



The New Joe Camel in Your Pantry

Marketing liquid nicotine to children with candy and cereal brands

Madeline Daniels | October 2015

Advocates and lawmakers have been warning about the risks of liquid nicotine to children in increasingly popular e-cigarettes, and worst fears were confirmed when a 1-year-old child died last year after ingesting the toxic product. Often sold in flavors attractive to kids like bubblegum and cotton candy, just one teaspoon of concentrated liquid nicotine can be a deadly dose for children.¹ Accidental ingestion and skin exposure more commonly mean symptoms like vomiting and seizures.²

Meanwhile, e-cigarette use among older children and teenagers is skyrocketing. The U.S. Centers for Disease Control and Prevention (CDC) reported that middle and high school student usage tripled from 2013 to 2014, the first time that youth use of e-cigarettes surpassed their use of all other tobacco products.³ The tobacco industry acknowledges that its use of “fun flavors” make teenagers particularly vulnerable” to trying e-cigarettes,⁴ one of the factors which can account for alarming rates of use.

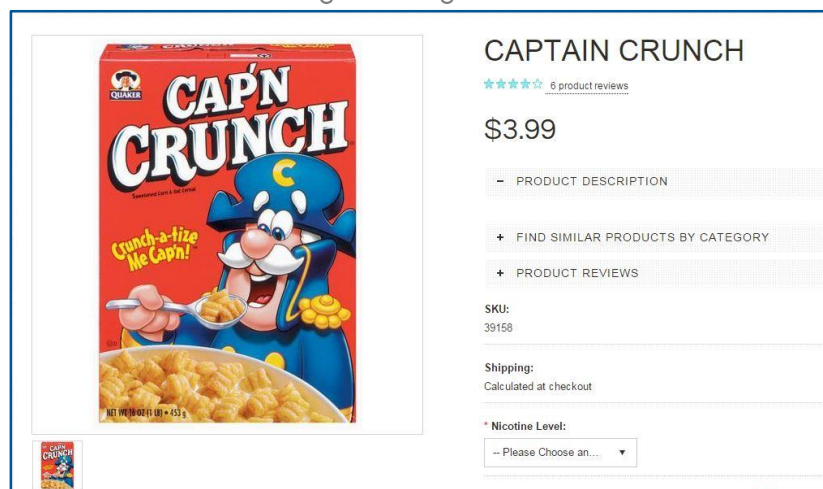
Despite the dangers, federal regulation has not kept up with the rapidly growing and evolving e-cigarette and liquid nicotine marketplace. Proposed regulations fall short of fully protecting children, and instead the lack of oversight has led to a proliferation of liquid nicotine retailers targeting young Americans.

In less than a decade since their introduction to the United States, the e-cigarette business has grown into a \$3.5 billion industry, based on annual sales.⁵ With very low entry costs⁶ and fewer regulatory barriers, many liquid nicotine retailers are small businesses with little regard to safe production, transparency, and child safety.

Symptomatic of the problem, liquid nicotine is being sold across the country as exact copies of, if not confusingly similar to, brands owned by widely recognized and trusted, companies. First Focus uncovered over 500 cases of liquid nicotine being sold in flavors of candy and cereals adopting favorite brands such as Wrigley's Big Red gum and Quaker Oats' Cap'n Crunch (see Image 1).

As the numerous cases illustrate, this is not an instance of a few bad actors, but evidence of a barely regulated industry where questionable and abusive business practices run rampant and the health of our children is at stake.

