retailers affirm JUUL is attracting new users into the category more than it is taking share from any one e-cigarette brand or cigarette player."

Unlike cigarettes, Juul is not expressly barred from advertising on TV. In January 2019, Juul launched a \$10 million TV ad campaign emphasizing the device as helpful to adults hoping to switch over from cigarettes with the slogan "Make the Switch." The ad campaign, aimed at adults and airing late at night, came in response to increased scrutiny over the company's practices, which contributed heavily to skyrocketing levels of teenage vaping. The ads struck a stark contrast to earlier marketing campaigns targeted at teens, featuring young models, bright colors, and users partying and using their Juul pens recreationally. However, in September the FDA singled out the "Make the Switch" ad campaign in a warning letter to Juul that said the company illegally marketed its product as safer than cigarettes, and Juul subsequently pulled the campaign.¹⁵ Some networks, like WarnerMedia, CBS, and Viacom have also voluntarily pulled Juul's ads from their airwaves. *The New York Times* reported in September that Juul spent over \$30 million on TV advertising just this year.

Fig. 3: Percentage of adolescents who have ever used a nicotine vape



www.thefix.com/teen-vaping-doubled-2017

As noted by *The New York Times*, the 2018 "Monitoring the Future" study, which is sponsored by the National Institute on Drug Abuse, found that the spike in teen vaping was at epidemic levels: "Researchers said that it was the largest annual jump in the use of any substance, including marijuana, they had seen in the project's 44-year history."^{15a}

That study found that one in ten eighth-graders had vaped and nearly 40 percent of high school seniors had vaped, an almost 10 percent jump from 2017. It also found frequent vape use nearly doubled from 11 percent to 21 percent. The study also found that among students who are vaping, frequent use jumped from 20 percent to 28 percent.

¹⁵ <https://www.businessinsider.com/juuls-10-million-tv-ad-campaign-is-aimed-at-adults-who-want-to-quit-cigarettes-2019-1>

^{15a} <https://www.nytimes.com/2018/12/17/health/ecigarettes-teens-nicotine-.html>

Another survey by the CDC released in December 2018 also found alarming figures on teenage vaping, which they attributed to the rise in popularity of Juul. About 27% of all high school students had used tobacco products in 2018, and 20% of high school students reported using e-cigarettes (about 3 million). The evidence also suggests that vaping nicotine has drawn teens towards smoking cigarettes, not away from them.¹⁶

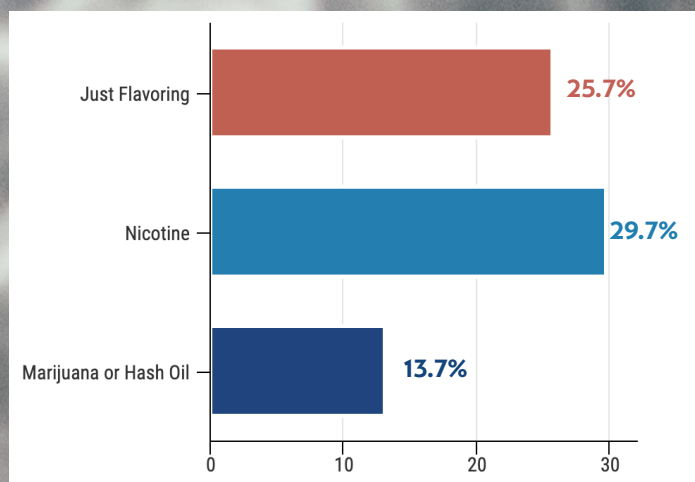
And now the most recent data from the New England Journal of Medicine, from September 2019, suggests that teenage vaping is still growing.¹⁷ Among other findings, one in nine high school seniors are vaping daily and one in four reported vaping in the last 30 days. One out of eleven 8th graders reported vaping recently, and two percent reported vaping daily.

Alarmingly, many teens who vaped did not understand that they were vaping nicotine, again, per *The New York Times*, on the 2018 Monitoring the Future study: “But 25.7 percent of seniors who vaped insisted they were inhaling ‘just flavoring,’ suggesting that they may not know that many brands use flavored nicotine liquids and salts. More than two-thirds of sophomores said that both the devices and the liquids, which are ostensibly prohibited from being sold to minors, are either ‘fairly easy’ or ‘very easy’ to obtain.”¹⁸

“The evidence also suggests that vaping nicotine has drawn teens towards smoking cigarettes, not away from it.”

1/4 of high school seniors believe they are vaping “just flavoring”

Fig. 4: Responses from high school seniors questioned about what is in their e-cig:



<https://www.drugabuse.gov/related-topics/trends-statistics/infographics/monitoring-future-2018-survey-results>

Both the FDA and surgeon general have dubbed the rise in teenage vaping as an “epidemic.”^{19 20}

A Stanford study also found that Juul’s early ad campaigns were “patently youth-oriented” and popped up all over youth-dominated platforms like Instagram and YouTube, using flashy colors and young models:

“JUUL’s Vaporized launch campaign featured models in their 20s appearing in trendy clothes engaged in poses and movements more evocative of underage teens than mature adults. Subsequently, JUUL’s principal advertising themes have been closely aligned with that of traditional tobacco advertising (pleasure/relaxation, socialization/romance, flavors, cost savings and discounts, holidays/

16 https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

17 <https://www.nejm.org/doi/full/10.1056/NEJMc1910739?query=TOC>

18 https://www.nytimes.com/2018/12/17/health/ecigarettes-teens-nicotine.html?rref=collection%2Fbyline%2Fjan-hoffman&action=click&contentCollection=undefined®ion=stream&module=stream_unit&version=latest&contentPlacement=3&pgtype=collection

19 <https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-new-steps-address-epidemic-youth-e-cigarette-use>

20 <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>

seasons, style/identity, and satisfaction). Advertising prominently featured sweet and fruity flavors, especially mango. The company employed social media influencers as brand ambassadors. They also sought individuals who were popular on the internet, enrolled them in JUUL's affiliate program, and compensated them for posting positive reviews while insisting that they not reveal this relationship... JUUL's mission statement to 'Improve the lives of the world's one billion adult smokers' and their repeated assertion that their product is meant for 'adult smokers only' has not been congruent with its marketing practices over its first 3 years."²¹

Amid mounting pressure over teenage use, Juul deleted some of its social media accounts and dropped its ads from Instagram and Twitter in November 2018.²² However, social media accounts featuring Juul pens and memes about vaping have taken on a life of their own, and continue to be prevalent on social media.

In early June 2019, the House Oversight Subcommittee on Economic and Consumer Policy requested documents from the company

related to marketing to minors, social media practices, research, and the Altria deal as part of an investigation into teen vaping. This followed an April investigation opened by House Democrats.²³ On September 18, Democratic House Members threatened to subpoena Juul for the documents after the company failed to comply with the June request.

In July, the House held a hearing on Juul's role in the teenage vaping epidemic.

