

PG County Govt_FAV_SB 233

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Position: FAV



THE PRINCE GEORGE'S COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

BILL: Senate Bill 233 - Business Regulation - Flavored Tobacco Products - Prohibition

SPONSOR: The President, *et al.* (By Request - Office of the Attorney General)

HEARING DATE: February 13, 2020

COMMITTEE: Finance

CONTACT: Intergovernmental Affairs Office, 301-780-8411

POSITION: SUPPORT

The Office of the Prince George's County Executive **SUPPORTS Senate Bill 233 - Business Regulation - Flavored Tobacco Products – Prohibition**, which bans the manufacture, shipment, import, or sale of flavored tobacco products. The bill also makes it a misdemeanor to violate the ban.

Public health has made significant reductions in youth smoking with the help of legislation like Maryland's Clean Indoor Air Act of 2007 and the Federal Family Smoking Prevention and Tobacco Control Act of 2009. However, today we have a new problem. Maryland's young people are using flavored vape and tobacco products at alarming rates. In Prince George's County, one in three high school students and one in four middle school students have tried an electronic vapor product.¹ Ninety percent of youth who have tried vaping used a product with flavoring other than tobacco.²

The brain is not fully developed until age 25.³ Nicotine has a devastating effect on the adolescent brain and may result in slowed brain function, increased addiction, and

¹ Prince George's County Health Department Vaping factsheet. Data source is the 2016 Maryland Youth Risk Behavior Survey (YRBS)

² Prince George's County Health Department Vaping factsheet. Data source is the 2016 Maryland Youth Risk Behavior Survey (YRBS)

³ Kathleen Raven, *Nicotine Addiction From Vaping Is a Bigger Problem Than Teens Realize* (YaleMedicine, Mar. 19, 2019), <https://www.yalemedicine.org/stories/vaping-nicotine-addiction/>.

emotional and psychiatric difficulties.⁴ Furthermore, there is substantial evidence that youth vaping increases the risk of using traditional cigarettes.⁵

The impact of nicotine is well-documented, but vaping products also include chemicals like flavorings, propellants, solvents, and oils.⁶ The long-term health impact of inhaling these chemicals is unknown. The Centers for Disease Control and Prevention (CDC) is currently investigating more than 1,600 cases of people nationwide, including children as young as 13 years old, who have severe vaping-related lung illnesses and injuries.⁷ These findings reveal that dozens of patients have died from those illnesses and injuries.⁸ Banning flavored vaping products will deter young people from trying vaping.

Senate Bill 233 would also ban flavored tobacco products like menthol cigarettes and flavored cigars and cigarillos, a measure that is long overdue. From 2011 to 2015, sales of menthol cigarettes increased,⁹ while overall cigarette sales decreased. Menthol cigarettes are the only flavored cigarette product left on the market after the federal Family Smoking Prevention and Tobacco Control Act of 2009. Yet young people are more likely to try menthol-flavored cigarettes and then more likely to become addicted with this flavoring present.¹⁰

Additionally, CDC data indicates menthol products have been “aggressively marketed” to young people and African Americans.¹¹ African American men smoke cigars and cigarillos more than other racial/ethnic groups and the majority of young cigar users use flavored products.¹² Thus, the clear purpose for flavored tobacco products—flavors such as grape, vanilla, apple, or menthol flavors—is addicting new, young users. Passage of Senate Bill 233 is vitally important to protect our young people of color, who have been targeted by the tobacco industry’s aggressive marketing.

⁴ Goriounova NA, Mansvelter HD. Nicotine exposure during adolescence alters the rules for prefrontal cortical synaptic plasticity during adulthood. *Front Synaptic Neurosci.* 2012;4:3. Published 2012 Aug 2. doi:10.3389/fnsyn.2012.00003.

⁵ American Lung Association, <https://www.lung.org/stop-smoking/smoking-facts/e-cigarettes-and-lung-health.html>.

⁶ Pulled directly from the October 2019 Prince George’s County Health Department Vaping factsheet. Information source is the Centers for Disease Control and Prevention (CDC).

⁷ Pulled directly from the October 2019 Prince George’s County Health Department Vaping factsheet. Information source is the Centers for Disease Control and Prevention (CDC).

⁸ *Id.*

⁹ Laura Bach, Campaign for Tobacco-Free Kids, Impact of Menthol Cigarettes on Youth Smoking Initiation and Health Disparities (Feb. 3, 2020), <https://www.tobaccofreekids.org/assets/factsheets/0390.pdf>.

¹⁰ *Id.*

¹¹ Centers for Disease Control and Prevention (CDC), “Smoking & Tobacco Use: African Americans and Tobacco Use,” <https://www.cdc.gov/tobacco/disparities/african-americans/index.htm> (last visited Feb. 13, 2020).

¹² Truth Initiative, *The Truth About Little Cigars, Cigarillos, & Cigars* (April 2019), <https://truthinitiative.org/sites/default/files/media/files/2019/03/Cigars-Fact-Sheet-10-2017.pdf>.

A vote for Senate Bill 233 is a vote to reduce lung-related disease and death in Maryland. For the reasons stated above, the Office of the Prince George's County Executive **SUPPORTS Senate Bill 233** and asks for a **FAVORABLE** report.

SB 233 Awopegba_Testimony_ Favorable

Uploaded by: Awopegba, Ayodeji

Position: FAV

Testimony of Ayodeji Awopegba
Maryland Resident
February 13, 2020
Senate Bill 233: Business Regulation - Flavored Tobacco Products – Prohibition

POSITION: SUPPORT

Thank you for the opportunity to speak today.

Our testimony will be based on our Johns Hopkins Bloomberg School of Public Health report titled “State of the Evidence: Flavored Tobacco Bans or Restriction”. I will speak about the public health impacts of comprehensive tobacco flavor restrictions and a restriction on the sale of *only* flavored e-cigarettes.

The evidence clearly shows that comprehensive flavor restrictions can reduce availability of flavored tobacco products and positively impact the health of youth. In 2010, New York City restricted the sales of most flavored tobacco products. Their evaluation data show that sales of all flavored tobacco products declined by 87% and teens during 2013 had 37% lower odds of ever trying flavored tobacco products and 28% lower odds of using any type of tobacco product. Sales of non-flavored tobacco products did not significantly increase. In 2013, Providence, RI restricted the sale of all non-cigarette tobacco products with characterizing flavors (e.g., mango, strawberry, or mint). Providence subsequently experienced a 51% decrease in flavored cigar sales. 93% of the sales reduction was due to a decrease in the sales of cigars with characterizing flavors. However, sales of concept flavored cigars (e.g., Jazz, Casino, or Royale) actually increased by 74%.

For a similar policy that only applies to e-cigarettes, there may be a positive impact and an unintended consequence. For example, one study asked youth and young adults who use flavored e-cigarettes if they would continue using their product of choice if it were not flavored. They found that the percent who said they would not use their e-cigarette anymore was 66% of those 25-29 years of age, 74% of those 18-24 years of age, 74% of those in high school, and 93% of those in middle school. Another study found that prohibiting flavors in e-cigarettes but permitting menthol cigarettes may drive former smokers to cigarettes.

Thank you for your consideration. My colleague, Naseeb Kibria, will now continue providing testimony.

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The opinions expressed herein are my own and do not necessarily reflect the views of The Johns Hopkins University.

Sb 233 TFK Favorable

Uploaded by: Barkley, Amy

Position: FAV

Maryland Senate Finance Committee

Testimony of Amy Barkley

Regional Advocacy Director, Campaign for Tobacco-Free Kids

In Support of SB 233 –Business Regulation– Flavored Tobacco Products – Prohibition

Annapolis, MD

February 13, 2020



The Campaign for Tobacco-Free Kids submits these written comments in support of SB 233: Business Regulation – Flavored Tobacco Products – Prohibition. This bill, which would ban the sale of all flavored tobacco products in Maryland, would have a dramatic impact on reducing tobacco among youth, and would help curb the long-term illness, disease and death caused by tobacco addiction across the state. The Campaign for Tobacco-Free Kids is the nation’s largest non-profit, non-governmental advocacy organization solely devoted to reducing tobacco use and its deadly toll by advocating for public policies that prevent kids from using tobacco, help smokers quit and protect everyone from secondhand smoke.

Maryland has long been a national leader in its commitment to reducing the death and disease from tobacco use, so it is heartening to see that you continue to take thoughtful, evidenced-based steps to reduce the number of kids who start using tobacco and help tobacco users quit. Even though Maryland has made great strides in reducing tobacco use, tobacco use remains the number one preventable cause of premature death and disease in Maryland and the nation, killing over 7,500 residents every year.¹

Prohibiting the sale of all flavored tobacco products, including menthol cigarettes and flavored cigars and e-cigarettes, is a critical step that will help protect Maryland kids from the unrelenting efforts of the tobacco industry to hook them to a deadly addiction. Flavored tobacco products are designed to alter the taste and reduce the harshness of tobacco products so they are more appealing and easy for beginners, who are almost always kids. These products are available in a wide assortment of flavors – like gummy bear, cotton candy, peanut butter cup, cookies ‘n cream and pop rocks for e-cigarettes and chocolate, watermelon, lemonade and cherry dynamite for cigars. Tobacco companies are making and marketing deadly and addictive products that look and taste like a new line of flavors from a Ben and Jerry’s ice cream store. This growing market of flavored tobacco products is undermining Maryland’s progress in reducing youth tobacco use.

Recognizing the public health burden of flavored tobacco products, and the failure of the federal government to step in decisively, we are seeing states and localities starting to take action. San Francisco was the first city to ban the sale of all flavored tobacco products. Since then Oakland, Minneapolis, St. Paul, Sacramento, Los Angeles County, and Boston have enacted strong laws to tackle this problem. They have joined a growing number of smaller cities that have taken similar action.

In December of last year, Massachusetts became the first state to enact legislation to restrict the sale of all flavored tobacco products. Other states are poised to act this year, joining over 260 localities across the country that have passed legislation to protect their

residents from flavored tobacco. I urge you to join them. Maryland needs to be a leader on this issue and pass this legislation without delay.

The youth e-cigarette epidemic creates an immediate crisis that demands urgent action, but equally urgent action is needed to address a public health crisis that has gotten less attention, but over the years has done even greater harm: the marketing and sale of all other flavored tobacco products, including menthol cigarettes and flavored cigars. Banning the sale of all flavored tobacco products is one of the most important things you can do to protect the health of Maryland's kids, reverse health disparities in the State, and prevent the 7,500 deaths in Maryland each year that are due to tobacco use.

Menthol Cigarettes Increase Youth Tobacco Use

While e-cigarette use justifiably gets a lot of attention, no other flavored product contributes more to the death and disease caused by tobacco use than menthol cigarettes. The scientific evidence leaves no doubt that menthol cigarettes increase the number of people, particularly kids, and especially African-American kids, who try the product, become addicted and die a premature death as a result. Banning menthol cigarettes addresses both a critical public health issue and a matter of social justice.

Tobacco companies have long known that menthol cigarettes reduce the harshness of their products and make them easier to use by new users, almost all of whom are under age 18.² Menthol delivers a pleasant minty taste and imparts a cooling and soothing sensation. These characteristics successfully mask the harshness of tobacco, making it easier for beginner smokers and kids to tolerate smoking. The FDA's Tobacco Products Scientific Advisory Committee (TPSAC) concluded that menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking. Further, they found that people who initiate smoking using menthol cigarettes are more likely to become addicted and become long-term daily smokers.³

Flavors hook kids and no flavor hooks more kids than menthol cigarettes. They are the single greatest entryway to cigarette smoking. Just like other flavored tobacco products, youth smokers are more likely to use menthol cigarettes than any other age group:

- Half (50.1%) of youth who have ever tried smoking initiated with menthol flavored cigarettes.⁴
- Over half (54 percent) of current youth smokers ages 12-17 continue to use menthol cigarettes, compared to less than one-third of smokers ages 35 and older.⁵

- Prevalence of menthol use is even higher among African American youth: seven out of ten African-American youth smokers smoke menthol cigarettes.⁶

Menthol Cigarettes Have a Devastating Impact on the Health of African Americans and Are a Major Cause of Tobacco-Related Health Disparities

The reason that such a high percentage of African-Americans who smoke use menthol cigarettes is the direct result of a conscious and deliberate decision made decades ago by the tobacco industry to target the African-American community. The net result has contributed to African-Americans suffering unfairly and disproportionately from tobacco related diseases. Maryland is in a position to reduce tobacco caused disparities in this community by enacting legislation that bans the sale of menthol cigarettes. Opponents of banning menthol cigarettes like to talk about possible unintended consequences, but the undeniable consequences from menthol smoking are higher rates of death and disease, with a disproportionate impact among African-Americans

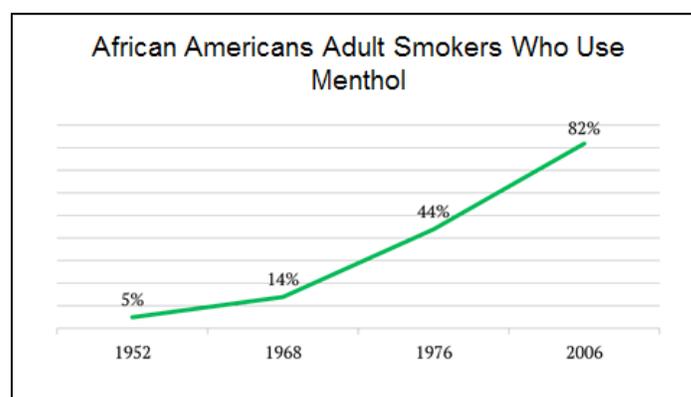
The continued availability of menthol cigarettes threatens the progress Maryland has made in reducing adult smoking, particularly among African Americans. Prevalence of menthol use is highest among African Americans - 85 percent of all African-American smokers smoke menthol cigarettes, compared to 29 percent of Whites.⁷ Nationally, sales of menthol cigarettes increased from 2011 to 2015, at a time when overall cigarette sales have been gradually decreasing.⁸ Data from the Federal Trade Commission (FTC) show that in 2018, menthol cigarettes comprised 36 percent of the U.S. market, the highest proportion on record since FTC began collecting this data in 1963.⁹

Both TPSAC's and FDA's own scientific analyses conclude that menthol cigarettes are associated with increased nicotine dependence and reduced success in smoking cessation.¹⁰ The impact is greatest for African Americans, who predominantly smoke menthol cigarettes. African Americans generally have higher levels of nicotine dependence as a consequence of their preference for mentholated cigarettes.¹¹ While research shows that African American smokers are highly motivated to quit smoking and are more likely than White smokers to have made a quit attempt and used counseling services in the previous year, they are less likely than White smokers to successfully quit smoking.¹² Data from the 2015 National Health Interview Survey show that, among smokers who made a quit attempt in the past year, only 4.9 percent of African Americans remained abstinent after 6 months, compared to 7.1 percent of Whites.¹³

Smoking kills 45,000 African American each year.¹⁴ Lung cancer is the second most common cancer in both African-American men and women, but it kills more African Americans than any other type of cancer.¹⁵ While the gap has been narrowing, from 2011-2016 the average incidence rate of lung and bronchial cancers was still 15 percent higher in African-American men compared to white men and the average death rate was 18 percent higher in African-American men compared to white men.¹⁶ If current smoking rates persist, an estimated 1.6 million black Americans alive today under the age of 18 will become regular smokers, and about 500,000 will die prematurely from a tobacco-related disease.¹⁷ In 2011, TPSAC estimated that by 2020, 4,700 excess deaths in the African American community will be attributable to menthol in cigarettes, and over 460,000 African Americans will have started smoking because of menthol in cigarettes.¹⁸

The Tobacco Industry Targets African Americans and Youth with Menthol Cigarette Marketing

The tobacco industry wants you to believe that African Americans have always smoked menthol cigarettes, but the use of menthol cigarettes among African Americans seen today is no coincidence and it doesn't reflect an inherent preference for menthol cigarettes by African-Americans. This disparity is a direct result of a decades-long marketing campaign by the tobacco industry. Just 5 percent of African-Americans smoked menthol cigarettes in the early 1950's; by 1968 the number had risen to 14 percent, and today the number is now well over 80 percent.¹⁹ Make no mistake—this is a crisis that is the direct result of the conscious decisions of the major tobacco companies.



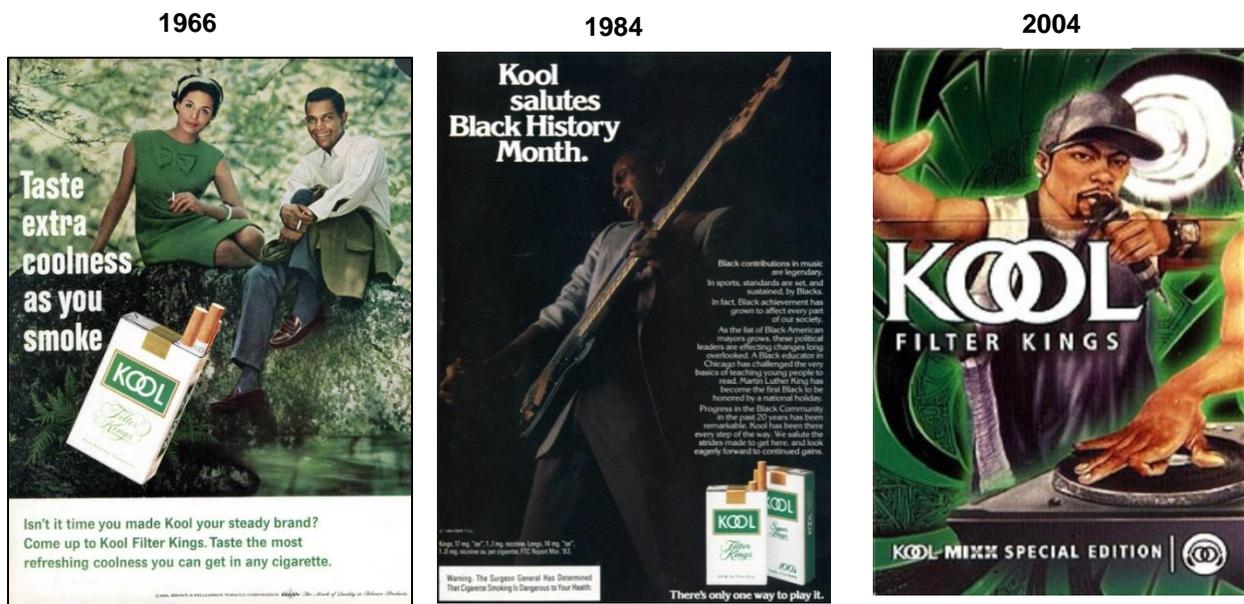
Slide Courtesy of Phillip S. Gardiner

http://www.acbhcs.org/tobacco/docs/conference/Dr_Gardiner_Tob_Industry_AA_Me

Decades of research and the tobacco industry's internal documents demonstrate that the industry knowingly employed campaigns and strategies to aggressively target African Americans. Dating back to the 1950s, the tobacco industry has targeted these

communities with marketing for menthol cigarettes through sponsorship of community and music events, targeted magazine advertising, youthful imagery, and marketing in the retail environment. Many of these efforts, including the Kool Inner City Music Program and the Newport Van Program, which distributed free samples of menthol cigarettes, targeted African American neighborhoods in cities like Baltimore.²⁰

The tobacco industry has also used popular African American magazines like *Ebony* and *Jet* to advertise menthol cigarettes to African Americans since the 1960s, and this practice continues today. From 1998 to 2002, *Ebony*, a magazine tailored to the African American culture, was 9.8 times more likely than *People* to contain ads for menthol cigarettes.²¹ An assessment of menthol cigarette ads run from June 2012 to February 2013 found that the tobacco industry spent an estimated \$31 million on menthol cigarette direct mail, email, print and online advertisements in just a 9-month period. During this time, 61 percent of Newport print ads featured at least one African-American model. These ads ran in twenty publications including *Jet*, *Ebony*, and *Essence*, which have predominantly African-American readership.²²



Images courtesy of Stanford Research Into the Impact of Advertising (SRITA) and TrinketsandTrash.Org.

In magazines and other marketing materials, the industry used advertisements characterized by slogans, relevant and specific messages, or images that have a great appeal among those in the black community or depict African Americans in an appealing light.²³ In 2004, Brown & Williamson started an ad campaign for their Kool brand cigarettes clearly aimed at youth—and African-American youth, in particular. The Kool Mixx campaign featured images of young rappers, disc jockeys and dancers on cigarette packs and in advertising. The campaign also included radio giveaways with

cigarette purchases and a Hip-Hop disc jockey competition in major cities around the country. The themes, images, radio giveaways and music involved in the campaign all clearly have tremendous appeal to youth, especially African-American youth. Attorneys General from several states promptly filed motions against Brown & Williamson for violating the Master Settlement Agreement.²⁴

This targeting continues today: magazine advertisements continue to target African Americans and menthol cigarettes continue to be heavily advertised, widely available, and priced cheaper in certain African American communities, making them more appealing, particularly to price-sensitive youth.²⁵ Nationally, Newport cigarettes (the most popular menthol brand among African Americans) are significantly less expensive in neighborhoods with higher proportions of African Americans.²⁶ A wealth of research indicates that African-American neighborhoods have a disproportionate number of tobacco retailers, more price discounts for tobacco products, pervasive tobacco marketing, and in particular, more marketing of menthol products.²⁷

Flavored Cigars Remain Popular Among Youth, Especially African Americans

While youth cigarette smoking reached a record low (5.8%) in the U.S. in 2019, there has been no significant decrease in cigar smoking since 2014. More youth smoker cigars today than cigarettes and flavored cigars are a big part of the problem. Today, 7.6% of U.S. high school students smoke cigars. Rates are higher among boys (9.0%) and among African Americans (12.3%).²⁸ In Maryland, 10.9% of high school boys are current cigar smokers.²⁹

A primary reason for the popularity of cigars among youth is the wide array of available flavors. In fact, 73.8% of youth cigar smokers smoked cigars “because they come in flavors I like.”³⁰ Flavored cigars have proliferated in recent years and now make up more than half the U.S. cigar market.³¹ Sales of all cigars (i.e., large cigars, cigarillos, and small cigars) more than doubled between 2000 and 2017³² and much of the growth is attributable to smaller types of cigars, many of which are flavored and inexpensive (e.g., 3 or 4 cigars for 99 cents). There are over 250 cigar flavors, including of “Banana Smash,” Brownie, and Strawberry Kiwi.³³ Cheap, sweet cigars can serve as an entry product for kids to a lifetime of smoking.



Similar to e-cigarettes, cigars are marketed using social media, hip hop and rap music event sponsorship, celebrity endorsements and point-of-sale promotions.³⁴



FDA has concluded that “all cigars pose serious negative health risks” and that “all cigar use is harmful and potentially addictive.”³⁵ According to the National Cancer Institute, smoking cigars causes serious health consequences, including cancer of the oral cavity, larynx, esophagus and lung, and cigar smokers are also at increased risk for aortic aneurysms.³⁶ Each year, about 9,000 Americans die prematurely from regular cigar use.³⁷ Cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke.³⁸

E-cigarette Use by Youth is Skyrocketing

We are at a critical juncture in our nation’s public health history. After making tremendous progress in reducing youth tobacco use over the past several decades, e-cigarettes, and Juul in particular, are undermining the declines in overall youth tobacco use. Youth e-cigarette use in the United States has skyrocketed to what the U.S. Surgeon General and the FDA have called “epidemic” levels.³⁹ It is a public health crisis and *it is getting worse*.

The increase in youth e-cigarette use is truly unprecedented. Researchers at the University of Michigan who conduct the Monitoring the Future Study found that the increase in youth vaping of nicotine from 2017 to 2018 was the single largest one year increase in youth use of *any substance* in the survey's 43-year history.⁴⁰ New data released in the *New England Journal of Medicine* show that this historic increase was followed by another increase in 2019. From 2017 to 2019, youth nicotine vaping more than doubled among 8th, 10th and 12th graders. Now, 9% of eighth graders, 20% of 10th graders and 25% of 12th graders are current vapers.⁴¹

Newly released data from the 2019 National Youth Tobacco Survey (NYTS) also showed that e-cigarette use among high school students more than doubled from 2017 to 2019, from 11.7 percent to 27.5 percent of students, or more than one in four high schoolers. Youth are starting to use e-cigarettes at younger and younger ages. Among middle school students, e-cigarette use more than tripled from 2017 to 2019, increasing from 3.3% to 10.5%. Altogether, over 5.3 million middle and high school students used e-cigarettes in 2019 – an increase of over three million users in just two years.⁴² In Maryland, 13.3% of high schoolers used e-cigarettes in 2017—if Maryland follows national trends, this figure has likely doubled by now.⁴³

Nationally, the rise in e-cigarette use has driven an increase in the use of any tobacco product among youth. In 2019, 31.2% of high school students and 12.5% of middle school students – 6.2 million kids altogether – were current (past-month) users of some type of tobacco product in 2019. This is the highest tobacco use rate reported by the NYTS in 19 years.⁴⁴ There is no doubt that e-cigarettes are reversing decades of progress that Maryland has made in reducing youth tobacco use and are addicting a new generation of kids.

Youth E-cigarette Users Struggle with Nicotine Addiction

The number of youth now using e-cigarettes is alarming and the evidence is growing that e-cigarettes increases the susceptibility to long term addiction. The data are clear that youth who are using e-cigarettes are not just experimenting, but are becoming addicted at levels that have not been seen among kids who use cigarettes in decades.

- Among those who had used e-cigarettes in the past 30 days, 34.2% of high schoolers and 18% of middle schoolers were frequent users of e-cigarettes, using e-cigarettes on at least 20 of the preceding 30 days.⁴⁵
- 21.4% of high school e-cigarette users and 8.8% of middle school e-cigarette users were daily users, a strong indication of addiction. This amounts to 1.6

million middle and high school students who were frequent users of e-cigarettes, including nearly 1 million (970,000) daily users.⁴⁶

- Alarmingly, one in nine high school seniors (11.6%) report vaping nicotine on a near daily basis.⁴⁷

Though there is insufficient research on the long-term effects of using e-cigarettes in general, there is a growing body of evidence of immediate harms, many of which are caused by the intense addiction caused by the high levels of nicotine these products deliver. Nicotine is a highly addictive drug and young people are especially vulnerable to nicotine addiction. Nicotine can have lasting damaging effects on adolescent brain development, because brain development continues until about age 25. According to the Surgeon General, “because the adolescent brain is still developing, nicotine use during this critical period can disrupt the formation of brain circuits that control attention, learning, and susceptibility to addiction.”⁴⁸ Because of these risks, the Surgeon General found that, “The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe.”⁴⁹

The observable immediate harms from e-cigarette use have increased since the introduction of Juul and Juul like products. Since the introduction of Juul, youth are now using products that effectively deliver very large doses of nicotine. Juul pioneered a new e-liquid formulation that delivers nicotine more effectively and with less irritation than earlier e-cigarette models. According to the company, the nicotine in Juul is made from “nicotine salts found in leaf tobacco, rather than free-base nicotine,” in order to “accommodate cigarette-like strength nicotine levels.”⁵⁰ A 2018 Surgeon General advisory on e-cigarette use among youth warned that nicotine salts allow users to inhale high levels of nicotine more easily and with less irritation than e-cigarettes that use free-base nicotine. As a result, it is easier for young people to initiate the use of nicotine with these products.⁵¹ A single Juul pod can deliver as much nicotine as a pack of cigarettes.⁵² One study estimated that youth could meet the threshold for nicotine addiction by consuming just one quarter of a Juul pod per day.⁵³ And yet, research has also found that many young Juul users often do not know the products they are using contains nicotine.⁵⁴

Juul’s competitors, seeking to emulate the company’s success, have since flooded the U.S. market with similar pod-based e-cigarettes, including some that have nicotine levels even higher than Juul’s, resulting in what some researchers have referred to as a “nicotine arms race.” Many of these companies offer the devices and pods for cheaper than Juul and in a wider variety of kid-friendly flavors.⁵⁵ New NYTS data released in November 2019 show that Juul is overwhelmingly the most popular e-cigarette among youth (preferred by 59% of high school e-cigarette users), but other products like Suorin and Smok, are becoming popular as well.⁵⁶

These statistics are confirmed by parents and pediatricians across the country. E-cigarette use, especially Juul, has permeated schools and the daily life of hundreds of thousands of youth. It is clear that large numbers of teen e-cigarette users are struggling with nicotine addiction and withdrawal. In November, the New York Times profiled Matt Murphy from Reading, MA who had his first Juul when he was 17. He described the euphoric head rush of nicotine as “love at first puff”. He quickly became addicted to Juul’s intense nicotine hits. He became so dependent on the Juul that he nicknamed the device his “11th finger.”⁵⁷ He is not alone. The problem is so bad that FDA convened a public hearing to gather input on how to help youth addicted to the nicotine in e-cigarettes. No one is quite sure how to help these youth quit. Banning flavored e-cigarettes will prevent these kids from ever getting hooked.

Youth E-Cigarette Users Are At Increased Risk of Smoking Cigarettes

Alarming, evidence also continues to build that for young people, using e-cigarettes increases the likelihood of smoking cigarettes.

- In 2016, the Surgeon General concluded that while more research is needed, evidence from several longitudinal studies suggests that e-cigarette use is “strongly associated” with the use of other tobacco products among youth and young adults, including conventional cigarettes.⁵⁸
- Last year, the National Academies of Science, Engineering & Medicine (NASEM) released a comprehensive report which found that there was substantial evidence that that e-cigarette use increases risk of ever using cigarettes among youth and young adults. The NASEM report also concluded, “There is moderate evidence that e-cigarette use increases the frequency of subsequent combustible tobacco cigarette use” among youth and young adults.⁵⁹
- A recent study found that youth who used e-cigarettes were four times more likely to subsequently try cigarettes.⁶⁰

Multiple studies have also demonstrated that many youth who use e-cigarettes are kids who are among those least at risk of cigarette smoking. For these kids, e-cigarettes are not replacing cigarettes, they are turning non-tobacco users into tobacco users.⁶¹

Flavored E-Cigarettes Have Fueled the Popularity of These Products Among Kids

The evidence is clear that flavored e-cigarettes, like mint, mango and gummy bear, have fueled this epidemic. 2016 Surgeon General Report on e-cigarettes concluded

that, “E-cigarettes are marketed by promoting flavors and using a wide variety of media channels and approaches that have been used in the past for marketing conventional tobacco products to youth and young adults.”⁶²

In recent years, there has been an explosion of sweet-flavored e-cigarettes. As of 2017, there were more than 15,500 unique e-cigarette flavors available online, including many kid-friendly flavors like gummy bear, cotton candy, and peanut butter cup.⁶³ Research shows that flavored products are not only popular among youth, but may play a role in initiation and uptake of tobacco products. The 2016 Surgeon General Report on e-cigarettes concluded that flavors are among the most commonly cited reasons for using e-cigarettes among youth and young adults.⁶⁴

- Data from the 2016-2017 wave of the government’s Population Assessment for Tobacco and Health (PATH) study found that 70.3% of current youth e-cigarette users say they use e-cigarettes “because they come in flavors I like.”⁶⁵
- The PATH study also found that found that 97% of current youth e-cigarette users had used a flavored e-cigarette in the past month.⁶⁶
- 57.3% of high school e-cigarette users use mint or menthol flavors, an increase from 38.1% in 2018.⁶⁷ Among 10th and 12th grade Juul users, mint is the most popular flavor.⁶⁸

If anything, these official government figures under report the percentage of youth who use flavored e-cigarettes. Talk to any teacher, school principal or high school student and they will tell you that virtually every kid who uses an e-cigarette, uses a flavored e-cigarette. It is the reason that banning flavored e-cigarettes is an essential step in reversing the youth e-cigarette epidemic. Anything less will fail.



The use of flavors in e-cigarette products is of even greater concern because e-cigarettes are the subject of extensive advertising campaigns, and there is evidence that young people are exposed to significant amounts of e-cigarette advertising. By

mimicking the tobacco industry's strategies, including celebrity endorsements, slick TV and magazine advertisements, and sports and music sponsorships, e-cigarette advertising has effectively reached youth and young adults. The 2019 NYTS found that 7 out of 10 middle and high school students—18.3 million youth—report being exposed to e-cigarette advertisements.⁶⁹

When Juul was first launched in 2015, the company used colorful, eye-catching designs and youth-oriented imagery and themes, such as young people dancing and using Juul. Juul's original marketing campaign included billboards, YouTube videos, advertising in Vice Magazine, launch parties and a sampling tour. A report by Stanford University researchers concluded that Juul's launch marketing was "patently youth oriented" and closely resembled the themes and tactics used by the tobacco industry for decades.⁷⁰ Posts on social media platforms like Twitter and Instagram also fueled Juul's popularity among youth.⁷¹ Social media promotion included influencers – social media stars with large numbers of online followings who were paid to recommend Juul and post photos with the product. These influencers created tremendous interest and enthusiasm for the product. E-cigarette companies market extensively on product websites and maintain a strong presence on social media sites popular among youth, like Facebook, YouTube, Instagram, and Twitter.⁷² E-cigarette manufacturers have also placed ads on search engines and websites that focus on music, entertainment, and sports and which often have substantial youth and young adult audiences.⁷³

Juul claims that it has "voluntarily" stopped marketing on social media, but Juul made that announcement only after it faced severe public criticism. There is nothing to prevent Juul from reversing its public position about where and how it will market its products as soon as public scrutiny fades. Indeed, in other countries Juul has continued to engage in the type of marketing and advertising that fueled the US youth e-cigarette epidemic so that its temporary decision in the US should be seen as nothing more than an effort to deflect public scrutiny and not even a corporate commitment to stop marketing to kids. Government action is the only way to protect our kids.

Trump Administration's E-Cigarette Policy Leaves Thousands of Flavored E-Cigarettes on the Market

The Trump Administration's policy, announced on January 2, 2020, exempts all menthol and tobacco flavored e-cigarettes and only restricts flavors in some cartridge-based e-cigarettes, leaving flavored e-liquids in every imaginable flavor widely available. Only the elimination of all flavored e-cigarettes can end the worsening youth e-cigarette epidemic and stop e-cigarette companies from luring and addicting kids with flavored products. States and localities must act to ban all flavored e-cigarettes and eliminate the loopholes in the federal policy.

1. Disposable flavored e-cigarettes will remain widely available



The e-cigarette industry has already introduced the next new fad – cheap, disposable e-cigarettes in flavors such as strawberry, grape and mango.⁷⁴ These devices are appealing to youth due to their high nicotine levels, wide range of flavors, ease of use, and concealability.

2. 15,000+ flavored e-liquids will remain widely available



There are well over 15,000 flavored e-liquids available on the market today. These flavors often mimic candy, sweets and fruits and come in varying nicotine strengths, sometimes even higher than in Juul (a 5% Juul pod delivers the equivalent nicotine of a pack of cigarettes). Also, purchasing e-liquid by the bottle is often cheaper than purchasing Juul pods, making them even more appealing to price-sensitive youth.

3. Popular open systems will remain widely available, including refillable Juul-compatible pods



After Juul, Smok and Suorin are the most popular e-cigarette devices among high school students. More than one out of ten high school e-cigarette users report that their preferred brand is Smok or Suorin (7.8% for Smok and 3.1% reported for Suorin).⁷⁵

These devices are sold empty and can be filled with any of the thousands of flavored e-liquids, and various nicotine strengths, that will remain on the market. In addition, empty Juul-compatible pods are already being sold and can be filled with any of the thousands of e-liquids that will remain on the market.

4. Juul and other menthol-flavored pods will remain widely available



The tobacco industry has known for decades that menthol appeals to youth, since half of youth who have ever tried smoking started with menthol flavored cigarettes. There is no reason to believe that menthol e-cigarettes will not be equally appealing to kids – especially if they are the only available flavor for pod products. The Wall Street Journal even reported in September that JUUL was considering rebranding their best-selling mint flavor as menthol to keep it on the market,⁷⁶ and other brands are sure to follow suit given the loopholes in the guidance. Data from the 2019 National Youth Tobacco Survey show that over half (57.3%) of high school e-cigarette users use mint or menthol flavored e-cigarettes. This is an increase from just 16% in 2016.⁷⁷ The evidence indicates that if any e-cigarette flavors are left on the market, kids will shift from one flavor to another. In November 2018, Juul removed other flavors – but not mint and menthol – from stores. In response, youth easily substituted mango and fruit with mint and menthol. From 2018 to 2019, youth use of fruit flavors fell, while youth use of mint and menthol flavors increased by 50%.⁷⁸

5. Flavored e-cigarettes will remain widely accessible

Between gas stations, convenience stores and vape shops, there are well over a hundred thousand access points where youth can get these products and devices. Kids will be enticed by a wide range of options: flavored disposable e-cigarettes; sleek, open systems with unlimited flavor options; or menthol pods.

Conclusion

We are facing an epidemic in youth e-cigarette use. Parents, school officials, and health care providers from across the country have recognized that a new generation of young people are becoming addicted to nicotine with potentially devastating long term consequences. In addition, largely because of the marketing of flavored cigars and

menthol cigarettes, higher rates of smoking and other forms of tobacco use persist among populations the tobacco industry has targeted, especially African-Americans, burdening these communities with higher rates of cancer, heart disease, and pulmonary disease attributable to tobacco use. These challenges will not go away absent strong, clear and decisive government action.

The scientific evidence leaves no doubt that flavored tobacco products, including flavored e-cigarettes and menthol cigarettes, increase the number of people, particularly kids, who initiate tobacco use and become addicted. Prohibiting the sale of menthol cigarettes and other flavored tobacco products is an essential step toward protecting our children and our community from the tobacco industry's aggressive efforts to hook children to these dangerous, addictive products.

This issue is quite simple—it is about common sense and protecting our kids and populations that tobacco industry has targeted and continues to target.

Eliminating health disparities and many of the factors that disproportionately impact many of our citizens can be complicated and difficult to solve. But we have the tools and ability to dramatically reduce the health disparities caused by tobacco use in our city.

Thank you for the opportunity to testify on this important issue.

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Delegate Elizabeth "Susie" Proctor, District 27A
Delegate Pamela Queen, District 14
Delegate Mike Rogers, District 32
Delegate Stephanie Smith, District 45
Delegate Veronica Turner, District 26
Delegate Jay Walker, District 26
Delegate Alonzo T. Washington, District 22
Delegate Ron Watson Ph.D, District 23B
Delegate Melissa Wells, District 40
Delegate Jheanelle Wilkins, District 20
Delegate Nicole Williams, District 22
Delegate C.T. Wilson, District 28

February 13, 2020

Dear Chairwoman Kelley and members of the Senate Finance committee,

The Legislative Black Caucus of MD stands with Senate President Ferguson and Attorney General Frosh, and the public health community in supporting **SB 233 Business Regulation—Flavored Tobacco Products—Prohibition**.

This growing epidemic of e-cigarette use among our youth demands strong and immediate action. E-cigarette use soared by 78 percent among high school students and 48 percent among middle school students nationwide from 2017-2018. More than 5 million high-school and middle-school students used e-cigarettes last year – an increase of 1.5 million over the previous year – and public health authorities warn that these numbers likely have continued to rise. Research shows that 97 percent of current youth e-cigarette users used a flavored product in the past month, and 70 percent cite flavors as a key reason for their use.

95% of smokers begin before the age of 21. Right here in Maryland 18.2% of adults use any tobacco product, including 12.5% who use cigarettes.¹ Tobacco product use among youth is much too high, 5.0% of Maryland high school students smoke cigarettes, 6.0% smoke cigars, 4.6% use smokeless tobacco, and 23% use electronic smoking devices.² We know that most current smokers were enticed to begin this deadly addiction as youth, and most report beginning with a flavor.

As a result of targeted marketing, while the use of traditional cigarettes have declined, the sale of menthol cigarettes have steadily increased, especially among young people and new smokers. Menthol makes it easier to start smoking by masking the harshness of tobacco smoke. As a result, over half of youth smokers use menthol cigarettes; among African American youth smokers, seven out of ten use menthol cigarettes. In addition, there are now over 250 different cigar flavors, and cigars surpass cigarettes in popularity among high school boys nationwide.

