

In Washington, Juul Vows to Curb Youth Vaping. Its Lobbying in States Runs Counter to That Pledge.

[nytimes.com/2019/04/28/health/juul-lobbying-states-ecigarettes.html](https://www.nytimes.com/2019/04/28/health/juul-lobbying-states-ecigarettes.html)

By Sheila Kaplan

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COLUMBIA, S.C. — For months, Juul Labs has had a clear, unwavering message for officials in Washington: The e-cigarette giant is committed to doing all it can to keep its hugely popular vaping products away from teenagers.

But here in Columbia, the South Carolina capital, and in statehouses and city halls across the country, a vast, new army of Juul lobbyists is aggressively pushing measures that undermine that pledge.

The company's 80-plus lobbyists in 50 states are fighting proposals to ban flavored e-cigarette pods, which are big draws for teenagers; pushing legislation that includes provisions denying local governments the right to adopt strict vaping controls; and working to make sure that bills to discourage youth vaping do not have stringent enforcement measures.

Though Juul supports numerous state bills that would raise the legal age for buying vaping and tobacco products to 21, some of those bills contain minimal sanctions for retailers. Others fine only the clerks and not the owners for violations.

“Juul is attempting to rehabilitate its public image by posing as a public health advocate while working behind the scenes to weaken or defeat tobacco control proposals and prevent communities from even considering policies to curb tobacco use,” said Nancy Brown, chief executive of the American Heart Association, whose network of lobbyists has parried with e-cigarette and tobacco industries in many states this year.

In a statement, Juul said, “We are as committed as ever to combating youth usage but don’t take our word for it — look at our actions.”

The company cited its action plan, unveiled in November, which included shutting down its social media accounts, discontinuing sales of many flavored pods in retail stores and strengthening its online age verification systems.

E-cigarettes allow smokers to inhale the nicotine they crave without the toxins that come from burning tobacco. But Juul’s sleek devices, which resemble a flashdrive, became immensely popular with teenagers, stoking worries that the devices were creating a new generation of nicotine addicts among people who have never smoked.

Marlon Kimpson, a state senator in South Carolina, put a legislative block on a bill that would bar communities from restricting sales of vaping products. Credit Sean Rayford for The New York Times

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Juul denies marketing to young people, and it has revamped its website to focus on adult smokers. But as it faces serious regulatory threats from the Trump administration, as well as targeting by state and city lawmakers, the company has quickly built an enormous lobbying machine to protect its turf as best it can. With the recent departure of Scott Gottlieb, a vociferous critic of Juul, from the post of F.D.A. commissioner, the company's more urgent battles, for now, are in the states.

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. The company's latest star hire is Martha Coakley, the former attorney general of Massachusetts. (The state's current attorney general, Maura Healey, is investigating whether Juul intentionally targeted its vaping products to minors.)

In a series of interviews, 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, or in a few states, 19. More than 400 local governments and 14 states

have already done so, eight of the states this year.

But in numerous states, the proposals that Juul publicly supports, known as Tobacco 21, or T21, contain measures that public health experts consider poison pills.

Juul says it prefers that T21 legislation does not have added provisions. But it worked to help pass a T21 law in the Arkansas Legislature, for example, that would also block local governments from enacting new rules regarding the manufacture, sale, storage or distribution of tobacco and vaping products — including restrictions on flavored products.

For related reasons, public health advocates have opposed Juul-backed T21 bills in Arizona, Florida, Iowa, Louisiana, Pennsylvania, Utah, Virginia and West Virginia. The tobacco industry supported the T21 bills.

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, the tobacco company that late last year paid Juul \$12.8 billion for a 35 percent stake.

In South Carolina, for example, Juul has not taken a public position on a contentious proposal to pre-empt local governments from banning flavored e-cigarettes or otherwise regulating any tobacco product. But at a hearing on the bill last month, Brian Flynn, one of Juul's three lobbyists with McGuireWoods Consulting, a firm run by the former governor James H. Hodges, testified in favor of the pre-emption plan.