- Rep. Mark DeSaulnier told James Monsees, Juul's co-founder, "You don't ask for permission, you ask for forgiveness," he said. "You're nothing but a marketer of a poison, and your target has been young people."²⁴

Rep. Ayanna Pressley said, "I would be remiss not to highlight how similar many of Juul's tactics seem to be right out of the Big Tobacco playbook. For decades Big Tobacco targeted black communities. ... It's extremely disturbing, we've been here before. We don't need a bunch of studies. The only studies we need are the millions of casualties that are behind us and that we run the risk of seeing ahead of us."²⁵

“*I would be remiss not to highlight how similar many of Juul's tactics seem to be right out of the Big Tobacco playbook. For decades Big Tobacco targeted black communities.*”

– Rep. Ayanna Pressley

²¹ http://tobacco.stanford.edu/tobacco_main/publications/JUUL_Marketing_Stanford.pdf

²² <https://www.businessinsider.com/why-Juul-shut-down-social-media-facebook-instagram-vaping-2018-11>

²³ <https://www.cnn.com/2019/06/13/house-panel-demands-internal-documents-from-Juul-in-teen-vaping-probe.html>

²⁴ https://www.washingtonpost.com/health/house-panel-accuses-e-cigarette-maker-juul-of-targeting-children/2019/07/25/190d8d5e-af17-11e9-bc5c-e73b603e7f38_story.html

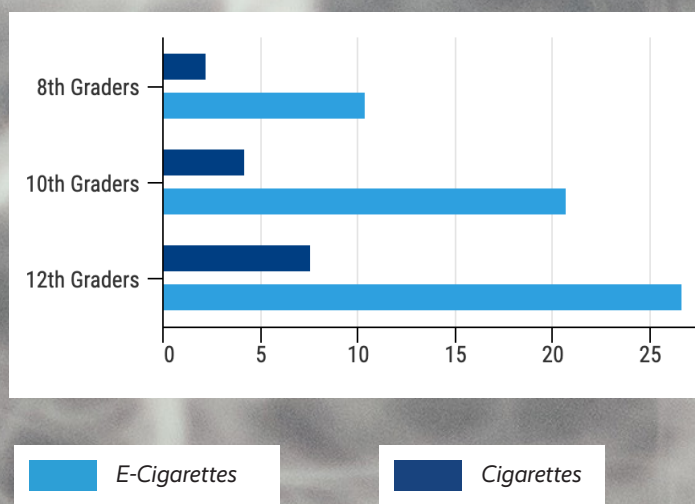
²⁵ <https://www.cbsnews.com/news/juul-came-to-a-9th-grade-classroom-and-told-teens-their-products-were-totally-safe-according-to-teens-testimonies/>

Among some of the shocking testimony and details that emerged during the hearing:

- A 9th grader testified that a Juul representative came to his school and presented to his class, while his teacher left the room. The student testified that the Juul representative repeatedly told the class that Juul is “totally safe.” When asked by students what to do if they know a friend addicted to nicotine, the Juul representative suggested mentioning Juul as a safer alternative than cigarettes.²⁶
- Documents released as part of the investigation detail Juul’s spending of hundreds of thousands of dollars on youth programming,²⁷ efforts that “seem to duplicate those of Big Tobacco,”²⁸ and are “eerily similar” to Big Tobacco, according to Juul’s internal emails:²⁹
- Juul sponsored a five-week “holistic health education” summer camp for kids between 3rd and 12th grade. The initial draft of the agreement included that Juul would receive data from kids who attended, although the company claims they did not follow through on it.³⁰
- Another plan was to pay \$10,000 to high schools that would incorporate Juul-sponsored curriculum, allowing “Juul Consultants” to be present for classes and notified of schedule changes.³¹

TEENAGERS are more likely to use e-cigarettes than they are to smoke cigarettes

Fig. 6: Percentage of teens who used e-cigs v. cigarettes in the past month



www.drugabuse.gov/related-topics/trends-statistics/infographics/teens-e-cigarettes

- Other documents detail how in 2015 Juul sought to hire 1,500 online “influencers,” popular social media personalities in music, fashion and entertainment, with the plan to expand to 12,500 influencers “subsequently introducing Juul to over 1.5 million people.”³²
- Per CBS: “Public health analyst and researcher Rae O’Leary also testified that Juul targeted Native American tribes to use as ‘guinea pigs.’” O’Leary testified that Juul paid \$600,000 to tribal medical professionals to distribute free Juul devices to tribal members in order to collect data on them.³³

26 <https://www.cbsnews.com/news/Juul-came-to-a-9th-grade-classroom-and-told-teens-their-products-were-totally-safe-according-to-teens-testimonies/>

27 <https://www.cnn.com/2019/07/25/health/Juul-summer-camps-influencers-house-subcommittee/index.html>

28 https://oversight.house.gov/sites/democrats.oversight.house.gov/files/JLI-HOR-00153200_Redacted.pdf

29 https://oversight.house.gov/sites/democrats.oversight.house.gov/files/JLI-HOR-00155718_Redacted.pdf

30 <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/JLI-HOR-00003711.pdf>

31 <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/JLI-HOR-00002035.pdf>

32 https://oversight.house.gov/sites/democrats.oversight.house.gov/files/JLI-HOR-00029324_Redacted.pdf

33 www.cbsnews.com/news/Juul-came-to-a-9th-grade-classroom-and-told-teens-their-products-were-totally-safe-according-to-teens-testimonies/

RECRUITING NEW USERS ON SOCIAL MEDIA

Juul's early social media ad campaigns were considered extremely successful.³⁴ The company differed from other e-cigarette companies in that Juul advertised almost entirely on social media, instead of magazines and billboards:

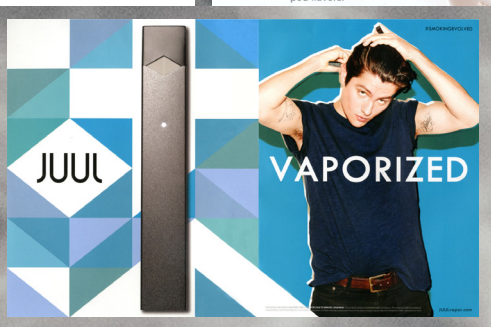
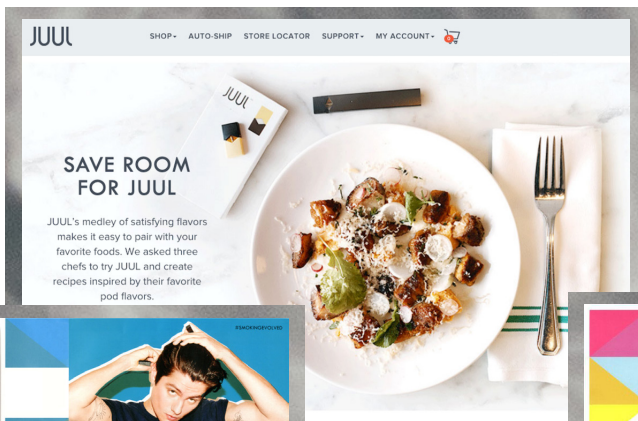
As reported by *Business Insider*: "Sales of Juul devices were 'highly correlated' with the company's social-media posts, the researchers concluded. Now, though, the advertising has a life of its own: Juul said in a statement that 99% of social media posts related to its devices are generated by people with no link to the company."³⁵

In addition to appealing to younger people, the social media campaign was likely much cheaper than a traditional ad campaign, according to researchers.