In addition to youth, African Americans have been heavily targeted with menthol cigarette marketing. Quitting menthol cigarettes is particularly difficult, so those who initiate with menthol are more likely to become addicted and less likely to quit. Leaving menthol cigarettes in our community is a matter of social justice and leaves those already most impacted by health disparities vulnerable to the aggressive marketing of the tobacco industry.

The African American community has historically been targeted by the tobacco industry with advertising for menthol cigarettes, and a result, the vast majority of African Americans use menthol cigarettes, contributing to tobacco-related health

¹ Maryland Department of Health. BRFS 2018. Unpublished. Local Health Department Tobacco Control Meeting, November 21, 2019.

² Maryland Department of Health. YRBS/YTS 2019. Unpublished. Local Health Department Tobacco Control Meeting, November 21, 2019.

disparities.³ Lung cancer is the second most common cancer in both African American men and women, but it kills more African Americans than any other type of cancer.⁴ According to the American Cancer Society, in 2020, it is projected that there will be 3,930 new cases of lung and bronchus cancer with 2,310 projected deaths of Maryland residents.⁵

Ending the sale of all flavored tobacco products, including but not limited to, menthol cigarettes and flavored cigar complements and builds on proven approaches such as fully funding tobacco prevention and cessation programs, regular and significant tobacco tax increases, and comprehensive smoke-free air laws. Ending the sale of all flavored tobacco products will have a substantial positive impact on public health and save lives.

Cities across the country have already acted to prohibit the sale of all flavored tobacco products. Over 50 localities in California, Colorado, Minnesota, Massachusetts and New York, and the State of Massachusetts have done so. And many other communities and states will likely follow in the coming months and years. Maryland has a long history of combatting tobacco use, and I am asking you to continue that tradition now by protecting our youth and the public health in our city.

It is Maryland's turn in now to end the sale of all flavored tobacco products, including but not limited to, menthol cigarettes and flavored cigars. We humbly ask for the committee to vote favorably on this important public health legislation.

Sincerely,

Darryl Barnes

Delegate Darryl Barnes

Chairman, Legislative Black Caucus of Maryland, Inc.

³ Villanti, AC, et al. "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004-2014," *Tobacco Control*, published online October 20, 2016

⁴ American Cancer Society, "Cancer Facts & Figures for African Americans, 2016-2018," 2016, <http://www.cancer.org/acs/groups/content/@editorial/documents/document/acspc-047403.pdf>

⁵ American Cancer Society, "Cancer Statistics Center—Maryland At a Glance 2020," 2020, https://cancerstatisticscenter.cancer.org/?_ga=2.228084189.1563839069.1580854904-199209832.1566400478#/state/Maryland

BaltimoreCounty_FAV_SB0233

Uploaded by: Byrne, Julia

Position: FAV



JOHN A. OLSZEWSKI, JR.
County Executive

CHARLES R. CONNER III, ESQ.
Chief Legislative Officer

KIMBERLY S. ROUTSON
Deputy Legislative Officer

JOEL N. BELLER
Assistant Legislative Officer

BILL NO.: **SB 233**

TITLE: Business Regulation – Flavored Tobacco Products - Prohibition

SPONSOR: The President (By Request - Office of the Attorney General)

COMMITTEE: Finance

POSITION: **SUPPORT**

DATE: February 13, 2020

Baltimore County **SUPPORTS** Senate Bill 233 – Business Regulation – Flavored Tobacco Products - Prohibition. Under this proposed legislation, licensees would be banned from selling, buying, storing, shipping, or importing flavored tobacco products.

Tobacco companies have historically made a tremendous effort to market their products to new markets, and research has demonstrated that flavored tobacco products are one of the most effective ways to make nicotine appealing to young people. Flavors make tobacco seem safer and more approachable than it would otherwise be. In December 2019, the CDC found that 72.8% of high school-aged tobacco users and 59.6% of middle school-aged tobacco users reported flavored tobacco product use. Additionally, many of the young people surveyed reported high levels of exposure to tobacco product marketing.

County Executive Olszewski is deeply committed to protecting young people from the health risks posed by tobacco addiction. This legislation offers a positive solution to a growing problem affecting thousands of Marylanders and curtails the marketing of a dangerous substance to a vulnerable population.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 233. For more information, please contact Chuck Conner, Chief Legislative Officer, at 443-900-6582.

SB233 FAV in FIN 2020-02-13

Uploaded by: Cahill, Eileen

Position: FAV

**Holy Cross Health
Silver Spring, Maryland**

**Written Testimony in Support of SB233
“Business Regulation – Flavored Tobacco Products – Prohibition”
February 13, 2020**

Dear Members of the Senate Finance Committee:

I write today on behalf of Holy Cross Health (Silver Spring, Md.) in support of SB 0233 “Business Regulation – Flavored Tobacco Products – Prohibition” and, further, to extend our appreciation to the chair, Senator Delores Kelley, and vice chair, Senator Brian Feldman, for their leadership and sponsorship of this important legislation.

Holy Cross Health has worked diligently, alongside local and state organizations, to decrease the use of tobacco and nicotine products (including e-cigarettes), particularly among our adolescent and teen populations. We strongly supported Tobacco 21 legislation and, last year, our collective efforts yielded the successful passage of the legislation, which was signed into law by Governor Hogan. Raising the purchasing age for tobacco and nicotine products from 18 to 21 in Maryland was an important step.

But we still have work to do.

According to the Centers for Disease Control and Prevention (CDC), most youth e-cigarette users start the habit with a flavored variety, and flavored nicotine is the primary reason youth report using e-cigarettes. The CDC also reports that nearly 9 out of 10 cigarette smokers first try cigarette smoking by age 18, and 98% by age 26. The National Campaign for Tobacco-Free Kids also reports that flavored tobacco products attract youth, a targeted demographic that represents a growing market for flavored tobacco products, thereby undermining the nation’s overall progress in reducing tobacco and nicotine use.

The adverse effects of smoking are well-documented, both long-term, such as lung cancer and other chronic diseases, and short-term, such as inflammatory and respiratory ailments.

It is imperative that we continue to collectively work to stop our youth from ever starting to use tobacco and nicotine products, and, importantly, reduce their overall appeal. This can be accomplished, in part, by removing flavored tobacco and nicotine products from the market, which heavily advertises to youth.

Holy Cross Health urges the Senate Finance Committee to protect the health of our youth by supporting SB 0233 and favorably advancing the bill.

Thank you for your consideration.

Sincerely,

Eileen Cahill
Chief Advocacy & Community Engagement Officer
Holy Cross Health
1500 Forest Glen Road
Silver Spring, Maryland 20910
301-754-7881
cahile@holycrosshealth.org

SB 233 ALA Favorable

Uploaded by: Casper, Aleks

Position: FAV

American Lung Association Testimony Senate Bill 233
Finance Committee
February 13, 2020
Support

Chairwoman Kelley and Members of the Committee:

Thank you for the opportunity to provide comments on Senate Bill 233, Flavored Tobacco Products Prohibition sponsored by the Senate President on behalf of the Office of the Attorney General. The American Lung Association strongly supports this bill with no amendments as a way to address the youth tobacco epidemic and encourage current smokers to make a quit attempt.

The American Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease, through research, education and advocacy. The work of the American Lung Association is focused on four strategic imperatives: to defeat lung cancer; to improve the air we breathe; to reduce the burden of lung disease on individuals and their families; and to eliminate tobacco use and tobacco-related diseases.

We have recently seen another dramatic and extremely troubling rise in high school e-cigarette use. In new data from the 2019 National Tobacco Youth Survey, e-cigarette use soared by another 32 percent among high school students from 2018-2019 showing that 27.5 percent of high school users have used e-cigarettes in the last month, compared to 11.7% in 2017 and 20.8% in 2018. This equals more than 5 million middle and high school students who now use e-cigarettes. The tobacco industry has continued to target youth users with marketing of these products which have made them appealing for youth users to initiate tobacco use, with many youth not realizing that these products contain nicotine and then struggling with a lifetime of addiction. The Lung Association is encouraging states to look at evidence-based policy measures to address this epidemic, including the measure before you which would remove all flavored tobacco products from the market. It is critical that all flavored products are included in any legislation as if you leave one product on the market youth may just switch to that product. Any legislative measure must include all flavors and all products, which include but are not limited to e-cigarettes, menthol cigarettes, hookah, cigars and smokeless products.

While much attention has been focused on how e-cigarettes are now attracting and addicting Maryland residents, many other flavored tobacco products have been on the market for decades. The tobacco industry has a long history of targeting communities of color, LBGQT communities and communities of low socioeconomic status with the sale of menthol cigarettes and flavored cigarillos.

Flavors are a marketing weapon the tobacco manufacturers use to target youth and young people and hook them for a lifetime of addiction. Adding flavors to tobacco products can improve the ease of use of a product by masking the harsh taste of tobacco, facilitating nicotine uptake, and increasing a product's overall appeal. Candy, fruit, mint, and menthol flavorings in tobacco products are a promotional tool to lure new, young users, and these products are aggressively marketed with creative campaigns by tobacco companies. Products with flavors like cherry, grape, cotton candy, and gummy bear are clearly not aimed at established, adult tobacco users and years of tobacco industry documents confirm the intended use of flavors to target youth. Furthermore, youth report flavors are a leading reason they use tobacco products and they also perceive flavored products as less harmful. The data shows us that more than 95% of smokers start before they are 21. Passage of comprehensive tobacco control legislation would be a tremendous victory for Maryland's kids and families and will protect them from tobacco addiction and other health risks associated with the use of tobacco products.

Removing all flavored tobacco products would be a critical component to a comprehensive strategy to reduce tobacco use and prevent initiation and lifelong addiction. Ensuring that all flavored tobacco products are included in any policy measure will benefit Maryland communities of color, LGBTQ communities, and communities of lower socioeconomic status by reducing tobacco use and saving lives. We urge you to make sure no communities are left behind.

As with the passage of Tobacco 21 during the last session of the General Assembly, these measures are all pieces of the puzzle to address the youth tobacco epidemic in a comprehensive way. The Lung Association believes that in light of the federal government's unwillingness to act, it is up to states like Maryland to take action and move forward comprehensive policy approaches to address this epidemic.

The Lung Association thanks the Maryland General Assembly for their continued commitment to the health and wellbeing of the residents of Maryland and the desire to protect Maryland youth from a lifelong tobacco and nicotine addiction. With action on this bill Maryland is making a commitment to having the first generation of never smokers. The Lung Association strongly supports Senate Bill 233 as drafted with no amendments and encourages swift action to move the bill out of committee and passage by the General Assembly.

Sincerely,



Aleks Casper
Director of Advocacy, Maryland
202-719-2810
aleks.casper@lung.org

SB 233 Cherukupalli_Testimony_ Favorable

Uploaded by: Cherukupalli, Rajeev

Position: FAV

Testimony of Rajeev Cherukupalli

February 13, 2020

Senate Bill 233: Business Regulation - Flavored Tobacco Products – Prohibition

POSITION: SUPPORT

Thank you for the opportunity to comment on the economic implications of SB 233. I focus on the labor market.

Will SB233 result mean lost employment and harm to the state’s economy and tax base?

The evidence suggests no.

First, most retailers of flavored tobacco products do not rely on them as their sole or primary line of business.

Second, when some tobacco products are restricted, consumers spend their money on other purchases. Product substitution is a well-studied consumer behavior.

Most of the 6000+ Maryland retailers selling cigarettes and tobacco products will restock their shelves, with little harm to their business or jobs.

What about the newer phenomenon of stores specializing in electronic cigarettes?

Fundamentally, a comprehensive ban on *flavored* e-cigarettes is not a ban on all e-cigarettes, let alone the ability of entrepreneurial businesses to adapt, modify their offerings and make a profit.

There were between 124 and 170 vape shops and e-cigarette retailers active in the state, depending on the source. We estimate that these employ between 375 and 545 workers.

For perspective, Maryland’s retail sector continues to provide gainful employment for over 270,000 people. Retail sector employment in Maryland grew 1.5% between 2018 and 2020. Median retail sector wages have risen.

All these facts should reassure policymakers. Regulations to protect the youth are unlikely to lead to large scale business closures or retrenchments of vape shop workers. And if workers look for comparable opportunities outside the vape store subsector, Maryland’s broader retail economy is strong.

Thank you for your consideration. My colleague, Jeffrey Hardesty, will now wrap up, and I am happy to take questions after that.

Rajeev Cherukupalli, PhD
Assistant Scientist, Health Behavior and Society
Johns Hopkins University
Email: rcheruku@jhu.edu
Phone: 212-205-0413

The opinions expressed herein are my own and do not necessarily reflect the views of The Johns Hopkins University.

MDDCSAM_FAV_SB 233

Uploaded by: Ciekot, Ann

Position: FAV

Testimony IN SUPPORT of SB 233 - Flavored Tobacco Products - Prohibition

Finance Committee 2-13-2020

Nishant Shah, MD, MPH

MDDCSAM is a chapter of the American Society of Addiction Medicine whose members are physicians and other health providers who treat people with substance use disorders.

I am writing to support SB 233 to prohibit the sale of flavored tobacco and vaping products in the State of Maryland. Maryland will be joining 8 other states that have already banned flavored e-cigarette, and will lead the nation in banning all flavored nicotine products, including menthol flavored cigarettes. Federal law banned the majority of flavored cigarettes in 2009, and many cities and counties have banned all flavored tobacco products, similar to the proposed legislation.

Flavored tobacco products have been historically used to entice youth and non-smokers to try tobacco products. Flavored vaping products have followed a similar form of enticement, especially for youth smokers. In the State of Maryland, 13% of high school students have used a vaping product¹. Vaping products marketed as “juice pods” and in flavors titled “Pineapple Crush, Bubble Gum, and Mango” are products intentionally designed to target youth. In addition to flavored products, youth are targeted through promotional advertising in store windows, sports event sponsorship, and social media marketing campaigns.

In addition, vaping products deliver more concentrated amounts of nicotine to youth in higher volumes. As a result, youth are at higher risk of developing dependence on nicotine. Nicotine dependence with e-cigarettes is associated with a higher rate of cigarette smoking in the future².

Youth smoking is the strongest predictor of adult smoking; nearly 90% of adult smokers started smoking before the age of 18³. It is therefore essential to limit youth exposure to nicotine products if we are going to reduce the number of adults smoking.

Finally, smoking is the leading cause of preventable death in the United States, contributing to increased rates of cancer, heart attacks, and strokes. Our goal to improve health outcomes for Marylanders is dependent on helping people quit smoking, this bill will limit access to the products that will create the next generation of Maryland smokers. As Health professionals tasked with addressing the needs of individuals with substance use disorders, the Maryland DC Society of Addiction Medicine supports the passage of SB 233.

¹ Source NYTS 2018. Accessed January 28, 2020. <https://www.tobaccofreekids.org/problem/toll-us/maryland>

² Barrington-Trimis JL et al. “E-cigarettes and future cigarette use.” *Pediatrics*, July 2016

³ CDC. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. 2012 and CDC. E-Cigarette use among youth and young adults: A Report of the Surgeon General. 2016

NCADD_FAV_SB 233

Uploaded by: Ciekot, Ann

Position: FAV



Senate Finance Committee

February 13, 2020

Senate Bill 233

Business Regulation - Flavored Tobacco Products - Prohibition

Support

NCADD-Maryland supports Senate Bill 233. NCADD-Maryland has long supported policies that deter young people from smoking tobacco products. The tobacco industry has used sweet flavors and other marketing tools over the years to entice young people to try their products, knowing that the science is clear: The earlier in life one starts smoking, the more likely one will become addicted. Flavored vaping products are just the latest attempt to get kids hooked.

Flavored nicotine products were largely banned by the federal government in 2009 and the results included a marked decrease in the number of young people smoking. Current, it is estimated that in Maryland, 13% of high school students have used a vaping product. Vaping products deliver more concentrated amounts of nicotine in higher volumes, putting our youth at greater risk of developing dependence on nicotine.

When research shows that nearly 90% of adult smokers started smoking before the age of 18, it is an essential public health policy to limit youth exposure to nicotine products.

We urge your support of Senate Bill 233.

The Maryland Affiliate of the National Council on Alcoholism and Drug Dependence (NCADD-Maryland) is a statewide organization that works to influence public and private policies on addiction, treatment, and recovery, reduce the stigma associated with the disease, and improve the understanding of addictions and the recovery process. We advocate for and with individuals and families who are affected by alcoholism and drug addiction.

National Council on Alcoholism & Drug Dependence – Maryland Chapter
28 E. Ostend Street, Suite 303, Baltimore, MD 21230 · 410-625-6482 · fax 410-625-6484
www.ncaddmaryland.org

ACS CAN_FAV_SB 233

Uploaded by: Collins, Jocelyn

Position: FAV



February 13, 2020

TO: The Honorable Delores G. Kelley, Chair
The Honorable Brian J. Feldman, Vice Chair
Members of the Senate Finance Committee
3 East
Miller Senate Office Building
Annapolis, MD 21401

FROM: Jocelyn Collins, Maryland and DC Government Relations Director
American Cancer Society Cancer Action Network
555 11th St. NW, Suite 300
Washington, DC 20004
jocelyn.collins@cancer.org
(301) 254-0072 (cell)

SUBJECT: SB 233 Business Regulation—Flavored Tobacco Products—Prohibition

POSITION: SUPPORT

The American Cancer Society Cancer Action Network (ACS CAN) is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society. We support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. On behalf of our constituents, many of whom have been personally affected by cancer, we stand in strong support of **SB 233 Business Regulation—Flavored Tobacco Products—Prohibition**.

Data from the 2019 National Youth Tobacco Survey show youth use of e-cigarettes in high schools skyrocketed, with a 135% increase over the past two years. Survey results also show that 27.5% of high school students used e-cigarettes in the last 30 days.¹ Nearly 64% used mint or menthol flavored e-cigarettes, only 2% less than fruit flavored products and significantly more than candy flavors.² Research also shows that 97 percent of current youth e-cigarette users used a flavored product in the past month, and 70 percent cite flavors as a key reason for their use.

In Maryland, 18.2% of adults use any tobacco product, including 12.5% who use cigarettes.³ While 5.0% of Maryland high school students smoke cigarettes, 6.0% smoke cigars, 4.6% use smokeless tobacco, and 23% use electronic smoking devices.⁴ We know that most current smokers were enticed to begin this deadly addiction as youth, and most report beginning with a flavor.

¹ Office of the Commissioner, "Trump Administration Combating Epidemic of Youth E-Cigarette Use with Plan to Clear Market of Unauthorized, Non-Tobacco-Flavored E-Cigarette Products," U.S. Food and Drug Administration (FDA, September 11, 2019), <https://www.fda.gov/news-events/press-announcements/trump-administration-combating-epidemic-youth-e-cigarette-use-plan-clear-market-unauthorized-non>.

² Office of the Commissioner, "Trump Administration Combating Epidemic of Youth E-Cigarette Use with Plan to Clear Market of Unauthorized, Non-Tobacco-Flavored E-Cigarette Products," U.S. Food and Drug Administration (FDA, September 11, 2019), <https://www.fda.gov/news-events/press-announcements/trump-administration-combating-epidemic-youth-e-cigarette-use-plan-clear-market-unauthorized-non>.

³ Maryland Department of Health. BRFSS 2018. Unpublished. Local Health Department Tobacco Control Meeting, November 21, 2019.

⁴ Maryland Department of Health. YRBS/YTS 2019. Unpublished. Local Health Department Tobacco Control Meeting, November 21, 2019.

As a result of targeted marketing, while the use of traditional cigarettes have declined, the sale of menthol cigarettes have steadily increased, especially among young people and new smokers. Menthol makes it easier to start smoking by masking the harshness of tobacco smoke. As a result, over half of youth smokers use menthol cigarettes; among African American youth smokers, seven out of ten use menthol cigarettes. In addition, there are now over 250 different cigar flavors, and cigars surpass cigarettes in popularity among high school boys nationwide.

In addition to youth, African American, LatinX, and LGBTQ communities have been heavily targeted with menthol cigarette marketing. Quitting menthol cigarettes is particularly difficult, so those who initiate with menthol are more likely to become addicted and less likely to quit. Leaving menthol cigarettes in our communities is a matter of social justice and leaves those already most impacted by health disparities vulnerable to the aggressive marketing of the tobacco industry.

The 2020 Surgeon General *Smoking Cessation: A Report of the Surgeon General* released on January 23, 2020 noted that an “endgame” strategy that could further bolster tobacco cessation would be to **restrict the sale of flavored tobacco products, including menthol.**⁵

Cities across the country have already acted to prohibit the sale of all flavored tobacco products. Over 80 localities in California, Colorado, Minnesota, Massachusetts and New York, and the State of Massachusetts have done so. And many other communities and states are currently considering similar proposals. months and years. It’s now Maryland’s turn!

I strongly urge you to protect youth from all flavored tobacco products, including flavored cigars, menthol cigarettes, hookah, and smokeless tobacco and vote “favorably” for this legislation.

Thank you.

Sincerely,

Jocelyn Collins
Maryland and DC Government Relations Director
American Cancer Society Cancer Action Network

⁵ U.S Department of Health and Human Services (HHS). *Smoking Cessation: A Report of the Surgeon General- Executive Summary*. Rockville, MD. U. S. Department of Health and Human Services, Public Health Service, Office of the Surgeon General; 2020. Available at <https://www.hhs.gov/sites/default/files/2020-cessation-sgr-executive-summary.pdf>.

Support HB 3/SB 233

The Only Comprehensive Legislation That Protects Kids and Communities of Color from Tobacco Addiction

	Includes ALL flavored tobacco products	Prohibits manufacture, shipment, import, and sale of flavored tobacco products	Holds retailers liable for selling or offering flavored tobacco products	Prevents new flavored tobacco products from entering the market
HB 3/SB 233 (Del. Davis & AG Frosh)	 Covers all flavored tobacco products, including but not limited to e-cigarettes, menthol cigarettes, flavored cigars, hookah, and flavored smokeless tobacco	 A violation is a misdemeanor punishable by maximum penalties of a \$1,000 fine and/or 30- day imprisonment. This includes online sales	 A violation is a misdemeanor punishable by maximum penalties of a \$1,000 fine and/or 30- day imprisonment	 Banning all flavored products will stop new products that circumvent current regulations from reaching Maryland kids
SB 410 (Sen. Kramer)	 Covers only flavored electronic smoking devices (e-cigarettes) that come in “artificial or natural flavors”. Allows the sale of flavored tobacco products kids prefer, like menthol cigarettes *	 Prohibits the sale of certain flavored electronic smoking devices in the state. It does not address manufacture, shipment or import	 A violation is a misdemeanor punishable by maximum penalties of a \$1,000 fine and/or 30- day imprisonment	 Addresses only a portion of the flavors and products on the market (e-cigarettes). Would not prevent new products that target regulatory loopholes from reaching kids
SB 54 (Sen. Lam)	 Covers only flavored e-cigarettes that come in ‘artificial or natural flavors’. Allows the sale of other flavored tobacco products that kids prefer, like menthol cigarettes *	 Prohibits the sale, manufacture, shipment, import, or sale of some flavored e-cigarette products	 Does not have a fine enforcement structure; leaves it to the comptroller’s discretion	 Addresses a portion of the flavors and products on the market (e-cigarettes). Would not prevent new products that target regulatory loopholes from reaching kids

* More than half (54%) of all youth smokers ages 12-17 use menthol cigarettes



**American Cancer Society
Cancer Action Network**
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Washington, DC 20004
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February 5, 2020

**The Honorable Delores G. Kelley, Chair
The Honorable Brian J. Feldman, Vice Chair
Members of the Senate Finance Committee
Miller Senate Office Building, 3 East Wing
11 Bladen St.
Annapolis, MD 21401**

**The Honorable Dereck E. Davis, Chair
The Honorable Kathleen Dumais, Vice Chair
Members of the House Economic Matters Committee
MD House of Delegates
6 Bladen St., Room 231
Annapolis, MD 21401**

**The Honorable Shane Pendergrass, Chair
The Honorable Joseline A. Pena-Melnyk, Vice Chair
Members of the House Government Operations Committee
6 Bladen St., Room 241
Annapolis, MD 21401**

Dear Chairman Kelley, Chairman Davis, Chairman Pendergrass, Members of the Senate Finance Committee, Members of the House Economic Matters Committee, and Members of the House Government Operations Committee:

It's not an accident that e-cigarette use by high school students increased by 135 percent from 2017 to 2019. In addition to selling and marketing products that come in kid-friendly candy and fruit flavors, tobacco companies together with the Vapor Technology Association and Maryland Vapor Alliance continue to lobby hard to ensure these products are not regulated by evidence-based tobacco control policies like HB 3/SB 233. Tobacco companies and their allies have created the problem, it would be foolish to trust them to fix it.

The use of flavored tobacco products by youth and young adults is high. In 2019, an estimated 4.3 million middle and high school students used a flavored product in the last 30 days.¹ Approximately 70 percent of students who used tobacco used a flavored product according to a Centers for Disease Control and Prevention (CDC) study.¹ Furthermore, another study found that more than 80 percent of teens who had ever used a tobacco product started with a flavored product.²

1. Centers for Disease Control and Prevention. Tobacco Use Among Middle and High School Students—United States, 2019. *Morbidity and Mortality Weekly Report*, 2019;68(12):1–22.
2. Ambrose et al. Flavored tobacco product use among U.S. youth aged 12–17 years, 2013–2014. *JAMA*, 2015; 314(17): 1871–3.

Flavors are a marketing weapon the tobacco manufacturers use to target youth and young people to a lifetime of addiction. Altering tobacco product ingredients and design, like adding flavors, can improve

the ease of use of a product by masking harsh effects, facilitating nicotine uptake, and increasing a product's overall appeal.¹ Candy, fruit, mint and menthol flavorings in tobacco products are a promotional tool to lure new, young users, and are aggressively marketed with creative campaigns by tobacco companies.² Products with flavors like cherry, grape, cotton candy, and gummy bear are clearly not aimed at established, adult tobacco users and years of tobacco industry documents confirm the intended use of flavors to target youth.³

There are a number of tobacco products that come in a variety of flavors. Large cigars and cigarillos, which can resemble either "little cigars" or large cigars, can come in a variety of flavors. Cigars were the most popular product among black high school students. Among all teen cigar users, more than 41 percent had smoked a flavored cigar in the past 30 days in 2019.⁴ According to another study, in 2014, more than 70 percent of teens who have ever smoked a cigar smoked a flavored product.⁵

Additionally, long before cigarette companies started adding fruit, candy, and alcohol flavorings to cigarettes, they were manipulating levels of menthol to addict new, young smokers. Menthol acts to mask the harsh taste of tobacco with a minty flavor and by reducing irritation at the back of the throat with a cooling sensation. Additionally, menthol may enhance the delivery of nicotine. Knowing that youth who experience less negative physiological effects of smoking are more likely to continue smoking regularly, the tobacco industry has spent decades manipulating its menthol brand-specific product line to appeal to youth and, in particular, African Americans.

Cities across the country have already acted to restrict the sale of all flavored tobacco products, including menthol cigarettes and flavored cigars. Over 80 communities in California, Colorado, Minnesota, Massachusetts and New York, and the State of Massachusetts have done so. Maryland is a leader on combatting tobacco use, and I am asking you to continue that tradition now by protecting our youth and the public health in our State.

The American Cancer Society Cancer Action Network (ACS CAN) position has not changed: **we support several critical policy approaches to reduce youth e-cigarette use without inadvertently incentivizing the use of other tobacco products. We firmly support the need to end the sale of all flavored tobacco products, including but not limited to, menthol cigarettes and flavored cigars.**

The recent FDA guidance falls well short of protecting our kids and continues to allow many flavored e-cigarettes and other flavored tobacco products proliferate the market. **However, this guidance does not preempt strong, comprehensive state and local policies that regulate the sale of all flavored tobacco products.**

1. FDA Guidance for Industry and FDA Staff, "General Questions and Answers on the Ban of Cigarettes that Contain Certain Characterizing Flavors (Edition 2) ("FDA Guidance on Characterizing Flavors").
2. Delnevo, C, et al., "Preference for flavoured cigar brands among youth, young adults and adults in the USA," Tobacco Control, epub ahead of print, April 10, 2014. King, BA, et al., "Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students," Journal of Adolescent Health 54(1):40-6, January 2014.
3. Carpenter CM, Wayne GF, Pauly JL, Koh HK, Connolly GN. New cigarette brands with flavors that appeal to youth: tobacco marketing strategies. Health Affairs. 2005; 24(6): 1601-1610.
4. Corey, CG, Ambrose BK, Apelberg BJ, King, BK. Flavored Tobacco Product Use Among Middle and High School Students – United States, 2014. MMWR, October 2, 2015; 64(38): 1066-1070.
5. Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.



acscan.org

The aggressive use of flavors and marketing tactics by the tobacco industry, rapid increased use of flavored products by youth and young adults, and under regulation of these products requires the public health community to take action to protect youth and young adults, and the public health at-large.

ACS CAN calls on you to end the sale of all flavored tobacco products, including but not limited to menthol cigarettes and flavored cigars and support HB 3/SB 233 without any exemptions.

Sincerely,

Marissa Brown
Senior Vice President, State and Local Advocacy
American Cancer Society Cancer Action Network

CC:

Jocelyn Collins, Maryland and DC Government Relations Director at the American Cancer Society Cancer Action Network

Attorney General Brian Frosh

Restricting the Sale of ALL Flavored Tobacco Products in Maryland (HB 3/SB 233)

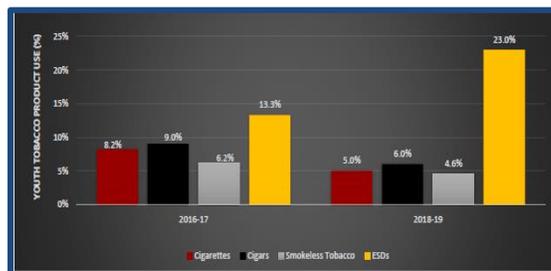


The American Cancer Society Cancer Action Network (ACS CAN) supports restricting the sale of all flavored tobacco products, including but not limited to menthol cigarettes and flavored cigars.

Protecting Maryland Youth from Tobacco

Maryland high school students currently use some form of tobacco:¹

- 5.0 percent currently smoke cigarettes
- 6.0 percent currently smoke cigars
- 4.6 percent currently use smokeless tobacco
- 23.0 percent currently use electronic smoking devices



Source: Maryland Department of Health. YRBS/YTS 2019. Unpublished.

Nationally, use of tobacco products by youth increased by 36 percent from 2017 to 2018, driven by a substantial increase in e-cigarette use.² Furthermore, the use of flavored tobacco products by young adults is nearly 73%.

Flavors Hook Kids

The dangers of flavored tobacco do not just start and end with electronic smoking devices. There are over 15,000 flavors including but not limited to cotton candy, gummy bear, mango, mint, and menthol.



80% of youth who have ever used tobacco started with a flavored product.³ According to the FDA, 70% of youth electronic smoking device users say these use electronic smoking devices because they come in appealing flavors.⁴

Additionally, the 2019 National Youth Tobacco Survey, **mint and menthol** flavored e-cigarettes were the second most popular flavor category among high school users.⁵

Furthermore, the tobacco industry has targeted the marketing of these products to youth—especially among communities of color and LGBTQ youth—as they attempt to lure kids into a lifetime of addiction.

Menthol and Flavored Cigars

Menthol in particular, is a flavor proven to be especially addictive and hard to quit. Allowing menthol flavored products to stay on store shelves disproportionately, negatively impacts communities of color, LGBT communities



¹ Maryland Department of Health. YRBS/YTS 2019. Unpublished. Local Health Department Tobacco Control Meeting, November 21, 2019.

² Centers for Disease Control and Prevention. Tobacco Use Among Middle and High School Students—United States, 2011–2018. *Morbidity and Mortality Weekly Report*, 2019;68(6):157–164.

³ Ambrose, BK, et al., “Flavored Tobacco Product Use Among US Youth Aged 12–17 Years, 2013–2014,” *Journal of the American Medical Association*, published online 26 October 2015.

⁴ FDA, Guidance for Industry: Modifications to Compliance Policy for Certain Deemed Tobacco Products, 14 March 2019.

⁵ Cullen KA, Gentzke AS, Sawdey MD, et al. e-Cigarette Use Among Youth in the United States, 2019. *JAMA*. 2019;322(21):2095–2103. doi:<https://doi.org/10.1001/jama.2019.18387>

and lower socioeconomic communities and leads to higher unequal burden of disease and death.

Nationally, 42% of middle school students and 46% of high school students who use tobacco products smoke menthol cigarettes. Knowing that youth who experience less negative physiological effects of smoking are more likely to continue smoking regularly, the tobacco industry has spent decades manipulating its menthol brand-specific product line to appeal to youth, communities of color, and the LGBTQ communities.

Little cigars, cigarillos, and large cigars are offered in a variety of flavors including candy and fruit flavors such as sour apple, cherry, grape, chocolate and menthol. So-called “little cigars” have the look and feel of a cigarette, and are smoked like a cigarette, yet are often sold individually and have likely benefited the most from the cigarette flavor prohibition.



In fact, in 2016, the U.S. Food and Drug Administration (FDA) sent warning letters to four tobacco manufacturers stating that they were illegally selling flavored cigarettes labeled as “little cigars.”⁶ Cigars were the most popular product among black high school students.⁷ Among all teen cigar users, more than 60 percent had smoked a flavored cigar in the past 30 days in 2014,⁸ according to another study, more than 70 percent of teens who have ever smoked a cigar smoked a flavored product.⁹

Maryland must do more to protect kids

The U.S. Food and Drug Administration (FDA) released guidance in January 2020 that includes only a partial prohibition on flavors by allowing “vape shops” that sell open tank systems to continue to sell fruit, candy, mint and menthol flavors that have hooked a new generation of tobacco users. The guidance will also continue to allow the sale of menthol flavored e-cigarettes in all locations, abandoning previous commitments by the Administration to clear the market of all e-cigarette flavors in response to a growing epidemic of youth use.

This FDA guidance falls well short of protecting our kids and won’t meaningfully address the epidemic of youth tobacco use. **However, this guidance does not preempt strong, comprehensive state and local policies that regulate the sale of all flavored tobacco products.**

ACS CAN will continue to work in Maryland to advance and implement effective tobacco control policies that make up for the shortcomings of the FDA’s guidance, such as restricting the sale of all flavored tobacco products, including but not limited to menthol cigarettes and flavored cigars.

⁶ <https://www.fda.gov/newsevents/newsroom/pressannouncements/ucm532563.htm>

⁷ Centers for Disease Control and Prevention. Tobacco Use Among Middle and High School Students—United States, 2011–2018. *Morbidity and Mortality Weekly Report*, 2019;68(6):157–164.

⁸ Corey, CG, Ambrose BK, Apelberg BJ, King, BK. Flavored Tobacco Product Use Among Middle and High School Students – United States, 2014. *MMWR*, October 2, 2015; 64(38): 1066-1070.

⁹ Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. *JAMA*, 2015; 314(17): 1871-3.

Summary of FDA's January 2020 Guidance on Flavored E-cigarettes



On January 6, 2020 the U.S. Food and Drug Administration (FDA) released a new tobacco industry guidance on certain flavored e-cigarettes. The *“Enforcement Priorities for Electronic Nicotine Delivery Systems (ENDS) and Other Deemed Products on the Market Without Premarket Authorization”* states that the FDA will prioritize enforcement of only certain flavored e-cigarette products starting February 6, 2020 by removing these products from the market.

Under the Family Smoking Prevention and Tobacco Control Act (TCA), all *new* tobacco products that are currently on the market without FDA authorization are considered illegally marketed products. FDA may use its enforcement authority to order the removal from the market of all illegally marketed products. A new tobacco product is defined in the TCA that was not commercially marketed in the United States as of February 15, 2007. Almost all e-cigarette products and many cigars, hookah tobacco and smokeless products meet the definition of a new tobacco product.

Prohibited Flavored Products

FDA will use its enforcement authority to remove from the market some flavored cartridge-based e-cigarettes except for tobacco- and menthol-flavored products. Cartridge-based e-cigarettes are defined as those that consist of, include, or involve a cartridge or pod that holds liquid to be aerosolized. A cartridge or pod is any small, enclosed unit designed to fit with an e-cigarette. It can be sealed or unsealed.

In addition, the guidance states FDA will use its enforcement authority to order removal of products that target youth and young adults and products for which the manufacturer has failed to prevent youth access to the products. The guidance does not provide any specificity on how these provisions would be enforced and there is little certainty of their impact.

Flavored Products Still Permitted

FDA will not use its enforcement authority to remove from the market other kinds of e-cigarettes, including self-contained disposable products, and open, refillable systems, and e-liquids used to fill them. Nor will FDA use its enforcement authority to remove from the market other flavored new tobacco products, including flavored cigars, hookah tobacco, and smokeless. Therefore, e-liquids, open, refillable e-cigarette products, self contained disposable e-cigarette products, cigars, hookah tobacco, and smokeless tobacco in any flavor will still be permitted to be on the market. Tobacco- and menthol-flavored cartridge-based e-cigarettes will also still be permitted.

In addition, the guidance does not place any restrictions on where these products can be sold (for example, in “vape shops” or by retailers that only permit entry to individuals over the age of 21 at all times).

Menthol cigarettes are not and could not be addressed through guidance because they are not a new tobacco product illegally on the market. FDA would have to use other authorities, such as a product standard, to address menthol cigarettes.

FDA Authorization of New Tobacco Products

This guidance on the removal from market of only certain flavored e-cigarettes does not change the federal requirement that any new product must receive marketing authorization from the FDA. As a reminder, all

new tobacco products that are currently on the market without FDA authorization are illegally marketed products. As a result of a lawsuit brought by the American Cancer Society Cancer Action Network (ACS CAN) and other tobacco control organizations, the court has mandated deadlines for the marketing authorization process. Manufacturers of new products must submit their marketing authorization applications to FDA by May 12, 2020. If an application is not submitted, the product should be removed. If the application is submitted, the product can remain on the market for up to one year or until FDA determines whether to authorize the product; whichever date is earlier.

FDA states in this guidance that it will prioritize enforcement of the premarket review requirements for e-cigarettes prior to the May 12, 2020 deadline, but importantly, it is still up to individual manufacturers to submit their applications prior to the deadline. FDA also acknowledges it may not have the resources to remove every illegally marketed new tobacco product and therefore will use its enforcement discretion on a case-by-case basis after the May 12, 2020 deadline. Factors FDA could consider in prioritizing enforcement of market availability could include youth and young adult use of certain tobacco products, including the use of flavor products.

ACS CAN's Position:

The aggressive use of flavors and marketing tactics by the tobacco industry, the rapid increased use of flavored tobacco products by youth and young adults, and under-regulation of these products requires the public health community to take action to protect youth and young adults, and the public health at-large. The FDA's guidance on certain flavored e-cigarettes is woefully insufficient to address the current youth tobacco epidemic. ACS CAN supports several strategies:

- ❖ **Federal Restrictions:** Congress or the FDA should prohibit the use of characterizing flavors, including menthol, in all tobacco products. A manufacturer of a new tobacco product, as defined by law, should be required, through premarket review, to prove that the use of a flavor is appropriate for the protection of public health.
- ❖ **State and Local Sales Restrictions:** Many states and localities are moving forward and enacting restrictions on the sale of flavored tobacco products and winning legal challenges to its laws. The TCA does not permit a state or locality from requiring a product standard, such as the removal of a flavor, but the law does preserve the ability for states and localities to regulate the sales of tobacco products. States and localities should pursue policy options including restrictions or a complete prohibition of the sale of flavored tobacco products, including menthol cigarettes, while taking into consideration what is permitted in a specific jurisdiction.

Flavors in Tobacco Products

Attracting & Addicting Youth



Flavors are a marketing weapon the tobacco manufacturers use to target youth and young people to a lifetime of addiction. Altering tobacco product ingredients and design, like adding flavors, can improve the ease of use of a product by masking harsh effects, facilitating nicotine uptake, and increasing a product's overall appeal.ⁱ Candy, fruit, mint and menthol flavorings in tobacco products are a promotional tool to lure new, young users, and are aggressively marketed with creative campaigns by tobacco companies.ⁱⁱ Products with flavors like cherry, grape, cotton candy, and gummy bear are clearly not aimed at established, adult tobacco users and years of tobacco industry documents confirm the intended use of flavors to target youth.ⁱⁱⁱ Furthermore, youth report flavors a leading reason they use tobacco products and perceive flavored products as less harmful.^{iv}

The use of any flavored tobacco product among youth is concerning because it exposes them to a lifetime of nicotine addiction, disease, and premature death.