Image 1 - ecigared.com



Liquid Nicotine

The language used when describing liquid nicotine and e-cigarettes can be a challenge for advocates, lawmakers, and caregivers attempting to understand the product and track usage. E-cigarette users, particularly younger users, will often refer to them by names such as “vapes,” “vape pens,” “e-hookahs,” or “hookah pens” without necessarily understanding that they are e-cigarettes.⁷ Despite any confusion about the name of the device, the liquid nicotine in all types of e-cigarettes is derived from tobacco and carries with it the same risks as the nicotine in combustible cigarettes.⁸

Liquid nicotine, also called names like “e-juice,” “e-liquid,” and “smoke juice” is the nicotine-delivery substance in e-cigarettes used in place of dried tobacco leaves. E-cigarettes are battery powered devices with a heating element that turns liquid nicotine into a smoke-like vapor that the user inhales. Many of the devices are designed to look like and mimic the feel of smoking combustible cigarettes. E-cigarettes can be single use or rechargeable. Some e-cigarettes contain liquid nicotine when they are sold, others require smokers to pour or inject liquid nicotine into cartridges or atomizers. It is possible for e-cigarette vapor to not contain any nicotine, and the consumer often has the option of selecting the nicotine concentration in liquid nicotine. In addition to nicotine, liquid nicotine often contains a cocktail of water, vegetable glycerin, propylene glycol, and flavoring.

For simplicity, this report refers only to liquid nicotine and e-cigarettes, regardless of what the device or liquid was called by the retailer.

Children at Risk

Liquid nicotine is attractive to young children who recognize the fluid by its label, smell, and taste, not as the poison that it is. The unfortunate consequence is accidental exposure. Poison control centers reported an astounding 1,296 percent increase in exposures from 2011 to 2014.⁹ More than half of the exposures were to children under age 6.¹⁰

In 2013, the most recent year data from the American Association of Poison Control Center’s National Poison Data System are available, there were 844 reported exposures to liquid nicotine or e-cigarettes to children age 12 and younger.¹¹

In 2014, 18-month-old Eli James Hotaling became the tragic first case of a child to die from accidental exposure to liquid nicotine when an open bottle was left within his reach.¹² In response, a law was passed in his home state of New York requiring child-resistant packaging on all liquid nicotine.¹³ Federal law does not currently require liquid nicotine to carry an exposure warning or be so sold or distributed in child-proof containers.

But the dangers are not limited to young children who mistake flavored liquid nicotine for candy. The same flavors that lure curious toddlers also appeal to young smokers who could end up addicted for a lifetime. Most tobacco use begins in childhood or young adulthood.¹⁴ E-cigarettes were the most common tobacco product used by high school students in 2014, with 13.4 percent reporting use within the 30 days prior to being surveyed.¹⁵ Teens who use e-cigarettes by the time they begin ninth grade are more likely than their peers to smoke combustible cigarettes.¹⁶

While one of the most serious consequences of nicotine use is addiction, other side effects are far from benign. Adolescent exposure to nicotine can have permanent effects on the developing brain, including a negative impact on memory, attention, and behavior control.¹⁷ There is simply no safe level of nicotine exposure for children.

Aside from nicotine, the additional chemicals in liquid nicotine can be harmful. Despite being considered safe when ingested, reports have found flavoring chemicals to be used at unsafe levels when used to flavor liquid nicotine.¹⁸ Additionally, the flavoring can cause irritation when inhaled rather than swallowed.¹⁹ Researchers have found that when nicotine becomes vapor, chemicals such as formaldehyde can form.²⁰

A Policy Vacuum

Recognizing the threat tobacco poses, especially to young Americans, the 2009 Family Smoking Prevention and Tobacco Control Act (P.L. 111-31) granted the U.S. Food and Drug Administration (FDA) the authority to regulate the manufacturing, distributing, and marketing of combustible cigarettes and smokeless tobacco products.²¹ The law also gave the FDA the ability to “deem,” or assert, its authority over other tobacco products including cigars, water pipes, and emerging products like e-cigarettes.²²

In April 2011, in response to a 2010 ruling by the U.S. Court of Appeals for the D.C. Circuit, the FDA announced that it would regulate e-cigarettes as tobacco products under the Family Smoking Prevention and Tobacco Control Act “unless they are marketed for therapeutic purposes, in which case they are regulated as drugs and/or devices.”²³ In April 2014, the FDA released the proposed rule deeming e-cigarettes a tobacco product along with roll-your-own tobacco, smokeless tobacco, and some novelty products such as nicotine gels and lozenges.²⁴

