

February 13, 2020

Dear Members of the Finance Committee:

Legislation now under consideration in the Maryland legislature would address flavors in tobacco products. You should know that one provision in the bill now before lawmakers – a proposed ban of menthol-flavored cigarettes – is of concern because of its potential unintended impact on communities of color.

A number of studies and reports over recent years have described the illicit sales of single cigarettes – so-called “loosies” – in “minority and low-income neighborhoods” in Baltimore, and in particular among African-Americans, as “highly visible and widespread,” “widely accessible,” and “pervasive and “socially accepted behavior.”

At the same time, according to the Centers for Disease Control, African American adult smokers have the highest percentage of menthol cigarette use compared to other racial and ethnic groups. And survey research suggests that a ban on menthol cigarettes would drive a quarter to more than 85% of those sales to illicit dealers and distributors.

Bringing these facts together leads to an inescapable conclusion: a menthol ban would more than likely expand the already prevalent sales of “loosies” in communities of color, not just in Baltimore but in other areas of the state as well.

Law enforcement agencies including the National Sheriffs Association and the National Organization of Black Law Enforcement Executives have already expressed the concern that increased illicit sales of menthol cigarettes would exacerbate existing tensions with law enforcement in these communities. Already, the Justice Department in recent years found disproportionate rates of stops, searches, arrests and violations of constitutional rights of African Americans by Baltimore police, while reviews have found persistent underrepresentation of minority groups in police departments not only in Baltimore City but also in Baltimore, Howard and Anne Arundel counties. Moreover, the Justice Policy Institute last year reconfirmed that Maryland leads the nation in incarcerating African Americans – at more than twice the national average – particularly, young black men.

Public health authorities including the Food and Drug Administration and the Centers for Disease and Control, as well as the 2019 Monitoring the Future survey, are emphasizing that the real driver of increased youth tobacco use today is electronic cigarettes, while youth smoking is at historic lows.

Given these facts, the Legislature should reject a policy initiative, banning menthol cigarettes, that fails to address the actual problem with youth tobacco use while creating the potential for a dramatic increase in tensions between law enforcement and communities of color.

Sincerely,

Christopher Deck