Flavored Tobacco Products

Overall use of tobacco products by youth increased by 36 percent from 2017 to 2018, driven by a substantial increase in e-cigarette use.^{vi} Furthermore, the use of flavored tobacco products by youth and young adults is high. In 2014, an estimated 3.2 million middle and high school students used a flavored product in the last 30 days, or 70 percent of students who used tobacco used a flavored product according to a Centers for disease Control and Prevention (CDC) study.^{vii} Furthermore, another study found that more than 80 percent of teens who had ever used a tobacco product started with a flavored product.^{viii} Characterizing flavors, except for menthol and tobacco, are prohibited in cigarettes by federal law, but other tobacco products have benefited from not being covered by a similar regulatory restriction (see Spotlight on p.3).

Flavored e-cigarettes have proliferated on the market, with one study identifying more than 15,500 distinct flavors available to consumers, up from 7,700 unique e-cigarette flavors in 2014.^{ix} Flavors offered including fruit, candy, and menthol flavors, and were often paired with flashy marketing campaigns to appeal to youth. E-cigarettes are the mostly commonly used flavored tobacco product among high school students overall.

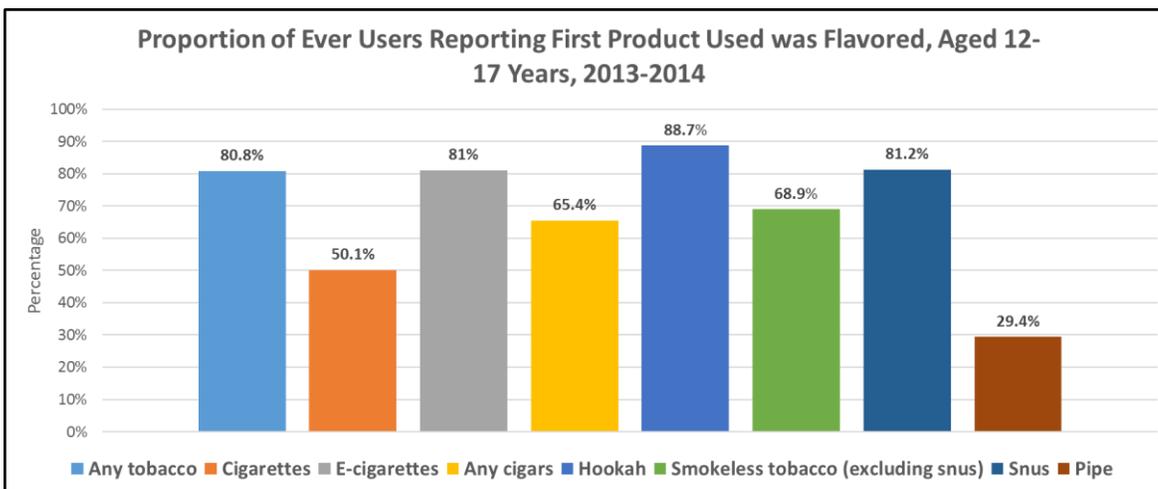
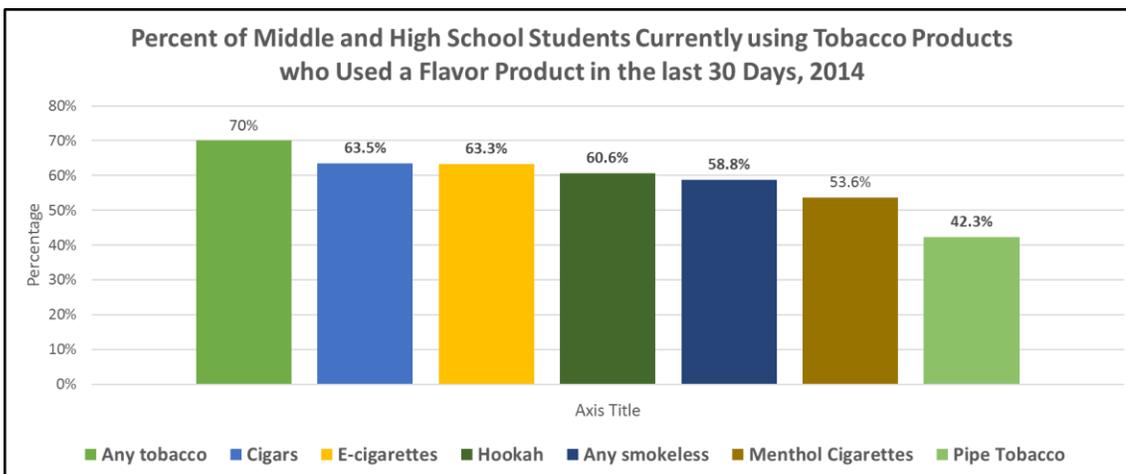
Data from the 2016-2017 PATH study, the largest national longitudinal study looking at tobacco use and its effects, found that among teens who use e-cigarettes, 97.0 percent regularly used a flavored product.^x Also, among those teens who had ever tried an e-cigarette, 96.1 percent used a flavor product for the first time. In 2018, among high school e-cigarette users, use of any flavored e-cigarette significantly increased from 60.9 percent to 67.8 percent and use of a menthol- or mint-flavored e-cigarette increased from 42.3 percent to 51.2 percent in just one year.^{xi} Among young adults who reported using e-cigarettes every or some days in 2013-2014 91.6 percent used a flavored product.^{xii}

So-called "little cigars" have the look and feel of a cigarette, and are smoked like a cigarette, yet are often sold individually and are available in a variety of flavors and have likely benefited the most from the cigarette flavor prohibition. In fact, in 2016, the U.S. Food and Drug Administration (FDA) sent warning letters to four tobacco manufacturers stating that they were illegally selling flavored cigarettes labeled as "little cigars."^{xiii} Large cigars and cigarillos, which can resemble either "little cigars" or large cigars, can come in a variety of flavors. Cigars were the most popular product among black high school students.^{xiv} Among all teen cigar users, more than 60 percent had smoked a flavored cigar in the past 30 days in 2014,^{xv} and

according to another study, more than 70 percent of teens who have ever smoked a cigar smoked a flavored product.^{xvi}

Smokeless tobacco companies have a long history of using flavorings, such as mint, cherry, apple, and honey, and other product manipulation to gradually get new, young users addicted to “starter” products, keep them using, and shift them on to more potent smokeless tobacco products. In 2014, almost 60 percent of middle and high school students who used smokeless tobacco had used a flavored product in the last month.^{xvii} According to another study, more than 70 percent of teens who had ever used smokeless tobacco used a flavored product the first time.^{xviii}

For waterpipe or hookah use, more than 60 percent of current middle and high school users used a flavored product^{xix}, and almost 90 percent of those surveyed who had ever smoked hookah used a flavored product the first time in 2014.^{xx} What’s troubling, is that the flavorings used in waterpipe tobacco, the sweet aromas and use of water make users misperceive this practice as safer than cigarette smoking.^{xxi} In fact, hookah tobacco and smoke are as dangerous as cigarettes, and contain carcinogens and other substances that can cause cancer and other diseases.^{xxii} An hour-long waterpipe or hookah session typically involves 200 puffs of smoke, whereas smoking a single cigarette typically involves 20 puffs of smoke.



SPOTLIGHT: Federal regulation of flavors in tobacco products

Recognizing the danger that flavors in cigarettes has in attracting and addicting new smokers, especially youth, the Family Smoking Prevention and Tobacco Control Act (TCA) of 2009 prohibited the use of characterizing flavors, except for menthol and tobacco, in cigarettes. Prior to the law, cigarette manufacturers aggressively marketed these flavored products, including “Twista Lime” and “Winter MochaMint,” with creative campaigns like “scratch and sniff” marketing tactics, DJ nights, ads in magazines with a high proportion of youth and young adult readers, and specially-themed packs to attract new young users.

To understand a consequence to limiting the flavor prohibition to only cigarettes and exempting menthol flavoring, an analysis evaluated youth tobacco use before and after the prohibition.^{xxvii} The analysis found a decrease in the likelihood of being a smoker (17.1 percent) and fewer cigarettes smoked (59 percent) associated with the flavor prohibition, but also a 45 percent increase in the probability that the youth smoker used menthol cigarettes.

Furthermore, the flavor prohibition was associated with increases in both cigar use (34.4 percent) and pipe use (54.6 percent). This suggests that youth smokers, in the absence of flavored cigarettes, are substituting with menthol cigarettes or cigars and pipe tobacco, for which the flavor prohibition does not apply.

As noted earlier, other tobacco product manufacturers are heavily promoting their flavored products, including e-cigarettes and cigars. FDA has since announced its intent to restrict the flavors in cigars and e-cigarettes, and prohibit menthol in cigarettes, but no action has been taken to date.

Menthol

Long before cigarette companies started adding fruit, candy, and alcohol flavorings to cigarettes, they were manipulating levels of menthol to addict new, young smokers. Menthol acts to mask the harsh taste of tobacco with a minty flavor and by reducing irritation at the back of the throat with a cooling sensation. Additionally, menthol may enhance the delivery of nicotine. Knowing that youth who experience less negative physiological effects of smoking are more likely to continue smoking regularly, the tobacco industry has spent decades manipulating its menthol brand-specific product line to appeal to youth and, in particular, African Americans. The FDA’s preliminary scientific investigation on menthol cigarettes concluded that the weight of the evidence supports menthol cigarette smoking with increased initiation and progression to smoking, increased dependency, and reduced cessation success, particularly among African American smokers.^{xxiii} Among youth in 2014, menthol use was high overall (53.6 percent), and even higher for non-Hispanic black students (70.5 percent).^{xxiv}

Adding insult to injury, tobacco manufacturers have aggressively targeted certain communities with their menthol products, leading to an unequal burden of death and disease. The overwhelming majority of all African-American smokers (70.5 percent) report smoking menthol cigarettes compared to about half of

white smokers (51.4 percent).^{xxv} Internal tobacco industry documents show that the tobacco companies were intentionally targeting African-Americans and other minorities through advertising in magazines with high readership by these populations, including youth, and by targeting specific neighborhoods with higher Hispanic and African-American populations with more advertising and promotions.^{xxvi}

ACS CAN's Position:

The aggressive use of flavors and marketing tactics by the tobacco industry, rapid increased use of flavored products by youth and young adults, and under regulation of these products requires the public health community to take action to protect youth and young adults, and the public health at-large. ACS CAN supports several strategies:

- ❖ **Federal Restrictions:** Congress or the FDA should prohibit the use of characterizing flavors, including menthol, in all tobacco products. A manufacturer should be required, through premarket review, to prove that the use of a flavor is appropriate for the protection of public health.
- ❖ **State and Local Sales Restrictions:** Many states and localities are moving forward and enacting restrictions on the sale of flavored tobacco products and winning legal challenges to its laws. The TCA does not permit a state or locality from requiring a product standard, such as the removal of a flavor, but the law does preserve the ability for states and localities to regulate the sales of tobacco products. States and localities should pursue policy options including restrictions or a complete prohibition of the sale of tobacco products with characterizing flavors, including menthol, while taking into consideration what is permitted in a specific jurisdiction.

ⁱ FDA Guidance for Industry and FDA Staff, "General Questions and Answers on the Ban of Cigarettes that Contain Certain Characterizing Flavors (Edition 2)" ("FDA Guidance on Characterizing Flavors").

ⁱⁱ Delnevo, C, et al., "Preference for flavoured cigar brands among youth, young adults and adults in the USA," Tobacco Control, epub ahead of print, April 10, 2014. King, BA, et al., "Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students," Journal of Adolescent Health 54(1):40-6, January 2014.

ⁱⁱⁱ Carpenter CM, Wayne GF, Pauly JL, Koh HK, Connolly GN. New cigarette brands with flavors that appeal to youth: tobacco marketing strategies. Health Affairs. 2005; 24(6): 1601-1610.

^{iv} Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.

^v Huang L-L, Baker HM, Meernik C, Ranney LM, Richardson A, Goldstein AO. Impact of non-menthol flavours in tobacco products on perceptions and use among youth, young adults and adults: a systematic review. Tobacco Control 2016.

^{vi} Centers for Disease Control and Prevention. Tobacco Use Among Middle and High School Students—United States, 2011–2018. Morbidity and Mortality Weekly Report, 2019;68(6):157–164.

^{vii} Corey, CG, Ambrose BK, Apelberg BJ, King, BK. Flavored Tobacco Product Use Among Middle and High School Students – United States, 2014. MMWR, October 2, 2015; 64(38): 1066-1070.

^{viii} Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.

^{ix} Zju, S-H, et al. Evolution of Electronic Cigarette Brands from 2013-2014 to 2016-2017: Analysis of Brand Websites. Journal of Medical Internet Research. 2018 Mar; 20(3) e80..

^x FDA Draft Guidance for Industry, Modifications to Compliance Policy for Certain Deemed Tobacco Products. March 2019.

^{xi} Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students — United States, 2011–2018. MMWR Morb Mortal Wkly Rep 2018;67:1276–1277.

^{xii} U.S. Department of Health and Human Services. E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

^{xiii} <https://www.fda.gov/newsevents/newsroom/pressannouncements/ucm532563.htm>

^{xiv} Centers for Disease Control and Prevention. Tobacco Use Among Middle and High School Students—United States, 2011–2018. Morbidity and Mortality Weekly Report, 2019;68(6):157–164.

^{xv} Corey, CG, Ambrose BK, Apelberg BJ, King, BK. Flavored Tobacco Product Use Among Middle and High School Students – United States, 2014. MMWR, October 2, 2015; 64(38): 1066-1070.

^{xvi} Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.

^{xvii} Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.

^{xviii} Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.

^{xix} Corey, CG, Ambrose BK, Apelberg BJ, King, BK. Flavored Tobacco Product Use Among Middle and High School Students – United States, 2014. MMWR, October 2, 2015; 64(38): 1066-1070.

^{xx} Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.

^{xxi} Morris DS, Fiala SC, Pawlak R. Opportunities for Policy Interventions to Reduce Youth Hookah Smoking in the United States. Prev Chronic Dis 2012;9:120082. Akl EA, Gaddam S, Gunukula SK, Honeine R, Jaoude PA, Irani J. The Effects of Waterpipe Tobacco Smoking on Health

Outcomes: A Systematic Review External Web Site Icon. *International Journal of Epidemiology* 2010;39:834–57. Smith JR, Edland SD, Novotny TE, et al. Increasing hookah use in California. *Am J Public Health*. Oct 2011;101(10):1876-1879.

^{xxxi} Knishkowsky, B., Amitai, Y. Water-Pipe (Narghile) Smoking: An Emerging Health Risk Behavior. *Pediatrics*. 2005;116:113–119. WHO study group on tobacco product regulation. Advisory note on water pipe tobacco smoking: health effects, research needs and recommended actions by regulators, 2005. El-Hakim Ibrahim E., Uthman Mirghani AE. Squamous cell carcinoma and keratoacanthoma of the lower lips associated with "Goza" and "Shisha" smoking. *International Journal of Dermatology*. 1999;38:108-110.

^{xxxiii} FDA. Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes. <https://www.fda.gov/media/86497/download>

^{xxxiv} Corey, CG, Ambrose BK, Apelberg BJ, King, BK. Flavored Tobacco Product Use Among Middle and High School Students – United States, 2014. *MMWR*, October 2, 2015; 64(38): 1066-1070.

^{xxxv} Villanti, AC, et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004-2014," *Tobacco Control*, published online October 20, 2016.

^{xxxvi} U.S. Department of Health and Human Services. Tobacco Use Among U.S. Racial/Ethnic Minority Groups—African Americans, American Indians and Alaska Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, CDC; 1998

^{xxxvii} Courtemanche CJ, Palmer MK, Pesko MF. Influence of the Flavored Cigarette Ban on Adolescent Tobacco Use. *Am J Prev Med*. 2017;52(5):e139–e146. doi:10.1016/j.amepre.2016.11.019



MARKETING MENTHOL: THE HISTORY OF TOBACCO INDUSTRY TARGETING OF AFRICAN AMERICANS

"Menthols in general do better among the very young, and among very young blacks, almost the entire market is accounted for by Kool, Salem and Newport."

-1974 research report prepared for Philip Morris¹

The tobacco industry has a long history of going to great lengths to target the African-American community. Decades of research and the tobacco industry's internal documents affirm that the industry employs multiple campaigns and strategies to aggressively target and reach African Americans. Dating back to the 1950s, the tobacco industry has targeted African Americans with marketing for menthol cigarettes through sponsorship of community and music events, targeted magazine advertising, youthful imagery, price discounting and marketing in the retail environment.

This aggressive targeted marketing has paid off. African-American smokers, both adults and youth, now overwhelmingly prefer menthol cigarettes. Overall, 85 percent of African-American smokers (ages 12+), including 71.3 percent of African American youth smokers smoke menthol cigarettes.² The popularity of menthol is also evident in the cigarette brand preferences of African American youth who smoke. According to data from the 2015 National Survey on Drug Use and Health, 69.1 percent of African-American youth ages 12-17 prefer Newport brand cigarettes.³ This preference for menthol cigarettes is the direct result of a decades-long marketing campaign by the tobacco industry.

The Early Days: Building a Market for Menthol⁴

The marketing of menthol cigarettes to the African-American community dates back to at least the 1950s. Salem led the menthol market in the 1950s and 1960s and is credited with establishing a popular market for menthols (menthols were initially a specialty cigarette, marketed for reducing throat irritability), but Kool overtook Salem in popularity in 1972.⁵ Brown & Williamson began targeting African-Americans with Kool cigarettes after a 1953 survey showed that five percent of African Americans preferred Kool compared to two percent of White Americans. Brown & Williamson seized the opportunity to capitalize upon this small preference margin, recognizing the marketing advantage of appealing to a newly urbanized and more concentrated population.⁶ The establishment of popular African American magazines like *Ebony* and *Jet* also provided marketing venues that had not previously existed for reaching African Americans.

Brown & Williamson took to the airwaves to market Kool, with an advertising budget exceeding that of the other tobacco companies in the 1960s. During this time, cigarette advertisements, many featuring famous black athletes, tripled in *Ebony*.⁷ The aggressive marketing campaign had a huge impact - from just 1968 to 1976, the percentage of African Americans smoking Kool jumped from 14 percent to 38 percent, with even greater preference for Kool among young African American males.⁸ An R.J. Reynolds analyst noted that, "Kool became 'cool' and, by the early 1970s, had a 56% share among younger adult Blacks—it was the Black Marlboro."⁹ Salem's successful initial promotion of the menthol category and Kool's



Kool advertisement, 1966
Image courtesy of Stanford Research into the Impact of Advertising (SRITA)

¹ Brown & Williamson merged with R.J. Reynolds in 2004, acquiring Kool. However, R.J. Reynolds and Lorillard merged in 2015, at which time R.J. Reynolds divested the Salem and Kool brands to ITG, while acquiring the Newport brand.

monopolization of the African American market played a significant role in the exponential growth of the menthol market, which grew by nearly 50 percent from 1956 to 1971.¹⁰

The “Menthol Wars”

Tobacco companies used multiple strategies to attract new customers in predominantly African American neighborhoods. When other tobacco companies realized Kool's growth initiated from targeting African Americans, they began competing for this market share with targeted marketing for Kool, Newport, Salem and Benson & Hedges. The companies contracted with “ethnic marketing firms” to conduct at least eight distinct campaigns targeting primarily African American populations: the Brown & Williamson Kool Van Program, the Brown & Williamson Kool Inner City Family Program, the Lorillard Inner City Sales Program, the Lorillard Newport Van Program, the Philip Morris Inner City Task Force, the Philip Morris Inner City Marketing Program, the R.J. Reynolds Black Market Program, and the R.J. Reynolds Black Young Adult Smoker Initiative (some of these programs continued into the 1990s).¹¹

Sampling and Mobile Van Programs

The tobacco companies considered sampling to be an important strategy for attracting new customers, and they employed mobile van programs in across the country to reach African Americans.

- Lorillard introduced the Newport Pleasure Van program in 1979 in New York, expanding to cities across the United States to distribute free samples and coupons. The Newport Pleasure Van program incorporated a plan to facilitate brand switching, by rewarding customers who provided the contact information of known competitive brand smokers. Newport continued the Pleasure Vans through 1994, by which time it had successfully gained dominance of the menthol market.¹²
- In the 1980s, as part of the Kool Market Development Program, vans (mimicking Lorillard's strategy) traveled through Houston to distribute free cigarette samples, a program which later expanded to 50 cities.¹³

“A total of 1.9MM samples will be distributed to targeted smokers in 1983. Sample distribution will be targeted to: housing projects, clubs, community organizations and events where Kool's black young adult target congregate.”

– Kool Market Development Program¹⁴

- R.J. Reynolds launched a van sampling program in Chicago that targeted nightclubs and neighborhood events with the Salem brand.

Retailer Programs

The tobacco companies developed specific strategies and specially designed product displays to adapt their point-of-sale marketing to smaller retailers that were more common in cities. Philip Morris implemented promotional programs and paid retailers to exhibit product displays and grow their inventory. Brown & Williamson launched its Kool Inner City Point of Purchase Program, later the Kool Inner City Family Program, with the explicit goal, “to reach the core of Kool's franchise (young, black, relatively low income and education),”¹⁵ with both retailer and consumer promotions.¹⁶



Kool advertisement, 1984
Image courtesy of Stanford Research into the Impact of Advertising (SRITA)

Music and Event Sponsorship

The tobacco companies also recognized the value of associating their brand with popular community events.

- Brown & Williamson used music as a way to target African Americans beginning in 1975 with the Kool Jazz Festival, and later the Kool City Jam, a free two-day concert.¹⁷
- R.J. Reynolds sponsored the “Salem Summer Street Scenes” festivals, during which they estimated reaching at least half of African Americans in Memphis, Detroit, Chicago, New York, and Washington, D.C.¹⁸
- Philip Morris sponsored “Club Benson & Hedges” promotional bar nights throughout the 1990s, targeting clubs frequented by African-Americans.¹⁹

Despite Kool and Salem’s dramatic rise and market share in the 1960s and 1970s, Newport’s aggressive marketing in the “Menthol Wars” era successfully doubled its share of the menthol market between 1981 and 1987, and in 1993 it became—and has remained—the market leader in sales of menthol cigarettes.²⁰

Appealing to Younger African Americans

Newport also grew its African American market share by purposefully attracting a younger consumer base.²¹ Industry documents show that the tobacco companies knew that while menthol cigarettes were attractive to younger smokers, novice smokers actually preferred cigarettes with a lower menthol content, whereas older smokers preferred more menthol content. With its lower menthol content, Newport had a market advantage with younger smokers, and the brand’s youthful advertising made it even more appealing.²²

Newport capitalized on the youth appeal of its product by employing youth-friendly marketing materials. In describing their Newport marketing strategy, Lorillard noted that, “Newport smokers perceive other Newport smokers as they do themselves—younger, outgoing, active, happy, warm, friendly, modern, extroverted.”²³ To this day, Newport cigarettes are advertised in magazines with imagery of young people—of various races—engaged in activities that look fun and social.

Recent Marketing Strategies

Menthol cigarettes continue to be heavily advertised to African-Americans in a variety of ways.

Point-of-Sale Targeting

Tobacco companies have taken advantage of the greater density of convenience stores and gas stations in lower-income and minority neighborhoods to heavily market and promote tobacco products. Their marketing strategies have included price discounts, promotional giveaways, heavy product placement and culturally tailored ad content at retail locations, both indoors and out. A wealth of research indicates that African American neighborhoods have a disproportionate number of tobacco retailers, pervasive tobacco marketing, and in particular, more marketing of menthol products.²⁴ In addition to being heavily advertised and widely available, certain tobacco products have been found to be priced lower in African American communities, making them more appealing, particularly to price-sensitive youth:

- A 2017 nationwide study found that stores in neighborhoods with the highest proportion of African Americans have more than double the odds of advertising price promotions for tobacco products, compared to stores in neighborhoods with the lowest proportion of African Americans.²⁵
- A 2011 study of cigarette prices in retail stores across the U.S. found that Newport cigarettes are significantly less expensive in neighborhoods with higher proportions of African Americans.²⁶
- A 2006 study of California smokers found that those who smoke menthol cigarettes are more likely to use promotional offers than non-menthol smokers.²⁷

The use of value-added or coupon promotions makes cigarettes more affordable to kids and those with less financial resources. In *U.S. v. Philip Morris* (the 2006 civil racketeering judgment against major cigarette manufacturers), the court specifically found that tobacco companies use strategic price reduction strategies such as coupons and multi-pack discounts to target young people.²⁸ According to the Surgeon General, “Because there is strong evidence that as the price of tobacco products increases, tobacco use decreases, especially among young people, then any actions that mitigate the impact of increased price and thus reduce the purchase price of tobacco can increase the initiation and level of use of tobacco products among young people.”²⁹



Price promotions for Camel cigarettes in Durham, NC. Photo courtesy CounterTobacco.Org

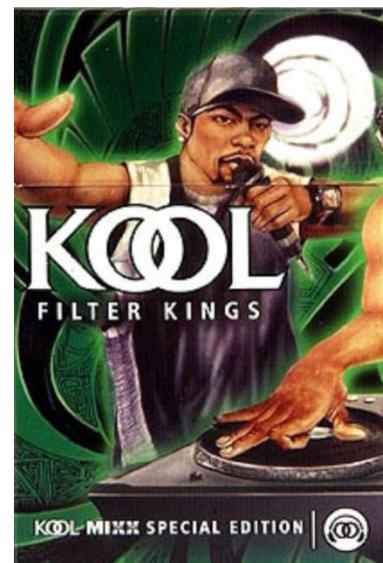
Disparities in advertising of tobacco products are particularly evident for menthol cigarette brands, which African Americans use more than any other racial or ethnic group:

- A 2013 study found that census tracts in St. Louis with a higher proportion of black residents had more menthol and total tobacco product marketing, and that census tracts with a higher proportion of black children had a higher proportion of menthol marketing near candy.³⁰
- The 2011 California Tobacco Advertising Survey reports that there were significantly more menthol advertisements at stores in neighborhoods with a higher proportion of African-American residents and in low-income neighborhoods.³¹
- Another 2011 California study found that as the proportion of African-American high school students in a neighborhood rose, the proportion of menthol advertising increased, the odds of a Newport promotion were higher, and the cost of Newport cigarettes was lower.³²
- A 2010 study that compared characteristics of storefront tobacco advertisements in a low-income, community with a large African-American population and a high-income, nonminority community found that the African-American community had more tobacco retailers and advertisements were more likely to be larger and promote menthol products.³³

Cultural Imagery

There is compelling evidence that tobacco companies not only advertise disproportionately in communities with large African-American populations, they also create advertising specifically targeted to these communities. Cigarette ads highly prevalent in African-American communities and publications are often characterized by slogans, relevant and specific messages, or images that have a great appeal among those in the black community or depict African Americans in an appealing light.³⁴

In 2004, Brown & Williamson started an ad campaign for their Kool brand cigarettes clearly aimed at youth—and African-American youth, in particular. The Kool Mixx campaign featured images of young rappers, disc jockeys and dancers on cigarette packs and in advertising. The campaign also included radio giveaways with cigarette purchases and a Hip-Hop disc jockey competition in major cities around the country. The themes, images, radio giveaways and music involved in the campaign all clearly have tremendous appeal to

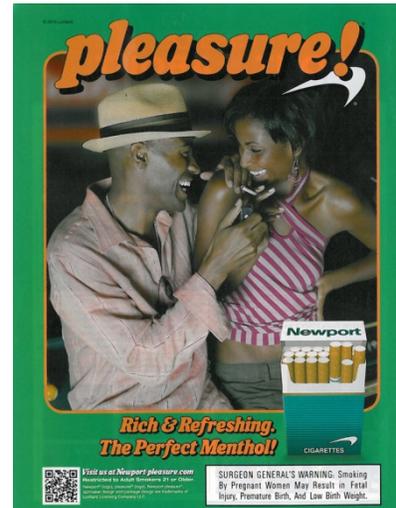


Kool Mixx cigarettes, 2004
Image courtesy of Stanford Research Into the Impact of Advertising

youth, especially African-American youth. Attorneys General from several states promptly filed motions against Brown & Williamson for violating the Master Settlement Agreement.³⁵ Simultaneously, Brown & Williamson promoted a new line of cigarette flavors like Caribbean Chill, Mocha Taboo, and Midnight Berry using images of African-Americans and themes attractive to African-American youth. These cigarettes were promoted through dance clubs and hip-hop music venues. In a similar vein, in the 1980s and 1990s, Uptown and “X” brand (emulating Malcolm X) cigarettes were also introduced, with the explicit aim of targeting African Americans, although these brand quickly failed due to community backlash.³⁶

Magazine Advertising

The tobacco industry’s strategy of targeting magazines with high African American readership, which began in the 1960s, continues. Expenditures for magazine advertising of mentholated cigarettes increased from 13 percent of total ad expenditures in 1998 to 76 percent in 2006.³⁷ During the two years after the Master Settlement Agreement (MSA) in November 1998, the average annual expenditures for Newport in magazines with high youth readership increased 13.2 percent (from \$5.3 to \$6.0 million).³⁸ From 1998 to 2002, *Ebony*, a magazine tailored to the African American culture, was 9.8 times more likely than *People* to contain ads for menthol cigarettes.³⁹ An assessment of menthol cigarette ads run from June 2012 to February 2013 found that the tobacco industry spent an estimated \$31 million on menthol cigarette direct mail, email, print and online advertisements in just a 9-month period. During this time, 61 percent of Newport print ads featured at least one African-American model. These ads ran in twenty publications including *Jet*, *Ebony*, and *Essence*, which have predominantly African-American readership.⁴⁰



Newport advertisement in *Essence Magazine*, February 2015
Image courtesy of TrinketsandTrash.Org

Tobacco Industry Philanthropy in the African American Community

The tobacco company’s decades long campaign to capture the African American market coincided with concerted efforts to forge ties with the African American community in an effort to build a positive brand identity. Since the 1950s, Philip Morris and Brown & Williamson have, at various times, been engaged with the National Urban League, the National Association for the Advancement of Colored People (NAACP), and the United Negro College Fund, and have provided funding and organizational support to a host of African American organizations.⁴¹ In addition, the tobacco industry has supported historically African American colleges and universities as far back as the 1890s when R.J .Reynolds helped to finance the founding of Winston Salem State University.⁴² However, industry documents reveal the companies’ true intentions in forming these relationships:

Brown & Williamson: “Clearly the sole reason for B&W’s interest in the black and Hispanic communities is the actual and potential sales of B&W products within these communities and the profitability of these sales...this relatively small and often tightly knit [minority] community can work to B&W’s marketing advantage, if exploited properly.”⁴³

Lorillard: “Tie-in with any company who help black[s] – ‘we help them, they help us.’”⁴⁴

Tobacco companies continue to contribute to African American organizations and political leaders.

- Recently, R.J. Reynolds funded the National Action Network, a civil rights organization founded by Reverend Al Sharpton, to conduct community forums to build opposition to local action to prohibit menthol cigarettes. These forums attempted to frame the issue as criminalization of the African American community, ignoring the devastating impact of the tobacco industry’s targeted marketing and the public health benefits of prohibiting menthol. In 2016 and 2017, these forums

occurred in Oakland, Los Angeles and Minneapolis.⁴⁵ In early 2019, a representative from NAN testified against proposed legislation in New York City to restrict the sale of menthol cigarettes.⁴⁶

- During the 2013-2014 election cycle, tobacco companies donated over \$100,000 to African American lawmakers and affiliated political action committees.⁴⁷
- As of 2017, Altria continues to contribute to the Congressional Black Caucus Foundation (CBCF), the California Black Chamber of Commerce Foundation, the California Legislative Black Caucus Policy Institute, and the National Black Farmers Association.⁴⁸ As of 2016, they also contributed to the National Black Caucus of State Legislators.⁴⁹ Both Reynolds and JUUL support the U.S. Black Chambers, Inc.⁵⁰ The President and Chief Executive Officer of CBCF from 2013-2018 was the former Vice President of Government Affairs Policy & Outreach for Altria Corporate Services, having worked for the tobacco industry for twenty years.⁵¹ In its 2016 Annual Report, CBCF reported receiving between \$100,000-\$249,000 from Altria and \$50,000-99,000 from R.J. Reynolds (RAI Services).⁵²
- Since the 1960s, the tobacco industry has supported the National Newspaper Publishers Association (NNPA), a trade association representing more than 200 African American-owned community newspapers.⁵³ The most recently available financials show that Reynolds gave over \$225,000 to the NNPA in 2017.⁵⁴ The President and CEO of NNPA has joined Rev. Al Sharpton of NAN in voicing opposition to local proposals to restrict the sale of menthol cigarettes.⁵⁵
- The National Black Chamber of Commerce (NBCC), the Congress of Racial Equality (CORE), the National Organization of Black Law Enforcement Executives (NOBLE), the National Black Police Association (NBPA) and Law Enforcement Action Partnership (LEAP), all of which have received industry funding, have voiced active opposition to proposals to extend the federal ban on flavored cigarettes to menthol.⁵⁶ NBPA even launched a campaign to encourage submission of public comments to FDA in opposition of extending the prohibition on flavors to menthol, resulting in over 36,000 comments submitted in opposition to the ban.⁵⁷ Representatives from LEAP and NOBLE have also presented at NAN's forums opposing local restrictions on menthol cigarettes.⁵⁸
- In 2014, Altria donated \$1 million to the Smithsonian's National Museum of African American History and Culture.⁵⁹

Other African American organizations have fought against the industry's targeted marketing. In 2016, the NAACP voted to adopt a resolution to support state and local restrictions on flavored tobacco products, including menthol (according to a spokesperson in 2016, the NAACP no longer receives tobacco industry funding).⁶⁰ Delta Sigma Theta, an African American sorority, approved a resolution in 2013 to urge FDA to prohibit menthol cigarettes.⁶¹ In 2018, both the NAACP and the National Urban League issued statements in support of FDA action to prohibit menthol cigarettes.⁶² In 2019, the NAACP testified in favor of proposed legislation in New York City to restrict the sale of menthol cigarettes.⁶³

Impact on the African American Community

Menthol cigarettes have had a profound negative impact on public health, and have had a particularly destructive impact on the African American community. In 2013, the U.S. Food and Drug Administration (FDA) released a report finding that menthol cigarettes lead to increased smoking initiation among youth and young adults, greater addiction, and decreased success in quitting smoking. The FDA and FDA's Tobacco Product Scientific Advisory Committee (TPSAC) concluded that African Americans are disproportionately burdened by the health harms of menthol cigarettes.⁶⁴ TPSAC, in its 2011 report to the FDA, estimated that by 2020, 4,700 excess deaths in the African American community will be attributable to menthol cigarettes, and over 460,000 African Americans will have started smoking because of menthol cigarettes.⁶⁵

African Americans suffer the greatest burden of tobacco-related mortality of any racial or ethnic group in the United States.⁶⁶ Each year, approximately 45,000 African Americans die from smoking-related disease.⁶⁷ Smoking-related illnesses are the number one cause of death in the African-American community, surpassing all other causes of death, including AIDS, homicide, diabetes, and accidents.⁶⁸ If

current smoking rates persist, an estimated 1.6 million black Americans alive today under the age of 18 will become regular smokers, and about 500,000 will die prematurely from a tobacco-related disease.⁶⁹

Campaign for Tobacco-Free Kids, February 28, 2019 / Laura Bach

More information on Tobacco and African Americans is available at
http://www.tobaccofreekids.org/facts_issues/fact_sheets/toll/populations/african_americans/.

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Tobacco Industry Targeting of Native Communities in the United States

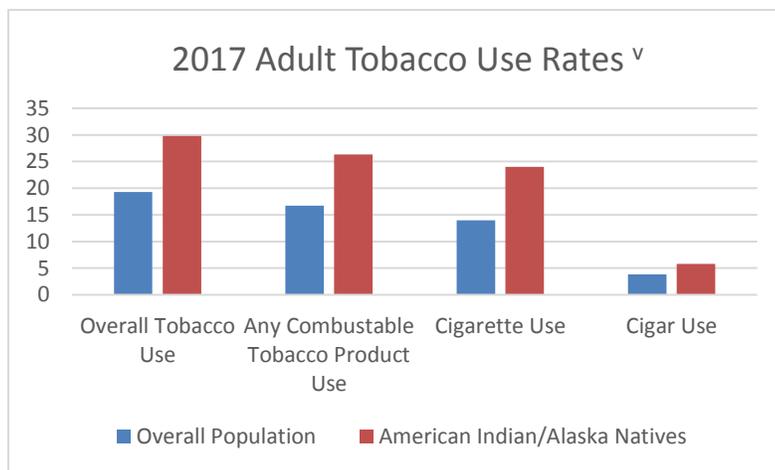


While overall smoking rates have declined in recent years, smoking rates remain higher among specific subpopulations. In the United States, tobacco-related health disparities persist within many Native populations, including American Indians, Alaska Natives, Native Hawaiians and other Pacific Islanders.ⁱ These differences are in large part due to the tobacco industry's targeting of vulnerable populations through targeted advertising, price discounting and other marketing strategies.ⁱⁱ

Tobacco Use and Its Health Effects Among Native Populations

Among adults in the United States, American Indians/Alaska Natives have the highest prevalence of cigarette smoking compared to all other racial/ethnic groups.ⁱⁱⁱ There are currently about 2.6 million American Indians/Alaska Natives in the U.S., or about 1% of the total population.^{iv}

Data from tribe-specific commercial tobacco surveys have found tobacco use rates as high as 63% for some Native populations.^v Similarly, recent data from Alaska indicates smoking prevalence rates for Alaska Natives is twice that seen in the non-native Alaska population.^{vi} Among adults nationwide, American Indian/Alaska Natives have the highest tobacco use rate of 29.8% compared to 19.3% overall among all adults.^{vii}



Youth tobacco use is also extraordinarily high among Native populations compared to other U.S. subpopulations. For the years 2014-2017, current use of any tobacco product by middle and high school students was highest among Native Hawaiians and other Pacific Islanders (23.4%) and American Indians and Alaska Natives (20.6%), both significantly higher than among all middle and high school students (14.3%).^{viii}

Lung cancer is the leading cause of cancer deaths among American Indians/Alaska Natives.^{ix,x,x,xii} American Indians/Alaska Natives also experience higher rates of other tobacco-related diseases.^{xiii,xiv}

Tobacco companies target American Indian/Alaska Native communities through extensive promotions, sponsorships, and advertising campaigns.

Tobacco Industry Targeting of Native Communities in the U.S.

