

United States Senate  
Washington, DC 20510-1304

May 20, 2026

The Honorable Robert F. Kennedy, Jr.  
Secretary, U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

Dear Secretary Kennedy,

Your entire tenure as the Secretary of the Department of Health and Human Services (HHS) is predicated on Making America Healthy Again, which is why I am writing to express my extreme disappointment with this Administration's tobacco-related actions over the past few weeks. A commitment to tackling the chronic disease epidemic and stopping corporations from poisoning our youth would be hollow without preventing another generation of children from falling prey to nicotine addiction, illness, and premature death.

As we have discussed, I lost my father—a two-pack-a-day smoker—to lung cancer. That experience deeply affected me. I have been dedicated to taking on Big Tobacco to prevent children from picking up cigarettes and spare families from experiencing this kind of loss. We have made great progress in reducing our nation's youth smoking rate—the rate of high school students smoking has plummeted from 27 percent in 1991, to less than 2 percent today. But those gains are in jeopardy today because of e-cigarettes and flavored vaping products, which directly appeal to children and are primarily used by children.

Unfortunately, the Trump Administration recently announced that these products, most of which have not been authorized by the Food and Drug Administration (FDA), will be allowed to be sold in the United States indefinitely. This violates the *Family Smoking Prevention and Tobacco Control Act*, which states that no tobacco product may be sold unless it first receives authorization from the FDA. By permitting tobacco companies to bypass this statutory requirement—to first prove that they are “appropriate for the protection of the public health”—this grants a free pass to Big Tobacco to market their addictive, dangerous products to our children.

This comes on the heels of a highly controversial decision to authorize the first-ever flavored e-cigarettes, in blueberry and mango flavors, following pressure from President Trump. As recent as March 2026, FDA stated that fruit, candy, dessert, and other sweet-flavored e-cigarette products pose a “substantial public health risk” due to their “greater appeal to youth,” and therefore should “face a correspondingly high evidentiary burden to demonstrate that the benefits to adult smokers...outweigh the risks of youth initiation.” But FDA apparently has reversed course.

Proponents of these products argue that e-cigarettes are safer than combustible cigarettes and can help adult smokers quit. If that is indeed true, the companies making these products

should be required to follow the law. That means they must first prove that their e-cigarettes: (1) help adult smokers fully quit cigarettes; (2) are safer than combustible cigarettes; and (3) are not simultaneously addicting a new generation to tobacco products. Congress set a high bar for these products to obtain FDA authorization because we knew the power of Big Tobacco to appeal to children with sleek designs and flavors.

Yet, the e-cigarette and tobacco companies have not followed the law's requirements. Instead, they went over the head of the FDA Commissioner and appealed to President Trump directly to convince him to greenlight their addictive products for sale, absent a proven, legally mandated benefit to public health. One can only assume that significant contributions to the President's campaign, inauguration, and ballroom helped make this meeting, and devastating outcome, a reality.

While e-cigarettes were touted as a safer option than tobacco cigarettes, the contents of e-cigarettes and their flavors contain harmful substances—including nicotine, heavy metals, particulate matter, propylene or diethylene glycol (found in antifreeze), diacetyl (linked to lung diseases), acrolein (an herbicide), and benzene (a known carcinogen). Studies indicate that vaping likely does cause cellular changes that are associated with cancer development. FDA has acknowledged that studies finding that flavored e-cigarettes yielded no increased smoking abstinence for adult smokers. Finally, we also know that the primary users of e-cigarettes are children and young adults, and we know that they are drawn to these products because of the fruit, candy, dessert, and mint flavors.

Nothing that we know about e-cigarettes suggests that they will Make America Healthy Again. Quite the opposite, as they continue to perpetuate tobacco use, which remains the number one cause of preventable death in this country. While we may not agree on many issues of public health, it is my sincere hope that we can agree on the importance of protecting children from nicotine addiction.

We have now seen two senior Administration officials “resign”—FDA Commissioner Makary and your chief spokesman, Rich Danker—at least partially in protest of President Trump's insistence on flooding the market with flavored e-cigarettes. As our nation's Health Secretary, you are in a unique position to stand up to Big Tobacco—an industry that has only ever cared about making a profit off the backs of our children—and protect the health of Americans nationwide.

I implore you to do the right thing and use what power you have to push back on these short-sighted, corrupt, and deadly decisions that benefit Big Tobacco at the expense of our nation's children.

Sincerely,



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Richard J. Durbin  
United States Senator