Other examples of ads:³⁶

- Ads telling users to "save room for Juul" which emphasized flavor pairings with food.
- Colorful, youth-oriented ads showing models using Juul pens recreationally.
- Per *Business Insider*: "According to Huang and his coauthors, Juul's official Instagram account, called JuulVapor, garnered tens of thousands of 'likes' by evoking feelings of 'relaxation, freedom, and sex appeal.' While that strategy is somewhat standard in the advertising industry, something that made Juul's campaign stand out to the researchers was its emphasis on flavors."³⁷ During the FDA crackdown on teen vaping, and fruity flavors in particular, Juul changed the names of some of its products:

- "Cool Cucumber" became "Cucumber"
- "Crème Brulee" became "Crème"
- "Fruit Medley" became "Fruit"



34 <https://www.businessinsider.com/juul-e-cig-marketing-youtube-twitter-instagram-social-media-advertising-study-2018-10>

35 <https://www.businessinsider.com/why-Juul-shut-down-social-media-facebook-instagram-vaping-2018-11>

36 <https://www.businessinsider.com/juul-e-cig-marketing-youtube-twitter-instagram-social-media-advertising-study-2018-10>

37 <https://www.businessinsider.com/juul-e-cig-marketing-youtube-twitter-instagram-social-media-advertising-study-2018-10>

JUUL'S LOBBYING MACHINE

Overview

Juul is throwing massive sums of money at state legislatures at such a ferocious pace that it can sometimes be tough to keep up. The investment from Altria has allowed Juul to tap into a more than \$10 million lobbying operation in 2018, according to the Center for Responsive Politics.³⁸

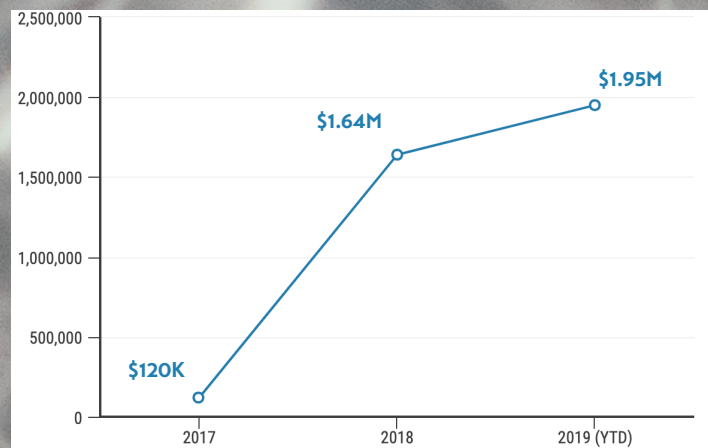
Consider the dramatic increase in Juul's federal lobbying expenditures in recent years, per lobbying disclosure filings:

- 2019 (YTD): \$1.95 million
- 2018: \$1.64 million
- 2017: \$120,000

Juul's lobbying firms include: S3 Group, W Strategies, Fulcrum Public Affairs, Empire Consulting, Oaldaker and Willison, Kountoupes Denham Carr & Reid, and Sims Strategies.

- S3 Group is assigned to GOP accounts.
- Empire Consulting is a Democrat-tied firm with close ties to communities of color. Their top lobbyist is Chaka Burgess, who is also a board member of the Congressional Black Caucus' political action committee.

Fig. 7: Juul's federal lobbying expenditures since 2017



<https://www.opensecrets.org/lobby/clientsum.php?id=D000070920&year=2019>

- Fulcrum Public Affairs, per *The Daily Beast*: "Fulcrum Public Affairs bills itself as 'the only 100% black and Latinx-owned government relations firm in Washington, D.C...' Its principals, Oscar Ramirez and Dana Thompson, are former aides to Obama Labor Secretary Hilda Solis and House Financial Services Committee Chairwoman Maxine Waters (D-CA), respectively."³⁹

³⁸ <https://www.opensecrets.org/lobby/clientsum.php?id=D000070920&year=2019>

³⁹ <https://www.thedailybeast.com/Juuls-latest-play-to-survive-washington-dc-win-over-black-lawmakers>

Juul also donated \$50,000 to both the Democratic and Republican Attorneys General Associations, and \$25,000 to the Republican Governors Association, per *Politico*. “More than 40 percent of the company’s federal PAC spending was directed to the campaigns of more than a dozen attorneys general, including Alan Wilson in South Carolina, Mike Hunter in Virginia, and Hector Balderas in New Mexico.”⁴⁰

In June 2018, *Politico* interviewed Juul VP of Public Policy Tevi Troy on Juul’s lobbying strategy in Washington, D.C.⁴¹ Troy said the company had a window “to establish a regulatory regime and a legislative atmosphere and a thought leader atmosphere, a kind of public health consciousness, to set the market correctly.”

“The company is also buying up some of the most expensive advertising real estate in Washington. ‘I have never seen a lobbying campaign like this before,’ said one senior congressional aide. ‘It’s just crazy.’”

– *The Daily Beast*

According to *The Daily Beast*:

“The company is also buying up some of the most expensive advertising real estate in Washington. In 2019 alone, Juul has sponsored the influential *Politico Playbook* newsletter – which caters to congressional staffers, administration officials, and political operatives – for three weeks. On top of that, the company has sponsored the spinoff *Massachusetts Playbook* for four weeks, the *California Playbook* for three weeks, the *Illinois Playbook* for three weeks, the *New Jersey Playbook* for two weeks, and the *New York Playbook* for one week. There are no set prices for weekly sponsorships, but a source says it can cost approximately \$115,000 to sponsor just the mainstay *Playbook* (which comes out in the morning and the evening) for one week. ‘I have never seen a lobbying campaign like this before,’ said one senior congressional aide. ‘It’s just crazy.’ The throw-it-at-the-wall-and-see-what-sticks approach is aimed, industry officials say, at warding off zealous Trump administration officials and members of Congress instinctively skeptical of – or hostile to – any nicotine product. Already, Juul is attempting to placate skeptics with policy compromises such as its support for legislation to raise the national smoking age to 21. ‘They are worried about other shit,’ said one lobbyist who works with the industry. ‘Twenty-one is the ship that is sailing, so might as well say you’re for it.’”⁴²

40 <https://www.politico.com/story/2018/12/08/Juul-lobbying-washington-1052219>

41 <https://www.politico.com/newsletters/politico-pulse/2018/06/14/inside-Juuls-washington-strategy-250683>

42 <https://www.thedailybeast.com/juuls-latest-play-to-survive-washington-dc-win-over-black-lawmakers>

Staffing Up

Juul is also staffing up with operatives who have deep ties to a variety of communities and movements – on both sides of the aisle.

According to *Politico*, “In June (2018), the company hired Jerry Masoudi, chief counsel to the FDA under former President George W. Bush. A month later, Jim Esquea, an assistant secretary to HHS under former President Barack Obama, registered as the company’s in-house lobbyist. Former White House deputy communications director Josh Raffel joined the firm in October, just days after the FDA conducted a surprise inspection of the company’s San Francisco office and confiscated more than a thousand documents related to the company’s marketing practices. The company also recently took out full-page ads in *The Wall Street Journal* and *The Washington Post*.”⁴³

Juul also hired Ted McCann, a longtime aide to Paul Ryan and Rebeccah Propp, a communications aide to VP Mike Pence.