The proposed rule would critically ban the sale of e-cigarettes to minors. While 17 states legally allowed sales to minors when the FDA rule was proposed,²⁵ 47 states and two territories now ban sales to minors.²⁶ Access would be further limited by restricting vending machine sales to establishments that never admit minors. The proposed rule, however, would continue to allow online sales of e-cigarettes to continue, providing easy access to e-cigarettes to underage children and teenagers, regardless of age restrictions in their state. A recent study of underage teenagers attempting to purchase e-cigarettes online while supervised by researchers found the minors were successfully able to purchase the products 94 percent of the time, and successfully received the deliveries 77 percent of the time.²⁷

The proposed rule would also reign in distribution of free samples of e-cigarettes and other tobacco products, tactics that could be used to hook a new generation of smokers that marketers are exploiting. A Congressional report uncovered that this is a popular strategy and found e-cigarette manufacturers distributing free samples at hundreds of youth-oriented events such as music festivals, parties, and auto races.²⁸

Nicotine and ingredient disclosures would also be newly required for e-cigarettes if the rule is finalized as proposed, including a warning that nicotine is an addictive substance. Currently, federal law does not require that e-cigarettes disclose chemical components.

While limiting sales to minors, the proposed rule falls short of extending the same marketing restrictions to e-cigarettes that exist for combustible cigarettes, notably the use of flavors.

A federal ban on tobacco with characterizing flavors, such as vanilla or chocolate, went into effect September 2009, authorized by the Family Smoking Prevention and Tobacco Control Act, after flavored tobacco was recognized to be particularly attractive to youth.²⁹ Researchers have discovered that 17 to 19-year-old smokers used flavored tobacco more than any other age group.³⁰ An FDA review of tobacco industry documents reveal this is very intentional in concepts for a “sweet flavor cigarette” to be a “youth cigarette.”³¹ In addition to being more likely to try flavored tobacco, young smokers believe flavored tobacco products such those used in water pipes, or hookahs, to be less harmful and less addictive,³² despite carrying many of the same health effects.³³

As Senator Dick Durbin (D-IL) declared when the FDA rule was proposed, “Prohibiting sales to kids but doing nothing to protect children from candy-flavored marketing in children’s venues is an awful outcome.”³⁴

The FDA also does not address the inherent harm in liquid nicotine to small children, and includes no language about child resistant or child proof packaging. In response to that gap, bills have been introduced in Congress. The Stop Selling and Marketing to Our Kids (SMOKE Act, H.R. 1517), introduced by Representative Jackie Speier (D-CA), would include measures to require child-proof packaging standards and require the FDA to research the impact of flavored liquid nicotine and its appeal to children, and consider prohibitions.³⁵

The Child Nicotine Poisoning Prevention Act of 2015 (S. 142/H.R. 3242) was introduced to protect children from accidental liquid nicotine poisoning by requiring bottles of liquid nicotine to be child-proof.³⁶ The U.S. Senate version of the bill, introduced by Senator Bill Nelson (D-FL), was approved unanimously in February by the U.S. Senate Committee on Commerce, Science, and Transportation, but a floor debate has not yet been scheduled. The U.S. House of Representatives version of the bill, introduced by Representative Elizabeth Esty (D-CT) Representative Susan Brooks (R-IN) and was approved in September by the U.S. House of Representatives Committee on Energy and Commerce Committee, and also awaits floor action.

Meanwhile, in July, the FDA issued an advance notice of proposed rulemaking seeking comment and research regarding nicotine exposure warnings and child-resistant packaging for liquid nicotine and other tobacco products.³⁷ The FDA will use the findings to inform its options regarding potential regulations to require nicotine exposure warnings and child-resistant packaging.

This summer, the U.S. House of Representatives Committee on Appropriations’ Agriculture, Rural Development, Food and Drug Administration, and Related Agencies subcommittee approved an annual funding measure that would keep the FDA’s Center for Tobacco Products from forcing e-cigarettes already on the market to go through a lengthy and potentially costly Premarket Tobacco Review application process, under the federal Food, Drug and Cosmetic Act.³⁸ The FDA would still be allowed to regulate how the products are made, packaged and sold. This legislation has not been enacted, but demonstrates that there are forces in Congress who would like to make it harder for the FDA to remove e-cigarettes on the market now.