Every year the tobacco industry spends \$9.4 billion marketing its deadly products in the U.S.^{xv} Tobacco companies target American Indian/Alaska Native communities through extensive promotions, sponsorships, and advertising campaigns.^{xvi} Some examples of tobacco industry behavior include:

- Aggressive sales and marketing strategies by major tobacco companies that exploit weaker commercial tobacco regulatory environments on many sovereign Tribal lands.^{xvii}
- Deep discounts on cigarette cartons sold on Native reservations.^{xviii}
- Free admission to Indian gaming facilities with tobacco product purchases, and also free tobacco product giveaways that are included with tribal casino event ticket purchases.^{xix}
- Free tobacco product samples offered at Native American rodeo events.^{xx}
- Free product samples of e-cigarettes offered to Tribal entities under the guise of a no-cost smoking cessation program.^{xxi}
- Industry alliances with Tribal leaders to help improve tobacco companies' corporate image, promote ineffective youth tobacco prevention programs, and block the adoption of strong tobacco control policies.^{xxii}
- Misappropriation of Native culture and misrepresentation of indigenous traditions, values and beliefs to sell more commercial tobacco products for profit.^{xxiii}

- ⁱ *Native Hawaiian or Other Pacific Islander* is defined as a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands, as per the U.S. Government Printing Office's Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity, 1997. Accessed June 12, 2018.
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Tobacco Industry Targeting of the LGBT Community



While overall smoking rates have declined in recent years, smoking rates remain higher among specific subpopulations. These populations include individuals with lower educational attainment, lower socioeconomic status, from certain racial/ethnic groups, in the lesbian, gay, and bisexual community, with mental health conditions, and in the military particularly among those in the lowest pay grades. These differences are in large part due to the tobacco industry's targeting of vulnerable populations through advertising, price discounting and other marketing strategies.ⁱ Every year the tobacco industry spends \$9.5 billion marketing their deadly products in the United States.ⁱⁱ

“High rates of tobacco use within the LGBT community are due in part to the aggressive marketing by tobacco companies that sponsor events, bar promotions, giveaways, and advertisements.” – *Centers for Disease Control and Prevention*

Tobacco Use in the LGBT Community

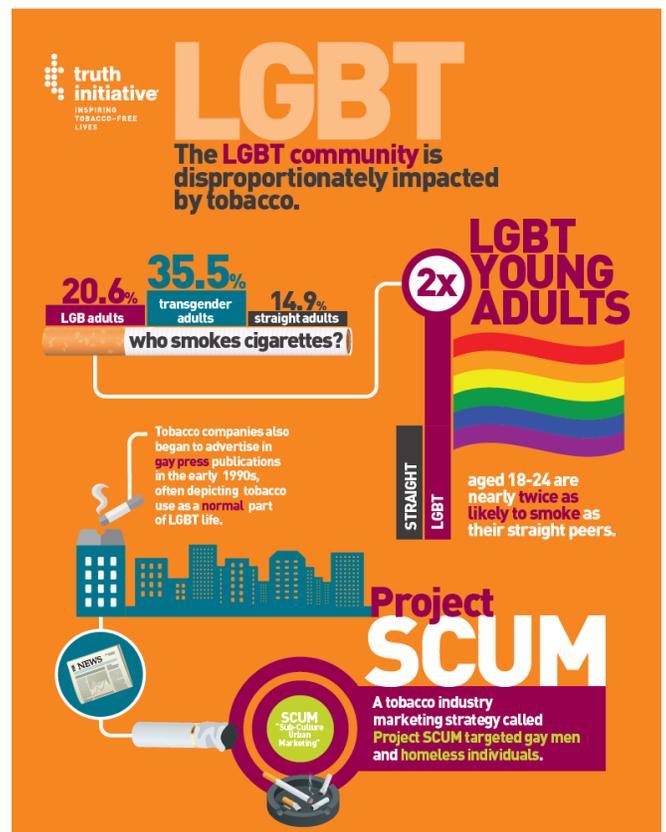
In 2016 smoking rates among gay, lesbian, and bisexual individuals in the US are significantly higher than rates for straight individuals, 20.5 percent and 15.3 percent respectively.ⁱⁱⁱ Over one third (36 percent) of LGBT adults who smoke use menthol cigarettes, a higher rate than straight adults who smoke.^{iv} There is limited data available on smoking rates among transgender adults; however, one study found higher smoking rates among transgender adults than cisgender adults.^v

Every year more than 30,000 LGBT persons die from tobacco-related diseases.^{vi}

Tobacco Industry Targeting of LGBT Communities

Tobacco companies have utilized a variety of tactics to target LGBT communities. These have included:

- Developing marketing materials targeted at the LGBT community before most other industries.^{vii}
- Designing advertisements for LGBT publications that depict tobacco use as a “normal” part of LGBT life.^{viii}
- In 1995, one tobacco company created a marketing strategy known as “Project SCUM” or subculture urban marketing targeted at gay men and homeless individuals in San Francisco.^{ix}
- Using corporate philanthropy to demonstrate support of the LGBT community, another tobacco company settled a boycott by pledging a large donation to AIDS research, gaining them access to the LGBT market.^x
- Hosting promotions including LGBT bar nights featuring specific cigarette brands.^{xi}
- Sponsoring events at pride festivals. For example, one cigarette brand sponsored more than a dozen events at San Francisco’s pride festival alone in 2000.^{xii}
- Promoting menthol cigarettes which are easier to use and harder to quit.^{xiii}



- ⁱ The Truth Initiative, Campaign for Tobacco-Free Kids, American Heart Association and American Stroke Association, American Cancer Society Cancer Action Network, American Lung Association, Americans for Nonsmokers' Rights, and Robert Wood Johnson Foundation. A report entitled *Broken Promises to Our Children: A State-By-State Look at the 1998 State Tobacco Settlement 19 Years Later*. December, 2017. Available on-line at: <https://www.tobaccofreekids.org/what-we-do/us/statereport>.
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- ^x The Truth Initiative. Tobacco Use in LGBT Communities. February 2018. <https://truthinitiative.org/news/tobacco-social-justice-issue-smoking-and-lgbt-communities>. See also Ramirez A. Philip Morris to Increase AIDS Donations. *The New York Times*. 05/30/1991, 1991; Company News.
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Tobacco Industry Targeting of Low-Income Populations



While overall smoking rates have declined in recent years, smoking rates remain higher among specific subpopulations. These populations include individuals with lower educational attainment, lower socioeconomic status, from certain racial/ethnic groups, in the lesbian, gay, and bisexual community, with mental health conditions, and in the military particularly among those in the lowest pay grades. These differences are in large part due to the tobacco industry's targeting of vulnerable populations through advertising, price discounting and other marketing strategies.ⁱ Every year the tobacco industry spends \$9.5 billion marketing their deadly products in the United States.ⁱⁱ

Tobacco Use Among Low-Income Communities

In 2016, 25.3 percent of individuals below the poverty level smoked compared to 14.3 percent of individuals at or above the poverty level.^{iv} Examining use of any tobacco product, 27.8 percent of individuals with household incomes below \$35,000 annually, compared to 20.1 percent of the population overall.^v

72 percent of people who smoke are from lower-income communities.ⁱⁱⁱ

Tobacco Industry Targeting of Low-Income Communities

Previously secret tobacco industry documents confirm the companies have utilized a variety of tactics to target low-income communities. These have included:

- Handing out free cigarettes to children in housing projects, particularly targeting low-income black children.^{vi}
- Providing tobacco coupons with food stamps by enclosing coupons for 25 cents off a pack of cigarettes in the envelope with food stamps.^{vii} This program was targeted at inner-city low-income African-Americans and Latinos.
- Targeting coupons at low socioeconomic status women.^{viii}
- Exploring giving away financial products.^{ix}
- Giving away gas cash cards and other rewards debit cards.^x

Tobacco industry influence on low-income communities continues today. Tobacco retailers are disproportionately located in low-income communities where tobacco retailers are more likely to be near schools than in other neighborhoods.^{xi} The more tobacco retailers, the more exposure to tobacco marketing individuals face. In fact, retail marketing, including in-store advertising, product displays, and discounts accounts for a large portion of the tobacco industry's marketing budget. In 2015 tobacco companies spent:^{xii}

- \$34.9 million on cigarette ads and \$33.4 million on smokeless tobacco ads posted inside retail locations.
- \$573.1 million on promotional allowances for cigarettes and \$72.8 million promotional allowances for smokeless tobacco.
- \$7.523 billion, or 91.3 percent of all cigarette company marketing in 2015 was spent on the combination of price discounts and promotional allowances paid to retailers and wholesalers as well as 73.2 percent of all smokeless tobacco marketing.



ⁱ The Truth Initiative, Campaign for Tobacco-Free Kids, American Heart Association and American Stroke Association, American Cancer Society Cancer Action Network, American Lung Association, Americans for Nonsmokers' Rights, and Robert Wood Johnson Foundation. A report entitled *Broken Promises to Our Children: A State-By-State Look at the 1998 State Tobacco Settlement 19 Years Later*. December, 2017. Available on-line at: <https://www.tobaccofreekids.org/what-we-do/us/statereport>.

ⁱⁱ U.S. Federal Trade Commission (FTC), Cigarette Report for 2016, 2018, https://www.ftc.gov/system/files/documents/reports/federal-tradecommission-cigarette-report-2016-federal-trade-commission-smokeless-tobacco-report/ftc_cigarette_report_for_2016_0.pdf [data for top 5 manufacturers only].; FTC, Smokeless Tobacco Report for 2016, 2018, https://www.ftc.gov/system/files/documents/reports/federal-tradecommission-cigarette-report-2016-federal-trade-commission-smokeless-tobacco-report/ftc_smokeless_tobacco_report_for_2016_0.pdf [Data for top 5 manufacturers only].

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Invalidity of an Oft-Cited Estimate of the Relative Harms of Electronic Cigarettes

In July 2013, a group of 12 experts in decision science, medicine, pharmacology, psychology, public health policy, and toxicology rated the relative harm of 12 nicotine-containing products by using 14 criteria addressing harms to self and others.¹ The group concluded that combustible cigarettes were the most harmful and that electronic nicotine delivery systems (electronic cigarettes or e-cigarettes) were substantially less harmful than combustible cigarettes. These results have been characterized and repeated in the popular media as e-cigarettes are “95% less risky” or “95% less harmful” than combustible cigarettes. However, as the authors noted in a sweeping statement regarding the shortcomings of their own work, “A limitation of this study is the lack of hard evidence for the harms of most products on most of the criteria.”^{1(p224)}

Despite this lack of hard evidence, Public Health England and the Royal College of Physicians endorsed and publicized the “95% less harmful” assertion.^{2,3} Senior Public Health England staff emphasized the “evidence” underlying the 95% figure, despite the evidence being lacking. Much has been written about the dubious validity of the “95% less harmful” estimate in 2014 to 2016, especially about the

paucity of research on the health effects of e-cigarettes available in 2013. After six years of e-cigarette-focused research, which has yielded a growing body of hard evidence regarding harm (see Appendix A, available as a supplement to the online version of this article at <http://www.ajph.org>, for a nonexhaustive list), the time has come to re-examine that estimate.

TODAY'S ELECTRONIC CIGARETTES ARE DIFFERENT

There is ample evidence that the range of e-cigarette products available today is very different from that in July 2013. The differences are such that, even if the 2013 estimate was valid then, it can no longer apply today. For example, in addition to using different materials and more numerous heating coils, many e-cigarettes today can attain power output that exceeds that of most over-the-counter 2013 models by 10 to 20 times (i.e., up to and sometimes exceeding 200 watts). Greater power increases the potential harms of e-cigarette use because more aerosol is produced that exposes users to increased levels of nicotine and other toxicants. It also increases bystander exposure to any harmful aerosol constituents

because users exhale more aerosol. In addition, greater power increases the potential for malfunction (e.g., the device exploding), which could harm users and bystanders.

Also, e-cigarette liquids have changed considerably from 2013, with widespread availability of thousands of flavors that use chemicals “generally recognized as safe” to eat but with unknown pulmonary toxicity. Perhaps the most striking change has been the pervasive marketing of liquids with protonated nicotine.⁴ Protonated nicotine (“nicotine salt”) is made by adding an acid to free-base nicotine, thus introducing another potential toxicant that was rare in 2013. Relative to free-base nicotine, aerosolized protonated liquid is less aversive to inhale, allowing users to increase the nicotine concentration of the liquid and likely increase their own nicotine

dependence. Protonated nicotine e-cigarette liquids are available today in concentrations greater than 60 milligrams per milliliter, and these liquids have become very popular, sparking a “nicotine arms race.”⁴

ELECTRONIC CIGARETTES CAUSE HARM TO CELLS

There is ample evidence, unavailable in 2013, that e-cigarette aerosols contain toxicants and that these aerosols are harmful to living cells in vitro and in vivo. For example, thermal degradation of e-cigarette liquid constituents can produce volatile aldehydes, which, at concentrations generated by e-cigarettes, display a variety of cardiorespiratory toxic effects. E-cigarettes can produce carcinogenic furans in addition to other toxicants such as chloropropanols. Even at room temperature, e-cigarette liquids can be unstable, producing irritating acetal compounds carried over into the aerosol. Numerous studies demonstrate that cell function is compromised following exposure to e-cigarette

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aerosol. Similarly, animals that are exposed to e-cigarette aerosols show clear indication of adverse consequences, including in models related to cardiovascular disease.

ELECTRONIC CIGARETTES HARM USERS

Recent evidence reveals that e-cigarette users show evidence of harm. For example, in a sample of healthy young occasional cigarette smokers who used an e-cigarette with or without nicotine, airway epithelial injury was observed in both conditions, with the authors concluding, “Thus, [e-cigarette] aerosol constituents could injure the respiratory system or worsen preexisting lung disease through a variety of mechanisms.”^{5(pL716)} Consistent with this report, wheezing, a symptom of potential respiratory disease, has been associated with e-cigarette use. E-cigarette use increases heart rate, blood pressure, and platelet activation, and decreases flow-mediated dilation and heart rate variability, effects that are prognostic of long-term cardiovascular risk. Indeed, a preliminary report indicates that e-cigarette users may be at increased risk for myocardial infarction and coronary artery disease.⁶

ELECTRONIC CIGARETTES INCREASE SMOKING RISK

Since 2013, numerous surveys have demonstrated that e-cigarette use is increasing among individuals who previously were naïve to nicotine and that these individuals are at increased risk for initiation of combustible cigarette smoking. As the US National Academies of

Sciences, Engineering, and Medicine concluded, “There is substantial evidence that [e-cigarette] use increases risk of ever using combustible tobacco cigarettes among youth and young adults.”^{7(p532)} To the extent that initial e-cigarette use is a causal factor in subsequent combustible tobacco smoking for an individual who would have otherwise never initiated smoking, e-cigarette use could be considered to be as harmful as tobacco smoking for that individual.

ELECTRONIC CIGARETTE AEROSOL IS NOT HARMLESS

Differences in toxicant content between e-cigarette aerosol and cigarette smoke, by themselves, cannot convey lesser lethality because toxicity depends upon both the extent and mode of use. For example, propylene glycol (PG) is one of the primary constituents of e-cigarette aerosol and is generally recognized as safe when eaten but, when injected intravenously over a period of days, is toxic. E-cigarette aerosols containing propylene glycol and vegetable glycerin, another common constituent, cause inflammation in human lungs, suggesting differing safety profiles for inhaled versus ingested propylene glycol and vegetable glycerin. Furthermore, as the toxicants in e-cigarette aerosol sometimes differ from cigarette smoke, so might any resulting e-cigarette-caused disease states. There is little doubt that exclusive e-cigarette users are unlikely to die from lung cancer that is caused by carcinogenic tobacco-specific nitrosamines or polycyclic aromatic hydrocarbons, toxicants largely absent from e-cigarette aerosols. What diseases they may die

of—and if their deaths are hastened by their e-cigarette use—will be part of the much-needed evidence base upon which valid risk estimates can be built.

CONCLUSIONS

In sum, a 2013 evidence-lacking estimate of the harm of e-cigarettes relative to combustible cigarettes has been cited often. However, since 2013, e-cigarette devices and liquids have changed. Evidence of potential harm has accumulated. Therefore, the evidence-lacking estimate derived in 2013 cannot be valid today and should not be relied upon further. Future estimates of the harm of e-cigarettes should be based on the evidence that is now available and revised accordingly as more evidence accrues.

CALL TO ACTION

The “95% safer” estimate is a “factoid”: unreliable information repeated so often that it becomes accepted as fact. Public health practitioners, scientists, and physicians should expose the fragile status of the factoid emphatically by highlighting its unreliable provenance and its lack of validity today, noting the many changes in e-cigarette devices and liquids, the accumulation of evidence of potential harm, the increased prevalence of use, and the growing evidence that e-cigarette use is associated with subsequent cigarette smoking. **AJPH**

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CONTRIBUTORS

All authors contributed equally to this article.

ACKNOWLEDGMENTS

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Note. This content is solely the responsibility of the authors and does not necessarily represent the official views of the National Institutes of Health or the Food and Drug Administration. The sponsor had no role in the preparation of this work.

CONFLICTS OF INTERESTS

T. Eissenberg and A. Shihadeh are paid consultants in litigation against the tobacco industry and are named on a patent for a device that measures the puffing behavior of electronic cigarette users. In addition, as of September 2019, T. Eissenberg is a consultant in litigation against the electronic cigarette industry. S. Jordt reports receiving personal fees from Hydra Biosciences LLC and Sanofi SA and non-financial support from GlaxoSmithKline Pharmaceuticals outside the submitted work.

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BCA_SB233_FAV

Uploaded by: Dzirasa, Dr. Letitia

Position: FAV



BERNARD C. "JACK" YOUNG
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

SB 233

February 13, 2020

TO: Members of the Senate Finance Committee

FROM: Nicholas Blendy, Deputy Director, Mayor's Office of Government Relations

RE: Business Regulation – Flavored Tobacco Products - Prohibition

POSITION: SUPPORT

Chair Kelley, Vice-Chair Feldman, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill (SB) 233. SB 233 would prohibit holders of licenses to manufacture, sell, buy, and store cigarettes, other tobacco products, and electronic smoking devices to manufacture, ship, import, or sell flavored tobacco products.

Tobacco use remains the leading cause of preventable death in the U.S. It is known to cause cancer, heart disease, and respiratory disease, among other health disorders, and costs the U.S. as much as \$170 billion in health care expenditures each year. The Campaign for Tobacco-Free Kids reports that each day, more than 250 kids under the age of 18 become regular, daily smokers and almost one third will eventually die from smoking related illness.¹ In 2017, 8.2 percent of Maryland's high school students responding to the Behavioral Risk Factor Surveillance System (BRFSS) smoked on at least one day in the past 30 days.²

Tobacco use disproportionately affects many marginalized populations including people in low-income communities, racial and ethnic minorities, LGBTQ individuals, and those with mental illness. Research by the "Truth Initiative" shows that more tobacco retailers exist in areas with higher concentrations of Black, Hispanic, and low-income populations and that tobacco companies strategically market to these groups.³

The use of flavors in tobacco and tobacco products is a primary means of attracting new and minority users to said products. Menthol or mint flavors are of particular concern. The Food

¹ "Raising the Tobacco Age To 21," Campaign for Tobacco Free Kids, January 2020

² CDC, Youth Risk Behavior Surveillance System, 2017.

³ "Targetted Communities," Truth Initiative, <https://truthinitiative.org/research-resources/topic/targetted-communities>. Accessed 5 February 2020.

and Drug Administration notes that “the weight of evidence supports the conclusion that menthol in cigarettes is likely associated with increased initiation and progression to regular cigarette smoking.”⁴ Moreover, menthol dulls sensation in certain sensory nerves making tobacco and tobacco products more palatable.⁵ This effect is especially pronounced in the African American community which has a genetic predisposition toward irritation when inhaling smoke or vapors from tobacco and tobacco products.⁶

Additionally, flavored vape fluids used in electronic smoking devices are directly responsible for the proliferation of vaping among youth.⁷ Once more, the BRFSS reported that, in 2017, 13.3 percent of Maryland students used e-cigarettes on at least one day in the past 30 days; a significantly higher number than those that used combustible tobacco products.⁸ Making matters worse, “[s]tudies have found that young people who use e-cigarettes are more likely to become smokers, and many are low-risk youth who would not have otherwise smoked cigarettes.”^{9 10}

Altogether, a flavor ban for tobacco and tobacco products is necessary to prevent the next generation of Marylanders from becoming addicted to nicotine. Through SB 233, Maryland could take its greatest step toward decreasing health disparities and reducing health-related expenditures attributable to premature smoking in decades.

For the forgoing reasons, we respectfully request a **favorable** report on SB 233.

⁴ Food and Drug Administration. Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol Versus Nonmenthol Cigarettes. 2013.

⁵ Ton HT, Smart AE, Aguilar BL, et al. Menthol enhances the desensitization of human alpha3beta4 nicotinic acetylcholine receptors. *Mol Pharmacol* 2015;88(2):256-64 [cited 2018 Jun 12]

⁶ Ibid.

⁷ HHS, E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

⁸ CDC, Youth Risk Behavior Surveillance System, 2017.

⁹ “Big Tobacco Is Back with a New Way to Addict Kids.” Campaign for Tobacco-Free Kids, www.tobaccofreekids.org/juul.

¹⁰ “New Report One of Most Comprehensive Studies on Health Effects of E-Cigarettes; Finds That Using E-Cigarettes May Lead Youth to Start Smoking, Adults to Stop Smoking.” National Academies Web Server www8.Nationalacademies.org,

www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=24952&_ga=2.227315540.810940964.1516640363-1933305849.1453397105.

AORN_FAV_SB233

Uploaded by: Elliott, Robyn

Position: FAV

Committee: Senate Finance Committee
Bill Number: Senate Bill 233
Title: Business Regulation - Flavored Tobacco Products - Prohibition
Hearing Date: February 13, 2020
Position: Support

The Association of periOperative Registered Nurses of Baltimore supports *Senate Bill 233 –Business Regulation – Flavored Tobacco Products - Prohibition*. This bill would prohibit certain vaping products.

We have watched reports of illness and death due to e-cigarette use, especially among our youth, with great concern. In addition, the tactics used by e-cigarette companies to target youth mirror tactics used by cigarette companies in the past. Many of us recall a time when Camel targeted kids with “Joe Camel”, which boosted youth smoking rates significantly. Fortunately, public health advocates have made great strides to reverse that trend in recent decades.

However, now we see e-cigarette companies marketing with the same goal -- using mint, candy, fruit, or chocolate flavors to entice young people to start using their product and possibly secure a customer for life. Lets use lessons learned in the past to address this issue now.

Thank you for your consideration of our testimony, and we urge a favorable vote. If we can provide any further information, please contact Robyn Elliott at relliott@policypartners.net or (443) 926-3443.

MNA_FAV_SB233

Uploaded by: Elliott, Robyn

Position: FAV



Committee: Senate Finance Committee

Bill Number: SB 233

Title: Business Regulation – Flavored Tobacco Products - Prohibition

Hearing Date: February 13, 2020

Position: Support

The Maryland Nurses Association (MNA) supports *Senate Bill 233 – Business Regulation – Flavored Tobacco Products - Prohibition*. This emergency bill would prohibit manufacturing, shipping, importing, or selling flavored tobacco products, including electronic devices, in the state.

Our country has seen a remarkable decrease in tobacco use in recent decades thanks to robust tobacco control efforts at multiple levels. However, the rise in popularity of e-cigarettes has quickly reversed that progress among today’s youth. Results from the Centers for Disease Control’s (CDC) 2019 National Youth Tobacco Survey show a disturbing increase in the number of youth using e-cigarettes – from 3.6 million in 2018 to 5 million in 2019.

This increase is not surprising given that e-cigarettes are available in a variety of flavors that appeal to youth, such as mint, candy, fruit, or chocolate, and have been marketed as a safer alternative to cigarettes. However, evolving evidence shows that the use of e-cigarettes can cause irreversible lung damage and lung disease. In addition, youth who use e-cigarettes are more likely to start smoking cigarettes.

We must act fast if we are to stop the rising trend of e-cigarette use, which will expose our youth to a potential lifetime of nicotine addiction, cost countless lives, and undermine the worthy investment made in recent decades to decrease tobacco use in our country.

Thank you for your consideration of our testimony, and we urge a favorable vote. If we can provide any further information, please contact Robyn Elliott at relliott@policypartners.net or (443) 926-3443.

References: Tobacco Use: Results from the National Youth Tobacco Survey. Retrieved from: <https://www.fda.gov/tobacco-products/youth-and-tobacco/youth-tobacco-use-results-national-youth-tobacco-survey>

The Impact of E-Cigarettes on the Lung. American Lung Association. Retrieved from: <https://www.lung.org/stop-smoking/smoking-facts/impact-of-e-cigarettes-on-lung.html>

Frey_FAV_SB 233

Uploaded by: Frey, Leslie

Position: FAV



Montgomery County

Office of Intergovernmental Relations

ROCKVILLE: 240-777-6550

ANNAPOLIS: 240-777-8270

SB 233

DATE: February 13, 2020

**SPONSOR: The President (By Request – Office of the Attorney General) and
Senator Augustine, *et al.***

ASSIGNED TO: Finance

CONTACT PERSON: Leslie Frey (leslie.frey@montgomerycountymd.gov)

POSITION: SUPPORT (Department of Health and Human Services)

Business Regulation – Flavored Tobacco Products – Prohibition

Senate Bill 233 defines tobacco product to include cigarettes, cigars, pipe tobacco, snuff, snus, electronic smoking devices, and any component part or accessory including filters, rolling papers, blunt wraps, hemp wraps, hookahs, pipes, and liquids used in electronic smoking devices, and defines a flavored tobacco product as any of the aforementioned tobacco products that contain a taste or smell, other than that of tobacco, this is distinguishable by an ordinary consumer either before or during the consumption of the tobacco product. The bill prohibits any tobacco-related license holder from manufacturing, shipping, importing, or selling into or within the State a flavored tobacco product. A violation of the prohibition on flavored tobacco products by a license holder is a misdemeanor punishable by a fine of \$1,000 and up to 30 days imprisonment.

There is a Montgomery County local bill that has been introduced that would prohibit the sale of flavored electronic smoking devices within one mile of a school, library, park, playground, or recreational facility in the County. Senate Bill 233 would make a local law, such as the one proposed in Montgomery County, unnecessary because it would prohibit the sale of such products Statewide. From a public health policy perspective, this is ideal because more Marylanders would be protected from the harmful health effects of flavored tobacco products; from an enforcement perspective, a Statewide prohibition is also ideal because uniformity of which products are available in each jurisdiction reduces confusion and inefficiencies for license holders.

At the federal level, in 2009 Congress banned the sale of most flavored tobacco products with the notable exceptions of menthol flavored cigarettes and non-cigarette tobacco products such as electronic smoking devices and cigars due to the recognition that flavored tobacco products are more appealing to youth than their non-flavored counterparts.¹ Montgomery County Department of Health and Human Services urges the committee to acknowledge that banning all flavored tobacco products across the State a necessary step towards curbing nicotine addiction in youth and minorities.

¹ Huang L-L, Baker HM, Meernik C, Ranney LM, Richardson A, Goldstein AO. Impact of non-menthol flavours in tobacco products on perceptions and use among youth, young adults and adults: a systematic review. Tobacco control. 2016.

AG_FAV_SB233

Uploaded by: Frosh, Brian

Position: FAV

BRIAN E. FROSH
Attorney General

ELIZABETH HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

(410) 576-6584

TO: The Honorable Delores G. Kelley, Chair, Senate Finance Committee

FROM: Brian E. Frosh, Attorney General

DATE: February 13, 2020

RE: SB 233 — Business Regulation—Flavored Tobacco Products—Prohibition (SUPPORT)

The Office of the Attorney General urges a favorable report on Senate Bill 233.¹ This emergency bill prohibits the manufacture, shipment, import, or sale of flavored tobacco products within the State. A violation is a misdemeanor punishable by maximum penalties of a \$1,000 fine and/or 30 days imprisonment. Further, the manufacture, shipment, import, or sale of (or attempt to manufacture, ship, import, or sell) a flavored tobacco product into or within the State constitutes doing business without an appropriate license; thus, a violation is a misdemeanor subject to existing penalties.

Along with the new Tobacco 21 law restricting tobacco sales to individuals older than 21, SB 233 will aid Maryland's efforts to reduce smoking, particularly by deterring the explosive growth in the use of electronic smoking devices ("ESDs") among Maryland youth. SB 233 removes tempting flavored tobacco products so that kids do not begin to smoke in the first place because the product is less available overall. The flavor ban is part of a multi-pronged approach to help reduce youth interest and access to ESDs and other tobacco products, which in turn reduces the likelihood of them ever starting to use tobacco. Most adults who smoke or use tobacco started by age 21,² and recently there has been a marked increase in youth ESD use: the CDC found that in 2019, over 5 million U.S. middle and high school students used e-cigarettes in

¹ While this letter highlights our support for SB 233, the Office of the Attorney General is generally supportive of every legislative attempt to ban flavored tobacco products. In short, the Office urges a favorable report on SB 233, SB 54 (Senators Lam and Kelley's bill) and SB 410 (Senators Kramer, Rosapepe, and West's bill).

² Maryland Dep't of Health, *Monitoring Changing Tobacco Use Behaviors: Maryland 2000-2016*, 25 (May 2018), available at <https://phpa.health.maryland.gov/ohpetup/Documents/2000%20-%202016%20Legislative%20Report%20Monitoring%20Changing%20Tobacco%20Use%20Behaviors.pdf> (among adult smokers, almost 90% reported that they smoked their first whole cigarette before the age of 21).



the past 30 days, including 10.5% of middle school students and 27.5% of high school students.³ Similarly, the Maryland Department of Health's Youth Risk Behavior Survey found in 2018 that nearly 40% of high school students had tried electronic vapor devices.⁴

According to the U.S. Surgeon General, ESD use among youth and young adults is now an "epidemic."⁵ Part of the rise of ESD use among youth and young adults is the attraction of flavor ESD products. There is a long history of the tobacco industry using flavored tobacco products to entice kids to use those products and to mask the taste and harshness of tobacco; studies show that youth are more likely than adults to choose flavored cigarettes and cigars.⁶ Menthol cigarettes, which are mint-flavored and more difficult to quit than regular cigarettes,⁷ are disproportionately used by young people and African-Americans: more than half of kids ages 12 to 17 and the majority of African-Americans who smoke use menthol cigarettes, in part because the tobacco industry has aggressively marketed menthol tobacco products to young people and African-Americans, especially in cities.⁸

SB 233 is aimed at the sellers of flavored tobacco products and has received criticism because it does not penalize users of prohibited tobacco products. SB 233 does not punish users of flavored products because youth purchase and possession laws are ineffective in reducing youth access to tobacco products. Moreover, any such enforcement may unfairly target certain groups, including minority groups. Other opponents argue that SB 233 is unnecessary because the problems it addresses merely require increased enforcement of existing tobacco laws. Maryland already has a robust enforcement regime: the State carries out field enforcement that tracks and stops cigarettes coming from out of state, as well as interdiction operations like the raids last November that resulted in the seizure of more than \$450,000 worth of tobacco products. The forthcoming Alcohol and Tobacco Commission will build on this work, bringing an even more focused approach to stopping illegal cigarette smuggling. Local agencies also take part in tobacco enforcement: they enforce in-store at the point of sale, conduct compliance checks using underage youth, and conduct checks with youth who use their own real

³ U.S. Centers for Disease Control & Prevention, *About Electronic Cigarettes (E-Cigarettes)* (Jan. 3, 2020), available at https://www.cdc.gov/tobacco/basic_information/e-cigarettes/about-e-cigarettes.html#e-cigarettes-help-adults-quit-cigarettes.

⁴ See Maryland Dep't of Health, *The Maryland Youth Risk Behavior Survey & Youth Tobacco Survey 2018-2019, Maryland High School Survey*, Detail Tables 49 (2019), available at <https://phpa.health.maryland.gov/ccdpc/Reports/Documents/2018%20YRBS%20YTS%20Reports/Maryland/2018MDM%20Detail%20Tables.pdf> (39.7% of high schoolers reported using an electronic vapor product).

⁵ U.S. Dep't of Health & Human Servs., Office of the Surgeon General, *Surgeon General releases advisory on E-cigarette epidemic among youth* (Dec. 18, 2019) (citing data from the Centers for Disease Control and Prevention and the Food and Drug Administration's National Youth Tobacco Survey showing that the percentage of high school-age children reporting past 30-day use of e-cigarettes rose by more than 75% between 2017 and 2018, and use among middle school-age children also increased nearly 50 percent).

⁶ U.S. Dep't of Health & Human Servs., Office of the Surgeon General, *E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General, 11* (2016), available at https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf.

⁷ Truth Initiative, *Menthol cigarettes: Attitudes, beliefs and policies* (May 9, 2018), available at <https://truthinitiative.org/research-resources/traditional-tobacco-products/menthol-cigarettes-attitudes-beliefs-and-policies>.

⁸ U.S. Centers for Disease Control & Prevention, Office on Smoking & Health, *Menthol and Cigarettes* (Aug. 1, 2019), available at https://www.cdc.gov/tobacco/basic_information/tobacco_industry/menthol-cigarettes/index.html.

government-issued ID.⁹ And while no single bill can solve the complex and widespread issue of youth smoking and black markets for tobacco products, SB 233 would be an important additional component of Maryland's efforts to reduce the availability of tempting tobacco products to youth.

Opponents of SB 233 claim that it will reduce tax revenues and result in job losses at wholesalers and retailers. It is true that SB 233 will reduce smoking tax revenue, which may cause both losses to wholesalers and retailers and a reduction in tax revenue from depressed sales of tobacco products. It is equally true that banning flavors, and the concomitant reduction in smoking, will prevent future significant expenditures on health care by reducing the number of smokers or e-cigarette users. Maryland already spends far in excess on tobacco-related health care than it receives from tobacco tax revenues: in 2019, Maryland took in approximately \$356 million in tobacco revenue¹⁰—a large amount of money that nevertheless pales in comparison to the \$2.7 billion that Maryland spends annually on medical costs to treat cancer and diseases caused by smoking.¹¹ Medical costs are and will be far greater than any amount of revenue the State takes in through tobacco revenue.

Finally, some of those against SB 233 claim that it will push ex-smokers who switched to flavored vaping back to smoking cigarettes or cigars, more harmful addictions. Notably, ESDs are not smoking cessation products, which require FDA approval after a review process. The FDA has never approved ESDs as an aid to quit smoking and they may, in fact, expose users to some of the same toxic chemicals found in combustible cigarette smoke.¹² Although many adults report using ESDs to try to quit smoking combustible cigarettes, most adult ESD users do not stop smoking cigarettes and instead continue to use both products.¹³ A recent longitudinal study in the American Journal of Preventative Medicine found that not only were ESDs harmful on their own with effects independent of smoking conventional tobacco, dual users get the combined risk of ESDs and conventional cigarettes, leaving users worse off than tobacco smokers.¹⁴

SB 233 will be an important part of Maryland's fight against youth tobacco use by reducing the availability of flavored tobacco products that are designed to attract our youngest

⁹ Comptroller of Maryland, *Tobacco Enforcement: A Local Agency Perspective 2* (Jan. 27, 2020), available at <https://www.marylandtaxes.gov/forms/etaskforce/County-Depts-of-Health01-27-2020.pdf>.

¹⁰ Comptroller of Maryland, *Alcohol & Tobacco Tax Annual Report Fiscal Year 2019*, at 23, available at https://marylandtaxes.gov/forms/compliance_forms/AnnualReportFY2019.pdf (reporting that Maryland received \$315,294,028 in cigarette tax revenue and \$41,320,813 in other tobacco products tax revenue).

¹¹ Maryland Dep't of Health, *Monitoring Changing Tobacco Use Behaviors: 2000-2016, Summary Report, 2*, available at https://phpa.health.maryland.gov/ohpetup/Documents/2000-2016%20Summary%20Report_Monitoring%20Changing%20Tobacco%20Use%20Behaviors.pdf.

¹² U.S. Food & Drug Admin., "Fact or Fiction: What to Know About Smoking Cessation and Medications," (Mar. 28, 2019), available at <https://www.fda.gov/consumers/consumer-updates/fact-or-fiction-what-know-about-smoking-cessation-and-medications> (stating that there are only three different types of medications approved by the FDA to help smokers quit—nicotine replacement therapies, bupropion, and varenicline).

¹³ U.S. Centers for Disease Control & Prevention, *About Electronic Cigarettes (E-Cigarettes)* (Jan. 3, 2020), available at https://www.cdc.gov/tobacco/basic_information/e-cigarettes/about-e-cigarettes.html#e-cigarettes-help-adults-quit-cigarettes.

¹⁴ Bhatta & Glantz, "Association of E-Cigarette Use With Respiratory Disease Among Adults: A Longitudinal Analysis," *AM. J. PREVENTATIVE MED.*, vol. 58(2): 182–190 (Dec. 19, 2019), available at [https://www.ajpmonline.org/article/S0749-3797\(19\)30391-5/fulltext#articleInformation](https://www.ajpmonline.org/article/S0749-3797(19)30391-5/fulltext#articleInformation).

and most vulnerable citizens. Given the urgent health concerns associated with youth tobacco usage and the unique threat of flavored tobacco products, we ask that this Committee return a favorable report on SB 233.

Dr. Philip Gardiner_FAV_SB233

Uploaded by: Gardiner, Dr. Phillip

Position: FAV

What's Menthol Got To Do With It? Everything!

Phillip S. Gardiner, Dr. P. H.

Co-Chair African American Tobacco Control Leadership Council
(**AATCLC**)

Senate Finance Committee – SB 233 SUPPORT

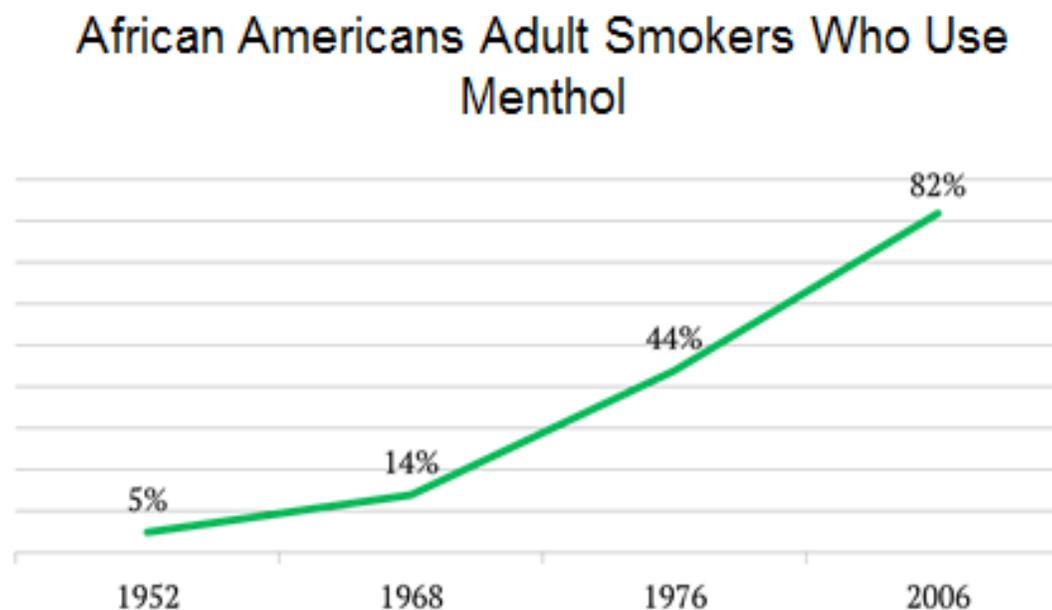
Annapolis, Maryland

February 13, 2020

The African Americanization of Menthol Cigarettes

50 Years of Predatory Marketing
And Counting

African American Menthol Use Skyrockets!



- Roper, B.W. (1953). A Study of People's Cigarette Smoking Habits and Attitudes Volume I. Philip Morris, Bates No. 2022239249. MSA, Inc. (1978) The Growth of Menthols, 1933 -1977. Brown & Williamson, Bates No. 670586709-785. NSDUH, 2004-2008.

Tobacco Industry's Assault on the African American Community (1960s & 70s)

- 91% of Advertising Budget for TV (B&W)
- Use of Male Actors with more Black features
 - Tripled Cigarette Advertising in Ebony
 - “Menthols got a brand new bag”
 - Cool Jazz; Cool Lexicon
 - Philanthropy

(Gardiner, 2004)

N. Y. YANKEE STAR ELSTON HOWARD FLASHES THE SIGN:

"YOUR CIGARETTE'S NOT TASTING COOL ENOUGH
TILL YOU *Come Up to KOOL*"



"Feel extra coolness in your throat.."

says *Elston Howard*

"Extra coolness no other cigarette can offer. Taste a new freshness that lasts all through the day . . . Kool after Kool after Kool. Believe me," says Yankee Star Elston Howard, "I know!"

Take Elston Howard's advice: "Try just one carton of Kool. You'll never go back to those hot and dry-tasting cigarettes again!"