And per *Politico*, “It has also staffed up with some top talent from the Trump administration. Last year it hired Josh Raffel, a former White House deputy communications director, as its vice president of corporate communications. Last month, Juul brought on Johnny DeStefano, who ran the White House personnel office, where he was considered one of the president’s more trusted advisers.”

Nick Muzin and his firm Stonington Global offered up the services of Steve Bannon to lobby for Juul in late 2018, but Juul declined, per *The Daily Beast*. Muzin also pitched Juul on James Frinzi, who has worked for Sen. Lisa Murkowski, an ardent critic of the e-cigarette industry.⁴⁴

And, in July 2019, *Politico* confirmed that Juul also hired former Oklahoma House Rep. Don Nickles as a lobbyist.

After Massachusetts Attorney General Maura Healey announced an investigation into Juul in 2018 over marketing to minors, the company hired former Massachusetts AG Martha Coakley in April. Coakley had a reputation as a staunch consumer advocate, and was among 40 AGs who urged the FDA to clamp down on e-cigarette companies targeting minors in 2013, so her reversal raised eyebrows.

⁴³ <https://www.politico.com/story/2018/12/08/Juul-lobbying-washington-1052219>

⁴⁴ <https://www.thedailybeast.com/steve-bannon-angled-for-a-job-lobbying-on-behalf-of-e-cigarette-giant-Juul>

Trade Groups

Juul also has lobbied through the Vapor Technology Association (VTA), a coalition of e-cigarette/nicotine manufacturers. The VTA includes a number of other state vaping associations in the following states:⁴⁵ Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Kentucky, Maryland, Nevada, New England, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, and Virginia.

Juul declined to renew its membership in the VTA at the end of August, claiming that they opposed VTA's lawsuit to prevent the FDA from enforcing the May 2020 deadline.⁴⁶ The VTA disputed this, asserting that Juul "participated in the VTA Board meeting held to consider the lawsuit against FDA, but never objected. In fact, the vote to move forward with the lawsuit was unanimous. Prior to the meeting, Juul had the relevant documents relating to VTA's consideration of a potential lawsuit against FDA, but never objected or expressed opposition to the action."

The VTA has crafted "model" T-21 legislation that includes preemption for state legislators, although at times the VTA has opposed some legislation supported by Juul.⁴⁷

According to the Center for Responsive Politics, the VTA has spent just under \$200,000 on federal lobbying this year and \$240K in each of the previous two years.⁴⁸

45 <https://vaportechnology.org/membership/>

46 <https://thehill.com/business-a-lobbying/458323-juul-leaves-vaping-industry-group>

47 <https://vapesling.com/march-vta-update-vapor-state-in-your-states/>

48 <https://www.opensecrets.org/lobby/clientsum.php?id=F204273&year=2017>

Juul Has Sought Influence with the Congressional Black Caucus

Historically, African-American communities have been especially targeted by Big Tobacco and hard hit by tobacco addiction, with menthol flavors being widely popular. Altria's best-selling Marlboro cigarettes come in menthol flavor, and Juul has fought hard to keep its mint and menthol flavor on shelves amid public calls for bans and regulation on e-cigarette flavors. As other flavors like fruit and mango have been pulled from shelves, mint sales have drastically increased.⁴⁹ Juul has insisted the mint flavor is targeted for cigarette users hoping to make the switch.

“Researchers at Yale University, Boston University, Stanford University, Johns Hopkins University, and the University of Louisville, among others across the country, have shunned Juul's grant offers. Those rejections have presented a problem for Juul, which needs strong science to prove that 'Juuling' offers more public health benefit than risk.”

— *The New York Times*

According to the NAACP, “About 85 percent of African-American smokers aged 12+ smoke menthol cigarettes, including 70.5 percent of African-American high school and middle school smokers, compared to 29 percent of White smokers.”⁵⁰

Per *The New York Times*: “Juul appears to be trying to court various groups — perhaps to promote its menthol-flavored e-cigarettes — with various donations. The San Francisco-based company has contributed to the Congressional Black Caucus Foundation, and the National Newspaper Publishers Association, a trade group for African-American owned community newspapers. The company has also retained lobbyist Chaka Burgess, co-managing partner of the Empire Consulting Group who serves on the governing boards of the black caucus' foundation and the caucus' political action committee, and on that of the NAACP Foundation.”⁵¹

The New York Times also reported that Juul was partnering with the Black Mental Health Alliance, and mirroring the Big Tobacco playbook, launched a website called JLI Science to promote research on vaping products. Some of these Juul-funded studies concluded that there was low interest in e-cigarettes among teens and that many young people were unaware of what Juul was.

According to *The Daily Beast*, Juul sought the support of Rev. Al Sharpton in its efforts

49 <https://nypost.com/2019/09/11/Juuls-mint-flavored-e-cig-sales-soared-after-other-flavors-pulled>

50 <https://www.naacp.org/campaigns/youth-against-menthol/>

51 <https://www.nytimes.com/2019/03/15/health/tobacco-e-cigarettes-lobbying-fda.html>

to gain a hold with minority citizens. *The Daily Beast* noted: “[The] effort is part of a lobbying push that even seasoned Washington operatives say is unprecedented in its scope and heft.”⁵² Juul also hired Ben Jealous, former president of the NAACP and 2018 Maryland gubernatorial candidate, who confirmed he had reached out to Sharpton on behalf of the company.

And as reported by *The Daily Beast*, “Also involved in that outreach has been Heather Foster, a veteran Democratic aide who coordinated outreach to civil rights groups on behalf of the Obama White House’s Office of Public Engagement. ... Foster, who did not respond to inquiries regarding her work for Juul, sat on the host committee of the Democratic National Committee’s African American Leadership Summit in Atlanta over the weekend.”

Juul has also sought to influence the academic sector. In June 2019, Juul finalized a \$7.5 million grant to Meharry Medical College, a historically African-American school. The sum represented the school’s second-largest

grant ever. According to the school, the new Center for the Study of Social Determinants of Health’s “initial \$7.5 million in funding from JUUL Labs, Inc., will be used to conduct independent research and spearhead public education campaign about the health impact of tobacco and nicotine-delivery products.”⁵³

The school faced swift backlash from the African-American health community, and experts have disputed the school’s claim that it will remain free from corporate influence. The timing of the grant is suspect as well, given that Juul’s deadline to submit evidence has been moved up. According to *The New York Times*, “Researchers at Yale University, Boston University, Stanford University, Johns Hopkins and the University of Louisville, among others across the country, have shunned Juul’s grant offers. Those rejections have presented a problem for Juul, which needs strong science to prove that ‘Juuling’ offers more public health benefit than risk.”⁵⁴

52 <https://www.thedailybeast.com/Juuls-latest-play-to-survive-washington-dc-win-over-black-lawmakers>

53 <https://home.mmc.edu/meharry-medical-college-to-launch-new-center-for-the-study-of-social-determinants-of-health/>

54 <https://www.nytimes.com/2019/06/19/science/Juul-meharry-grant-vaping.html>

THE CROWN JUUL: ADVANCING EMPTY T21 LAWS

As teenage tobacco use has risen in recent years, threatening the decades-long progress of decreasing use, many states have raised the age of sale of tobacco to 21. While a number of states have passed clean bills, Big Tobacco has played a hand in others, conceding to raising the age to 21 with “preemption,” to limit the power of state or local governments to regulate the product as they determine best.

