

U.S.

## ***Officials Focus on E-Cigarette Ads Aimed at Youths***

By ERIC LIPTON JULY 22, 2014

Photo



State attorneys general across the country are calling for closer scrutiny of the marketing of e-cigarettes, including NJOY. Credit Joshua Lott for The New York Times

PARK CITY, Utah — State attorneys general must investigate, and consider taking legal action against, e-cigarette companies that appear to be using some of the same advertising tactics that once drew young adults into smoking, a Kentucky deputy attorney general told his law

enforcement colleagues gathered here for a retreat to discuss emerging legal issues in states nationwide.

The gathering of nearly two dozen attorneys general, and senior members of their staffs, came on the 20th anniversary of the initiation of the [historic lawsuit](#) that states filed against tobacco companies — resulting ultimately in an approximately [\\$10 billion annual payment](#), which is still being made, and an agreement to restrict advertising everywhere from outdoor billboards to sports events, to try to curtail the appeal of tobacco to youths.

Sean Riley, the chief deputy attorney general of Kentucky, told his law enforcement colleagues that Kentucky had left behind its status as the state with the highest percentage of youth smokers. But he said he was concerned that e-cigarette advertising could reverse that progress. He cited several examples.

Photo



Attorney General Tom Miller of Iowa, a Democrat, said that law enforcement officials must tread carefully. Credit Luis Alvarez/Associated Press

He said that the nicotine in e-cigarettes was not healthy for young people and that e-cigarettes, whose use has surged among school-age children nationwide, might be turning into a gateway to cigarette smoking, instead of a way to quit.

“We are at the very beginning stages of a new sort of revolutionary product here,” Mr. Riley said. “We need to be prepared, to work

individually and collectively, to use our consumer protection acts to raise the floor of conduct we are seeing.”

Jeffrey Weiss, the general counsel at NJOY, an independently owned e-cigarette company, said he agreed that the state and federal authorities must move to adopt regulations appropriately governing e-cigarettes, such as limiting sales to youths.

But he said that the industry’s growth was actually a public health boon, given the role that e-cigarettes can play in helping people quit smoking cancer-causing tobacco cigarettes.

“We can save millions of lives,” Mr. Weiss said.

Attorney General Tom Miller of Iowa, a Democrat, who has been in office since the tobacco case was settled in 1998, said that law enforcement officials must tread carefully.

“The price of getting it wrong either way is high,” Mr. Miller told his colleagues. He noted that if they did not regulate the industry properly, e-cigarettes might increase tobacco use among youths, but that if they regulated it too intensely, it might limit the effectiveness of e-cigarettes as a way to quit tobacco.

Among the problems with the e-cigarette industry, according to Mr. Riley and other senior law enforcement officials at the meeting, are e-cigarettes with flavors like [Cherry Crush](#) and [Peach Schnapps](#), which are sold by the e-cigarette company Blu and may be particularly appealing to children.

A letter signed by 40 state attorneys general last year urged the federal Food and Drug Administration to regulate e-cigarettes, addressing issues like advertising, ingredients and sale to minors.

But the attorneys general already have the power under consumer protection laws to intervene against companies that make inappropriate health claims or sell items, like nicotine refill cartridges, that are not properly packaged to prevent them from being accidentally opened by a child and consumed, Mr. Riley said.

Mr. Riley and Matthew L. Myers, president of the [Campaign for Tobacco-Free Kids](#), both ran through a series of recent e-cigarette advertisements that echo techniques once used by tobacco companies, like cartoon characters that are using e-cigarettes, or advertisements that feature celebrities like [Courtney Love](#) and [Robert Pattinson](#).

The e-cigarette industry has also started advertising at [sporting events](#) where tobacco ads are banned. The problems are particularly acute, the officials said, with less traditional forms of advertising, like on YouTube and other social media sites.

“Today, as a result of the failure of the government to act swiftly, the marketplace for e-cigarettes is truly the Wild West,” Mr. Myers said.

One question debated at the gathering this week has been whether state attorneys general should try to force e-cigarette companies to comply with the same standards imposed on tobacco companies, a proposal to which Mr. Weiss of NJOY strongly objected.

NJOY, which intends to release its own line of flavored e-cigarettes soon, also objected to any move to try to limit the use of these flavors. Mr. Weiss said industry-sponsored research had shown that tobacco smokers were much more likely to completely quit smoking when they used a flavored e-cigarette.

David B. Abrams, a researcher at the [Legacy program](#), which was funded by the tobacco settlement and does research to encourage the reduction of smoking, told the attorneys general that medical research had shown that e-cigarettes appeared to be about as effective as nicotine replacement therapy in helping people quit smoking. But data also show that e-cigarette use among youths who tried them at least once doubled from 2011 to 2012, reaching about 6.8 percent.

While gathered here in Park City for a retreat sponsored by the [Conference of Western Attorneys General](#), the law enforcement officials also talked about how best to deal with the legalization of marijuana taking place in certain states.

Attorneys general from Washington State and Colorado, where marijuana has recently been broadly legalized, briefed other officials

about problems they said they had encountered. They cited edible marijuana products that are packaged in a way that can be appealing to children and that have insufficient labeling, resulting in consumers' eating an excessive amount of the drug and, at times, leading to accidents and even deaths.

Attorney General John W. Suthers of Colorado said that the percentage of fatal car accidents attributed to marijuana use had jumped to 15 percent from 8 percent in the last three years. He urged other attorneys general to prepare for possible legalization in their states.

“I encourage you not to be smug,” Mr. Suthers, who opposed the legalization, said. “It’s coming your way. This is a very well-financed and well-organized movement.”

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