At the hearing, Mr. Flynn introduced himself as a lobbyist for both Juul and the South Carolina Association of Convenience Stores. He noted that on the matter of pre-emption, he spoke only for the retailers.

State Representative Beth Bernstein wrote legislation in South Carolina that would bar people under age 18 from going into vape shops without an adult, and also prohibit vaping on school property. Credit Sean Rayford for The New York Times

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Critics did not see much of a distinction.

"This is too cute by half," said Pamela Gilbert, a lawyer and a former executive director of the Consumer Product Safety Commission. "Juul must know their lobbyist is lobbying for the pre-emption bill, and Juul must have approved that. If Juul really didn't want to be connected to the support for that bill, Juul should hire another lobbyist."

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 V.T.A. 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.

Altria, maker of Marlboro cigarettes, has a potent lobbying network in Washington and around the country. Asked if Altria was advising Juul's state lobbying efforts, or if the two related businesses were working together, an Altria spokesman, David Sutton, replied that there was no contractual service agreement by which Altria would assist Juul's government affairs. He added that he did not know what informal conversations on state lobbying issues might have taken place.

"I just don't know, I'm not on the ground," Mr. Sutton said. "Is there a conversation between the Altria government affairs people and the Juul government affairs people on the ground? I don't know."

He declined to provide access to Altria employees who could answer the question. Juul also declined to answer the question.

But Vince Willmore, a 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."

So far, Juul's state and local efforts have had mixed success. In Sacramento, Juul tried to head off a proposal to ban the sale of all flavored e-cigarettes and tobacco products in the city, as San Francisco did last year.

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 and on April 16 passed Mr. Hansen's plan.

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," he said.

The South Carolina Statehouse, the scene of intensive lobbying on bills involving e-cigarettes and vaping. Credit Sean Rayford for The New York Times
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Ms. Andrews, the Juul spokeswoman, said the effort was important because flavored e-cigarette pods were critical to help smokers switch to vaping.

“In our studies of thousands of Juul users, people who exclusively used nontobacco flavors were 30 percent more likely to switch than those who use tobacco flavors,” she said. “While we do not and will not sell flavors which are clearly targeted to youth, we also understand that flavors that drive adults from cigarettes have the potential to appeal to youth.”

One afternoon last month, Mr. Flynn and another Juul lobbyist, Darrell Campbell, milled about under the South Carolina Statehouse dome, awaiting the fate of a bill that would restrict youths’ access to vape shops.

That legislation, written by State Representative Beth Bernstein, a Democrat, bars anyone under age 18 from going into vape shops without an adult. It also prohibits vaping on school property. But at Juul’s request, Ms. Bernstein took out a provision that would have required an adult to sign for online deliveries of any e-cigarette products ordered online.

In an interview, Ms. Bernstein said that Mr. Flynn and Mr. Campbell were helpful in providing input for the bill, as was Juul’s in-house lobbyist, Jennifer Cunningham.

“They had a little heartburn with it because they felt they were already employing a robust process for verification,” she said. “Juul came to me and said, ‘We already employ a very robust measure to make sure the person purchasing online is over 18.’”

The bill passed, and Gov. Henry McMaster, a Republican, is expected to sign it.

The American Cancer Society Cancer Action Network opposed the legislation, saying it did not go far enough.

“This bill is like putting lipstick on a pig,” said Cathy Callaway, state and local campaign director for the American Cancer Society Cancer Action Network. “We don’t need cosmetic fixes, we need proven policies and strong tobacco retailer enforcement to prevent illegal sales to kids.”

Katrina F. Shealy, a Republican senator who supported the bill, said: “I have talked to the people from Juul. They want this.”

Ms. Shealy also said that Juul had spoken to her about bringing a manufacturing plant to her district. “They are looking at locations and one of them is in my district; 825 jobs,” she said. “That’s a lot of jobs.”