In Congress: McConnell Bill Would Aid Tobacco in State Efforts

U.S. Sens. Mitch McConnell and Tim Kaine introduced federal legislation that would raise the tobacco age to 21. McConnell’s home state of Kentucky failed to pass a T-21 bill earlier in 2018. A lobbyist with RJ Reynolds called McConnell a “special friend” to the company in 1996.⁵⁵

As reported by NPR, “Vaping and tobacco companies are currently employing McConnell’s former policy adviser, his former policy director and his former chief of staff

to lobby on their behalf... In the month before McConnell announced his support for the measure, two government affairs executives at Altria donated to McConnell’s Senate campaign. ... The day of McConnell’s announcement, a board member for the Vapor Technology Association, an industry trade association, tweeted, ‘Hopefully, this will cause #FDA to reevaluate’ tougher regulations on flavored e-cigarettes. Later that month, members of the vaping industry trade group met with McConnell’s staff.”⁵⁶

⁵⁵ <https://www.documentcloud.org/documents/5911055-1996-06-25-RJ-Reynolds-Lobbyists-Talking-Points.html#document/p2/a495147>
⁵⁶ <https://www.npr.org/2019/06/17/730496066/tobaccos-special-friend-what-internal-documents-say-about-mitch-mcconnell>

Juul has signaled that it will back McConnell's bill.⁵⁷

Altria and its employees have also been a major contributor to McConnell and Kaine. A number of McConnell's former staffers have been lobbying on behalf of Big Tobacco.⁵⁸

The McConnell-Kaine bill, while not including preemption of state law, includes language requiring that states take action or risk losing some federal funding, which provides an opening for tobacco companies to exert their lobbying muscle to influence legislation at the statehouse.

U.S. Sens. Dick Durbin, Brian Schatz, Mitt Romney, and Todd Young introduced a different T-21 bill in April, which Juul claims to support. Durbin and Schatz released a statement criticizing the McConnell loophole.⁵⁹

Rob Crane, president of the Preventing Tobacco Addiction Foundation, expressed concern with both bills because of enforcement, according to Sludge. "We strongly support Tobacco 21 bills at the Federal level but are disappointed that neither the McConnell-Kaine bill, nor the Schatz-Young bill, offer adequate enforcement against rogue

retailers selling to kids," Crane told Sludge. "We are pleased that McConnell's bill actually incentivizes the states to provide a 'belt and suspenders' federal-and-state approach to enforcement, but parents, teachers and health advocates will have to double down in their insistence to state legislators that they live up to their obligations to the next generation."⁶⁰

Crane said he supported a third bill in the House by Democratic Reps. Frank Pallone and Donna Shalala, which would raise the age to 21, ban all flavors, and extend FDA regulations on tobacco to e-cigarettes.

Another T-21 bill in the House, HR 2084,⁶¹ has been criticized by the American Heart Association because it would not include vapor products under same tobacco regulations.⁶² Co-sponsor Robert Aderholt (R-Ala.) received \$2,500 from Juul.⁶³

57 <https://newsroom.juul.com/2019/04/18/statement-supporting-senator-mcconnells-plan-to-introduce-legislation-to-raise-the-nationwide-minimum-age-to-buy-tobacco-products-from-18-to-21/>

58 <https://readsludge.com/2019/05/28/mcconnells-tobacco-21-bill-exposes-states-to-big-tobaccos-wishlist/>

59 <https://www.schatz.senate.gov/press-releases/schatz-durbin-joint-statement-on-mcconnells-tobacco-to-21-legislation>

60 <https://readsludge.com/2019/05/28/mcconnells-tobacco-21-bill-exposes-states-to-big-tobaccos-wishlist/>

61 <https://www.congress.gov/bills/116th-congress/house-bill/2084/text?q=%7B%22search%22%3A%5B%22aderholt%22%5D%7D&r=1&s=1>

62 <https://newsroom.heart.org/news/legislation-to-raise-tobacco-purchasing-age-doesnt-go-far-enough>

63 <https://prospect.org/justice/mcconnell-s-tobacco-21-bill-exposes-states-big-tobacco-s-wishlist/>

In the States

18 states plus DC have T-21 laws on the books, and at least 500 localities have passed their own T-21 measures, some in states that subsequently raised the age to buy to 21.⁶⁴

On top of this, a number of major retailers like Walgreens and Walmart have raised the minimum age to purchase tobacco from 18 to 21. As the tide has turned and T-21 gains steam, Big Tobacco changed course from its earlier opposition to support. Juul has been a vocal advocate for T-21 laws.

While reaping the PR benefits of claiming support for these measures, Juul has worked tirelessly behind the scenes to weaken tobacco control legislation. In some instances, it's successfully passed legislation that

“While reaping the PR benefits of claiming support for T-21 measures, Juul has worked tirelessly behind the scenes to weaken tobacco control legislation.”

preempts county and local governments from enacting further tobacco regulation, like flavor bans, marketing restrictions, and additional age increases.

Since 2016, public health groups such as the American Cancer Society and the Preventing Tobacco Addiction Foundation have successfully deployed model legislation regarding tobacco in six states and 300 localities, per the Center for Public Integrity. Despite these successes, tobacco companies like Juul have also been able to pass their own legislation, or water down and even transform health activists' bills. “An analysis by the Center for Public Integrity's computerized bill tracker found more than 120 Tobacco 21 bills introduced in 37 states since 2013.”⁶⁵ Activists have also targeted cities for action on tobacco regulation, which is why Big Tobacco has invested so heavily in preempting local control.

In March, Juul announced its own national campaign, with ads in 23 states and Washington, D.C. to push legislation that would also raise the purchase age of tobacco to 21.⁶⁶ Juul spokesman Ted Kwong said the company is lobbying in 46 states.⁶⁷

64 <https://www.tobaccofreekids.org/what-we-do/us/sale-age-21>

65 <https://publicintegrity.org/state-politics/copy-paste-legislate/big-tobaccos-surprising-new-campaign-to-raise-the-smoking-age/>

66 <https://newsroom.juul.com/2019/03/19/Juul-labs-taking-action-to-push-tobacco-21-laws/>

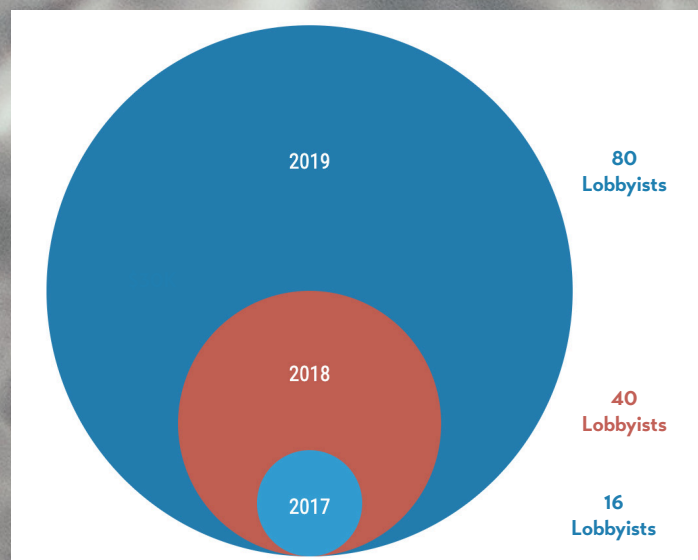
67 <https://publicintegrity.org/state-politics/copy-paste-legislate/big-tobaccos-surprising-new-campaign-to-raise-the-smoking-age/>

Juul and Tobacco's Tactics Have Been Characterized as a “Blitzkrieg”

Altria hired 409 lobbyists in 49 states in 2017, while Reynolds had 257 in 39 states, per a joint investigation by the Center for Public Integrity and *USA Today*. In 2017 Juul had 16 lobbyists, but has since grown that number to 40 in 2018. A report by American Public Media found that Juul has 142 registered lobbyists in 48 states, as of September.