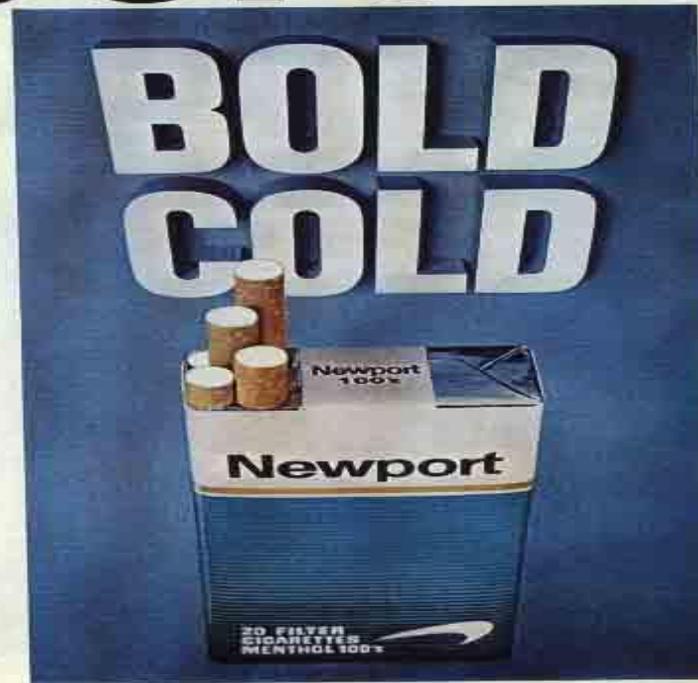


**Cool
ain't Cold.
Newport
is.**



A whole
new bag of
menthol
smoking
filter kings & 100's

© 1970 Philip Morris Inc.



1970 *Ebony* magazine advertisement

Box: 17 mg "tar", 1.1 mg. nicotine; 100's: 19 mg "tar", 1.3 mg. nicotine av. per cigarette. FTC Report Nov. 1975.

Alive with pleasure!
Newport

*After all, if
smoking isn't
a pleasure,
why bother?*



Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health.



REAL & RICH
THAT'S WINSTON MENTHOL
& COOL



© 2004 R.J. REYNOLDS TOBACCO COMPANY. WINSTON MENTHOL
7mg "tar", 11mg nicotine av. per cigarette. FTC Report 4/15/71

Winston, The Legend Lives!
Plus Menthol. The Legend Lives!
is a trademark of R.J. REYNOLDS TOBACCO COMPANY.

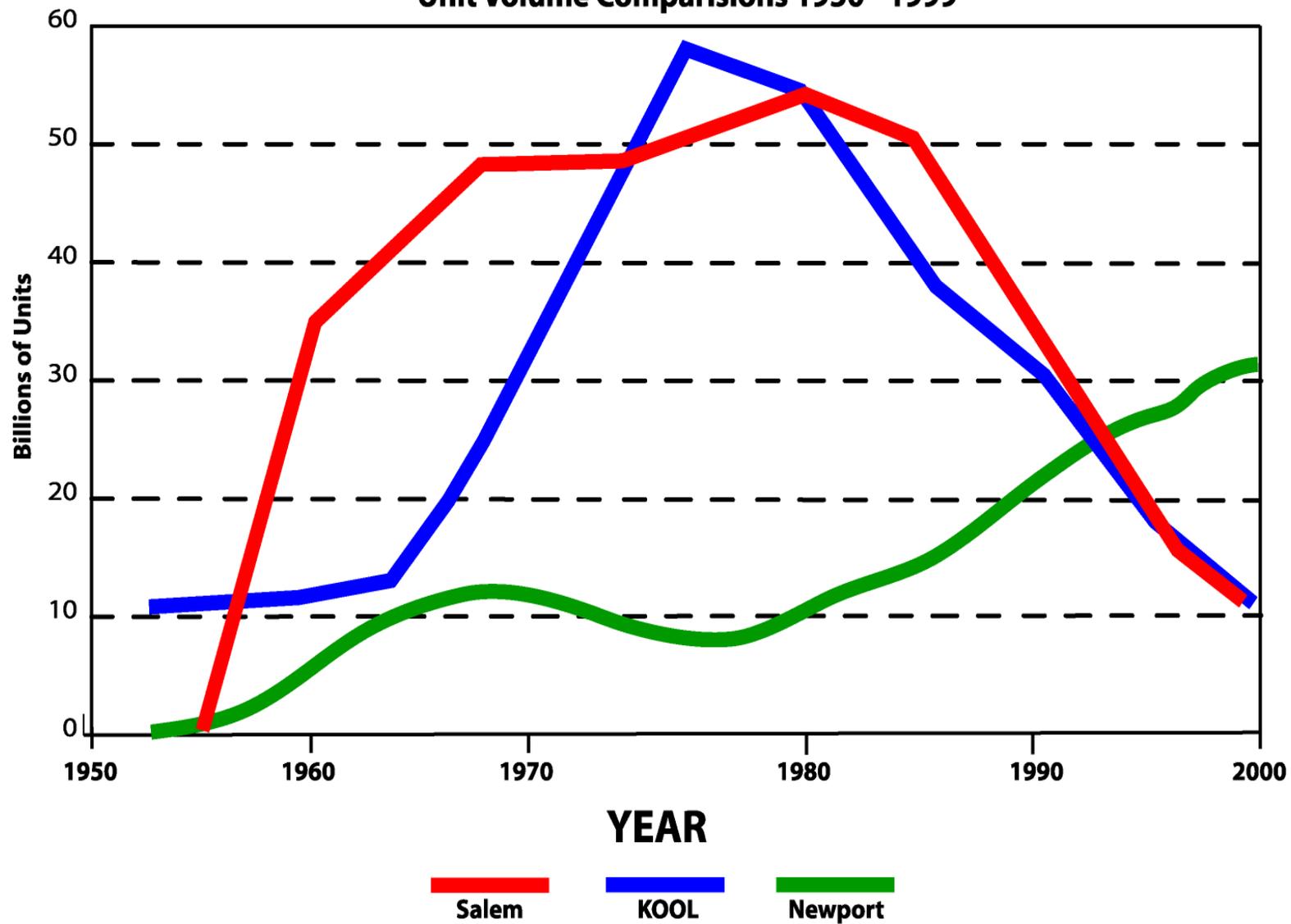
Menthol Wars: The 1980s and the Fight for Market Share

- **Cigarette Sampling *Vans***

- Kool, Newport, Salem, Benson & Hedges
- Free Cigarette Samples
- High Traffic Areas: Parks, Known Street Corners, Daily Routes
 - (Yerger, Przewoznik and Malone, 2007)

Key Menthol Brands

Unit Volume Comparisons 1950 - 1999



SURGEON GENERAL'S WARNING: Cigarette
Smoke Contains Carbon Monoxide.

**Fire
it UP!**

**Newport
pleasure!**



© Lorillard 2002

Lights Box: 9 mg. "tar," 0.8 mg. nicotine; Medium Box: 12 mg. "tar," 0.9 mg. nicotine; Box: 16 mg. "tar," 1.3 mg. nicotine av. per cigarette by FTC method.

ENTICING

Inviting and surprising, MOCHA TABOO will entice you with its sweet indulgence

KOOL

SMOOTH FUSIONS
FROM THE HOUSE OF MENTHOL



Available for a limited time only

**SURGEON GENERAL'S WARNING: Cigarette
Smoke Contains Carbon Monoxide.**

Mintrigue, Caribbean Chill, Mocha Taboo, Midnight Berry KS Box, 10 mg. "tar", 0.9 mg. nicotine; Box Kings, 17 mg. "tar", 1.3 mg. nicotine av. per cigarette by FTC method. The amount of tar and nicotine you get from this product varies depending on how you smoke it. There is no such thing as a safe cigarette. For more information visit www.bwtarnic.com ©2004 B&W T Co.

Kool Mixx Campaign 2004

- Capitalizing on Hip-Hop in the Black Community
- Nation-wide Contests on Mixing, Scratching and DJing to Culminate in a National Contest in Chicago
- Local Opposition by African American Groups
- Lawsuit Brought by Attorneys General of NY, Mass and Illinois Blocked the National Meeting in Chicago

KOOL MIXX

IF IT'S MUSIC, IT'S IN THE MIXX

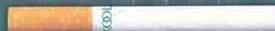


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Box Kings, 17 mg. "tar", 1.3 mg. nicotine av. per cigarette by FTC method. The amount of tar and nicotine you get from this product varies depending on how you smoke it. There is no such thing as a safe cigarette. For more information visit www.bw.com

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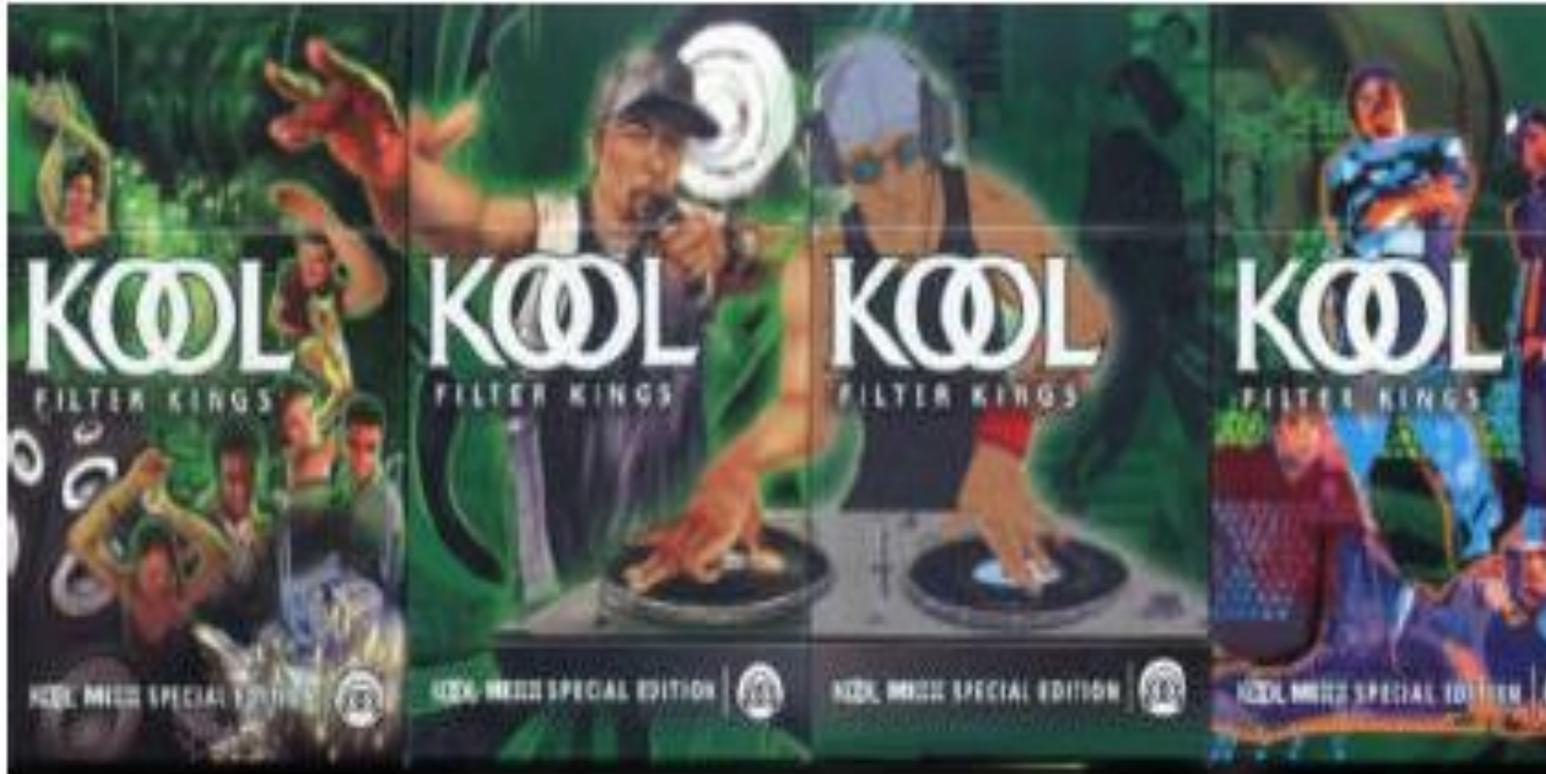
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KOOL Cigarette Packs

KOOL MIXX SPECIAL EDITION PACKS



Menthol: What it is

What it Does

The Ultimate Candy Flavoring; Menthol Helps The Poison Go Down Easier

- Chief Constituent of Peppermint Oil; Minty-Candy Taste; Masks the Harshness of Smoking
- Cooling Sensation; activates taste buds; cold receptors; increases throat grab
- Anesthetic effects; Mimics Bronchial Dilatation; easier to inhale; deeper inhalation; more nicotine taken in.
- Mentholated cigarette smoking inhibits nicotine metabolism
- Independent Sensory Activation Neurotransmitters
- Increases Salivary Flow; Transbuccal Drug absorption
- Greater Cell Permeability (Ferris, 2004; Benowitz, 2004)

All Tobacco Products Contain Some Menthol

• Menthol Content of U.S. Tobacco Products

• Product	Menthol (mg)
• Regular (non-menthol) cigarettes	0.003
• Menthol cigarettes (weak effect)	0.1–0.2
• Menthol cigarettes (strong effect)	0.25–0.45
• Pipe tobacco	0.03
• Chewing tobacco	0.05–0.1

(Hopp, 1993)

Racial Differences Cotinine Clearance, Half-Life, and Nicotine

	Black		White
Cotinine	0.56 ml	(p=.009)	0.68 ml
Half/Life	1064 min	(p=.07)	950 min
Nic/Cig	1.41 mg	(p=.02)	1.09 mg

(Perez-Stable, et al., 1998)

Melanin and Nicotine

- Melanin is the substance that gives color to our skin
- Nicotine is stored in tissues that contain melanin
- The darker your skin means that more nicotine is stored in your body (King et al., 2009)

Menthol Harder to Quit!

	Quit Attempts	% Difference
Non-Menthol	38.1%	
Menthol	41.4%	+8.8%
	Cessation (>3 mo.)	% Difference
Non-Menthol	21.2%	
Menthol	18.3%	-13.8%

(Levy, et al., 2011)

Predation:

“the action of attacking or plundering, where a *predator* (the tobacco industry) feeds on its prey (the African American Community and other marginalized groups)”

Focus vs. Non Focus Communities (Wright, 2009)

▶ **Focus Communities: Inner-city, Colored and Poor**

- Less expensive, more desirable promotions
 - Buy 1, Get X Free
 - Summer/ Holidays

▶ **Non-focus Communities: Upscale, suburban, rural and white**

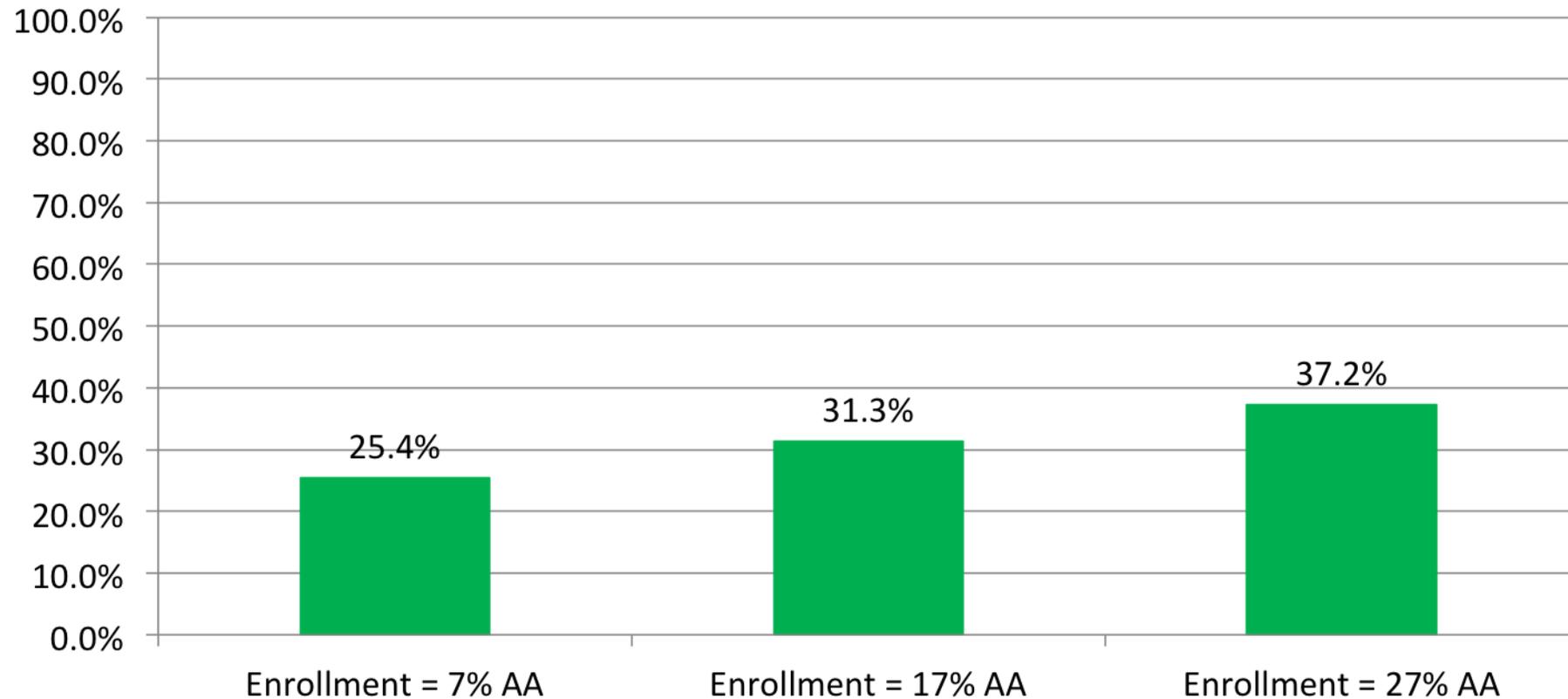
- More expensive, less desirable promotions
 - Buy 2, Get X Free
 - Buy 3, Get X Free

▶ **Menthol Cigarettes Cheaper**

- Non-focus- 50 cents off/ pack (\$5.00 off/ ctn)
- Focus- \$1.00-\$1.50 off/ pack (\$10.00-15.00 off/ ctn)

Predatory Marketing Patterns (Henriksen, 2011)

As the % African American students increased, proportion menthol ads increased:



Menthol Cigarettes: Cheaper for African Americans

- For each 10% increase in the proportion of African American students:
 - Newport discount 1.5 times greater
 - The proportion of menthol advertising increased by 5.9%
 - Newport promotion were 42% higher
 - The cost of Newport was 12 cents lower.

(Henriksen, et al., 2011)

Storefront Cigarette Advertising Differs by Racial/Ethnic Community

	Brookline	Dorchester	<i>p-value</i>
	n= 42	56	
	%	%	
• Retailer w/ Ads	42.9	85.7	<0.001
• Small Ads	56.8	20.1	“
• Large Ads	2.0	23.7	“
• Menthol Ads	17.9	53.9	“
• Average Price	\$4.94	\$4.55	“

(Seidenberg, et al., 2010)

Menthols: The New Cigarette of Choice

Although overall smoking prevalence has decreased, the prevalence of menthol cigarette use among past 30-day cigarette smokers increased significantly from

- **35% in 2008–2010 to**
- **39% in 2012–2014.**

(Villanti et al., 2016)

Menthols: Its Not Just Kids

- **Significant increases in menthol cigarette use among adults ages:**
 - 18–25
 - 26–34
 - 35–49
 - between the two time periods; 2008-2010 – 2012-2014
 - (Villanti et al., 2016)

All Smokers Choosing Menthols

- While menthol cigarette prevalence has remained constant among **African American** smokers, it has increased among:
 - **Whites**
 - **Asian Americans**
 - **Hispanics**
- (Villanti et al., 2016)

Menthol A Sacrificial Lamb



1823060 www.fotosearch.com

A Deal with the Devil?

- **Family Smoking Prevention and Tobacco Control Act**

- Proposed in 2008; Enacted in 2009
- Dealers: Philip Morris, Southern Senators and representatives of the tobacco control movement
- Eliminate 13 flavors in cigarettes

- **Excluded Menthol!!**

- African Americans, Women, Youth, Native Hawaiians, Filipinos, LGBTQ folks, Puerto Ricans, Behavioral Health Issues

Menthol/E-Cig Restrictions 2019

- 221+ Localities Flavor Restrictions
- 26 Cities Menthol Prohibitions
- 6 States: E-Cigarette Flavor Restrictions and Menthol
 - Michigan In Court
 - New York 3rd State to Consider State-wide Menthol Prohibitions
 - Maryland 1st State to Pass Menthol prohibition State Wide
 - Massachusetts* Emergency E-Cigs Only
 - Rhode Island 2nd State Considering State-Wide Menthol Prohibition
 - Vermont* E-Cigs Only
 - Washington

Take Home Message: Menthol is a Social Justice Issue!

- The disproportionate marketing and targeting candy-flavored poison to African Americans and other specially oppressed sectors of our society, is out-right discriminatory and genocidal.
- Poorest; least informed; fewest resources; indeed the definition of preying on the most vulnerable sections of our society.

If Menthol Were Banned 100,000s Of Lives Would Be Saved

2010 – 2050

All Menthol Smokers

Black Menthol Smokers

10%

323,107

91,744

20%

478,154

164,465

30%

633,252

237,317

(Levy, et al., 2011)

What's at Stake?



Thank You!

Phillip Gardiner, Dr. P.H.

Gmoney.gardiner@gmail.com

AATCLC

Saving Black Lives

www.savingblacklives.org

MCF_Fav_SB233

Uploaded by: Geddes, Ann

Position: FAV



SB 233 – Business Regulation – Flavored Tobacco Products – Prohibition

Committee: Finance

Date: February 13, 2020

POSITION: Support

The Maryland Coalition of Families: Maryland Coalition of Families (MCF) helps families who care for someone with behavioral health needs. Using personal experience as parents, caregivers and other loved ones, our staff provide one-to-one peer support and navigation services to parents and caregivers of young people with mental health issues and to any loved one who cares for someone with a substance use or gambling issue.

MCF strongly supports SB 233.

Parents and caregivers of children with mental health or substance use problems are a key population that we serve. These youth are at high risk of using electronic smoking devices, and many do. Parents are distraught, but can do little to prevent or control the use of e-cigarettes by their child. These young people face a lifetime of addiction to nicotine. While the long-term health consequences of using e-cigarettes remains to be seen, we know that nicotine has a harmful effect on the developing adolescent brain. Also, we know that addiction to nicotine carries a tremendous economic cost.

Surveys and studies have clearly shown that flavored e-cigarettes especially appeal to youth, and the manufacturers of flavored e-cigarettes have targeted youth in their marketing efforts. The use of e-cigarettes by youth has reached epidemic proportions, and there is consensus that by banning flavored e-cigarettes, fewer youth would take up the habit and become addicted.

Given this, the federal government recently put restrictions on flavored e-cigarettes. Unfortunately, there are a number of large holes in the current regulations. SB 233 would close these gaps, and help to keep a generation of Maryland youth from becoming addicted to nicotine.

We urge a favorable report on SB 233.

Contact: Ann Geddes
Director of Public Policy
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SB 233 American Heart Association Favorable

Uploaded by: Hale, Laura

Position: FAV



February 10th, 2020

Testimony of Laura Hale
American Heart Association

Favorable—SB 233 Business Regulation - Flavored Tobacco Products - Prohibition

Dear Chair Kelley, Vice Chair Feldman and Member of the Finance Committee,

Thank you for the opportunity to speak before you today. My name is Laura Hale and I am the Director of Government Relations for the American Heart Association. The American Heart Association offers our strong support for SB 233.

Keeping Maryland healthy is a drive of the American Heart Association and something that each of you has worked tirelessly to do. Despite the efforts that have been made, the tobacco industry continues to work to addict Maryland's youth to their deadly products: from menthol cigarettes to candy flavored e-cigarettes to everything in between. But today, you have an opportunity to take away one of the things that entice youth to these products: flavors.

Flavors make the addictive nicotine go down easier in these products. 80 percent of teens who use tobacco products started with a flavored product like mint, menthol, or berry¹. Youth are using products such as electronic smoking devices (ESDs), cigarettes, cigars and chewing tobacco². The flavorings in all of these products are appealing to youth and are the reason many initiate use³. By removing the flavored products from the market, youth will no longer be interested in starting to use these products. We will be able to create a generation of never-smokers.

When addressing this issue, it is important to remember the variety of products on the market and not only look at ESDs. The tobacco industry continues to create and market new products to hook Maryland's children. They need new smokers to support their business model. By addicting the next generation to tobacco, they are creating more of a tax burden on Marylanders with the increase in cost for Medicaid as well as the human cost of lives lost each year⁴. If nothing changes, 92,000 kids alive today in Maryland will die prematurely due to tobacco use⁵.

Sales of flavored tobacco products must end in Maryland. The health of our kids can't wait. To protect the health of all Marylanders, Maryland must end the sale of all flavored tobacco products, including ESDs, menthol cigarettes, chewing tobacco, and flavored cigars.

¹ Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," Journal of the American Medical Association (JAMA), published online 26 October 2015.

² <https://www.tobaccofreekids.org/problem/toll-us/maryland>

³ https://www.globaltobaccocontrol.org/sites/default/files/state_of_the_evidence_-_flavor_ban_or_restriction_0.pdf

⁴ <https://www.tobaccofreekids.org/problem/toll-us/maryland>

⁵ <https://www.tobaccofreekids.org/problem/toll-us/maryland>

Sb 233 Hardesty_Testimony_ Favorable

Uploaded by: Hardesty, Jeffrey

Position: FAV

Testimony of Jeffrey Hardesty

Maryland Resident

February 13, 2020

Senate Bill 233: Business Regulation - Flavored Tobacco Products – Prohibition

POSITION: SUPPORT

Thank you, Rajeev. I will speak of the hard lessons learned from jurisdictions that have restricted flavored tobacco products.

Back in 2009, the FDA stopped the sale of flavored cigarettes, with an exemption for menthol. The policy succeeded at its primary goal of reducing cigarette use among youth, but it led to an increase in youth use of other tobacco products known for their flavors, like menthol cigarettes, cigars, and pipes. *These data suggest exempting some but not all products displaces the problem.*

In Minneapolis, an adult-only store exemption threatened to undermine the intended public health benefits of the law. To continue selling flavored tobacco products, convenience store owners began applying for licenses to establish new adult-only tobacco product shops. Some owners split their existing stores into two: an adult-only tobacco shop and a convenience store. Other owners converted their shops entirely into adult-only tobacco shops. *This example suggests exempting certain types of retailers may not reduce the availability of flavored tobacco products.*

In Providence, RI, they restricted *characterizing* flavors only and subsequently saw an increase in sales of *concept* flavored cigars. In contrast, Massachusetts communities restricted characterizing and concept flavors which resulted in greatly reduced availability of all flavored tobacco products. This was achieved using a robust retailer education campaign and a Guidance List containing all restricted products. The List was sent to shops and is periodically updated to reflect new products. *These examples suggest concept flavors are a unique challenge, but a road map exists to overcome it.*

In light of the positive public health impacts described by my colleagues and these lessons learned; we support the passage of SB233 and make two recommendations.

1. Exempting certain tobacco products, flavors, and retailers creates loopholes likely to be exploited. A policy without exemptions will maximize health benefits and minimize unintended consequences.
2. Maryland Department of Health (MDH) will require resources for a robust retailer education campaign and should have the ability to use a Guidance List that can be updated.

Thank you for your consideration.

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Institute for Global Tobacco Control
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Ph: 410-502-8835

The opinions expressed herein are my own and do not necessarily reflect the views of The Johns Hopkins University.

Anne Arundel County DOH_FAV_SB233

Uploaded by: Kalyanaraman, Nilesh

Position: FAV



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www.aahealth.org

Nilesh Kalyanaraman, M.D.
Health Officer

2020 SESSION
Written Testimony

BILL NO: SB 233
COMMITTEE: Finance Committee
POSITION: Support
TITLE: Business Regulation- Flavored Tobacco Products-Prohibition

BILL ANALYSIS:

SB 233 will prohibit the sale of all flavored tobacco products, including menthol cigarettes, chewing tobacco, small cigars, and vape products.

POSITION RATIONALE:

The Anne Arundel County Department of Health supports SB 233 prohibiting the sale of all flavored tobacco products, including menthol cigarettes, chewing tobacco, flavored cigars, and vape products.

Research shows that sweet-tasting flavors are particularly appealing to youth and young adults. In 2009, The FDA banned cigarettes with certain flavors that appeal to youth (e.g., cherry, chocolate), and is examining options for regulating other flavored tobacco products, including menthol cigarettes. The 2009 flavored cigarette ban was an important first step for responsible tobacco regulation to protect the American public, particularly children, from the dangers of cigarettes, however, other flavored tobacco products have not been fully addressed.

Research shows that flavors make these products more enticing to youth and young adults. The FDA found that nearly 80 percent of youth ages 12-17 and nearly 75 percent of young adults ages 18-25 who were current tobacco users in 2014 reported that the first tobacco product they ever used was flavored. The U.S. Surgeon General states that the use of nicotine in any form, including e-cigarettes is unsafe and can have lifelong health effects. This is doubly concerning for youth and young adults as nicotine has effects on their still-developing brain. The normal adolescent brain does not yet have the full capacity to balance short-term rewards with long-term goals, control impulses, delay gratification, weigh possible consequences of behavior,

or inhibit inappropriate behavior and initiate appropriate behavior. Nicotine affects these processes by altering normal brain chemistry affecting mood, appetite, attention, cognition, and memory which can lead to worsening anxiety, irritability and impulsivity.

Nicotine also changes biochemical pathways in the brain that increase the chances of nicotine dependence and future addiction to other drugs, including opioids. Nicotine acts like a key to unlock special receptor molecules on the outside of cells in the brain, including those in the prefrontal cortex. Nicotine causes these cells to release signaling molecules, such as dopamine, which gives users a high. But after repeated exposure to nicotine, those brain cells change to reduce the body's ability to release its own pleasure-giving chemicals reinforcing the addiction.

The susceptibility of teens to advertising manipulation, honed by the tobacco and vaping industry, is also of great concern. Adolescents grow up in a media environment rich with exposure to tobacco marketing in both their homes (internet) and their communities (stores and billboards). According to the National Institutes of Health (NIH), adolescents who have never smoked and are frequently exposed to cigarette marketing on the internet and in stores are more than two times as likely to begin smoking. In 2016, about 8 in 10 middle school and high school students, more than 20 million youth, said they had seen e-cigarette advertising. Today the focus of the industry's marketing effort is on promoting flavored products that appeal to adolescents. E-cigarettes come in kid-friendly flavors such as mango, fruit, candy and crème. The 2019 National Youth Tobacco Survey found that 4 out of 5 kids who have used tobacco started by using a flavored product. Many youths also report using e-cigarettes because they are curious about these new products, the flavors are appealing to them, and they believe these products to be less harmful than conventional cigarettes.

Menthol deserves special mention as a flavor additive because it is often inappropriately exempted from flavor bans. Menthol has a minty taste and aroma that is widely used in consumer and medicinal products due to its reported cooling or painkilling properties. When used in cigarettes, menthol reduces the irritation and harshness of smoking. However, research suggests menthol cigarettes may be harder to quit than non-menthol cigarettes, particularly among African American smokers. Menthol is also used in many other tobacco products including in vape products. In the U.S.:

- More than 19.5 million people are current smokers of menthol cigarettes.
- 85.8 percent of African American smokers, 46 percent of Hispanic smokers, 39 percent of Asian smokers, and 28.7 percent of White smokers smoke menthol cigarettes.
- Youth who smoke are more likely to smoke menthol cigarettes than older smokers. More than half of smokers ages 12-17 smoke menthol cigarettes.

The Anne Arundel County Department of Health and Anne Arundel County school staff is making every effort to educate our youth on the dangers of smoking and vaping. But we know that for decades, the tobacco industry has perfected the ability to exploit emotional and social vulnerabilities of teens. Our education, although extremely important to provide students with information to protect their health, is no match for the sophisticated techniques developed by industry that now uses flavors as bait. Prohibiting the sale of all flavored tobacco products will be a significant step in the right direction to improving the health of youth and adults.

Sources:

1. <https://e-cigarettes.surgeongeneral.gov/knowtherisks.html>
2. <https://flavorhookkidsdc.org/#facts>
3. Kara S. Bagot, MD, Assistant Professor, Icahn School of Medicine at Mount Sinai, "Neurobiology of Adolescent Tobacco/Nicotine Use Disorders"
4. <https://www.fda.gov/tobacco-products/youth-and-tobacco/fdas-youth-tobacco-prevention-plan>
5. <https://www.ncbi.nlm.nih.gov/pubmed/29846704>
6. <https://www.sciencenewsforstudents.org/article/explainer-nico-teen-brain>
7. <https://www.tobaccofreekids.org/assets/factsheets/0383.pdf>
8. <https://www.tobaccofreekids.org/what-we-do/us/flavored-tobacco-products>

Sb 233 Kibria_Testimony_ Favorable

Uploaded by: Kibria, Naseeb

Position: FAV

Testimony of Naseeb Kibria

Maryland Resident

February 13, 2020

Senate Bill 233: Business Regulation - Flavored Tobacco Products – Prohibition

POSITION: SUPPORT

Thank you, Ayo. My testimony has two parts: first, I will summarize public health impacts of restricting the sale of mentholated cigarettes and then I will talk about flavored cigars. These impacts are what might be expected if Maryland were to restrict the sale of *only* menthol cigarettes or *only* flavored cigars.

Restricting menthol can have positive long term public health implications on current smokers. In 2017 Ontario, Canada restricted mentholated tobacco products, and one year after the policy, 63% of daily and 62% of occasional menthol smokers reported having made a quit attempt versus 43% of non-menthol smokers. In addition, 24% of daily and 20% of occasional menthol smokers quit smoking versus 14% of non-menthol smokers.

It is encouraging that the available data consistently suggest a similar policy in the U.S. may yield an even greater impact. Before the Ontario restriction, 15% of menthol smokers 16 years or older said they would quit, 60% said they would switch to non-menthol cigarettes, and 6% said they would use other flavored tobacco or e-cigarette products. For comparison, in the U.S., one study found 66% of young adult menthol smokers said they would quit, 18% said they would switch to non-menthol cigarettes, and 16% said they would use other tobacco products. A separate study also found 35% of adolescent and adult menthol smokers said they would quit smoking. The evidence also suggests African Americans, females, and those with less than a high school education are more likely to quit.

To the best of our knowledge, no studies have evaluated the impact of a flavored cigar restriction on its own. Nevertheless, researchers have modeled the projected impact of such a restriction. They found a nationwide restriction would prevent 15% of premature deaths from exclusive and regular cigar users. The authors also calculated that the number of current cigar smokers within each cohort of 18 year old adults would be reduced by approximately 112,000 users.

Thank you for your consideration. My colleague, Rajeev Cherukupalli, will now continue providing testimony.

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The opinions expressed herein are my own and do not necessarily reflect the views of The Johns Hopkins University.

Wellness Council_FAV_SB 233

Uploaded by: Kiel, Jessica

Position: FAV

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February 13, 2020

Honorable Delores G. Kelley Chair,
Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401

RE: SB 233 - Business Regulation – Flavored Tobacco Products – Prohibitions – Letter of Support

Dear Chair Kelley and Committee Members:

The Maryland State Advisory Council on Health and Wellness (the Council) is submitting this letter of support for Senate Bill 233 (SB 233), titled: “Business Regulation – Flavored Tobacco Products – Prohibitions.” SB 233 is an emergency bill that prohibits businesses licensed to manufacture, sell, buy, and store tobacco products from manufacturing, shipping, importing, or selling any flavored tobacco products, which include cigarettes, electronic smoking devices (ESDs), and other tobacco products. SB 233 also prohibits the sale of such products online and in vending machines. The Council extends its support for SB 233, as it seeks to promote health and prevent disease by ending the sale of flavored tobacco products.

With over 15,500 types available, flavored ESDs are a driving force behind the youth vaping epidemic, which has significantly impacted young people in Maryland. One in four Maryland high school students reported current ESD use during the 2018-2019 school year, a 73 percent increase from 2016-2017.² Of these students, 97 percent reported using flavors other than tobacco.¹ Many youth report being unaware that most ESDs contain nicotine, even those that are candy- or fruit-flavored, which can have especially negative health consequences for young people. Because brain development is ongoing until roughly age 25, the effects of nicotine consumed during adolescence and early adulthood are more harmful than later in life. Such effects can include acute nicotine addiction, reduced impulse control, deficits in attention and cognition, mood disorders, and a predisposition for use of other addictive substances.ⁱⁱ

The Council agrees with the following statements as they relate to the passage of SB 233:

- Following the 2009 federal ban on flavored cigarettes (except menthol), the likelihood of youth initiating any form of tobacco use dropped six percent, demonstrating the impact flavor bans can have.ⁱⁱⁱ
- Flavored tobacco products are not marketed and sold uniformly across the U.S., as marketing for menthol products as well as little cigars/cigarillos is more prevalent in low-income and African American neighborhoods.^{iv}
- Flavored tobacco products, particularly menthol cigarettes, are used at disproportionately higher rates by racial and ethnic minorities, individuals of lower socioeconomic-status, teen smokers, and individuals who identify as LGBTQ,^{v,vi} leading to health disparities among vulnerable populations.
- Flavors such as menthol can make quitting tobacco products more difficult.^{vii}

- Despite research that supports their equal potential for harm, flavored tobacco products are widely seen as less dangerous than non-flavored. A study on the effects of exposure to flavored and non-flavored cigar smoke on lung tissue showed comparable levels of toxicity and cell death.^{viii}
- Many compounds used to flavor ESDs have not been determined safe for consumption when heated and inhaled. In fact, many flavors that have been tested revealed damaging effects, including toxic effects on the lungs and changes in inflammatory responses.^{ix,x}
- People who use flavored ESDs are more likely to report greater satisfaction and self-perceived addiction than users of non-flavored ESDs.^{xi}

The Council respectfully urges this Committee to approve SB 233 as a critical public health measure to reverse alarming trends in youth tobacco use driven by widespread availability of flavored ESDs and other tobacco products. SB 233 merits consideration and approval as it seeks to ban the sale, both online and in-person, of all flavored tobacco products, including mint and menthol: two flavors that have been previously exempted from bans. Prohibiting the sale of all flavors will make these products less attractive and help prevent young people from initiating tobacco use, saving lives and improving the health of Marylanders.

Sincerely,



Jessica Kiel, R.D., Chair, State Advisory Council on Health and Wellness

ⁱ 2018-2019 Maryland Youth Risk Behavior Survey/Youth Tobacco Survey (YRBS/YTS), unpublished data, retrieved 2January2020.

ⁱⁱ U.S. Department of Health and Human Services. E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016 Accessed 19 February 2019 at https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_Full_Report_508.pdf.

ⁱⁱⁱ Courtemanche CJ et al., Influence of the Flavored Cigarette Ban on Adolescent Tobacco Use *Am J Prev Med.* 2017 May; 52(5): e139–e146. doi: 10.1016/j.amepre.2016.11.019.

^{iv} Lee JGL., A Systematic Review of Neighborhood Disparities in Point-of-Sale Tobacco Marketing. Sept 2015 *Amer J Pub Health* 105 e8_e18. <https://www.ncbi.nlm.nih.gov/pubmed/26180986>.

^v Fallin A et al., Menthol Cigarette Smoking among Lesbian, Gay, Bisexual, and Transgender Adults. *American Journal of Preventive Medicine.* 2015;48(1):93-97 <https://www.ncbi.nlm.nih.gov/pubmed/25245795>.

^{vi} Lawrence, D et al. National patterns and correlates of mentholated cigarette use in the United States. *Addiction.* 2010 Dec;105 Suppl 1:13-31. doi: 10.1111/j.1360-0443.2010.03203.x.

^{vii} Levy, DT et al., Quit attempts and quit rates among menthol and nonmenthol smokers in the United States. *Am J Public Health,* 2011. 101(7): pg 1241-7. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3110228/>.

