

DAILY BREEZE

Voters Should Nix flavored tobacco ban

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Political campaigns already are heating up for the November general election, in which voters will face six citizen-initiated measures and one (on abortion rights) that is placed on the ballot by the Legislature. One of the most hotly contested ballot fights involves a referendum on a new state law that would ban the sale of flavored-tobacco products.

In 2020, Gov. Gavin Newsom signed Senate Bill 793. “Big Tobacco has been targeting our kids, trying to hook our kids on tobacco products, killing literally a generation,” Newsom said. “It’s time for us to stand up and protect our kids and to push back against Big Tobacco, not just in terms of their efforts to go after our kids but their racist marketing.”

California law already makes it illegal — and rightly so — for retailers to sell tobacco products to anyone under the age of 21. The state has a strict enforcement system that can strip stores of their tobacco license. In reality, the legislation would forbid adults from buying most types of electronic cigarettes and smokeless tobacco products (such as Swedish “snus”).

The law is on hold pending the outcome of the referendum. But if voters approve SB 793, retailers will still sell the most dangerous nicotine-delivery devices (combustible cigarettes), but will no longer sell lower-risk products. Britain’s main public health agency, Public Health England, found that vaping is 95% safer than traditional smoking.

Likewise, Sweden has the lowest cancer rates in Europe because smokeless snus is the most popular nicotine-delivery choice. Some vaping flavors — bubble gum, candy — appeal to underage users. But research shows that adults who are trying to break their smoking habit prefer flavors.

It’s wrongheaded to ban adult-only products to protect children who already are not allowed to buy them. The same logic would demand bans on the sale of certain marijuana products (such as chocolate edibles) and flavored alcohol. Fortunately, California’s lawmakers haven’t taken their efforts that far.

Amendments exempted loose-leaf pipe tobacco, hookah and high-end cigars, but the law makes no other meaningful distinctions. To protect our health, California’s lawmakers are trying to ban the safest products, thus tempting nicotine addicts to return to a more-dangerous habit. That is, to put it gently, illogical policymaking.

SB 793 also bans the sale of menthol cigarettes, which are indeed as dangerous as other traditional cigarettes. Newsom referenced “racist marketing” — and he’s got a point. Past Big Tobacco marketing campaigns promoted menthol flavoring, which resulted in those cigarettes’ popularity in

African American communities. Nevertheless, banning characterizing flavors will only lead to black markets given their continued popularity.

New York's exorbitant tobacco taxes led to the street-corner sales of black-market "loosies" (individual, loose cigarettes). "This also gave New York law enforcement another reason to interact with non-violent people engaging in victimless crimes," the libertarian Cato Institute explained. This is a troubling path for California to follow.

Advocates for the flavored-tobacco ban argue that vaping and certain lower-risk smokeless tobacco products are not Food and Drug Administration-approved cessation devices, and encourage smokers to use patches, gum and pharmaceuticals. Yet smokers who want to quit should be free to make their own decisions rather than wait for bureaucratic approval.

Voters should say "no" to SB 793 and allow Californians to make their own health choices.