As reported by *The New York Times*, “Most of Juul’s state lobbyists work for well-connected firms run by ex-governors, former state lawmakers and big political donors, public records show. Some are in-house, based in the growing number of offices the company is opening around the country... Lindsay Andrews, a spokeswoman for Juul, said the lobbyists were primarily focused on raising the minimum age for buying e-cigarette and traditional tobacco products to 21 from 18. ... In some states Juul’s advocacy is public, and in others the company is barely visible, working only through the Vapor Technology Association, or by relying on Altria. ... Some of the so-called pre-emption measures around the country were written using model language from the Vapor Technology Association, according to Kinn Elliott, a VTA lobbyist who recently joined the association from Juul. Other pre-emption bills, in whole or in part, have been drafted with language from lobbyists for Altria and the R. J. Reynolds Tobacco Company. ... Vince Willmore, a

Fig. 8: Juul’s growing army of lobbyists, now in all 50 states



<https://www.nytimes.com/2019/04/28/health/Juul-lobbying-states-ecigarettes.html>

spokesman for the Campaign for Tobacco-Free Kids, which has been involved in many of these state battles, said, ‘It’s hard to say where Altria ends and Juul begins.’”⁶⁸

Public health groups have characterized the tobacco and vaping industry lobbying push in states as a ‘blitzkrieg,’ as reported in the Center for Public Integrity and *USA Today*’s investigation highlighting Juul’s role in T-21 copycat legislation.

⁶⁸ <https://www.nytimes.com/2019/04/28/health/Juul-lobbying-states-ecigarettes.html>

In addition to a burgeoning lobbying presence, and access to Altria's deep lobbying network, Juul has been working with right-wing organizations to help push its agenda.

For example, Juul lobbyist Mark Bordas attended the American Legislative Exchange Council (ALEC) Annual Meeting in August, and Altria sent seven lobbyists and staff members, according to documents obtained by *Documented Investigations*.⁶⁹ ALEC brings together corporate lobbyists and state lawmakers to vote behind closed doors on industry-friendly legislation that legislators then bring home and introduce as their own. ALEC is notorious for being the impetus behind some of the most damaging legislation in states – from climate change denial to restrictive voter ID bills that make it harder for Americans to vote, so-called “right to work” measures, stand your ground, and myriad other bills that prevent state and local governments from regulating corporations.

“*In addition to a burgeoning lobbying presence, and access to Altria's deep lobbying network, Juul has been working with right-wing organizations to help push its agenda.*”

In recent years hundreds of corporations have cut ties to ALEC for its extreme views and affiliation to disgraced public figures such as David Horowitz, but Juul seems to have no issue cozying up to ALEC, which it is likely using for legislative access as it continues to push its tainted T-21 in states across the U.S. Juul has also donated to ALEC Action, ALEC's affiliated 501(c)(4). ALEC is a longtime ally of the tobacco industry and Altria's managing director Daniel Smith sits on ALEC's corporate board.⁷⁰

A host of other corporate-funded right-wing organizations have come to the e-cigarette industry's defense with articles and media appearances claiming that vaping is perfectly healthy, saves lives, and even denying that there is a teenage vaping crisis. For example, in February 2019 a coalition led by Grover Norquist's Americans for Tax Reform urged then-FDA chief Scott Gottlieb to “to pump the brakes on its new regulatory efforts against an innovative industry that is helping American smokers quit,” signed on by others including ALEC Action, Competitive Enterprise Institute, Independent Women's Forum, and Neomi Rao, then administrator of the Office of Information and Regulatory Affairs.⁷¹

69 <https://documented.net/2019/08/alec-legislators-am-2019/>

70 https://www.alec.org/group/private-enterprise-advisory-council-2/_

71 <https://www.atr.org/atr-leads-coalition-urging-president-trump-halt-fdas-regulatory-assault-e-cigarettes>

LEGISLATION IN THE STATES

Three states passed preemptive T-21 legislation in 2019.

ARKANSAS



- HB 1565, an industry-supported T-21 bill, passed March 28, 2019. It was cosponsored by Sen. Missy Irving, the ALEC state chair in Arkansas.⁷² Lawmakers tied the T-21 legislation to a bill providing funding for a cancer institute and raised taxes on cigarettes. The law also includes exemptions for members of the military and preempts county and local governments from crafting stricter tobacco control laws. “The tobacco lobby had a pretty strong presence,” said Dr. Joseph Thompson, president of the Arkansas Center for Health Improvement, which lobbied against the preemption provision. “We couldn’t overcome those forces.” Per *USA Today*, Juul’s lobbyist in Arkansas also gave \$18,000 to bills hosted by Senate president pro tempore Jonathan Dismang and Speaker of the House Matthew Shepherd.⁷³
- Other efforts to raise taxes on vaping and tobacco products died in the legislature.

UTAH



- HB 324 was signed into law on March 25. The Juul-supported T-21 raised the purchase age to 21 gradually until 2021 and included active military exemptions plus preempts county and local governments from raising the purchase age before the state’s incremental increase. Rep. Steve Eliason, the bill’s sponsor, said that he was in contact with tobacco lobbyists on the bill who pushed for stricter preemption than what was included. The bill also criminalizes underage possession of tobacco.⁷⁴

TEXAS



- SB 21, a T-21 bill backed by Altria and Juul, was signed into law on June 7. The law provides exemptions for members of the military and preempts local governments from raising the age of sale further. On top of prevention the law criminalizes underage possession.
- Another bill that would have raised a 10 percent retail excise tax on e-cigarette and vaping products died in the legislature after Gov. Abbott, at the request of Altria lobbyists, pushed for changes that would instead tax vape products at the wholesale level per milliliter of “consumable liquid solution,” resulting in a much lower tax on Juul pods. According to *The Dallas Morning News*, “Rob Crane, an Ohio State University physician who heads the Preventing Tobacco Addiction Foundation, said in an email that the resulting e-cig tax would have been so light, it would make ‘no difference’ to children or adults considering purchases of such nicotine delivery products.” Crane said, “It just immunizes the industry from further taxes. It serves Altria, nobody else... Even better (for Juul), because other products may have less concentration of nicotine per unit volume, Altria/JUUL have a competitive advantage tax-wise. Also, higher concentrations hook kids better. A twofer.” Gov. Abbot’s chief of staff Luis Saenz was a lobbyist for Altria from 2007-2017.⁷⁵

72 <https://legiscan.com/AR/bill/HB1565/2019>

73 www.usatoday.com/story/news/investigations/2019/05/23/why-big-tobacco-and-Juul-lobbying-raise-smoking-age/3758443002/

74 www.usatoday.com/story/news/investigations/2019/05/23/why-big-tobacco-and-juul-lobbying-raise-smoking-age/3758443002/

75 www.dallasnews.com/news/politics/2019/05/10/bill-taxing-e-cigs-vapes-dies-in-texas-house-after-big-tobacco-gov-greg-abbott-push-late-changes

As Juul continues to swarm statehouses across the U.S., advocates worry that big tobacco will continue to use T-21 legislation as a bait and switch tactic – pushing bills that raise the age of purchase but prevent localities from regulating. Advocates are particularly worried about the following states.