^{viii} Ghosh A et al., Flavored little cigar smoke induces cytotoxicity and apoptosis in airway epithelia. *Cell Death Discov.* 2017; 3: 17019. Published online 2017 Apr 24. doi: 10.1038/cddiscovery.2017.19.

^{ix} Higham A et al., Electronic Cigarette exposure triggers neutrophil inflammatory responses.^{ix} *Respir Res* 17: 56 (2016). <https://www.ncbi.nlm.nih.gov/pubmed/27184092>.

^x Fetterman JL et al., Flavorings in Tobacco Products Induce Endothelial Cell Dysfunction Arteriosclerosis, Thrombosis and Vascular Biology 7 Jul 2018 <https://doi.org/10.1161/ATVBAHA.118.311156>.

^{xi} Landry RL et al. The role of flavors in vaping initiation and satisfaction among U.S. adults. *Addict Behav.* 2019 Dec;99:106077. doi: 10.1016/j.addbeh.2019.106077.

AMA_James Madara_FAV_SB0233

Uploaded by: Madara, MD, James

Position: FAV

February 13, 2020

The Honorable Delores Kelley
Chair
Finance Committee
Maryland Senate
Senate Office Building, 3 East Miller
Annapolis, MD 21401

Re: AMA Support for S.B. 233

Dear Chair Davis:

On behalf of the American Medical Association (AMA) and our physician and medical student members, I am writing in support of Senate Bill 233 (S.B. 233) legislation that would prohibit the sale of flavored tobacco products, including electronic smoking devices and accessories, in Maryland.

The epidemic of vaping-related illnesses across the country reaffirms our belief that the use of e-cigarettes and vaping is an urgent public health problem that must be addressed. A particular danger of e-cigarettes is the appeal of flavorings. Candy and fruit flavored e-cigarette products play a significant role in drawing young people to vaping. Flavored products are often perceived to be “safer” and are especially attractive to young users who enjoy sweet or minty flavors. Deliberate marketing of these qualities to young people has been disturbingly successful, and the numbers of America’s youth using e-cigarette products are soaring. Recent research by the Centers for Disease Control and Prevention shows that 27.5 percent of high school students, and 10.5 percent of middle school students report using e-cigarettes in the past month.¹ E-cigarettes are now the most commonly used tobacco products among both high school and middle school students, and the majority of youth report that they are using flavored e-cigarettes, with the most popular flavors being fruit, mint or menthol, and candy-, dessert- or other sweet-flavored e-cigarettes. Among high school students, use of mint or menthol flavored e-cigarettes is increasing, from 16 percent in 2016 to 57 percent in 2019.² We are encouraged that S.B. 3 extends the prohibition on flavorings to menthol and mint flavors for both vaping and tobacco products. Prohibiting flavorings for all products is likely to reduce use, whereas an exemption for menthol flavored tobacco products would provide an avenue for youth addicted to nicotine to simply switch from one flavored product to another.

Though the full extent of the long-term consequences of vaping is yet to be determined, research has demonstrated that e-cigarette use is unsafe, particularly among young people. Nicotine, levels of which are often higher in vaping products than combustible tobacco products, can slow brain development in youth, particularly in the areas of impulse control, attention span and the ability to learn. Nicotine use by

¹ Teresa Wang, Andrea Gentzke, McLisa Creamer, et al., Centers for Disease Control and Prevention, Tobacco Product Use and Associated Factors Among Middle and High School Students – United States, 2019, 68 MMWR Surveillance Summaries 12, 1-22 (Dec. 6, 2019).

² Karen Cullen, Andrea Gentzke, Michael Sawdey, et al., *e-Cigarette Use Among Youth in the United States*, 2019, 322 JAMA 21, 2095-2103 (Nov. 2019).

adolescents and young adults can also prime the brain for further addiction to other drugs. In addition, the heating and vaporization of toxic vaping liquid has the potential to cause serious or fatal lung damage, which has been tragically demonstrated in recent months by the thousands of people who have fallen ill with serious or fatal lung illnesses linked to vaping. A recent study also showed that people who use e-cigarettes face a significant risk of developing severe, chronic lung illnesses, such as asthma, bronchitis and emphysema, that have long been associated with smoking combustible cigarettes.”³ E-cigarettes are also undermining the public health gains that have been made over the years in combatting the smoking epidemic. Use of e-cigarettes as one’s first tobacco product is associated with more than four times the odds of ever using a combustible cigarette and nearly three times the odds of current combustible cigarette use.⁴

The danger of flavoring is also demonstrated in rates of youth combustible tobacco use. Eighty-one percent of youths who have ever used combustible tobacco products started with a flavored product, and young people cite flavoring as a major reason for their current use of tobacco products.⁵ In addition, menthol cigarettes are disproportionately favored by youth cigarette users: 54 percent of smokers age 12-17 use menthol cigarettes compared with less than one-third of smokers ages 35 and older.⁶ Among African American youth, menthol use is even higher: seven out of ten African American youth smokers use mentholated cigarettes.⁷ Yet flavored tobacco products have the same or worse health effects as other tobacco products. Smoking is the leading cause of preventable death in the United States, causing nearly half a million deaths each year, including more than 41,000 deaths caused by secondhand smoke.⁸ More than 16 million people live with disease caused by smoking, such as cancer, heart disease, stroke, lung diseases, diabetes and chronic obstructive pulmonary disease.⁹

The threat posed by menthol cigarettes, in particular, is especially pronounced for African Americans. Each year, more than 72,000 African Americans are diagnosed with a tobacco-related cancer and more than 39,000 die from a tobacco-related cancer.¹⁰ The high rate of mortality and morbidity may result, in part, from greater use of menthol cigarettes. Of African American smokers, nearly 90 percent smoke menthol-flavored cigarettes, and young African Americans who begin smoking overwhelmingly use menthol-flavored cigarettes.¹¹ Historically, advertising of menthol cigarettes has heavily targeted African American communities.

³ Dharma Bhatta & Stanton Glantz, *Association of E-Cigarette Use With Respiratory Disease Among Adults: A Longitudinal Analysis*, 58 *American Journal of Preventive Medicine* 1 (published online Dec. 16, 2019).

⁴ Kaitlyn Berry, Jessica Fetterman, Emelia Benjamin, et al., *Association of Electronic Cigarette Use With Subsequent Initiation of Tobacco Cigarettes in US Youths*, 2 *JAMA Network Open* 2 (Feb. 2019).

⁵ Bridget Ambrose, Hannah Day, Brian Rostron, et al., *Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014*, 314 *JAMA* 17, 1871-73 (Nov. 2015).

⁶ Andrea Villanti, et al., *Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014*, *Tobacco Control* (Oct. 2016)

⁷ *Id.*

⁸ Centers for Disease Control and Prevention, *Smoking and Tobacco Use: Fast Facts*, available at https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm

⁹ *Id.*

¹⁰ Campaign for Tobacco-Free Kids, *Tobacco Use Among African Americans*, fact sheet, available at <https://www.tobaccofreekids.org/assets/factsheets/0006.pdf>

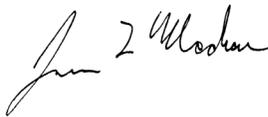
¹¹ Centers for Disease Control and Prevention, *Smoking and Tobacco Use: African Americans and Tobacco Use*, available at <https://www.cdc.gov/tobacco/disparities/african-americans/index.htm>

The Honorable Delores Kelley
February 13, 2020
Page 3

Given the dramatic rise in e-cigarette use among young people in the last year alone, it is clear that we must all do everything we can to help reverse this epidemic. The way to prevent another generation from developing nicotine dependence is to limit access to flavored products that are designed and marketed to appeal to young people and continue to raise awareness that e-cigarettes are harmful, powerfully addictive and can often lead young people to smoke conventional cigarettes. With serious vaping-related illnesses and deaths being reported, more stringent policies are necessary.

We urge you to protect Maryland's youth from flavored tobacco and e-cigarette products and support S.B. 233. We appreciate your consideration of our views on this important public health issue. If you need further information, please contact Annalia Michelman, JD, Senior Legislative Attorney, AMA Advocacy Resource Center, at annalia.michelman@ama-assn.org, or (312) 464-4788.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Madara". The signature is written in a cursive, flowing style.

James L. Madara, MD

cc: MedChi, The Maryland State Medical Society
Members of the Senate Finance Committee
Willarda V. Edwards, MD, MBA

SB 233 ACC Favorable written only

Uploaded by: Marine, Joseph

Position: FAV



Maryland
CHAPTER

1783 Forest Drive
Suite 238
Annapolis, MD 21401

marylandacc.org

February 3, 2020

Senator Delores Kelley, Chair
Senate Finance Committee
11 Bladen Street
Annapolis, MD 21401

Re: SUPPORT FOR SB 233 – Business Regulation – Flavored Tobacco Products – Prohibition

The Maryland Chapter of the American College of Cardiology would like to offer its strong support for Senate Bill 233, which would prohibit flavored tobacco products from being sold.

One of the newest ways industry has found to attract new users, especially teenagers, into a lifetime of nicotine addiction is the addition of flavors to e-tobacco products. These flavors serve only to decrease the harshness and mask the toxicity of the product. The Surgeon General Report on e-cigarettes previously concluded that flavors are among the most commonly cited reasons for increased use of e-cigarettes among youth and young adults.¹ In Maryland, prevalent use of e-cigarettes in high schools increased from 13% in 2016-17 to 23% in 2018-19, representing an increase of 73%.² This increase in tobacco/nicotine use will cause an increase in smoking-related illness, including heart disease. Reducing smoking remains the most cost-effective way to prevent heart disease. We should take every opportunity to restrict access to products that increase its attractiveness, especially among young people.

The Maryland Chapter of the American College of Cardiology respectfully requests the committee give SB 233 a favorable report.

Sincerely,

Joseph E. Marine, MD, FACC
President

¹ U.S. Department of Health and Human Services. E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General—Executive Summary. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016. Available at: https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_Full_Report_non-508.pdf

² Berkowitz D. 26th Annual Maryland State Cancer Control Conference: Maryland tobacco prevention and control updates. Annapolis, MD. November 14, 2019. Available at: <https://phpa.health.maryland.gov/Documents/State-Finance-and-Procurement-Article-§7-317-Cigarette-Restitution-Fund-Program-Annual-Report-FY-2018.pdf>

SB 233 Dr. Seth Martin Favorable

Uploaded by: Martin, Dr. Seth

Position: FAV

Dr. Seth Martin
Member of the American Heart Association Board
SB233- Favorable

Good Afternoon Chair Kelley, Vice Chair Feldman, and Members of the Finance Committee,

My name is Dr. Seth Martin and I am testifying in strong support of SB 233.

As a cardiologist, I see the consequences of tobacco use and nicotine addiction every day – most troubling is that these consequences are completely preventable by simply never using tobacco products. As a cardiologist and a father, I strongly support SB 233 to help prevent a new generation from getting hooked on tobacco and suffering the deadly consequences of these products.

Tobacco use and nicotine addiction cause many health problems that affect the heart, arteries and lungs. At an individual level, while a heart attack or stroke are the most obvious and dramatic consequences, multiple health problems can happen due to tobacco use such as heart failure, limb amputations or walking claudication from clogged arteries, impaired breathing from COPD, lung and oral cancer, etc. Of course, these problems are not limited to the individual using a tobacco product, it can also impact those around them. The aerosols in these products contain several chemicals known to be toxic. Some aerosols contain heavy metals and other toxic ingredients

Additionally, flavored tobacco products are hooking a new generation of kids due to enticing flavors like mint, mango, and bubble gum. Research tells us 80% of teens who use tobacco cite flavors as the reason they started. This is devastating since public health interventions and social changes had driven teen tobacco use to record low levels. Yet, for e-cigarette alone use has risen 135% in just 2 years and now over 6 million kids are using tobacco, the highest rate since 2000.

This is particularly troubling because of the impact of nicotine on the developing adolescent brain. E-cigarettes can contain very high levels of nicotine. Nicotine is a neurotoxin, a poison that affects the nervous system. It can affect brain development from early fetal life through adolescence, permanently changing the ability to think or reason. Consequences for teens exposed to nicotine include impacts on cognitive ability, emotional problems, and addiction.

For all these reasons, it is critical that we do everything we can to make tobacco use less appealing to youth and to create more never smokers. Taking away all flavored tobacco products does just that.

It is also important that this policy not just focus on flavored e-cigarettes, but also include menthol cigarettes and all flavored tobacco products. Tobacco companies have targeted African-American and low-income communities for decades hooking them on menthol and nicotine.

Nicotine and tobacco are serious addictions. As a cardiologist working in Maryland, I am passionate about ensuring that we do everything we can to prevent people from starting to use tobacco or to help them quit.

This legislation will help keep dangerous, addictive products away from kids and those who have been targeted by the tobacco industry. Your support is critical to help decrease tobacco use and nicotine addiction, prevent deaths and disabilities, and save millions in health care costs including Maryland Medicaid.

For all these reasons, and for the health and welfare of all Marylanders, I ask for swift passage of SB 233. We must continue to do everything we can to help all residents, especially kids and communities of color to stop using tobacco or to never start. Thank you.

Carol McGruder_FAV_SB233

Uploaded by: McGruder, Carol

Position: FAV



The African American Tobacco Control Leadership Council

February 5, 2020

To: Chairman Davis and Members of the Maryland House Economic Matters Committee
Chairman Kelley and Members of the Senate Finance Committee

From: The African American Tobacco Control Leadership Council

Re: Prohibit the Sale of Menthol and all Other Flavored Tobacco Products, Including Flavored E-Juices, with no Adult Venue Exemptions in the State of Maryland (SUPPORT HB 3/SB 233)

Chairman Davis, Chairman Kelley, & Members,

The African American Tobacco Control Leadership Council (AATCLC) strongly encourages the State of Maryland to prohibit the sale of menthol and all flavored tobacco products, combustibles and vapes in your State. We were all buoyed by the Governor of Massachusetts, Charlie Baker bold step by signing off on the joint Senate and Assembly bill to stop the sale of flavored combustible and vaping products throughout the Commonwealth of Massachusetts. Similarly, we are heartened by pending legislation in the State of Vermont. It would be giant step forward in the fight for the public's health for Maryland to join its sister States in prohibiting the sale of menthol and all flavored tobacco products.

We cannot lose sight of the fact that menthol in cigarettes and little cigars are driving not only youth uptake, but also health disparities among our citizens. We already know that 80% of youth's 12-17 start smoking using flavored cigarettes (Ambrose et al., 2015). Similarly, and unfortunately, the percentage of high school e-cigarette users who reported using mint and menthol increased from 42.3% in 2017 to 63.9% in 2019 (National youth Tobacco Survey, 2019). If the State government truly wants a healthier Maryland, and we believe that you do, then it is imperative that the sale of menthol and all other flavored tobacco products, vaping and combustibles, be prevented from being sold in the State. The predatory marketing of these products must be stopped and recognized as the social injustice issue that it is; an issue that disproportionately impacts poorer communities, marginalized groups, our youth and communities of color.

This is no minor matter. Menthol and flavored tobacco products are driving tobacco-caused deaths and diseases nation-wide. While the use of non-flavored tobacco cigarettes has been decreasing, the use of menthol cigarettes is on the rise, among youth and adults; among Latinos, Blacks, and Whites (Villanti, 2016). Let's be clear, the majority of Women smoker's smoke menthol cigarettes; folks from the LGBTQ community disproportionately smoke these products; 47% of Latino smokers prefer menthol cigarettes, with 62% of Puerto Rican smokers use

menthol; nearly 80% of Native Hawaiians; a majority of Filipinos; and a majority of smokers with behavioral health issues, all smoke menthol cigarettes. Frankly, the most marginalized groups disproportionately use these "minty" products (CDC, 2010; Fallin, 2015; Forbes, 2013; Delnevo, 2011; Hawaii State Dept. of Health, 2009; Euromonitor, 2008; Hickman, 2015).

Be appraised that 85% African American adults and 94% of Black youth who smoke are using menthol products (Giovino, 2013). These striking statistics arise from the predatory marketing of these products in the Black Community, where there are more advertisements, more lucrative promotions, and *cheaper prices* for menthol cigarettes compared to other communities (Henriksen et al., 2011; Seidenberg et al., 2010). These predacious practices for the past 50 years have led to Blacks folks dying disproportionately from heart attacks, lung cancer, strokes and other tobacco related diseases (RSG, 2014). Some say that prohibiting the sale of menthol products would take away "Black cigarettes;" we say it will save Black lives. It was the tobacco industry that pushed these products down our throats in the first place.

Lawmakers should be aware that menthol, as if to add insult to injury, masks the harsh taste of tobacco smoke that allows for deeper inhalation of toxins and greater amounts of nicotine, resulting in greater rates of addiction and making these products harder to quit (Ton et al., 2015; Levy et al., 2011). The "cool refreshing taste of menthol" heralded by the tobacco industry is just a guise; ultimately, menthol and all flavors allows the poisons in cigarettes, cigarillos and e-cigarettes "to go down easier!"

We all have been reading in the papers about the vaping lung disease crises sweeping the nation (EVALI: e-cigarette or vaping product use-associated lung injury.) This health crises was pushed and under girded by the "WUL Explosion," where a little thumb drive looking device is used more than regular cigarettes among today's youth (CDC, 2018). Frankly, the "mDL Explosion" is really a "Flavors Explosion" given the fact that there are now over 15,000 kid friendly flavors available in the marketplace! (<https://www.flavorshookkids.org/> 2018). While there has not been a definitive cause of the deaths and hospitalizations associated with e-cigarettes lung disease outbreak, (could be multiple sources), the vaporist community would like you to believe that aerosol inhaled by e-cigarette users is only water vapor - nothing could be further from the truth. And while THC has been implicated in many of the cases, let's really look at what the CDC said recently:

"Vitamin E acetate was detected in all 29 patient BAL [bronchial alveolar lavage, which yields information of what is deep in the tiny air sacks in the lungs] samples... Among 23 patients for whom self-reported THC use information was available, 20 reported using THC-containing products. THC or its metabolites were detected in 23 of 28 patient BAL samples, **including in those of three patients who said they did not use THC products. Nicotine metabolites were detected in 16 of 26 patient BAL specimens.**" [Emphasis added] (CDC. 2019)

Here are some facts concerning E-Cigarettes that we should lose sight of:

1. E-cigarettes are tobacco products that deliver nicotine, an addictive substance that especially in youth can compromise the brains executive functioning (Report of the Surgeon General, 2014).

2. The propylene glycol (PG) and vegetable glycerin (VG) that constitute a large portion of the e-juice and the resulting vapor **are not FDA approved for inhalation.**
3. PG and VG in electronic cigarettes disrupt lung lipid homeostasis and innate immunity independent of nicotine (Madison et al., 2019)
4. The 15,000+ flavors available on the market may be Generally Recognized as Safe (GRAS) for **ingestion**, but they are not GRAS for **inhalation.**
5. There are as many, if not more, metals in the vapor of e-cigarettes than found in cigarette smoke (Williams et al., 2013).
6. Many of the same toxins and carcinogens found in regular cigarettes, like benzene, formaldehyde, and tobacco specific nitrosamines, can be found in e-cigarette vapor (Goniewicz et al., 2013). And yes, these toxins and carcinogens are at lower levels than in a regular cigarette; while these lower levels may be safer, this does not mean that e-cigarettes are **safe!**
7. The vapor from e-cigarettes activates platelet formation just like regular cigarettes; such platelet activity leads to arterial blockages (Hom et al., 2016).
8. E-cigarette aerosol consists of ultrafine particles at levels comparable to or higher than cigarettes. These particles can cause cardiovascular and pulmonary disease. In addition, the particle size in e-cigarettes is often smaller, and thus more dangerous, than those generated by cigarettes (Fuoco FC, Buonanno G, Stabile L, Vigo P. 2014).
9. Kids who start with e-cigarettes are more likely to become regular cigarette users, and unfortunately, in many cases dual users (Piper et al., 2019).
10. Carcinogens have been found in mint and menthol e-cigarettes. The substance, pulegone, which the FDA banned as a food additive in 2018, was found to be 100-1000 times higher in concentrations than what is considered safe for ingestion! (Jabba and Jordt, 2019)
11. Flavors (aldehydes) are respiratory irritants by definition; **Cinnamaldehyde** suppresses bronchial epithelial cell ciliary motility (Clapp et al., 2019)
12. Here is a link to the European Public Health Association: Fact or Fiction on E-cigs: https://eupha.org/repository/advocacy/EUPHA_facts_and_fiction_on_e-cigs.pdf

The AATCLC is calling upon the State of Maryland to join a growing number of cities and counties around the country and become the 2nd State in the Union to prohibit the sales of menthol and all flavored tobacco products, combustibles and vapes. This would be a bold and unprecedented move toward protecting the public's health. While the Food and Drug Administration and the Trump administration have taken half-steps by restricting the sale of some flavored products, but of course they have left on the market menthol and flavored little cigars. This is the same mistake the Congress made in 2009 when it removed 13 flavors from tobacco products, but exempted menthol. And for the past 10 years the FDA has failed to do anything about menthol in combustibles and now only half steps in removing flavors from vaping products. Hence, it is imperative that the State of Maryland follow the lead of Massachusetts and hopefully Vermont and join the growing movement to remove flavored tobacco products, especially menthol cigarettes, flavored little cigars and flavored e-juices, from the market place.

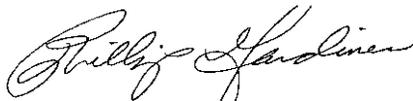
We should note that some groups, spurred on by the tobacco industry, have been spreading falsehoods, stating that restricting the sale of menthol and flavored tobacco products, including flavored e-juices will lead to the "criminalization" of particularly young Black men. Nothing could be further from the truth. All city and county ordinances and the Massachusetts State-wide ordinance, would *prohibit the sale* of flavored products, it would *not prohibit the possession* of these products. Hence, this ordinance will not lead to police having any greater interaction with any youth. Over 30 Cities and I state prohibit the sale of menthols and not one arrest has taken place.

Formed in 2008, the African American Tobacco Control Leadership Council is composed of a cadre of dedicated community activists, academics, public health advocates and researchers. Even though based in California, we are national in our scope and reach. We have partnered with community stakeholders, elected officials, and public health agencies, from Chicago and Minneapolis to Berkeley and San Francisco. Our work has shaped the national discussion and direction of tobacco control policy, practices, and priorities, especially as they affect the lives of Black Americans, African immigrant populations and ultimately all smokers. The AATCLC has been at the forefront in elevating the regulation of mentholated and other flavored tobacco products on the national tobacco control agenda, including testifying at the FDA hearings when the agency was first considering the removal of menthol cigarettes from the marketplace. We should note we were active in the passage of the Massachusetts Ordinance.

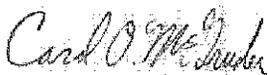
We here at the AATCLC recognize that the State of Maryland is and will be under extraordinary pressure from the tobacco industry and the vaporist community to put profits above human life by limiting or curtailing restrictions on flavored tobacco products. Please join the growing movement and become the 2nd State in the Union to stand up to the tobacco industry and their allies and call for: **No Selling of Menthol Cigarettes and All Other Flavored Tobacco Products, including Flavored E-Juices in Maryland!** Say "No" to the continued predatory marketing of flavored tobacco products to our youth, and say "Yes" to the health and welfare of our kids, who are the most vulnerable. In fact, say "Yes" to the protection for **all** residents of the State of Maryland.

We are all counting on you!

Sincerely,



Phillip Gardiner, Dr.P.H. Co-Chair AATCLC www.savingblacklives.org



Carol McGruder, Co-Chair AATCLC

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Valerie Yerger, N.D., Co-Chair AATCLC

Sb 233 MD GASP Favorable

Uploaded by: O'Hara, John

Position: FAV



MDGASP



Maryland Group Against Smoker's Pollution
P.O. Box 863 - Bowie MD 20718
Phone (301)262-3434 E-Mail MDGASP@aol.com

Testimony in support of Senate Flavors Bill SB 233

by

John O' Hara: Ph. D
President: Maryland Group Against Smoker's Pollution

February 13, 2020

February 13, 2020

Honorable Committee members,

My name is John O' Hara. I am the President of the Maryland Group Against Smoker's Pollution (MDGASP), an organization with over 1,000 members across the state. We have members from every district in the state.

I am 86 years old and over the last four decades I have testified before committees of the Maryland General Assembly every single year pertaining to tobacco and/or vaping control. Over these many years the State of Maryland has passed several bills to protect the health of its citizens from the ravages of tobacco smoke. I commend the General Assembly for these efforts, however, we still have a long way to go.

During the many tobacco control hearings I attended, the Committee members and attendees heard the tobacco industry tell many half-truths and in some cases blatant lies. For example:

1. Tobacco is harmless ...while they were killing thousands every day
2. Second hand smoke is harmless ...even as they killed several hundred nonsmokers daily
3. Nicotine is not addictive ... even as they hooked thousands of children ever day
4. They did not want children to smoke ...even as they used Joe Camel and other unethical advertising techniques to hook them
5. The entire hospitality business will go bankrupt if we ban smoking in public places.

Fortunately, the previous Assembly members saw through the tactics of the tobacco industry and passed marvelous legislation to protect our citizens. Now we are hearing the same kind of rhetoric from the vaping industry, some of whom are owned by the tobacco industry

Over 25% of our high school students and even 10% of our eighth graders are hooked on vaping. The facts are clear that vaping is harmful and extremely addictive. Many adults and young people are dying from vaping.

In order to protect ALL Maryland residents and especially our young people, I urge the Council to pass the strongest possible legislation to prohibit the distribution and sale of ALL flavored tobacco and vape products. The physical health of your constituents is far more important than the financial health of the tobacco and vaping industry.

Respectfully.

John O' Hara: Ph. D
President
Maryland Group Against Smoker's Pollution
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(P) 301-262-3434
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MDGASP@aol.com

SB233_UMLaw_Parkhurst Favorable

Uploaded by: Parkhurst, Megan

Position: FAV

Testimony in Support of Senate Bill 233 (2020)

Business Regulation – Flavored Tobacco Products – Prohibition
Before the Finance Committee: February 13, 2020

Senate Bill 233, cross-filed with House Bill 3, is an emergency measure that prohibits the manufacturing, shipping, importing, or selling into or within the State *any* flavored tobacco product. Tobacco products subject to the flavor ban include, but are not limited to: cigarettes, cigars, chewing tobacco, snuff, electronic smoking devices, and vape liquid. A tobacco product is flavored if it contains any taste or smells that an ordinary consumer could distinguish from tobacco. Menthol flavored tobacco products, including menthol cigarettes, are included in the prohibition. A person who violates these cigarette license requirements will be guilty of a misdemeanor and subject to a fine of \$1,000 or imprisonment not exceeding 30 days, or both. They may also be subject to license suspension, revocation, or non-renewal.

Data on Youth Use of Flavored Cigars and Smokeless Tobacco Products

According to the FDA's Population Assessment of Tobacco and Health, nearly 80% of youth tobacco users aged 12-17 reported that the *first* tobacco product they ever used was a flavored product.¹ Yet, as tobacco users increase in age, their preference for flavored products continually *decreases*.² Prohibiting flavored products is therefore critical to reducing youth uptake of tobacco, which will reduce tobacco use in that generation as adults. Although the focus today tends to be on e-cigarettes, flavored cigars and smokeless tobacco products are an easy gateway to youth nicotine addiction and accompanying negative health impacts.

Cigars and smokeless tobacco products come in a wide variety of sweet-tasting flavors, including but not limited to: Dutch Masters Chocolate, Timber Wolf Apple, White Owl White Peach, Skoal Wintergreen, Swisher Sweet Twisted Berry, Copenhagen Smooth Mint, Dutch Masters Honey Fusion, and Swisher Sweet Banana Smash. These flavored tobacco products often feature the same chemical flavorings and sweeteners found in popular candies, which contributes to youth susceptibility.³ In cigars and cigarillos, this flavor is found within the filler of the cigar and extra sweetener is added to the wrappers and mouth tips.⁴ This flavor reduces the harsh taste and smell of tobacco, and in conjunction with the cheap price, makes cigars more

¹ FDA. "Menthol and Other Flavors in Tobacco Products." 2020. Available at <https://www.fda.gov/tobacco-products/products-ingredients-components/menthol-and-other-flavors-tobacco-products>. Accessed 1-25-20.

² Truth Initiative. 2018. Available at <https://truthinitiative.org/sites/default/files/media/files/2019/03/Truth-Flavors-Fact-Sheet.pdf>. Accessed 1-26-20.

³ Chaffee BW, Urata J, Couch ET, et al. "Perceived Flavored Smokeless Tobacco Ease-of-Use and Youth Susceptibility." *Tobacco Regulatory Science*. 2017. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5539957/>. Accessed 1-25-20.

⁴ Lawyer GR, Jackson M, Prinz M, et al. "Classification of flavours in cigarillos and little cigars..." *Public Library of Science*. 2019. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6905550/#pone.0226066.ref005>. Accessed 1-24-2020.

appealing to youth. In smokeless tobacco products, the flavor is strategically added to reduce the ‘bite’ and unpleasant lip and gum irritation, and to increase youth initiation.⁵ Studies also show that tobacco products with flavored packaging are perceived as more appealing and less harmful, and that flavored users display lower intentions of quitting than non-flavored users.⁶

These flavors are wildly effective in garnering youth attention. In 2017, 9% of high school students in Maryland (49, 851 students) reported they had smoked a cigar at least once in the past 30 days.⁷ Given that nearly 85% of youth aged 12-17 who use cigar products use flavored cigar products, Maryland youth are predominantly choosing flavored cigars.⁸ Moreover, flavored cigarillos pose a unique problem of their own. Flavored cigar sales have increased by 50% since 2008 with inexpensive flavored cigarillos accounting for much of this growth.⁹ A study from the *Journal of Nicotine and Tobacco Research* revealed that young adults often use flavored cigarillos for marijuana blunt-making because the flavors make the blunt-making and marijuana smoking experience more pleasant. Therefore, flavored cigar products are not only dangerous for their potential to attract young users, but also for their ability to make marijuana smoking more palatable to youth.¹⁰

Similarly, flavored smokeless tobacco products appeal to younger populations. According to the CDC, smokeless tobacco accounts for 4.8% of tobacco product use in student users.¹¹ Smokeless tobacco use is especially prevalent among adolescent males with 11.9% of U.S. high school boys reporting monthly use.¹² In Maryland, 49,966 students (3.2% of female students and 8.3% of male students) reported using smokeless tobacco at least once in the past 30 days in 2017.¹³ Flavor plays a key role in this data. More than two-thirds of youth using smokeless tobacco products say they did so “because they come in flavors I like.”¹⁴ Also, nearly

⁵ Kostygina G, Ling PM. “Tobacco industry use of flavourings to promote smokeless tobacco products.” *Tobacco Control* 2016. Available at https://tobaccocontrol.bmj.com/content/25/Suppl_2/ii40. Accessed 1-25-20.

⁶ Huang L, Baker H, Meernik C, et al. “Impact of non-menthol flavours in tobacco products on perceptions and use among youth, young adults, and adults: a systematic review.” *Tobacco Control*. 2016. Available at <https://tobaccocontrol.bmj.com/content/26/6/709.full>. Accessed 1-25-20.

⁷ CDC, “High School YRBS- Maryland 2017.” Available at <https://nccd.cdc.gov/youthonline/App/Results.aspx?LID=MD>. Accessed 1-28-20.

⁸ Harrell MB, Loukas A, Jackson CD, et al. “Flavored Tobacco Product Use Among Youth and Young Adults: What if Flavors Didn’t Exist,” *Tobacco Regulatory Science*. 2017. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5536860/>. Accessed 1-24-20.

⁹ 2017. Available at <https://countertobacco.org/resources-tools/evidence-summaries/flavored-tobacco-products/>. Accessed 1-25-20.

¹⁰ Giovenco DP, Miller Lo EJ, Lewis MJ, et al. “They’re Pretty Much Made for Blunts.” *Nicotine Tobacco Research* 2017. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5896518/>. Accessed 1-25-20.

¹¹ *Id.*

¹² Chaffee, Urata, Couch, and Gansky. Perceived Flavored Smokeless Tobacco Ease-of-Use and Youth Susceptibility. *Tob. Regul. Sci.* 2017. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5539957/>. Accessed 1-25-20.

¹³ CDC, “High School YRBS- Maryland 2017.” Available at <https://nccd.cdc.gov/youthonline/App/Results.aspx?LID=MD>. Accessed 1-28-20.

¹⁴ “Smokeless Tobacco and Kids.” 2019. Available at <https://www.tobaccofreekids.org/assets/factsheets/0003.pdf>. Accessed 1-26-20.

70% of youth who had ever used smokeless tobacco reported that the first smokeless tobacco product they used was flavored.¹⁵ A recent study looked at the association between adolescent perceptions of flavored smokeless products and their willingness to initiate use. The results indicated that flavored smokeless tobacco was perceived by adolescent participants as “easier to use” than unflavored smokeless tobacco; this association made these adolescents more susceptible to initiation.¹⁶ Therefore, if flavored products are not available, youth may be less inclined to try it at all given the perceived harsher taste.

Health Consequences Associated with the Lack of Regulation of Flavored Cigars and Smokeless Tobacco

Although cigars and smokeless tobacco products pose nearly the same health risks as cigarettes, these products (and their many flavors) remain less regulated than cigarettes.¹⁷ Federal law has prohibited flavored cigarettes since 2009, and although the FDA has had the authority to ban other flavored tobacco products since then, the FDA has taken *no action* with regard to other flavored tobacco products.¹⁸ New York City, however, prohibited the sale of flavored tobacco products in 2013 (excluding e-cigarettes and minty/menthol flavors) and their flavored tobacco product sales decrease by 87%.¹⁹ Massachusetts also recently banned flavored tobacco products in December 2019. The law entitled, “An Act Modernizing Tobacco Control” bans retailers from selling *any* flavored tobacco product and permits the sale and consumption of flavored vaping products only within licensed smoking bars.²⁰ Given that the health risks of using other flavored products are severe, Maryland should follow New York City’s and Massachusetts’ example and step in to fill this regulatory gap.

Generally, cigar smoking is associated with cancers of the lungs, esophagus, larynx, and oral cavity.²¹ Flavored cigar products pose additional risks. Inhalation of a common flavoring chemical, diacetyl has been linked to “popcorn lung disease,” a form of irreversible damage to lung tissue.²² Moreover, the use of flavored cigars may “lead to regular use and potentially

¹⁵ *Id.*

¹⁶ Chaffee, Urata, Couch, and Gansky. Perceived Flavored Smokeless Tobacco Ease-of-Use and Youth Susceptibility. *Tob. Regul. Sci.* 2017. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5539957/>. Accessed 1-25-20.

¹⁷ Giovenco DP, Miller Lo EJ, Lewis MJ, et al. “They’re Pretty Much Made for Blunts.” *Nicotine Tobacco Research* 2017. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5896518/>. Accessed 1-25-20.

¹⁸ Truth Initiative. 2018. Available at <https://truthinitiative.org/sites/default/files/media/files/2019/03/Truth-Flavors-Fact-Sheet.pdf>. Accessed 1-26-20.

¹⁹ Truth Initiative. 2018. Available at <https://truthinitiative.org/sites/default/files/media/files/2019/03/Truth-Flavors-Fact-Sheet.pdf>. Accessed 1-26-20. NYC Admin. Code. §17-715.

²⁰ Massachusetts 2019 Tobacco Control Law. Available at <https://www.mass.gov/guides/2019-tobacco-control-law#-new-tobacco-control-law->. Accessed 2-3-20.

²¹ CDC. “Smoking & Tobacco Use- Cigars.” Available at https://www.cdc.gov/tobacco/data_statistics/fact_sheets/tobacco_industry/cigars/index.htm. Accessed 1-25-20.

²² Lawyer GR, Jackson M, Prinz M, et al. “Classification of flavours in cigarillos and little cigars...” *Public Library of Science*. 2019. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6905550/#pone.0226066.ref005>. Accessed 1-24-2020.

create lifetime-addicted smokers who might not otherwise choose to smoke, including female smokers.”²³ Smokeless tobacco is also linked to many health problems. Smokeless tobacco is associated with cancers of the mouth, esophagus, and pancreas.²⁴ In addition to these general risks, flavored smokeless tobacco products may increase youth initiation and early addiction to tobacco products. Young adult users more often associate flavored smokeless tobacco with fewer health risks, and this false perception makes young adults more willing to try these equally dangerous flavored products.²⁵

Senate Bill 233 Will Curtail Youth Tobacco Use by Eliminating the Allure of Flavors

Eliminating the sale of flavored tobacco products will help decrease the onset and prevalence of tobacco use among young people. Studies show that tobacco use often begins in adolescence or young adulthood, especially if those products are flavored.²⁶ This lends credence to the notion that if flavorings were removed from tobacco products, youth would be less drawn to tobacco products initially, and thus less likely to use these products later in life. According to a 2017 study, 84% of youth and 76% of young adult users of flavored tobacco products reported that they would no longer use the product if it were not flavored.²⁷ For youth aged 12-17, 80% would not use cigar products if they were not flavored.²⁸ Nearly 60% of young adults aged 18-29 would not use smokeless tobacco products anymore if they were not flavored.²⁹

Research shows that the availability of flavors makes youth more likely to initiate use of tobacco products.³⁰ Prohibiting flavored cigars and smokeless tobacco in the State is a common-sense measure to reduce the chances of youth initiation, use, and addiction—and that can be the start of a tobacco-free generation.

This testimony is submitted on behalf of the Public Health Law Clinic at the University of Maryland Carey School of Law and not by the School of Law, the University of Maryland, Baltimore, or the University of Maryland System.

²³ Hinds III, J, Li X, and Pasch K, et al. “Flavored Cigars Appeal to Younger, Female, and Racial/Ethnic Minority College Students,” *Nicotine and Tobacco Research*. 2018. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5896537/>. Accessed 1-24-20.

²⁴ CDC. “Smokeless Tobacco: Health Effects.” Available at https://www.cdc.gov/tobacco/data_statistics/fact_sheets/smokeless/health_effects/index.htm. Accessed 1-25-20.

²⁵ Chaffee BW, Urata J, Couch ET, et al. “Perceived Flavored Smokeless Tobacco Ease-of-Use and Youth Susceptibility.” *Tobacco Regulatory Science*. 2017. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5539957/>. Accessed 1-25-20.

²⁶ Harrell MB, Loukas A, Jackson CD, et al. “Flavored Tobacco Product Use Among Youth and Young Adults: What if Flavors Didn’t Exist,” *Tobacco Regulatory Science*. 2017. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5536860/>. Accessed 1-26-20.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

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MACHO_FAV_SB 233

Uploaded by: Polsky, Laurence

Position: FAV



TESTIMONY BEFORE THE SENATE FINANCE COMMITTEE
Senate Bill 233

Business Regulation - Flavored Tobacco Products – Prohibition
Laurence Polsky, MD, MPH, FACOG, Health Officer, Calvert County
Maryland Association of County Health Officers (MACHO)
Position: Support- February 13, 2020

Prohibiting the sale of all flavored tobacco products, including menthol cigarettes, small, flavored cigars, and vape products is the most powerful step possible to reverse the recent wave of nicotine addiction. SB 233 will substantially decrease health disparities among Maryland’s African-American population who have been targeted by the tobacco industry for decades with menthol products¹, and immediately begin to reverse the proliferation of teen vaping and nicotine addiction. Prohibiting flavored tobacco products will reduce health insurance costs for small and large businesses, lead to hundreds of millions of dollars in Medicaid savings over coming years, and help pave the way to a healthier and more productive workforce in Maryland.

103,000 Maryland high school students use flavored vape products.²

Small cigars, essentially flavored cigarettes in a tobacco leaf wrapper, are smoked by more high schoolers than cigarettes.³

95.6% of young people start tobacco and vape use with a flavored product.⁴

- 94% of African American youth and 85% African American adult smokers use menthol products⁵ compared to 26% of whites. This is primarily attributable to industry marketing.
- **Flavors, including menthol, make quitting tobacco products more difficult.^{4,6}**

Nicotine is unsafe for adolescents. It impairs brain development, alters mood, harms impulse control, and increases the likelihood of future addiction to other drugs, including opioids.⁷

From 2013-2019, high schoolers use of e-cigarettes increased 600%.⁸ Use among adults 25 and older increased <1%.⁹

The percentage of teens using vape products (29.5%) is 10x greater than the percentage of adults using vape products (3%).^{1,9} These teens are at increased risk of conversion to cigarette smoking.