Absent a finalized FDA rule deeming e-cigarettes a tobacco product, a proposed FDA rule requiring nicotine exposure warnings and child-resistant packing for liquid nicotine, and final Congressional passage of bills forcing action on child-proof packaging and flavor restrictions, there is today a policy vacuum that enables e-cigarettes to be marketed and sold to children, who are taking the bait at alarming rates. Legislative and regulatory inaction to address e-cigarettes has certainly contributed to the startling increase in e-cigarette use by young smokers, and regulations should not be further delayed.

Summary of Findings

Access the database of examples and the gallery at www.firstfocus.org/liquid-nicotine.

It is no secret that flavored liquid nicotine is a popular and effective strategy to market e-cigarettes to children. A new report by the CDC and the FDA on flavored tobacco's role in the increased use of tobacco products by young Americans found that 7 out of 10 young tobacco users use flavored products.³⁹ With the boom in liquid nicotine retailers, these middle and high school students have a vast array of websites and brick and mortar stores to purchase countless flavors from. But the flavor options don't just stop at generic characterizing flavors like banana, cinnamon roll, and fruit punch, but are frequently sold as recognizable brands of candy and cereal. This questionable, abusive, and possibly illegal business practice highlights how much retailers have been able to get away with in the absence of regulation, and the lengths the industry will go to market to our children.

First Focus uncovered over 500 cases of liquid nicotine being sold under the brand names, or what were confusingly similar to the brands, of candy and cereals (see Image 2). In many cases, logos and images of product packing are used (see Image 3). Liquid nicotine being sold under names similar to, but not exactly the same as brands of candies and cereals, were not included. The intention was to compile a large number of cases to demonstrate scope, not to target individual companies and brands.

Image 2 – exhalevaporwholesale.com



Image 3 – eliquidwest.com



Researchers limited tools and methods to those accessible to middle and high school students: a computer, and Internet connection, and the Google search engine. The brand names selected as search terms included among them brands contacted anonymously by First Focus in 2014 after the organization uncovered examples of the brands being used to sell liquid nicotine. All retailers tracked are located within the United States and sell liquid nicotine online, though many also have brick and mortar locations.

For each case, researchers listed the candy or cereal brand, the company that owns that brand, and any parent company if that company is a division or subsidiary. The liquid nicotine retailer was listed, along with the URL where the example was accessed, and a screenshot of the example was added to a gallery. There are countless more flavors of liquid nicotine being sold in flavors that might appeal to children, but not as a trusted brand (see Image 4).

Image 4 – gorillavapes.com



Access the database of examples and the gallery at www.firstfocus.org/liquid-nicotine.

The brands being used to sell liquid nicotine in the 500 cases are owned by 25 companies, divisions, or subsidiaries:

Company/Division/Subsidiary	Cases
William Wrigley Jr. Company (Mars, Incorporated)	140
Mondelēz International, Inc.	53

The Hershey Company	51
Ferrara Candy Company	44
The Willy Wonka Candy Company (Nestlé S.A.)	35
General Mills, Inc.	34
Tootsie Roll Industries	26
Kellogg Company	20
Mars, Incorporated	17
Just Born, Inc.	14
Quaker Oats Company (PepsiCo Inc.)	14
Ferrero SpA	8
Girl Scouts of the United States of America	6
Peter Paul Candy Manufacturing Company (The Hershey Company)	6
Post Holdings, Inc.	6
Smarties Candy Company	6
American Licorice Company	5
PEZ International GmbH	3
Bazooka Candy Brands (The Topps Company, Inc.)	2
Cadbury Adams (Mondelēz International, Inc.)	2
Clark Gum Company	2
Nestlé S.A.	2
Pearson's Candy Company	2
Brach's (Ferrara Candy Company)	1
Pop Rocks, Inc.	1

