

COMMENTARY

New York's ban on flavored vaping products isn't working

By Meredith Berkman

It wasn't very long ago that our organization celebrated the news that New York was among the first states to end the sale of flavored vaping products. We knew this was a big win for public health.

But while the legislation was groundbreaking, the reality on the ground has been very disappointing, even dangerous. It's no surprise that the profiteering and

predatory tobacco industry refused to let a law get in the way of its bottom line.

It's an understatement to say that enforcement of the existing law has been a challenge. You don't have to go very far, anywhere in the state, to find a renegade retailer selling these illegal flavored products.

Our organization's volunteers found that in New York City alone, 200 stores — almost 70 percent of those can-

vassed — were not only non-compliant and selling flavored vapes but were actually unlicensed to sell any tobacco product. Even licensed stores were selling flavored vapes long after the new law went into effect.

One reason is that vague language in the current law has created loopholes and workarounds for the tobacco industry and retailers, allowing them to continue setting these products. And this

language often ties the hands of law enforcement.

In one section of the legislation, there are exemptions allowed for products given a designation of "Pre-market Tobacco Product Authorization (PMTA)" by the federal Food and Drug Administration. This wordy designation creates gray areas as to what products may be legal or illegal. It has created confusion, not just among retailers and their customers but among

those tasked with enforcement.

Not only that, but again due to murky language, retailers can deny inspections of their products and stores, while distributors can continue to make illegal products readily available to those retailers. This means that there's very little that can be done to prevent the sale of these banned products.

We must make it a priority
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for this legislative session to close these loopholes and enforce the law as it was intended. Legislation to address these issues (S08531/A9110) is up for consideration this session, and it's essential that it pass.

It's no coincidence that fun-looking, colorful products are the ones that the industry will go to extremes to make

available to ensure the next generation of nicotine users gets hooked.

Each day that goes by that these products are still on shelves, more kids will become addicted. New York must act to stop the sale of flavored e-cigarettes once and for all.

Meredith Berkman of New York City is co-founder of PAVE — Parents Against Vaping E-cigarettes.