As a result of vaping, 8 adolescents begin to smoke cigarettes for every 1 adult smoker who quits.¹¹

A meta-analysis of 25 studies show *smokers who turn to vaping as a means of cessation are 27% less likely to quit* than those using FDA recommended methods.¹²

Prohibiting the sale of flavored tobacco products will have an immediate impact on adolescent and young adult health factors:

- Preterm births will decline as fewer young women are exposed to nicotine, saving millions in annual Medicaid costs
- SIDS deaths will be prevented as fewer young mothers and fathers use tobacco products
- Child and adolescent asthma cases will be reduced along with associated Medicaid expenditures

Tobacco remains the leading cause of preventable death and disability in the U.S.^{13,14} **Each year, tobacco-related diseases cost the Maryland economy \$2.7 billion in direct medical expenses of which \$576 million is covered by Medicaid, and an additional \$2.2 billion in lost productivity to Maryland businesses.**

75% of parents of middle and high school students favor a ban on flavored tobacco products.¹⁵

Banning flavored tobacco products will lead to a healthier and more fiscally sound Maryland for generations to come.

Thank you for considering **support for SB 233: Business Regulation-Flavored Tobacco Products- Prohibition.**

For more information, contact Ruth Maiorana, MACHO Executive Director at rmaiora1@jhu.edu or 410-614-6891.

References:

1. Menthol: Facts, stats and regulations. (2018, August 31). <https://truthinitiative.org/research-resources/traditional-tobacco-products/menthol-facts-stats-and-regulations>
2. CDC, High School Youth Risk Behavior Survey, 2019
- 3 “Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019” Dec 6, 2019; 68(12) https://www.cdc.gov/mmwr/volumes/68/ss/ss6812a1.htm?s_cid=ss6812a1_w&deliveryName=USCDC_921-DM14806 .
- 4 Flavored Products. Public Health Law Center. Univ of MN School of Law. <https://www.publichealthlawcenter.org/topics/commercial-tobacco-control/sales-restrictions/flavored-products>; 2020.
- 5 Differences in Subjective Experiences to First Use of Menthol and Nonmenthol Cigarettes in a National Sample of Young Adult Cigarette Smokers. D’Silva J. Nicotine and Tobacco Research. Sept 2018. 20(9), 1062-68.
- 6 Initiation with menthol cigarettes and youth smoking uptake. Nonnemaker, J., et al., Addiction, 2013. 108(1): p. 171-178.
- 7 Office of the Surgeon General, *Know the Risks: E-cigarettes and Young People*, accessed 2 January 2020
- 8 National Youth Tobacco Survey, U.S. Food and Drug Administration
- 9 Prevalence of e-Cigarette Use Among Adults in the United States, 2014-2018. Dai H, Leventhal A. JAMA 11/12/2019; 322(18) 1824-7.
- 10 e-Cigarette Use Among Youth in the United States, 2019. Cullen KA, Gentzke AS (2019). JAMA Network;322(21):2095-2103.
- 11 Quantifying population-level health benefits and harms of e-cigarette use in the United States. Soneji SS, Sung H-Y, Primack BA PLoS One2018;13:e0193328.
- 12 E-Cigarettes: use, effects on smoking, risks, and policy implications. Glantz SA, Bareham DW. Annu Rev Public Health2018;39:215-35
- 13 Harold J. Farber, Smita Pakhale, and Enid R. Neptune (2016). Tobacco 21: An Important Public Policy to Protect Our Youth. *Ann Am Thorac Soc* Vol 13, No 12, pp 2115–2118 .
- 14 https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm
- 15 Support for E-cigarette and Tobacco Control Policies Among Parents of Adolescents. Czaplicki L, Perks SN, et al. Nicotine and Tobacco Research. Dec 3 2019. <https://academic.oup.com/ntr/advance-article/doi/10.1093/ntr/ntz222/5651027?guestAccessKey=95d57f41-4ddf-4ed5-bda8-63d020632b95>

SB 233 Noah Rich Favorable

Uploaded by: Rich, Noah

Position: FAV

Honorable Chair Kelley and Committee Members:

We- Sean, Noah, Josh, and Elliott- submit this testimony to help you, as legislators, consider the reasons for why SB 233 needs to pass. We apologize that we could not come to present this testimony to you in person.

Two years ago we came before you to testify for a tobacco 21 bill. A year after we testified, the bill passed, and now it has the force of law. This bill before you today carries on the spirit of that Tobacco 21 bill you passed last year.

One of the crucial things to the success of smoking companies like JUUL is how they appeal to younger audiences- teenagers more precisely. This is as the younger they can get kids addicted the more easily they can build a long-lasting loyal customer base.

This is not a new strategy.

Tobacco and nicotine companies have marketed to the youth for generations. Both of my grandfathers (Sean) died from lung cancer as they both became addicted to cigarettes at a young age. One of my grandfathers became addicted by age 14 because tobacco companies would give free samples of cigarettes away at the poolhouse he went to. As my grandfather was one of the 95% of adult smokers who started before the age of 21, he quickly developed an addiction and smoked until his death to lung cancer at the age of 76, two years before I was born.

While tobacco companies can't give away free cigarettes to teenagers at poolhouses anymore, they can develop fun flavors to make their products seem more attractive to us. In the case of JUUL, that has meant developing fruit and mint (menthol) flavored pods.

Because of all of this, JUUL and companies like them have already wrought incredible damage. At Towson High in particular, we have seen these JUULs and their pods everywhere- bathrooms, sidewalks, boarded up old restaurants, and school buses. In the boy's bathroom, we've found JUUL pods in urinals. Toilet stalls have actually had 'JUUL Lounge #1, #2, and #3' painted on them. In one of our music classes, there have been groups of kids that will go into the practice room to 'practice' and use their JUULs, only leaving the slight smell of mint, cherry, and lemon behind.

Juuling has become such an integral part of our culture that some science teachers jokingly differentiate between JUULs, the product, and Joules, the energy unit. For an additional example, you need not look further than the trendiest social media at the moment: TikTok. I can't go on TikTok without seeing at least one video of a kid or a group of friends using JUULs. Keep in mind that these videos are made from kids all over the nations, so this isn't just a Maryland problem, it's an American problem.

This bill, SB 233, will plain and simple help solve this problem. Today, we have the opportunity to stop flavored tobacco products. Today, we have the opportunity to end a marketing practice that has got thousands of people addicted to nicotine forever. Today, we have the opportunity to protect the future of thousands of lives of Maryland citizens.

For all these reasons, we strongly urge the passage of SB 233 . Thank you.

ACY_FAV_SB 233

Uploaded by: Rock, Melissa

Position: FAV



To: The Honorable Chair, Senator Delores G. Kelley
From: Melissa S. Rock, Birth to Three Strategic Initiative Director
Re.: **SB 233: Business Regulation - Flavored Tobacco Products - Prohibition**
Date: February 6, 2020
Position: **SUPPORT**

Advocates for Children and Youth applauds this body for all its efforts to limit access to cigarettes to children. Unfortunately, despite those best efforts, across Maryland, 8.2% (or 25,000) high schoolers smoke cigarettes.ⁱ This is significantly higher than the national rate of high schoolers who smoke, which is 5.8%.ⁱⁱ In fact, in Maryland, each year, 1,600 children (under age 18) become new daily smokers.ⁱⁱⁱ Studies show that flavored tobacco products play a large role in young people initiating tobacco use. While the 2009 federal law, the Family Smoking Prevention and Tobacco Control Act prohibited the sale of cigarettes with flavor enhancers other than menthol or tobacco, the rise on non-cigarette tobacco products has restrained the impact of that law on reducing tobacco usage among children.

As the Campaign for Tobacco Free Kids Campaign explains, flavored tobacco products, that are not cigarettes, are on the rise:

- “As of 2017, there were more than 15,500 unique e-cigarette flavors available online. An earlier study found that among the more than 400 brands available online in 2014, 84% offered fruit flavors and 80% offered candy and dessert flavors.” (Internal citations omitted)^{iv}
- “Sales of flavored cigars have increased by nearly 50% since 2008, and flavored cigars made up more than half (52.1%) of the U.S. cigar market in 2015. Further, the number of unique cigar flavor names more than doubled from 2008 to 2015, from 108 to 250.3 The vice president of one distributor commented, ‘For a while it felt as if we were operating a Baskin-Robbins ice cream store’ in reference to the variety of cigar flavors available – and, no doubt, an allusion to flavors that would appeal to kids.” (Internal citations omitted)^v

These flavored tobacco products are especially appealing to children:

- According to the National Youth Tobacco Survey of 2019, almost 70% (4.3 million) of the 6.2 million current middle and high schoolers that reported tobacco use used flavored products.^{vi}
- “81% of youth who have ever used tobacco products initiated with a flavored product.” (Internal citations omitted)
- “72.3% of youth tobacco users have used a flavored tobacco product in the past month.” (Internal citations omitted)

- “At least two-thirds of youth tobacco users report using tobacco products ‘because they come in flavors I like.’ ”^{vii}

SB 233 expands Maryland's ban on tobacco products with flavors other than tobacco and menthol beyond cigarettes. In so doing, we can interrupt the staggering statistics cited above. Courts have rejected first amendment objections to these bans.^{viii} Finally, while these vary in scope, there are over 230 localities that restrict the sale of flavored tobacco.^{ix}

By passing SB 233, we can continue protecting Maryland's children from the negative consequences of being addicted to tobacco.

ⁱ <https://www.tobaccofreekids.org/problem/toll-us/maryland>

ⁱⁱ Id.

ⁱⁱⁱ Id.

^{iv} Bach, Laura, “Flavored Tobacco Products Attract Kids: Brief Overview of Key Issues,” Campaign for Tobacco-Free Kids, at p. 1 (December 6, 2019).

<https://www.tobaccofreekids.org/assets/factsheets/0399.pdf>

^v Id.

^{vi} Wang, TW, et al., “Tobacco Product Use and Associated Factors Among Middle and High School Students—United States, 2019,” MMWR, 68(12): December 6, 2019,

<https://www.cdc.gov/mmwr/volumes/68/ss/pdfs/ss6812a1-H.pdf>.

^{vii} Ibid. at p. 2.

^{viii} Id. at p. 3 citing: National Association of Tobacco Outlets v. City of Providence, 731 F.3d 71 (1st Cir. 2013); U.S. Smokeless Tobacco Company v. FDA , 708 F.3d 428 (2d Cir. 2013).

^{ix} Id.

MedChi_MDCSCO_MDAAP_Richard Tabuteau_FAV_SB0233

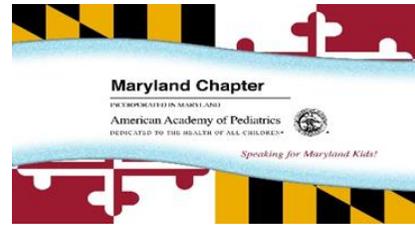
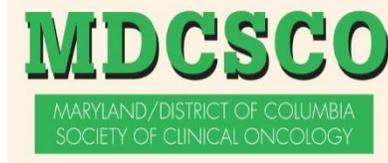
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TO: The Honorable Delores G. Kelley, Chair
Members, Senate Finance Committee
The Honorable Clarence K. Lam
The Honorable Brian E. Frosh
The Honorable Benjamin F. Kramer

FROM: Richard A. Tabuteau
Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman

DATE: February 13, 2020

RE: **SUPPORT** – Senate Bill 54 – *Electronic Smoking Devices – Added Flavoring – Prohibition on Shipping, Import, or Sale*

SUPPORT – Senate Bill 233 – *Business Regulation – Flavored Tobacco Products – Prohibition*

SUPPORT – Senate Bill 410 – *Electronic Smoking Devices – Flavor Prohibition*

On behalf of the Maryland State Medical Society, the Maryland/District of Columbia Society of Clinical Oncology, and the Maryland Chapter of the American Academy of Pediatrics, we **support** Senate Bill 54, Senate Bill 233, and Senate Bill 410.

Senate Bills 54, 233, and 410 generally prohibit the sale of flavored tobacco into or within the State. Smoking is the leading cause of preventable death in the United States, causing nearly half a million deaths each year, including more than 41,000 deaths caused by secondhand smoke.¹ More than 16 million people live with disease caused by smoking, such as cancer, heart disease, stroke, lung diseases, diabetes and chronic obstructive pulmonary disease.² Nicotine can slow brain development in youth, particularly in the areas of impulse control, attention span and the ability to learn. It can also prime the brain for further addiction to other drugs.

Prohibiting flavorings for all products is likely to reduce tobacco use, especially among young people. Candy and fruit flavored products are particularly attractive to young people because sweet or

¹ Centers for Disease Control and Prevention, Smoking and Tobacco Use: Fast Facts, available at https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm

² *Id.*

minty flavors are often perceived to be safer though they have the same or worse health effects as other tobacco products. According to findings from the American Society of Clinical Oncology (ASCO)'s third annual National Cancer Opinion Survey, nearly one in four young adults believes the products are harmless and not addictive. The ASCO survey also found that nearly three in 10 young adults think flavored e-cigarettes are less damaging to a person's health than non-flavored ones.

Recently, the Centers for Disease Control and Prevention reported that 27.5 percent of high school students, and 10.5 percent of middle school students report using e-cigarettes in the past month.³ Among high school students use of mint or menthol flavored e-cigarettes is increasing, from 16 percent in 2016 to 57 percent in 2019.⁴ Eighty-one percent of youths who have ever used combustible tobacco products started with a flavored product, and young people cite flavoring as a major reason for their current use of tobacco products.⁵ Moreover, menthol cigarettes are disproportionately favored by youth cigarette users: 54 percent of smokers age 12-17 use menthol cigarettes compared with less than one-third of smokers ages 35 and older.⁶ Among African American youth, menthol use is even higher: seven out of ten African American youth smokers use mentholated cigarettes.⁷

Passage of Senate Bill 54, Senate Bill 233, and Senate Bill 410 will help prevent young people from becoming smokers and reflects Maryland's historical commitment to reducing tobacco use and the associated health consequences. A favorable report is requested for all three bills.

For more information call:

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Pamela Metz Kasemeyer
J. Steven Wise
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410-244-7000

³ Teresa Wang, Andrea Gentzke, MeLisa Creamer, et al., Centers for Disease Control and Prevention, Tobacco Product Use and Associated Factors Among Middle and High School Students – United States, 2019, 68 MMWR Surveillance Summaries 12, 1-22 (Dec. 6, 2019).

⁴ Karen Cullen, Andrea Gentzke, Michael Sawdey, et al., *e-Cigarette Use Among Youth in the United States, 2019*, 322 JAMA 21, 2095-2103 (Nov. 2019).

⁵ Bridget Ambrose, Hannah Day, Brian Rostron, et al., *Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014*, 314 JAMA 17, 1871-73 (Nov. 2015).

⁶ Andrea Villanti, et al., *Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014*, Tobacco Control (Oct. 2016).

⁷ *Id.*

Kaiser Permanente_FAV_SB233

Uploaded by: Taylor, Allison

Position: FAV



Mid-Atlantic Permanente Medical Group, P.C.
Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc
2101 East Jefferson Street
Rockville, Maryland 20852

February 13, 2020

The Honorable Delores G. Kelley
3 East, Miller Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

RE: SB 233 – Support

Dear Chair Kelley and Members of the Committee:

Kaiser Permanente is pleased to support SB 233, which would prohibit a licensed tobacco retailer in Maryland from manufacturing, selling, buying, and storing flavored tobacco products.

Kaiser Permanente is the largest private integrated health care delivery system in the United States, delivering health care to over 12 million members in eight states and the District of Columbia.¹ Kaiser Permanente of the Mid-Atlantic States, which operates in Maryland, provides and coordinates complete health care services for approximately 755,000 members. In Maryland, we deliver care to over 430,000 members.

Kaiser Permanente supports removing flavored tobacco products from state markets, including flavored e-cigarettes, as we view flavored tobacco as a threat to public health. As described below, we are particularly concerned about the availability and appeal of flavored tobacco products to youth and we believe SB 233 is a significant step in restricting access to these dangerous products.

Flavored tobacco products addict our children early and for a lifetime. In a recent survey, 70.3 percent of youth e-cigarette users cited appealing flavors as the primary reason for use.² One of the most serious health effects of these products is nicotine addiction, which can lead to prolonged smoking, cardiovascular issues, and early death. The younger youth are when they start consuming nicotine, the more likely they will become addicted.³

¹ Kaiser Permanente comprises Kaiser Foundation Health Plan, Inc., the nation's largest not-for-profit health plan, and its health plan subsidiaries outside California and Hawaii; the not-for-profit Kaiser Foundation Hospitals, which operates 39 hospitals and over 650 other clinical facilities; and the Permanente Medical Groups, self-governed physician group practices that exclusively contract with Kaiser Foundation Health Plan and its health plan subsidiaries to meet the health needs of Kaiser Permanente's members.

² FDA, "Modifications to Compliance Policy for Certain Deemed Products: Guidance for Industry, Draft Guidance," March 13, 2019, <https://www.fda.gov/media/121384/download>.

³ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, *Preventing Tobacco Use Among Youths, Surgeon General fact sheet*, 2012. Accessible at: <https://www.hhs.gov/surgeongeneral/reports-and-publications/tobacco/preventing-youth-tobacco-use-factsheet/index.html>; U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Office of the Surgeon General, *Know the Risks: E-cigarettes*

Flavored tobacco products are recognized as “starter” products and may be linked to long-term nicotine addiction.⁴ The health consequences of e-cigarette use (flavored or not) by children may be substantial. A 2016 Surgeon General’s report concluded that youth use of nicotine in any form, including e-cigarettes, is unsafe, causes addiction, and can harm adolescent brain development, which impacts attention, memory, and learning. E-cigarettes can also expose users to harmful and carcinogenic chemicals such as formaldehyde and lead.

Flavored tobacco is extremely prevalent in e-cigarettes, and youth e-cigarette use in the United States has skyrocketed to what the U.S. Surgeon General and the Food and Drug Administration have called “epidemic” levels. Data from the Centers for Disease Control and Prevention shows a significant growth in e-cigarette use by youth in the United States. From 2017 to 2018, e-cigarette use increased 78 percent among high school students and 48 percent among middle school students.⁵ Youth are not just experimenting with e-cigarettes but are using them frequently. More than a quarter of high school e-cigarette users are frequent users, using e-cigarettes on at least 20 of the preceding 30 days.⁶ Alarmingly, one in nine of *all* high school seniors report that they vaped nicotine nearly daily, a strong indicator of addiction.⁷

With SB 233, the Maryland legislature is taking an important step to address this public health threat. Prohibiting the sale of flavored tobacco products will restrict access to the starter nicotine product for many Maryland youth. Maryland will join a growing number of states, cities and counties prohibiting the sale of flavored tobacco products and ensuring the health and safety of its citizens. Kaiser Permanente supports SB 233 because it is consistent with our policies that encourage our 12 million members and the public to avoid use of tobacco products. Prohibiting the sale of flavored tobacco is a positive step to preventing another generation of young people from living with a lifetime of addiction.

Thank you for the opportunity to comment. Please feel free to contact Wayne Wilson at Wayne.D.Wilson@kp.org or (301) 816-5991 with questions.

Sincerely,

Wayne D. Wilson
Vice President, Government Programs and External Relations
Kaiser Foundation Health Plan of Mid-Atlantic States, Inc.

& Young People, 2016. Accessible at: https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_ECig_FAQ_508.pdf

⁴ National Academies of Sciences, Engineering, and Medicine, *Public Health Consequences of E- cigarettes*, 2018. Available at: <https://doi.org/10.17226/24952>.

⁵ Karen A. Cullen, Bridget K. Ambrose, Andrea S. Gentzke, et al., “Notes from the Field: Increase in use of electronic cigarettes and any tobacco product among middle and high school students — United States, 2011–2018,” *MMWR Morbid Mortal Wkly Rep.*, 67(45), 1276–1277, Nov. 16, 2018. Accessible at: <https://www.cdc.gov/mmwr/volumes/67/wr/mm6745a5.htm>.

⁶ Centers for Disease Control and Prevention (CDC), “Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students—United States, 2011–2018,” *Morbidity and Mortality Weekly Report (MMWR)*, 67(45): 1276–1277. https://www.cdc.gov/mmwr/volumes/67/wr/mm6745a5.htm?s_cid=mm6745a5_w.

⁷ Miech, R, et al., “Trends in Adolescent Vaping, 2017–2019,” *New England Journal of Medicine*, published online September 18, 2019.

SB0233_MarylandPIRG_FAV_Matthew Wellington

Uploaded by: Wellington, Matt

Position: FAV



**Matthew Wellington, Maryland PIRG, End the Nicotine Trap Campaign Director
Testimony for SB233, Business Regulation - Flavored Tobacco Products - Prohibition
Finance Committee, Thursday Feb 13th, 2020**

POSITION: FAVORABLE

*Maryland PIRG is a state based, non-partisan, citizen funded public interest advocacy organization with grassroots members across the state and a student funded, student directed chapter at the University of Maryland College Park. For forty five years we've stood up to powerful interests whenever they threaten our health and safety, our financial security, or our right to fully participate in our democratic society. **That includes a long history of supporting concrete solutions to reduce tobacco use.***

Maryland PIRG urges you to support SB233 to protect kids from tobacco addiction by taking all flavored tobacco products off the market.

The tobacco industry has evolved over time to create new, highly addictive products, but one thing hasn't changed--flavored tobacco products hook kids. **A government study found that 81% of youth who have ever used tobacco started with a flavored product, and most tobacco users start young.**[1]

Flavored products helped fuel the e-cigarette epidemic among youth:

- E-cigarettes have been the [most commonly used tobacco product](#) among middle and high school students in the United States since 2014.[2]
- According to preliminary data from the Maryland Health Department's Youth Risk Behavior Survey & Youth Tobacco Survey 2018-2019, nearly one in four Maryland high school students reported using e-cigarettes, a rate 5 times higher than adult use.[3]
 - That's a significant increase from the [13.3%](#) of high school students who reported e-cigarette use in 2016.[4]
- According to the Food and Drug Administration, [70%](#) of youth e-cigarette users say they use the products because they come in appealing flavors.[5]
- The Surgeon General [concluded in a 2016 report](#) that, "E-cigarettes are marketed by promoting flavors and using a wide variety of media channels and approaches that have

been used in the past for marketing conventional tobacco products to youth and young adults.”[6]

All flavored products are a problem:

All flavored tobacco products pose a threat to youth because they can lure them into a life-time of tobacco addiction. SB233 would help reduce overall youth tobacco use by taking all flavored products off the market, not just a select few.

- Although e-cigarettes are the most widely used tobacco product among Maryland high schoolers, 6% smoke cigars, 5% smoke cigarettes, and 4.6% use smokeless tobacco.[7]
- Menthol flavoring lessens the harshness of smoking tobacco, which makes it easier for young people to start smoking cigarettes. And in 2013-2014, [73.8%](#) of youth cigar smokers reported that they smoked cigars “because they come in flavors I like” (PATH Wave 1, 2013-2014).[8]

Nicotine is harmful to kids’ health:

E-cigarettes almost always contain nicotine, an addictive drug that can harm adolescent [brain development](#) and affect young peoples’ learning, memory and attention.[9]

- Nicotine use in adolescents can also contribute to mood disorders and increase their risk of future addiction to other dangerous substances.[10]
- Some [evidence](#) also suggests that young e-cigarette users may be more likely to smoke combustible cigarettes in the future. [11]

The benefit, if any, to the smokers who claim to be using flavored e-cigarettes as a way to quit smoking combustible cigarettes simply doesn’t outweigh the public health risk these products pose to young people in Maryland. **Moreover, [no e-cigarette company](#) has received FDA authorization to market their e-cigarette products as a safe and effective way to quit smoking.**[12]

The federal government has failed to fully address the youth e-cigarette epidemic. It plans to take non-tobacco, non-menthol flavored cartridge-based e-cigarettes like Juul off the market but will [leave flavored disposable e-cigarettes and thousands of other flavored e-liquids](#) for non cartridge-based products widely available.[13] It’s critical that Maryland lawmakers act now to end the sale of all flavored products.

According to the Centers for Disease Control and Prevention, the rapid rise in e-cigarette use among young people has [erased past progress](#) in reducing overall youth tobacco use. Maryland lawmakers should end the sale of all flavored tobacco products. Otherwise, thousands more kids could face a future of tobacco addiction and all the harm that comes with it.

Sources:

[1] Ambrose, BK, et al., “Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014,” *Journal of the American Medical Association (JAMA)*, published online 26 October 2015.

[2] Gentzke AS, et al. “Vital Signs: Tobacco Product Use Among Middle and High School Students — United States, 2011–2018,” *MMWR Morbidity and Mortality Weekly Report (MMWR)* Rep 2019; 68:157–164. DOI: <http://dx.doi.org/10.15585/mmwr.mm6806e1>

[3] Maryland Department of Health, Preliminary data from the *Youth Risk Behavior Survey & Youth Tobacco Survey 2018-2019*.

[4] Maryland Department of Health, *Youth Risk Behavior Survey & Youth Tobacco Survey 2016*.

[5] FDA, *Guidance for Industry: Modifications to Compliance Policy for Certain Deemed Tobacco Products*, 14 March 2019.

[6] HHS, “E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General”. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

[7] See note 3.

[8] See note 1.

[9] Office of the Surgeon General, “Know the Risks: E-cigarettes and Young People,” accessed 22 April 2019; See note 6 for additional information.

[10] Ibid.

[11] CDC, *Quick Facts on the Risks of E-cigarettes for Kids, Teens, and Young Adults*, accessed online 2 February, 2020.

[12] FDA, *Fact or Fiction: What to Know About Smoking Cessation and Medications*, accessed online 2 February, 2020.

[13] FDA, *Guidance for Industry: Enforcement Priorities for Electronic Nicotine Delivery System (ENDS) and Other Deemed Products on the Market Without Premarket Authorization*, January 2020.

SB 233 PAVe Favorable

Uploaded by: Willard, Linda

Position: FAV

**MARYLAND SENATE FINANCE COMMITTEE
HEARING ON S.B. 233
TESTIMONY FOR THE RECORD ON BEHALF OF PAVe
FEBRUARY 13, 2020**

Ms. Chair, Mr. Vice-Chairman and members of the Committee, thank you for the opportunity to provide oral testimony on this important and urgent topic and to express my support for a flavored tobacco ban in Maryland. My name is Linda Willard, and I am a resident of Chevy Chase Village, Maryland. I am the mother of two teenage boys and a pre-teen girl, so the role of flavors in the alarming numbers of youth who are vaping deeply concerns me.

I also am the Maryland representative of a national grassroots organization, Parents Against Vaping and E-Cigarettes, or PAVe. PAVe was started in 2018 by three concerned moms in response to the youth vaping epidemic and is now in more than a dozen states with its chapters, called “pods” all run by volunteers parent advocates like me.

There are three aspects of the use of flavors in tobacco that are particularly harmful to young people.

- 1) Flavors hook kids
- 2) Flavors mask tobacco-related risks
- 3) Flavors do NOT help adults quit smoking

There are currently 15,500 vape or e-cigarettes flavors on the market. Candy-sweet flavors with kid-friendly names like Candy Apple, Unicorn Poop, or Bubblegum mask the harshness of the tobacco flavor. 8 out of 10 teens report that they began vaping because of the flavors. Flavors also give young people a false sense of safety. More than 65 percent of kids who vape report they had no idea these devices contain nicotine.

In fact, one JUUL pod is equivalent to 20 cigarettes, multiples more than are contained in traditional cigarettes. Additionally, JUUL’s patented nicotine technology, now used by its many copycats, delivers these huge amounts of nicotine more efficiently to the brain, making it even more highly addictive, particularly to developing brains that are indelibly rewired for further addictions.

You will likely hear arguments that adults need flavors to successfully quit smoking conventional cigarettes. However, that is simply not supported by the research. While adults may prefer flavors, they are more likely to quit smoking cigarettes without flavors, and the evidence that e- cigarettes help adults quit smoking conventional cigarettes is so far unproven. Early research even suggests they lead to dual usage.¹

1

https://www.researchgate.net/publication/323492501_Dual_use_of_combustible_and_electronic_cigarettes_patterns_and_associations_between_products

The evidence is clear. The extraordinarily high levels of nicotine get kids addicted, flavors attract and keep kids addicted to tobacco, and adults don't need flavored e-cigarettes to quit smoking. I urge you to pass a flavor ban, including mint and menthol, with no exceptions.

MRHA_FAV_SB233

Uploaded by: Wilson, Lara

Position: FAV



Statement of Maryland Rural Health Association

To the Finance Committee

February 13, 2020

Senate Bill 233: Business Regulation – Flavored Tobacco Products - Prohibition

POSITION: SUPPORT

Senator Augustine, Chair Kelley, Vice Chair Feldman, and members of the Finance Committee, the Maryland Rural Health Association (MRHA) is in SUPPORT of Senate Bill 233: Business Regulation – Flavored Tobacco Products – Prohibition.

This legislation would provide that certain licenses to manufacture, sell, buy, and store cigarettes, other tobacco products, and electronic smoking devices do not authorize the licensee to manufacture, ship, import, or sell into or within the State a flavored tobacco product with a taste or smell of fruit, mint, candy, or other nontobacco flavors; providing that a public statement that cigarettes, other tobacco products, or electronic smoking devices have or produce a certain smell or taste is presumptive evidence that they are flavored tobacco products; etc.

MRHA’s mission is to educate and advocate for the optimal health and wellness of rural communities and their residents. Membership is comprised of health departments, hospitals, community health centers, health professionals, and community members in rural Maryland.

Maryland law states that “many rural communities in the State face a host of difficult challenges relating to persistent unemployment, poverty, changing technological and economic conditions, an aging population and an out-migration of youth, inadequate access to quality housing, health care and other services, and deteriorating or inadequate transportation, communications, sanitations, and economic development infrastructure.” (West’s Annotated Code of Maryland, State Finance and Procurement § 2-207.8b)

The 2018 Maryland Rural Health Plan (www.MDRuralHealthPlan.org), an extensive assessment of Maryland’s rural health needs, illustrates the teen smoking crisis across our 18 rural jurisdictions. Flavored tobacco products lure kids into a life-long struggle with tobacco addiction, hooking them on products targeted to them in flavors like mint or menthol, gummy bear, and cotton candy.

MHRA believes this legislation is important to support our rural communities and we thank you for your consideration.

Lara Wilson, Executive Director, larawilson@mdruralhealth.org, 410-693-6988

MDDC Society for Resp. Care_Steve Wise_FAV_SB0233

Uploaded by: Wise, Steve

Position: FAV

TO: The Honorable Delores G. Kelley, Chair
Members, Senate Finance Committee
The Honorable Dereck E. Davis, Chair
Members, House Economic Matters Committee
The Honorable Brian E. Frosh

FROM: Tom Striplin, President, MD-DC Society for Respiratory Care

DATE: February 13, 2020

RE: **SUPPORT** – Senate Bill 233 & House Bill 3 – *Business Regulation – Flavored Tobacco Products – Prohibition*

The MD-DC Society for Respiratory Care Inc. is a non-profit affiliate of the American Association for Respiratory Care (AARC). The society has a membership of 850 members and represents over 3,000 licensed respiratory therapists in Maryland and the District of Columbia. The MD-DC Society for Respiratory Care **supports** Senate Bill 233 and House Bill 3.

Respiratory Care Practitioners (RCP) work daily with patients who have various lung and respiratory illnesses. Many of them are adults who smoke tobacco products or used to, but increasingly their patients are younger. The recent onslaught of flavored tobacco products and e-cigarettes have led to a major increase in teenagers using tobacco products because they are lured in by the flavored tobacco products that are the subject of this legislation. “Young people who use e-cigarettes are four times more likely to start smoking cigarettes than their peers who do not vape. On top of that, e-cigarette use among young people, many of whom were not smokers in the first place, has skyrocketed in recent years, jumping 78% among high schoolers between 2017 and 2018 alone.” See <https://truthinitiative.org/our-top-issues/vaping-issue>.

RCP’s do not want any more patients with illnesses borne by tobacco use or e-cigarettes. The prohibition of flavored tobacco products contained in Senate Bill 233 and House Bill 3 is an important step in stopping the disturbing trend of younger patients with respiratory issues caused by these products. For these reasons, the Society supports this legislation.

MHA_FAV_SB233

Uploaded by: Witten, Jennifer

Position: FAV



Maryland
Hospital Association

Senate Bill 233 – Business Regulation - Flavored Tobacco Products - Prohibition

Position: *Support*

February 13, 2020

Senate Finance Committee

MHA Position

Maryland's 61 nonprofit hospitals and health systems care for millions of people each year, treating 2.3 million in emergency departments and delivering more than 67,000 babies. The 108,000 people they employ are [caring for Maryland](#) around-the-clock every day.

Under Maryland's Total Cost of Care agreement with the federal government, Maryland's hospitals also are working to lower costs and improve population health. In addition to treating illness and injury, hospitals are reaching out beyond their four walls to keep people well and improve the health of the communities they serve.

That includes tobacco prevention strategies that can help lower risks of cardiovascular disease and diabetes in our communities.

In the United States, smoking is a leading cause of preventable disease, disability and death.ⁱ Recent data from the Maryland Department of Health show the use of electronic smoking devices by youth is increasing at an alarming rate—five times as high as adults.ⁱⁱ This is a public health concern that affects all Marylanders, especially our youth.

Senate Bill 233 targets one of the root causes of youth smoking. Compared with adults 25 and older, young adults are more likely to try e-cigarettes and report having used e-cigarettes in the past 30 days.ⁱⁱⁱ Increased advertising for electronic smoking devices is tied to a similar spike in use of the devices among youth.^{iv} SB 233 would prohibit the manufacturing, shipping, importing or selling of flavored tobacco products in Maryland.

FDA data show 70% of youth who use electronic smoking devices reported they use the product due to the enticing flavors.^v Additionally, 81% of youth who have used tobacco reported starting with a flavored product.^{vi} Studies show young people who use electronic smoking devices are four times more likely to begin smoking combustible cigarettes.^{vii}

Understanding the risks associated with adolescence and electronic smoking devices is an important factor in youth prevention. Youth and young adults are more at risk for long-term and long-lasting effects of nicotine exposure. Risks include nicotine addiction, mood disorders and permanent diminished impulse control. Additionally, because the brain is still developing and addiction is a learned behavior, nicotine in e-cigarettes and other tobacco products can prime the adolescent brain—increasing the risk they'll use other drugs.^{viii}

Aside from the health risks associated with tobacco products, the economic loss from health care costs and productivity are substantial. Smoking related health care costs were estimated to be \$2.71 billion per year, while smoking related productivity losses were estimated to be \$2.22 billion annually.^{ix} SB 233 is a step in the right direction to address this multi-faceted problem and improve the health of our youth and all Marylanders.

For these reasons, we urge a *favorable* report.

For more information, please contact:

Jennifer Witten

Jwitten@mhaonline.org

ⁱ National Center for Chronic Disease Prevention and Health Promotion. (n.d.) Tobacco Use.

<https://www.cdc.gov/chronicdisease/resources/publications/factsheets/tobacco.htm>

ⁱⁱ Maryland Department of Health, Preliminary data from *Youth Tobacco Product Use 2018-2019*.

ⁱⁱⁱ Truth initiative (November 11, 2019) E-cigarettes: Facts, stats and regulations. <https://truthinitiative.org/research-resources/emerging-tobacco-products/e-cigarettes-facts-stats-and-regulations>

^{iv} Centers for Disease Control and Prevention (accessed January 27, 2020). E-cigarette Ads and Youth.

<https://www.cdc.gov/vitalsigns/ecigarette-ads/index.html>

^v FDA. (March 14, 2019) Guidance for Industry: Modifications to Compliance Policy for Certain Deemed Tobacco Products.

^{vi} FDA. (March 15, 2017) The Flavor Trap: How Tobacco Companies are Luring Kids with Candy-Flavored E-cigarettes and Cigars. https://www.tobaccofreekids.org/microsites/flavortrap/full_report.pdf

^{vii} Truth initiative (November 11, 2019) E-cigarettes: Facts, stats and regulations. <https://truthinitiative.org/research-resources/emerging-tobacco-products/e-cigarettes-facts-stats-and-regulations>

^{viii} Surgeon General.(accessed January 27, 2020). Know the Risks. <https://e-cigarettes.surgeongeneral.gov/knowtherisks.html>

^{ix} Truth Initiative (June 28, 2019) Tobacco use in Maryland 2019. <https://truthinitiative.org/research-resources/smoking-region/tobacco-use-maryland-2019>

Valerie Yerger_FAV_SB 233

Uploaded by: Yerger, Valerie

Position: FAV

Menthol is a Critical Public Health Issue for the Black Community

Dr. Valerie Yerger
Professor in Health Policy
University of California San Francisco

African American Tobacco Control Leadership Council
Founding Member
IN SUPPORT OF SB 233
February 13, 2020

Actual Causes of Death Among African Americans (2017)



Source: National Center for Injury Prevention and Control, CDC, NCHHSTP AtlasPlus.

Smoking with the Enemy

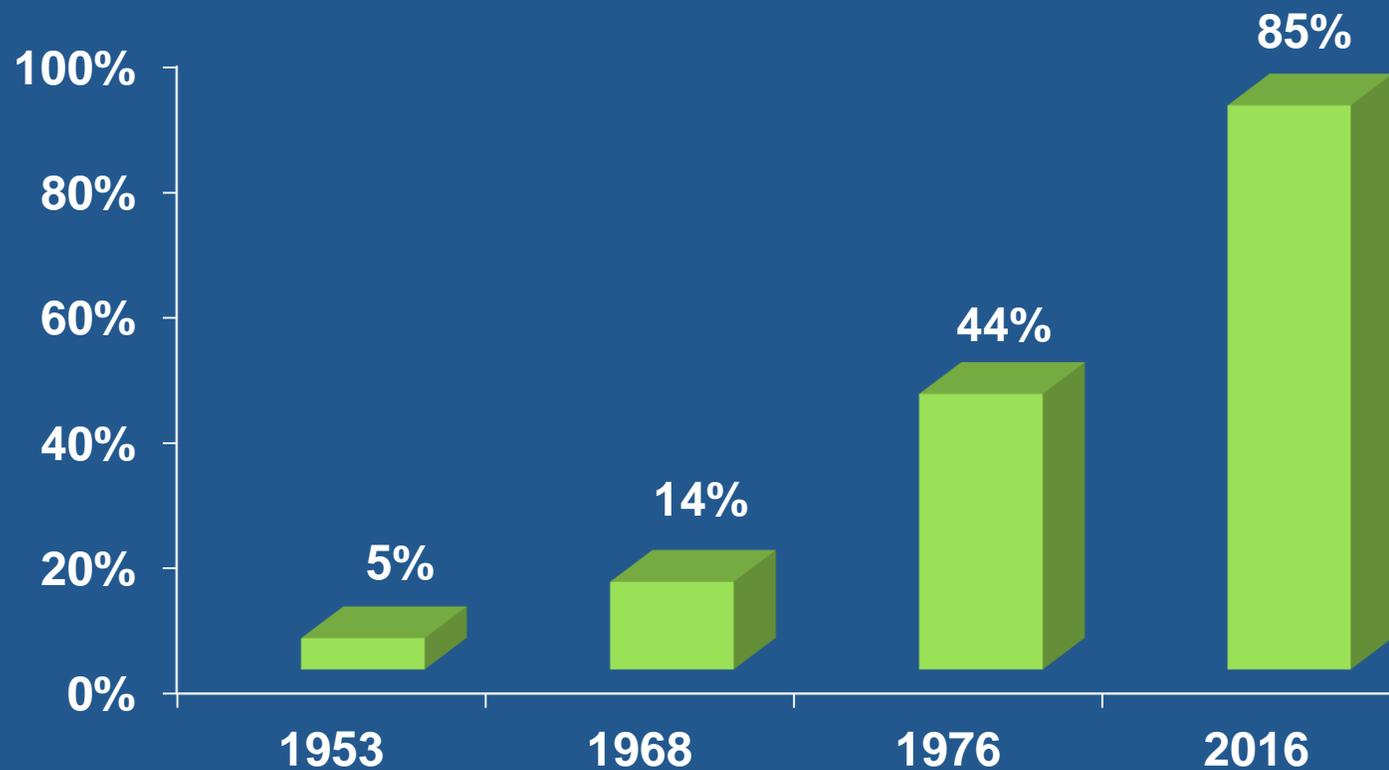
Yerger & Malone (2002) Tobacco Control, 11(4), 336-345

- Create and maintain positive images of tobacco and tobacco companies to keep African Americans engaged as consumers
- Defuse opposition from within African American communities and silent their leaders
- Get African American organizations to act as front groups to assure and build support for tobacco industry policy positions

“The Racialized Menthol Wars”

- Major tobacco companies aggressively competed against one another in low-income neighborhoods
- Tobacco companies targeted these neighborhoods with highly concentrated menthol marketing
- Used innovative marketing tactics to adapt to inner city challenges and to exploit residents
- Inner city communities represented efficient sites for an industrial exploitation (1980s and 1990s)

Menthol Use Among African American Adult Smokers



Sources: 1) Gardiner PS. The African Americanization of menthol cigarette use in the United States. *Nicotine Tob Res* 2004;6 suppl 1:S55-65. 2) Lorillard, 1986; TID: ybv44a00; Giovino et al 2016.