Between the companies, divisions, or subsidiaries, 62 of their brands are being used to sell liquid nicotine:

Brand	Cases
Skittles	54
Swedish Fish	51
Juicy Fruit	40
Jolly Rancher	38
SweeTarts	23
Fruit Stripe	20
Red Hots	20
Doublemint	17
Snickers	17
Apple Jacks	16
Cinnamon Toast Crunch	16
Andes	14
Starburst	14
Hot Tamales	11
Big Red	9
Tic Tac	8
Cap'n Crunch	7
Cap'n Crunch's Crunch Berries	7
Almond Joy	6
Fruity Pebbles	6
Smarties	6
Thin Mints	6
Heath	5
Lucky Charms	5

Red Vines	5
Tootsie Roll	5
Trix	5
Atomic Fireball	4
Froot Loops	4
Runts	4
Boo Berry	3
Charms Blow Pop	3
Dubble Bubble	3
Hubba Bubba	3
Peeps	3
Pez	3
Reese's Pieces	3
Bazooka	2
Bit-O-Honey	2
Bottle Caps	2
Bubble Yum	2
Bubblicious	2
Butterfinger	2
Clark's Teaberry	2
Fun Dip	2
Honey Nut Cheerios	2
Nerds	2
Spearmint	2
A&W Root Beer Barrels	1
Cocoa Puffs	1

Dentyne Ice	1
Franken Berry	1
Junior Mints	1
Laffy Taffy	1
Mounds	1
Pixy Stix	1
Pop Rocks	1
Reese's Puffs	1
Skor	1
Sour Patch Kids	1
Winterfresh	1
YORK Peppermint Pattie	1

The 62 brands are being used to sell liquid nicotine by 178 liquid nicotine manufactures and sellers:

Liquid Nicotine Retailer	Cases
BonZer VapeZ	13
EXHALE VAPORS WHOLESale	13
Innovations Group USA	12
Vapor-Stop	12
Ooh La La Premium Eliquids	11
Affordable Vaping	10
DIYFlavorShack	9
High Desert Vapes	9
Primo Vapors	9
RockWall VaporStop	9
Smokeless Hawaii	8
Wet Vapes, Inc.	8
Bmore Vapes	7

The e-Juice Factory	7
151 Vapes	6
ANI VAPES	6
Mid America Vapor	6
US Vapor Shop	6
Dorsett Vapor, LLC	5
E-cig Outpost	5
Finger Lakes Vapes	5
Fort Vape/The Digital Emporium	5
Gorilla Vapes	5
Interstate Vapor	5
Mongo's Flavors	5
Parkes Vaping	5
Puff Vapors	5
The One Stop Vapor Shop	5
ThunderVapes, LLC	5
Vapor Geekz	5
Vaporifics	5
Victory Vapor Inc.	5
Black Widows Vapor	4
Bootleg Vapors	4
Ciggystick	4
DFW Vapor	4
DodgeVapor	4
Evergreen Vapor Online Store	4
Jay's Awesome E-Juice	4
Lifestyles, LLC	4
Liquid E Fusion	4
North Georgia Vapor	4
Phantasm Vapors, LLC	4
Smoke Revolt	4
Smooth Vapes	4

Texasvapes Custom Made E-liquids	4
True Vape USA	4
Apple Valley Vapor	3
Central Vapors	3
Drip-n-Rip Vapes	3
E-liquid Mart	3
Endless Vapor	3
Fluid E-Hookah, LLC	3
GoodJuice	3
Haboob Labs	3
Heavy Vape	3
It's Vapor, Inc.	3
Mountain Man e Liquid	3
Otown Vapes	3
ShippWrecked E Liquid	3
SVAVapor/Sunvalley Apps	3
Sweet Stuff E-liquid/Sweet Holdings Ltd. Co.	3
TNT Pure Vapors	3
Vapin' Viper	3
Vapor Cigs of Texas	3
Vapor Delux	3
Affordable Vapor	2
Anarchy Vapor	2
De-Ja Juice	2
Desert Vapors, LLC	2
Detroit's Premier Vapor Co.	2
Ecigared	2
ecigExpress	2
Ecigg	2
eJuiceFly	2
Eliquidwest	2
Elite Puffs	2