ARIZONA



- In January 2019, Juul hired Janna Day, its first lobbyist in the state. During the session there were competing T-21 proposals, one backed by health groups and the other an industry-supported bill that would unwind decades of state and local policies regulating tobacco, and limit local governments from regulating e-cigarettes.
- Sen. Heather Carter’s clean T-21, SB 1363, faced stiff industry opposition and failed to get a hearing. The bill would have closed loopholes for online sales, and kept intact local control over regulations.⁷⁶
- In August, Juul Chief Administrative Officer Ashley Gould submitted a Letter to the Editor to *The Arizona Star* urging state lawmakers to pass T-21 in 2020,⁷⁷ and Juul’s lobbyists seem poised to play an influential role in crafting T-21 next session.
- Juul has one lobbyist and Altria has three active lobbyists in Arizona.
- Meanwhile, Altria and Juul threw their support behind SB 1147, a T-21 bill with devastating preemption provisions. Tony Roberg, a lobbyist with the Vapor Technology Association and Arizona Smoke Free Business Alliance, said she actually helped write the bill.⁷⁸ Per *The Arizona Republic*, SB 1147 would have:⁷⁹
 - Voided local ordinances in Phoenix, Tempe, and other cities prohibiting the sale and marketing of tobacco and e-cigarettes near public spaces like schools, day care facilities, parks and other public spaces.
 - Conflicted with the Smoke-Free Arizona Act, a 2006 citizen-led initiative establishing smoke-free zones in most public spaces and workplaces, and allows cities to enact stricter regulations.
 - Eliminated licensing requirement for tobacco retailers.

⁷⁶ <https://apps.azleg.gov/BillStatus/BillOverview/71999?SessionId=121>

⁷⁷ https://tucson.com/opinion/letters/politics-local/letter-Juul-labs-supports-tobacco/article_a70ffff8-bac3-11e9-91cf-6fcbadb02e2a.html

⁷⁸ <https://www.usatoday.com/story/news/investigations/2019/05/23/why-big-tobacco-and-juul-lobbying-raise-smoking-age/3758443002/>

⁷⁹ <https://www.azcentral.com/story/news/local/arizona-investigations/2019/04/29/big-tobacco-bill-would-raise-legal-age-21-but-end-cities-ability-regulate-tobacco-e-cigarettes/3589295002/>

FLORIDA



In Florida this session, T-21 legislation requested by public health groups and introduced in both chambers was hijacked by special interests and stuffed with poison pills. The House bill, HB 7119, sponsored by Rep. Nick Duran, was replaced in committee with a substitute including an exemption for military members and preemption that would have called into question regulations in 150 counties and cities; and endangered the state's anti-tobacco lobbying and marketing campaign, Tobacco Free Florida, which is funded with money from the state's settlement with major tobacco companies in the 1990s. According to *The Tallahassee Democrat*: "Duran said the preemption language came from the House leadership, which has a very focused agenda on chipping away local control on all levels." Example of local policies that would have been preempted, as quoted from *The Tallahassee Democrat*:⁸⁰

- "Collier County prohibits vendors from placing tobacco products in open display units unless they are in a restricted access area. The county also won't allow sale of tobacco products from vending machines in a non-restricted area."
- "Lee County prohibits smoking tobacco and e-cigarettes or vaping on school property or indoor park facilities."
- "Martin and St. Lucie counties both prohibit self-service merchandising of tobacco and the placement of liquid nicotine and e-cigarettes in an open display."
- "Cities also have regulations on where tobacco stores and e-cigarette outlets can be located and where tobacco products can be advertised."

- "The City of Cape Canaveral prohibits people from smoking or drinking alcohol in a city park. Fort Myers prohibits advertising on pedicabs and low-speed vehicles."

- "Port St. Lucie prohibits self-service merchandising, as well as the sale of e-cigarettes and liquid nicotine to minors. It also bans nicotine dispensing devices or e-cigarettes in any enclosed workplace within the city limits."

- A separate failed House bill, HB 1299 would have restricted local governments ability to regulate tobacco and its use and prevent local governments from taxing vaping products, without raising the statewide age to 21.

- SB 1618, a T-21 bill backed by Juul, would have preempted cities and counties from passing their own ordinances regulating the minimum age for purchase. Sen. Dave Simmons also sought an amendment to that T-21 bill that would have included the same preemption measures in the House version, but backed away after mounting pressure from public health groups. Another tobacco poison pill, a carveout allowing for the sale of cigars to 18-20 years was sought.

- As reported by *The Florida Phoenix*, "Major tobacco companies entered the 2019 session flexing their influence. It was reflected in about \$3 million in campaign contributions to lawmakers, political parties and other state officials since 2017, state election records show," including \$1.95 million from Reynolds and \$725,000 from Altria.⁸¹

- Juul has eight lobbyists and Altria has 13 lobbyists in Florida.

80 <https://www.tallahassee.com/story/news/local/state/2019/04/26/florida-anti-smoking-campaigns-regulations-threatened-language-buried-tobacco-21-bills-legislature/3547855002/>

81 <https://www.floridaphoenix.com/2019/05/13/did-big-tobacco-influence-fl-lawmakers-on-smoking-legislation/>

IDAHO



- Tobacco 21, a coalition of public health groups, has been urging legislators to take up T-21 in Idaho. Sen. Fred Martin introduced T-21 legislation in 2017 and 2018 that failed to get out of committee.
- Juul has one lobbyist and Altria has four lobbyists in Idaho.

KANSAS



- In Kansas, 23 localities have raised the minimum purchase age for tobacco to 21; however, these laws conflicted with state law setting the age at 18. In December 2017 the city of Topeka passed T-21, but was challenged by local tobacco retailers. The Kansas Supreme Court upheld Topeka's ordinance in June 2019, ruling that the state law does not preempt localities from passing their own minimum age requirements.⁸²
- Juul has two lobbyists and Altria has four lobbyists in Kansas.

MISSOURI



- 19 localities in Missouri have already passed their own T-21 ordinances, like St. Louis County in 2016 and Springfield in July 2019. Because of these strong local regulations, advocates fear that Missouri may attempt to pass a statewide preemption bill in 2020.
- Altria has 13 active lobbyists in Missouri.

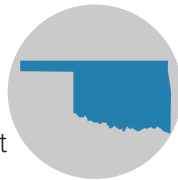
⁸² <https://www.wibw.com/content/news/Topeka-allowed-to-raise-tobacco-age-limit-to-21-state-Supreme-Court-rules-511951062.html>

NEBRASKA



- LB 149 was signed into law on May 30, 2019. The bill raised the age to purchase tobacco and vaping products to 19. The bill was initially introduced by Sen. Dan Quick as a bill to raise the age to purchase just e-cigarettes to 21, but the age was lowered in committee and it was expanded to cover all tobacco products.
- Juul has one lobbyist in Nebraska who initially registered opposition to LB 149, but supported the bill's amendment. Altria has three lobbyists in the state who supported LB 149.

OKLAHOMA



- Grassroots activists in Oklahoma led to an unprecedented increase in the tobacco tax, but currently state law preempts local municipalities from being able to implement smokefree workplace protections.
- In January 2019, T-21 legislation was introduced in the House by Rep. Loring, who sponsored similar bills in 2016 and 2017. With the state's history of preemption of tobacco prevention strategies, this T-21 bill could become a primary target for an avenue for preemption to protect JUUL profits in 2020.

PENNSYLVANIA



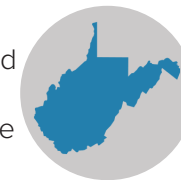
- In Pennsylvania, special interests have used preemption as an effective strategy in limiting local action on key public health issues like smokefree indoor workplace laws and sugar sweetened beverage taxes. A coalition of public health partners has successfully organized to move a T-21 bill through the Senate. Now the law will move to the House where it will face a high propensity to see a preemptive provision added to the otherwise strong law.

SOUTH CAROLINA



- In 2019 Juul hired six lobbyists in South Carolina. Three of those lobbyists worked for McGuireWoods, a firm led by powerful former governor Jim Hodges, according to *The New York Times*.⁸³
- In February, the House passed two vaping bills heavily influenced by Juul lobbyists.
 - H 3420 prohibits vaping on school grounds and anyone under 18 from entering vape shops unaccompanied by an adult. According to *The New York Times*, a measure requiring that an adult sign for online e-cigarette deliveries was pulled from the bill after Juul lobbied against it. “They had a little heartburn with it because they felt they were already employing a robust process for verification,” Democratic Rep. Beth Bernstein told *The New York Times*. Republican Sen. Katrina Shealy, who supported the bill, said “I have talked to the people from Juul. They want this,” and mentioned that Juul was considering a manufacturing plant in her district. The bill was signed into law in April.⁸⁴
 - Another bill, H 3274, would have preempted local governments from regulating e-cigarettes, but it failed to get out of the Senate. Juul lobbyist Brian Flynn testified in favor of the preemption bill. The bill came after Columbia and other localities considered workplace vaping bans and other regulations on vaping products.
 - Democratic Rep. Todd Rutherford, House Minority leader and co-sponsor of H 3274, also proposed T-21 legislation (H 3451) which Juul and the tobacco industry supported. It failed to get out of the House.
- In May, Juul announced its plan to build a new \$125 million assembly plant in Lexington County – Sen. Shealy’s district. Activists fear that the plant will expand Juul’s influence in the state, which may be primed for a preemptive T-21 bill in 2020.
 - Beth Johnson of the American Cancer Society Cancer Action Network said, “It’s scary to think about the power they’ll have in our state,” Johnson said. “How loud is their voice going to be?”⁸⁵
 - In June the Lexington county council approved the plan and also gave Juul a tax break.

WEST VIRGINIA



- In 2019, the West Virginia Senate passed 349, the T-21 legislation initially included exemptions to local smoke-free laws for veterans’ organizations, but it was amended after pushback from health groups. The VTA described SB 349’s failure in the House as a success in March.⁸⁶
- Juul has two lobbyists and Altria has three active lobbyists in West Virginia.

83 <https://www.nytimes.com/2019/04/28/health/juul-lobbying-states-ecigarettes.html>

84 <https://www.nytimes.com/2019/04/28/health/juul-lobbying-states-ecigarettes.html>

85 https://www.postandcourier.com/politics/with-e-cigarette-maker-juul-looking-at-sc-plant-industry/article_4fc82814-6c18-11e9-a4c9-c76575d58d95.html

86 <http://wvmetronews.com/2019/02/27/senate-passes-bill-to-raise-w-va-smoking-age-over-orwellian-objections/>

Case Study: California



- San Francisco, home to Juul, voted unanimously to ban the sale of e-cigarettes in the city on June 20, 2019. Juul quickly moved to block the measure, filing a ballot initiative that will appear on the ballot in November. On top of reversing the city's e-cigarette ban, legal experts believe it would roll back earlier e-cigarette regulations, like the ban on flavored products, and it would preempt the city council from enacting other measures to regulate the industry. Juul bankrolled the Coalition for Reasonable Vaping Regulation with \$18.6 million, before pulling its support for the campaign on October 1.
- In June 2018, San Francisco voters upheld the city's flavor ban despite \$12 million in spending by RJ Reynolds.⁸⁷
- A statewide bill to ban flavored tobacco products, supported by health advocates and opposed by Juul, the VTA and the California Retail Association⁸⁸ failed after a committee added industry-friendly language and health advocates rescinded support.⁸⁹
- In Sacramento, Juul tried to stop a proposal that banned the sale of all flavors. They were unsuccessful, and the city council approved the ban 7-1 on April 16, 2019.⁹⁰ Per *The New York Times*, "Steve Hansen, the councilman who wrote the bill, met with two Juul lobbyists in early March to hear their alternative plan. They were pushing a plan that would ban only flavors that are 'knowingly attractive to minors.' The City Council rejected Juul's proposal... Mr. Hansen said he was surprised by the intensity of the lobbying effort. 'In my six years on the City Council I've never seen the number of money, lobbyists and Astroturfing we've seen here on anything else.'"⁹¹
- The VTA claimed that it was "actively engaged" on the proposed flavor ban legislation.⁹²

87 <https://www.nytimes.com/2018/06/06/health/vaping-ban-san-francisco.html>

88 <https://www.sfchronicle.com/business/article/California-lawmakers-advance-bill-to-ban-sale-of-13722075.php>

89 https://calmatters.org/articles/flavored-tobacco-ban-floundering-california-legislature-vaping-electronic-cigarettes/?utm_source=CALmatters+Newsletter&utm_campaign=4b7038efa6-WHATMATTERS_NEWSLETTER&utm_medium=email&utm_term=0_faa7be558d-4b7038efa6-150248229

90 <https://tobacco.ucsf.edu/battle-over-strategically-important-sacramento-city-ban-flavored-tobacco-products-heats-while-fda-continues-dither>

91 <https://www.nytimes.com/2019/04/28/health/Juul-lobbying-states-ecigarettes.html>

92 <https://tattoovape.com/vapor-technology-association-national-update/>

WHERE DO WE GO FROM HERE?

Juul's intentions seem clear: they want to barnstorm every state legislature to ensure they're controlling the game – driving what they apparently perceive to be both a winning public relations strategy and a winning legislative strategy of preemption.

They have a lot working in their favor: lobbying machines in 48 states and Washington DC, savvy political operatives from both sides of the aisle, and enormous sums of money. Juul's misuse of preemption is perhaps one of the most glaring examples of how and why corporate special interests have latched on to this legislative strategy: they want to take power away from local communities to protect their own health, safety, and well-being; and they want to fatten their bottom line.

Advocates who support local democracy – and who understand the real danger in allowing corporate giants like Juul to run roughshod over our local democracies – must continue shining a spotlight on Juul's inner workings, and draw attention to the vaping giant's true motives.