EVAPE.US	2
Fog City Vapors/Lab Werks, LLC	2
Fresh Vapes	2
Infinity Vapers	2
It's A Reality Check!!!	2
MakeACig	2
One on One Flavors, LLC	2
PLANET OF THE eVAPES	2
Premier Vaporizer/MPC Unlimited, LLC	2
RX Vapers	2
ShopMVG.com	2
Smokenmist	2
Sparky's Electronic Cigarettes	2
Steam Spirit Vapor	2
Stella Blues Vapors	2
ThunderVapor	2
Valley Vapors	2
Vape 911	2
Vape Dudes	2
Vape King San Diego	2
Vape N' Cherry's	2
Vape Plenish/Vapor200K, LLC	2
Vape Pro's	2
Vape Zombies	2
VapePlay	2
Vapor Galleria	2
Vapor Sniper	2
Vaporland	2
Wickedly Hot Vapors	2
A1 Vapors	1
Affordable Juice	1
All About Vapor	1

Arvada E Cigs, LLC	1
Bear's Mountain Shine	1
Bolt Cigs	1
Chi-Town Vapers	1
Cool Breeze Vapor, LLC	1
Cravin Vapes	1
Doctor E Juice	1
E-Cloud Vapes	1
EC smokes	1
Eleaf US, Inc.	1
eLiquid.com	1
Elix Vapor	1
Flavorful Vapors	1
Fumizer LLC	1
Good Vapes	1
Grand Rapids E-Liquid	1
Greenman ejuice	1
Gypsy Vape	1
Happy Cloud Vaping, LLC	1
Hookah Pen Central/Smokescreen Ventures	1
Hydra Lifestyle	1
Innovative Smoking	1
Jar Juice Vapes	1
Juicebub	1
KAZ VAPE	1
Live Well	1
Luxury Liquids	1
Madtown Vapor, LLC	1
Master Mix E-Liquid	1
Myxed Up Creations	1
Nicoclean, LLC	1
Nicoticket	1

Nicotine Labs	1
Novellus Vapor Outlet	1
Nulife e-Cigs	1
PEC Vape Shop	1
Pell City Vape	1
Puffs Creative Team	1
Show Me Vape, LLC	1
Signature Vapors	1
Slim's E-Juice, LLC	1
Smoke Anywhere For Penny's, LLC	1
Smoke Smart/Lucky Day, Inc.	1
Smoke Time	1
Southside Vapor	1
Sweet Southern Vapes	1
Tenacious 7 Vapor	1
The Chamber of Vapes	1
The Choice Vape Shop	1
The Factory Vape	1
The Vape Mall	1
The Vapor House	1
The Vintage Vaporium	1
Tokejuice.com	1
Triple Crown Vapors	1
Twisted Clouds E-juice	1
Vape Lounge, LLC	1
Vape on the Square/Vape Town	1
Vapes	1
Vapocity	1
Vapor and Company	1
Vapor Juice Shop	1
VaporBomb	1
VaporPalace	1

vaporwizard	1
VProCity	1
Wizard's Elixir	1
Yes Vapors	1
Zigret.com	1

Access the database of examples and the gallery at www.firstfocus.org/liquid-nicotine.

Dishonorable Mentions

Researchers uncovered a number of egregious examples of liquid nicotine marketing, including names relating to baby food, that did not fall into research criteria for being sold as a brand of candy or cereal, but are worth noting.

Baby Food

Image 5 – arvadaecigs.com

Our Price: **\$0.01**

Stock Status: In Stock
 This item qualifies for **FREE SHIPPING!**

Choose your options...

Nicotine Strength

0 mg/ml = No Nicotine

Qty: **Add to cart** **Add to Wish List**

+ Larger Photo
 Email a Friend

Cartoon Characters

Image 6 – itsvaporwi.com



Poo Bear

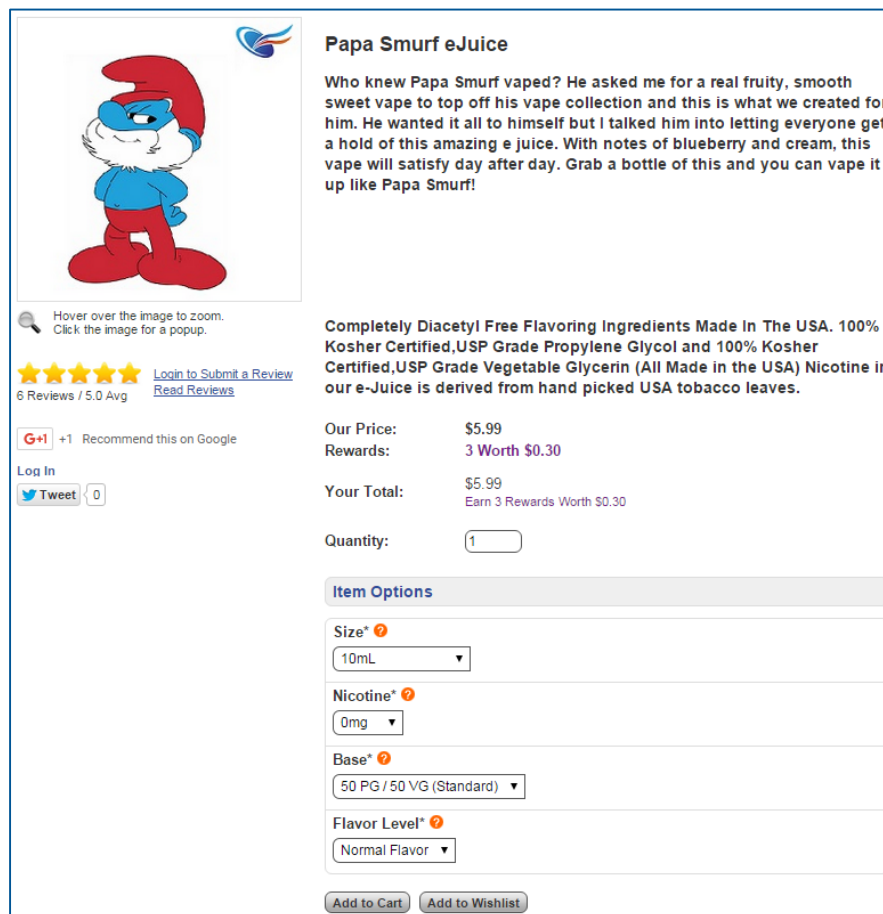
Nicotine Level
0 MG

\$ 9.99

Quantity - 1 +

Add to Cart

Image 7 – centralvapors.com



Papa Smurf eJuice

Who knew Papa Smurf vaped? He asked me for a real fruity, smooth sweet vape to top off his vape collection and this is what we created for him. He wanted it all to himself but I talked him into letting everyone get a hold of this amazing e juice. With notes of blueberry and cream, this vape will satisfy day after day. Grab a bottle of this and you can vape it up like Papa Smurf!

Completely Diacetyl Free Flavoring Ingredients Made In The USA. 100% Kosher Certified, USP Grade Propylene Glycol and 100% Kosher Certified, USP Grade Vegetable Glycerin (All Made in the USA) Nicotine in our e-Juice is derived from hand picked USA tobacco leaves.

Our Price: \$5.99
Rewards: 3 Worth \$0.30

Your Total: \$5.99
Earn 3 Rewards Worth \$0.30

Quantity: 1

Item Options

Size* 10mL

Nicotine* 0mg


Base* 50 PG / 50 VG (Standard)

Flavor Level* Normal Flavor

Add to Cart **Add to Wishlist**

Toys

Image 8 – jarjuicevapes.com



Pink Rabbit

★★★★★ 1 REVIEW(S)

Your Price: \$20.00

In Stock.

Part Number: SP1001

Choose Options

* Nicotine

Nicotine

Nicotine Other remarks

nicotine remarks:

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