Family Smoking Prevention and Tobacco Control Act, 2009

Granted the FDA the authority to regulate tobacco products to protect the public health

#1 Menthol



Reynolds American Inc.
acquired Lorillard
(Newport) in 2015 for

\$27 Billion

British American Tobacco
bought out
Reynolds American
(including Newport) in
2017 for

\$53 Billion

DELTA SIGMA THETA SORORITY, INC.

A SERVICE SORORITY

Grand Chapter

**PROHIBTING THE USE OF MENTHOL AS A
CHARACTERIZING FLAVOR IN CIGARETTES**

Passed at the 51st National Convention July 2013 with 40,000 members in attendance.



DELTA SIGMA THETA SORORITY, INC.

A SERVICE SORORITY

Grand Chapter

**A RESOLUTION TO SUPPORT STATE AND LOCAL EFFORTS TO RESTRICT THE
SALE OF MENTHOL CIGARETTES AND OTHER FLAVORED TOBACCO PRODUCTS**

Passed at 53rd National Convention Las Vegas, Aug 2017



NAACP Adopts Menthol Resolution

July 19, 2016

Calling on chapters to support state and local efforts to regulate menthol cigarettes and other flavored tobacco products

October 15, 2016

National Board of Directors ratified resolution



RWL_PCA_FWA_Sb233

Uploaded by: Bohle, Matt

Position: FWA

BY: Premium Cigar Retailers Association

AMENDMENT TO SENATE BILL 233

(First Reading File Bill)

AMENDMENT NO. 1

On Page 2, after line 20" insert "(3) FLAVORED TOBACCO PRODUCT" DOES NOT INCLUDE PREMIUM CIGAR OR PIPE TOBACCO."

AMENDMENT NO. 2

On Page 7, after line 20 insert "(3) "FLAVORED TOBACCO PRODUCT" DOES NOT INCLUDE PREMIUM CIGAR OR PIPE TOBACCO."

RWL_PCA_FWA_SB233

Uploaded by: Bohle, Matt

Position: FWA

PREMIUM CIGAR RETAILERS OF MARYLAND ON HOUSE BILL 3 & SENATE BILL 233



The Premium Cigar Retailers of Maryland (PCRM) is a not-for-profit trade association representing 30 premium cigar and pipe tobacco specialty stores in Maryland. Our bricks-and-mortar members are family-owned small businesses that employ an average of 6-7 people from the local community. Hand-crafted premium cigars account for 80% of all PCA members' sales.

PCRM MEMBERS OPERATE ADULT-ONLY ESTABLISHMENTS

Premium cigar and pipe tobacco specialty stores are adult-only businesses run by professional tobacconists. Premium cigars and pipe tobacco are not available for sale in convenience stores or other non-specialty stores accessible by youth because they are highly perishable, requiring special care in a controlled humidified environment by a professional tobacconist.

THE PROBLEM

Broad language in both HB 3 & SB 233 extends far beyond banning tobacco products that are being marketed to and used by youth. With vast room for interpretation, HB 3 & SB 233 also extends to premium cigars and pipe tobacco which are sold in adult-only specialty stores. For many retailers, mass market tobacco sales are incidental to their businesses, but premium cigar and pipe tobacco specialty stores cannot make up lost revenue from a tobacco sales ban by selling food, milk, or gasoline.

THE SOLUTION

Amend House Bill 3 to remove premium cigars and pipe tobacco from the scope of the legislation because they are sold at age restricted premium cigar and pipe tobacco specialty stores.

FLAVORS

Much like coffee or fine wines and spirits, premium cigars and pipe tobacco are luxury products described with tasting notes even though they may not contain flavor additives as demonstrated by this Cigar Aficionado review: "Every last leaf in this blend is Nicaraguan and every puff is an overture of flavors that's at times heavy and rich with notes of dark chocolate and wood, and other times, subtle and understated with hints of fine caramel and toasted almonds. In musical terms, the word for this box-pressed torpedo would be dynamic."

PRECEDENT

Massachusetts is the first and only state to pass into law a flavored tobacco ban that extends beyond vapor products. In 2019, the Commonwealth recognized that unique, adult-only purveyors of premium tobacco products are different than other tobacco retailers. Premium cigar and pipe tobacco specialty stores were excluded from the Massachusetts flavor ban.

DATA

Analyzed data in the Analyzed data in the National Institute of Health and the Food and Drug Administration's PATH Study is specific to premium cigars —often other studies lump premium cigars with products like cigarettes, e-cigarettes, or non-premium cigars that are machine made, have flavor additives, and are sold in C-stores. The data collected in this study demonstrates that:



The average age of an individual's first premium cigar is **30 years old** – compared to 16.7 years old for cigarettes.

1.2

The average **premium cigar consumer smokes 1.2 days out of every 30** --compared to 29.6 days out of 30 for cigarette smokers.



There is no meaningful correlation between premium cigars and cigarette smoking.

RWL_PCA_FWA_SB233

Uploaded by: Bohle, Matt

Position: FWA

SETTING THE RECORD STRAIGHT: NIH & FDA DATA ON PREMIUM CIGAR USE AND PUBLIC HEALTH IMPACT



Premium Cigar Association

513 Capitol Court NE Washington, DC 20002 | 202-621-8064 | www.cigaraction.org

Data from recent government-funded and government-led studies definitively prove that premium cigars are a unique product category that are almost exclusively enjoyed by older adults infrequently.

.02%

Only **.02%** reported smoking a premium cigar in the past 30 days



Over half (52%) of current premium cigar smokers (25 and older) have a **college degree**—compared to 32% across the US population



The average age of an individual's first premium cigar is **30 years old**—compared to 16.7 years old for cigarettes



There is **no meaningful correlation** between premium cigars and cigarette smoking



The average premium cigar consumer smokes **1.2 days out of every 30**—compared to 29.6 days out of 30 for cigarette smokers



97% of all premium cigar consumers do not smoke daily



No statistically significant increase in risk for smoking related diseases can be found between non-daily premium cigar smokers and non-smokers in general

THE STUDIES:

PATH Study: The Population Assessment of Tobacco and Health (PATH) study is a joint study by the FDA and the National Institutes of Health (NIH) that covers a multi-year cross section of youth and adult. PATH is one of the few government studies that effectively identified and analyzed data specific to premium cigars.

National Longitudinal Mortality (NLM) Study: An article published in the Journal of American Medicine (JAMA) analyzed the NLM study which tracked a population of 350,000 Americans for nearly 3 decades. The article, Association of Cigarette, Cigar, and Pipe Use with Mortality Risk in the US Population, examined the relationship between mortality, risk and use across a range of tobacco products over a population of over 350,00 individuals for nearly 3 decades.

Visit www.cigaraction.org to learn more.

Anthony_FWA_SB233

Uploaded by: Hendrix, Melissa

Position: FWA

Nick Anthony
2027 Old Home Ave
Pasadena, MD 21122

Thank you to the chair and committee for letting us speak this afternoon. My name is Nick Anthony and I'm here to support the bill with amendment. As a father, uncle, and youth sports coach I share your concerns with kids using vapor products. However, as a former smoker whose life was saved by flavored vapor products the proposed legislation has me concerned.

If passed in its current form this bill would take away my ability to choose a safer alternative to tobacco.

I smoked two packs of cigarettes a day for 15 years. I had tried the patch, the gum, cold turkey and nothing worked. When I first tried vaping I tried a tobacco flavor and found that it simply reminded me of a cigarette. Once I tried a fruit flavor it became immensely easier to stop traditional cigarettes. Within a month I had completely transitioned to vapes. I've been tobacco free for over 6 years and I feel healthier than I have since I was a kid.

Davis_FWA_SB233

Uploaded by: Hendrix, Melissa

Position: FWA

MEAN STREET VAPOR, LLC

8A CENTRAL AVE
GLEN BURNIE, MD 21061
MEANSTREETVAPOR@GMAIL.COM

FEBRUARY 5TH, 2020

Dear Chairman, and esteemed members of the committee,

My name is Trenton Davis. I am a 29 year old African American who is a former smoker, and current vaper, and I am writing in regards to proposed bill HB0003(SB0233) to humbly ask for an amendment, or opposition, to this bill. As a manager of a vape store for 6 years, I can tell you all about the dozens, if not hundreds, of people I've successfully helped quit cigarettes over the years. Instead, however, I'm writing this testimony from my perspective, and my journey to becoming smoke free.

It was about 10 years ago when I bought my first vape product. I had been smoking menthol cigarettes since I was 14, and knew I had to make a change as it was adversely affecting my health. The device I used was a disposable e-cig purchased from a kiosk in the mall with a pre-filled tobacco flavor. Naturally, the appeal lasted only a week as I felt that the flavor of it was close, but not quite as satisfying as a real Newport 100. After some time I figured I could try again while informing myself further on the topic of vaping, as well as learning about dedicated vape stores where a professional would advise me. As I sat in awe of the variety of choices available to me, the young professional recommended a flavor called Krunchberries, which was a cereal flavor. Originally, I rebuked the notion of the flavor, but when I tried it I found it infinitely more palatable than the mock menthol cigarette flavor I had purchased previously. Before I knew it a month flew by and to my delightful surprise - I had not smoked a single cigarette. Even now, 10 years later, I am living free of cigarettes and reaping the benefits of this lifestyle. I breathe better, I smell better, food tastes better, and I feel better. In addition, I decided to apply for a position at the very same store

where the young professional who had helped me worked, in the hopes of aiding more people the way I had been.

I got the job and, in time, became the manager of the company. I spend my entire professional life assisting people in quitting cigarettes for good, in the hopes they will feel the benefits that I have. This process, by and large, relies heavily on finding the flavor that works best for each customer, to keep them coming back and support the breaking of poor habits. Banning flavored vapor products will take away the ability of millions of Maryland adults from becoming smoke free, as I did, with the help of flavored vaping products. Thank you for your time.

Sincerely,

Trenton Davis
District Manager
Mean Street Vapor

Halik_FWA_SB233

Uploaded by: Hendrix, Melissa

Position: FWA

To: Maryland Senate - Finance Committee

From: Sarah Halik (resident)
Severn, MD - Anne Arundel County

Re: Written Testimony regarding:
SB54 - Electronic Smoking Devices - Added Flavoring - Prohibition on shipping, import, or sale
SB233 - Business Regulation - Flavored Tobacco Products - Prohibition SB410 - Electronic
Smoking Devices - Flavor Prohibition

Chair and committee members,

My name is Sarah Halik. I am an Army combat veteran and government contractor residing in Anne Arundel county. I am here today to express my opposition to the bills that would ban flavored vape liquids and exorbitantly increase the taxation on the remaining products.

Contrary to popular belief, not every person who vapes is a former cigarette smoker.

Over the span of 10 years I have deployed five times. It seems that I have always been in the minority of individuals who do not smoke cigarettes while overseas. I would often join coworkers after work to shop at the bazaar or hang out at the hookah lounge. It became a social activity that I enjoyed specifically because of the wide variety of flavors. I eventually purchased my own hookah and continued to utilize it after returning stateside. Although it is not something I used every day, the amount of nicotine inhaled in a 1 to 2-hour hookah session is incredibly high - more than 2-3 packs of cigarettes. Because of this, I began to seek out a healthier alternative which is how I discovered vaping. It was the perfect option for me to be able to have complete control over the amount of nicotine I inhaled while still offering a wide variety of flavor options.

In the four years I have been vaping, I have not used a hookah.

I do not consider myself a smoker and a flavor ban will not suddenly force me into buying cigarettes. But what it will do is take away the option I have to a healthier alternative for an activity I enjoy. It is a freedom I've earned and an option I have as an adult to make choices for myself.

I believe there are better alternatives to a flavor ban that will still help prevent minors from consuming a product that was never meant for them:

Restricting the type of businesses allowed to sell vape products
Require digital verification of government ID's prior to any purchase
Enforce penalties for sales to minors

Any of these options would be preferred over the alternative. A flavor ban punishes the legitimate customers and vape shops but does not prevent a minor from acquiring a vape product. I can identify and agree with the concern for the safety of minors. But prohibition does not provide a solution, it only denies adults the freedom of options.

Thank you for your time and consideration.

Hendrix_FWA_SB233

Uploaded by: Hendrix, Melissa

Position: FWA

Melissa Hendrix

114 Tennessee Road

Stevensville, MD 21666

Hello, my name is Melissa Hendrix, and thank you for allowing me to speak today. I smoked for about 22 years started when I was around 13 years old. I did not get in trouble for smoking cigarettes by my parents, but I did through school and the police. When I was in school, I smoked in the bathroom and got suspended on numerous occasions, but I did not get in trouble at home. Once I got pulled over and received a citation and had to pay 25\$ to go to a class that told me everything that I knew about cigarettes (cigarettes will kill you). So maybe if my parents punished me it would have been more effective, not sure, they never did.

Through the years I wanted to quit smoking because I didn't like the way I felt always had headaches, felt tired, out of breath running upstairs, and the way I smelled. Plus, I had children 2 of them and they both asked if I would quit smoking. So, I gave it try using a few different methods: Chantix, Wellbutrin, and nicotine patches. Those methods were not affective for me it wasn't until I stepped into my first vape shop. It was cool I could pick out whatever flavor I wanted, and they would make it up for me. I started out on 24mg/2.4% nicotine and slowly dropped down on my nicotine. Currently I use barely any nicotine in my vape and I can adjust as needed. As I dropped down on my nicotine, I had to change my flavor because it did have a different taste. Flavors are what helped me to stay away from cigarettes.

Since I have started vaping flavored nicotine, I have noticed a difference in my health I can run upstairs without running out of breath, I have more energy, I don't stink, I don't get headaches often, and I also have a better since of taste and smell. Trying to quit smoking was one of the most challenging things I have had to do in my life. Vaping has helped in many ways and I hope that you will consider keeping flavored nicotine in vape shops only. When the vaping industry started people were making it everywhere it didn't matter because there were no regulations. Now we have regulations with safer products, so let's continue to make sensible laws to help more 21 and older get off the cigarettes. However, if this bill is pushed through a black market for nicotine products will happen because I will not go back to cigarettes, I worked too hard for that.

Ross_FWA_SB233

Uploaded by: Hendrix, Melissa

Position: FWA

Spencer Ross
6909 Danford Drive.
Clinton, MD 20735

My name is Spencer Ross and Blueberry and Mango flavored eliquid helped me quit smoking cigars.

At the age of 16 I started smoking Black and Mild's and Al Capones. I tried these products because I wanted to fit in with my friends. My doctor noticed my lungs were starting to act irregular and told me that I needed to stop smoking. I tried to quit smoking but was having a hard time accomplishing this.

I went to the vape shop, and got a set up with blueberry flavored eliquid. The vaporizer I use is larger and not a little tiny flash drive. It's what is sold at vape shops. I have not smoked anymore cigars since. I still vape today even though my nicotine is at a very low level. I started vaping with 18mg of nicotine and now I am down to 3mg of nicotine. I plan on fully quitting by next year. The different flavors offered have allowed me to stay interested, because when I get tired of one flavor, I try another one. This has successfully kept me from going back to cigars.

I've recently visited my doctor and have a clean bill of health and my lungs look better than ever.

The thought of smoking a cigar or vaping a tobacco flavor now makes me nauseous. If this bill goes into law, I will be forced to make my own juice because there is no way I am every going back to cigars. Not only will I make juice for myself I would be forced to help others in my community that want to stay off cigarettes and cigars too.

That brings me to a very important question. When the war on drugs was happening and a lot of minorities were locked up for marijuana, it makes me wonder if the war on flavored nicotine vaping will have the same effect and we will lock up a bunch of people who don't deserve to be locked up.

A flavor ban does one thing, sends people to the black market or to make their own ejuice because most people like me have no intention of ever going back to cigars or cigarettes. This could be very dangerous for people who do not know what they are doing. You will have people using essential oils from Walmart that are not inhalable or belong in vape juice.

In closing I'm asking the Maryland legislature to not pass a bill that will turn me into a criminal. Please allow me to continue to get the vape flavors that keep me off nasty cigars.

Wisniewski_FWA_SB233

Uploaded by: Hendrix, Melissa

Position: FWA

Hi, my name is Samantha Wisniewski I'm 33 years old and I have been tobacco free for 6 years.

I started smoking cigarettes at the age of 15.

In middle school I was on the basketball team as well as the track and field team.

By high school I dropped all sports. I couldn't keep up because I was always out of breath due to smoking cigarettes.

In 2014 at my nieces 3rd birthday party I wanted to get a picture with her, and she looked at me and said "No Aunt Sam you stink".

That day I threw out my FULL pack of cigarettes that I had just purchased.

I tried to quit cold turkey, but that didn't work, so I went to my local vape shop to see if it was something that could help.

The people there asked me how much I normally smoked so they could suggest the best level of nicotine for me. They ended up suggesting a 12mg e-juice.

Because of them I found a coffee flavored juice and a strawberry menthol flavored juice that made me not even want cigarettes anymore.

I tried the tobacco flavors, but they were so much like a cigarette I knew it was not going to help me stay away from cigarettes.

I met my wife through a local vape shop and because of vaping we have both been able to quit smoking. My 56-year-old mother smoked for 30+ years and has also quit thanks to vaping. My wife loves fruity juices and my mom loves a Captain Crunch juice.

If this bill is to pass, I fear others like myself that refuse to go back to cigarettes would have no choice but to make their own juice or find someone who does. At that point, it would no longer be regulated and who knows whether or not it will actually be safe.

I do agree that kids should not have access to these products.

My opinion is that there needs to be consequences for underage individuals that are caught using or in possession of these products.

If caught, their "vape device" is simply taken with no consequences and 2 hours later, they are finding another way to get a new one.

Since that day in 2014, I have been able to decrease my level of nicotine to 3mg. I would rather smell like a bakery than an ashtray. Just as I would rather purchase my e-juice from a regulated distributor instead of having no choice but to buy it from a non-regulated source.

Thank you for allowing me to speak to you today.

Samantha Wisniewski
1034 Side Saddle Trail
Lusby, MD 20657

Gott_FWA_SB233

Uploaded by: Meyer, Isaac

Position: FWA

My name is Candice Gott, I am a small business owner in the community and a member of the Maryland Vapor Alliance. Thank you for allowing me to be here today.

I would like to talk about the flavor that hooked me to cigarettes at the ripe young age of 15. The flavor was called: Whatever I could get my hands on. I wanted to fit in with my friends, and I was curious about them.

The data from the CDC aligns with my previous statement. Per the CDC data released December of 2019, teens are trying e-cigs for reasons OTHER than flavors 78% of the time. With the biggest reason being curiosity. Are we going to ban curiosity?

The CDC has confirmed that illicit marijuana cartridges laced with an oil called vitamin E acetate is to blame for the recent lung illnesses. Nicotine e-liquid cannot be the cause of this because Nicotine e-liquid is water soluble and does not contain ANY oil. This can easily be checked because all nicotine e-liquid had to register an ingredients list with the FDA.

After smoking for 15 years and trying every approved cessation product to quit, I finally stopped by a vape shop. I got a green apple e-liquid and I have not smoked since that day.

I knew if I could quit smoking cigarettes using this method, that anyone could. It's the reason I used every penny I had to open my vape shop. After almost 6 years of business I have no doubt that I have helped thousands quit combustible cigarettes because of flavored e-liquids.

I'd also like to point out that when an adult is trying to quit smoking, tobacco is what they want to move away from. Why would we condition ANYONE to tobacco flavors? We are essentially normalizing tobacco flavoring with this legislation... why would we do that?

The products that I sell are different from Juul or Big Tobacco. Juul is what is found in convenience stores, Maryland vape shops do not carry Juul. Per the National Youth Tobacco Survey, Juul is the product teens are using most. It is why recently the FDA decided to remove flavored pods from the market. The FDA followed the data to see that teens are not using the open systems that adults use and are sold in vape shops. This move by the FDA preserves open systems for the adult market. The same open systems that have helped millions of adults quit cigarettes.

A flavor ban will put hundreds of Maryland vape shops out of business, leaving only Juul and other big tobacco products on the market. It will bankrupt me and leave my 13 employees who depend on their income without a job.

The saddest part of this legislation is it punishes the good actors. Maryland vape shops have not had a failed compliance check in the last 2 years.

A flavor ban would also open a huge black market, as I'm sure you are aware on the black market there will be no quality control, ID Checks, or collected taxes.

I'm urging the Maryland lawmakers to pass this bill with the proposed amendments. We can work together to have the lowest smoking rate in the United States and the lowest youth vaping rate as well. If you pass this bill as is, Maryland will be looking for ways to back-pedal and undo insurmountable damage in the coming years, much like how other prohibitions have played out.

Very Respectfully,
Candice Gott
63 E Chesapeake Beach Rd.
Owings MD 20736

Jones_FWA_SB233

Uploaded by: Meyer, Isaac

Position: FWA

John Jones

4842 Aberdeen Ave, Baltimore MD 21206

Hello,

My name is John Jones and I am the owner of Parkville Vape House. Parkville Vape House is a family owned vape shop located in Parkville, Maryland. This business was started to bring the community together and educate those on the vaping community. This shop has turned into more than a retail store, the employees and customers have become a family.

The tax and flavor ban being imposed will affect not only me, but my family and employees as well. I am a single dad to 3 amazing boys who depends on me for their education, food, housing, and much more. More than me, I have 2 employees that have families to provide for.

I began smoking cigarettes at the age of 16 years old. I have since, turned to vaping as a cheaper and healthier alternative, and I have personally been vaping for about 6 years. When I began the vaping journey, Parkville Vape House was started not long after. This shop became my mission to educate others and help them live longer, fuller lives.

The tobacco age was raised on October 1, 2019 to 21. On December 20, 2019 President Trump signed Federal tobacco guidelines that no longer allowed military exemptions. I purchased an ID scanner for my employees to use. We have always had the rule that if you do not have an ID you cannot buy products regardless if you're 26 or 62. However, since the beginning of T21, we have been more thorough. My Point of Sale system does not allow my employees to continue a purchase without scanning an ID. However, there are some stores such as Walgreens, 7/11, Royal Farms, Walmart, and many more than are not as strict or educated on the vaping laws. Convenience stores are far more likely to sell minor's products like Juul, Puff Bar, Vuse, and many more.

If a flavor ban or 86% sales tax is enacted, it will put my shop out of business. I will have to let go employees that rely on this shop for money to care for their families. Those adults that have turned to vaping as a better alternative, will subsequently go back to cigarettes. Minors will have an easier access to tobacco products. Vaping products should be restricted to regulated vape shops where employees are thorough with checking ID's and are educated about the products being sold.

Currently, Maryland Vaping Alliance is proposing if the flavor ban must be done, to exempt regulate vape shops from this ban. Regulated vape shops have employees that are educated on the subject and can truly ensure the safety of the product. They scan ID's so no sales to minors will happen.

In conclusion, pushing regulated vape businesses out will not end the vaping community, it will simply make it unsafe like the THC cartridges being bought on the streets that contain vitamin E acetate.

Meyer_FWA_SB233

Uploaded by: Meyer, Isaac

Position: FWA

Brian Heuer

2114 Edwin Lane
Crownsville, MD 21032
(410) 299-8040
brian@qikfixing.com

11th of February 2020

Delegate Seth Howard

159 House Office Building
6 Bladen Street
Annapolis, MD 21401

Dear Seth Howard,

I am writing testimony in opposition to HB3. When I was sixteen years old I first started smoking. It was easy to find a local gas station with an attendant that did not check ID. After stopping and starting over my teenage years I then went to a full time smoker at the age of twenty-one years old. That habit quickly grew to smoking a pack a day and often to two packs a day on the weekends. During these years I noticed a shortness and breath and chest pains that had not been present before.

After consulting with my doctor he asked me how much I smoked at the time and if I needed medical help quitting. We then went into a discussion of great length as the health harm that traditional tobacco products have. However when I brought up switching to a vaporizer he advised me to make an immediate switch. He then explained to me the lack of health concerns from any vaping product. Nicotine has little to no impact on the average healthy adult's physiology. He also explained which chemicals were used to carry the nicotine and how they were commonly used in medical inhalers. Often he said that they would get people to switch their addiction to nicotine gum which is not flavored as tobacco as you might well know. In order to mitigate the extreme health hazards associated with traditional tobacco products. The alternative flavors were key in ending my addiction to the cigarette. It not only allowed me to cease on the day I bought my first vaporizer but it has allowed me to not smoke a cigarette or any other traditional tobacco product since. Within one month my lung function had returned to healthy levels and the chest pains had gone away.

I recently was able to get my beloved Uncle who has smoked since he was eighteen years old until his early sixties the ability to finally give up cigarettes

all together. The one thing that finally got him to give up his life long habit was the alternative flavored nicotine replacement products.

HB3 is nothing more than another push by big tobacco to draw clients back into its traditional tobacco products by reigniting the cognitive association with tobacco flavor to the chemicals found beyond nicotine in their products. To date not one of the independent “Vape” shops in Maryland has been fined or even suspected to be selling to underage minors. The problem lies within the prevalence of cigarettes being sold in every major national chain of gas and service stations that are on every corner of our states roadways. Where often children stop on their way to or from school. In which the cigarettes and associated products are front and center where every child can see them along with all of the candy and snacks that are under and around the counter. Yet not one argument is made to remove them from such easily accessible locations. Instead they try to blame the flavors or the marketing. HB3 is a bill squarely aimed at forcing people with an addiction to return to the more harmful method of delivery. While hiding behind the guise of child safety.

If cigarettes were removed from every street corner and moved into specialty shops where the due diligence is paramount to a small business’ survival it would accomplish far more than HB3 ever could. Yet not one lobby group would support it due to it limiting the companies they represent revenues despite it being the most effective means to reduce a teenagers ability to purchase nicotine based products. Yet to this day alcoholic beverages are not allowed to be sold outside of purposed and licensed stores.

Recently in national news we have seen what happens to citizens when they are forced to turn to the black market. Several deaths occurred by obtaining black market THC cartridges across states that have yet to legalize and regulate THC products. Passing HB3 would either force people like myself and my uncle to turn to these less safe alternatives or go back to tobacco based products.

In America we often say we are The Land of the Free. Yet here in 2020 the Maryland state legislature is considering a bill that would limit the freedom of its citizens to choose what they can and can not willingly put into their bodies. While shifting the blame from ease of access granted long ago to big tobacco and pushing it to alternative flavors in nicotine based products. With the backing of health advocates that will present conjecture and studies funded in part or largely by big tobacco in order to scare monger parents into thinking the problem lies within the market or the product instead of with their parenting. Which is counter to what local healthcare providers are advising their patients.

I hope the Maryland legislature does the right thing and protects our local businesses that have complied with every regulation and law set before them and delivered a vital service to local Marylanders and strikes down HB3.

Sincerely,

Brian Heuer

To whom it may concern:

I'm writing to inform you as a Maryland tax payer, voter and small business owner, that I strongly oppose bill SB233. This would destroy my business that I invested my life savings into only 1 year ago. It will cause nearly all vape related small businesses like mine to shut down. I have several employees that will be jobless along with myself and my business partners. I also have a 12 year old daughter that depends on the income from my business. We are not big tobacco. We are not Juul. We are a Maryland small business that helps people quit smoking cigarettes: the cause of 480,000 deaths each year (which are sold in every corner store in the country).

I smoked cigarettes for over 20 years and was finally able to quit with cotton candy flavored e-liquid (after unsuccessfully trying Chantix, the patch and Nicorette gum). Adults need flavors to transition from deadly combustible cigarettes. Only allowing a menthol or tobacco flavor would severely damage the ability to not only quit smoking but to *stay* smoke-free. Fruit, dessert and candy flavors are necessary to make cigarettes taste awful in comparison. My health has drastically improved since converting to the *proven* less harmful alternative.

Please amend the bill to make it palatable for small businesses or vote against it. Or perhaps you can make vape shops exempt from a flavor ban. In recent years, there have been no vape shops in Maryland fined for selling to underage teens. In our shop, we have age verification. Perhaps making that mandatory would be a good option. And harsher punishments for selling to underage teenagers.

Please don't remove our freedom of choice. Prohibition should not even be an option.

Thank you,

Jessika Whitlock

Class 5 Vapors

White Marsh, MD (manager)

North East, MD (owner)

I am 25 years old currently employed at Northside Vape in Salisbury, Maryland which is owned by my fiancé, & further brother in law, which is also how we met.

We are all prior smokers, and turned to vaping as a healthier alternative to kick cigarettes many years ago. The business has been highly successful for four years, and I speak for all of us when I say the most rewarding part of job is helping people switch from cigarettes to vaping. Hearing things like, "Nothing else work" ... "I wish I knew about this sooner" ..

... "I experienced suicidal thoughts, and night terrors on Chantix I never thought I would be able to quit" "I am so happy my kids won't be affected by second hand smoke"... "I can actually breathe & taste my food again" ... the list goes on, all in which never get old when heard.

My fiancé & his brother are both vaping enthusiasts who spent every penny they hard to own open their own local business & to help people quit their cigarette addiction just as they did.

If this bill passes all 3 of us will be out of work, and they will surely lose their business they have worked so hard to maintain.

What hurts more is knowing that all the people we helped throughout the years are going to go back to smoking & their relationships as their health is going to deplete. As we have been warning people to advocate, and for what come the emotion we have seen from our customers is just so heartbreaking.

We are willing to comply & conform to any regulations, but please do not take away our jobs, our hobby, our healthier alternative for our nicotine addictions.

These products are strictly for adults over 21, and not to be meant for kids... please do not punish the millions of responsible adults because irresponsible parents, and children do not obey the laws like we do. Punish the bad apples- do not destroy the whole batch. Maryland is not on an island- we will just travel to other states to supply them with the taxes implemented.. it will be Prohibition over again & there will be Black Market E-juice causing legitimate issues. Multimillion dollar industry - millions of Americans who vape - do not shut down this industry.

We Vape We Vote- Please save the favors. Thank you

- Leah Wallace

Gina Disbrow
905 Bayside Dr
Stevensville MD 21666

I was a smoker for almost 15 years. I tried everything possible to quit and just couldn't kick the habit.

I was skeptical about vaping. Didn't think it would work for me and thought it was just another habit I'd have to kick.

I tried multiple oringal tobacco flavors and they made my cravings for a cigarette WORSE!
Before totally giving up I decided to try some flavor liquids...AND IT WORKED!

I am four years cigarette free all from strawberry, watermelon and the occasional vanilla blend!
I've never felt better! I was constantly tired, winded and sick of smelling like smoke.

I can honestly say I am a healthier person because of flavor liquids and I am a HAPPIER person because of flavor liquids.

I hope others can participate in my success by not banning flavored liquids

Isaiah M Windham
1009 Big Baer Drive
Glen Burnie MD 21061
(443)-694-1347

My name is Isaiah Windham, I'm 24 years old and from Baltimore Maryland. From the age of 16 I started smoking cigarettes. I started doing it out of pure influence and being that I grew up with people who smoked, my habit and the amount that I smoked only increased with time. By the time I was 18 years old I was smoking about a pack a day and it was like second nature to me. Over time, I noticed that smoking was affecting me in negative ways, such affects grew worse and worse over time and eventually it had gotten to the point where I could barely walk around my own house without getting gassed. Smoking cigarettes had affected various aspects of my health such as my ability to breathe, my lack of breath when exerting myself in any physical manner and it had even begun to affect my teeth and my gums, my throat. About two years ago I had a major health scare. I was diagnosed with ARVD which is a rare heart disease and with that, my life changed drastically. I had been advised by all of my medical staff to quit smoking because the ingredients and affects from smoking did my body, specifically my heart, much more bad than good. Even after receiving this warning from my doctors, my family and my peers. I didn't quit. After about 3 months post-surgery I decided that I needed to quit. I tried everything possible to do so. I used the nicotine patch, I used nicotine chewing gum even invested my time and energy in hobbies or anything that would help get my mind off of wanting a cigarette. Nothing worked. One day i stumbled across a Vape shop called the "Vape Loft" where I met wonderful people and they educated me and guided me on what vaping was, it's affects and how it helped people quit cigarettes. I was so desperate to try anything that even while being on reserve about vaping, I tried it. I am now 24 years old and let me tell you it has CHANGED my life. I had heard so many bad things about vaping through commercials and the internet. Only to find out these companies that were attempting to scare people knew little to nothing about vaping and were either directly or indirectly affiliated with cigarette companies and it was all a push to further promote their products. Rather than truly educate anyone. I didn't my own research and realized that such information was not only often misleading, but majority of the time out right false. Not only had vaping helped me quit smoking cigarettes and remove my addiction to nicotine, I was even able to EASILY quit vaping as well. Vaping has changed my life and it changes the lives of many others in a constant basis. Had it not been for vaping I don't know where I'd be and I don't know where the state of my own health would have been. It's easy to say "just quit", it's easy to no understand the struggle one faces when trying to let go of something so addictive. But I can tell you that I needed the extra help. Vaping WAS that extra help and I will always be appreciative of what it did for me and does for countless others.

To whomever is listening to this I pray that you dig deep when deciding on whether or not you want to put forth any effort in preventing someone like myself the opportunity to kick their habit, improve their quality of life which then improves their mentality and desire to live!
Vaping saves lives.

Jimmy Hendrix Jr.

114 Tennessee Road

Stevensville, MD 21666

Hello, my name is Jimmy Hendrix Jr. and I was a smoker for 23 years, a vapor for 5 years, and currently do not use tobacco or vape products. I started cigarettes at the age of 13 but didn't care about the flavor it was just because I was surrounded by it from friends and family. When I quit smoking, I was at a 2 pack a day smoker and my health was not going in the best direction. I do believe flavored vapor saved my life because I currently do not smoke or vape anymore. When I started vaping in 2013, I used fruity and candy flavors that consisted of watermelons, sour apple candy, and fruity life saver flavors. I enjoyed all the different flavors I didn't have one flavor that I was committed to like with cigarettes. When I started vaping, I knew that this was it I didn't question the process I just went with it and as I did the health benefits started to happen. My breathing started to get better, the coughing didn't keep me up at night, and got my taste and smell back.

When I started vaping, I started at the highest level because of how many cigarettes I smoked and slowly over 3 years dropped my nicotine level to nothing at all. Over the years my children always asked me to quit smoking and I did try other methods such as Chantix and patches but neither did the trick. Honestly before I tried vaping, I really didn't think it would work until I tried it for the first time. It was the best decision I have ever made. I realized that I was never really addicted to the cigarette or the vape it was just a fidgety habit and needed something to do so dropping down on the nicotine was actually very easy. Once I got to no nicotine at all I found myself slowly not reaching for the vape anymore.

The different flavors really helped to keep me from the cigarettes I am so glad that I had those options. When I started vaping the industry was not that big and we didn't have that many flavors but over the years more and more were made. As more flavors became available my options were endless so that made the thought of a cigarette even farther away. If it wasn't for flavored vaping I would have continued to smoke.

If you ban flavored vapes you will be hurting many people who are like me that find this process easy and are able to use it to completely get off everything. An addiction is not a process you just quit and for some yeah but not for everyone we need a little assistance, and this was it. Flavored vape saved my life and should remain available within adult only stores where children do not have access to them. Now my children are proud of me because I am a smoke free dad who can enjoy the fun times with them.

February 11, 2020

Joyce Disbrow

308 Tower Drive

Stevensville, MD 21666

My name is Joyce Disbrow, I live in Queen Anne's County and I'm 59 years old. I have been asked to write you this letter regarding the flavor ban that you would like to impose on the vaping community.

I have been smoking since I was 13 years old. Like most kids my age back then you really didn't care if it was menthol or non-menthol, you took whatever your parents or friends parents had. The first cigarette I ever had made me cough my brains out and tasted nasty but got me a buzz. You would have thought I would never pick up another cigarette again after that, but you see I have what they call an addictive personality. As I got older, I did choose the type of cigarette's I liked, menthol was my choice.

After watching my father pass away from lung cancer and feeling like crap all the time, I decided to try and quit. I first started out with the nicotine patches that made me sick to my stomach and made my arm hurt, then I tried the gum... that was nasty, then I tried being hypnotize, all I could think of while sitting in the comfy couch was, is this over so I can go have a cigarette, needless to say, that didn't work either, then I tried Chantix. Chantix may have worked if I could have gotten past being sick to my stomach and the bad dreams I had. I had begun to tell myself that I was never going to quit smoking. I was told by a few heroin addicts and alcoholics that quitting smoking was harder than getting off heroin and alcoholic. After I thought that I would never give up smoking, someone introduced me to vaping. I thought what the heck I have tried everything under the sun, let's give it a whirl.

When I first started vaping, I thought I should get a juice that was a menthol flavor it would be similar to what I smoked. It was ok, but it didn't have that same flavor as my menthol cigarette's. I tried many menthol flavors at many different shops, but it just wasn't the same as my cigarette's. Then someone said try a flavored juice. The first thing I thought was how would a flavor juice help me. Why would I want to vape something like Crème Brulee or Strawberry Shortcake how was this going to help? So, I took their advice and bought a vanilla flavored juice (I didn't want to go to crazy). Well lord and behold it worked. I started vaping that vanilla flavored juice and didn't go back to smoking. Over the years I have tried a lot of different flavors and have enjoyed them. I have had people tell me that whatever I was vaping at the time smelled really good, better then stinking old cigarettes. Honestly, if all I could vape was a menthol flavor, I don't think I would have stopped smoking.

I have to say, I'm sick and tired of hearing about how vaping has caused all these respiratory issue's in teenagers that have been vaping. First off, I have been vaping for 5 years and my doctor tells me my lungs sound fine from vaping, secondly, I have been told the teenagers that have gotten these respiratory issues are because they had gotten their juices from someone making it in their basement. They did not get their juice from a reputable Vape Shop, because a reputable vape shop will not allow anyone under the age of 21 to enter. The most ironic thing in the world is, you want to more or less get

rid of vaping, but you have no problem accepting Medical Marijuana shops. Aren't you concerned that those same teenagers that vape a flavor will now get their hands-on Medical Marijuana, heck from what I understand they don't even have to smoke it anymore they can eat the stuff? How about all the different flavored beers and alcohol's aren't you concerned that those same teenagers will start drinking and become alcoholics because of a beer called Apple Orchard or drink liquor because they make a vanilla vodka? Well, I guess the little darlings can sit in their parent's basement and drink beer called Apple Orchard and pop some Marijuana gummies, but lord don't let them vape Crème Brulee.

Kyle Vega
953 Circle Drive
Halethorpe MD 21227

Good Afternoon members of the committee,

My name is Kyle Vega. I am a 30-year-old small business owner in Maryland, with three vape stores. My stores have been open for a little over six years. Before opening, I was smoking combustible cigarettes, started at the age of 16. I tried everything to quit smoking, patches, gum, pills, etc. nothing worked. It wasn't until I discovered vaping, and more importantly, flavored e-liquid that I was able to give up combustible cigarettes.

Aside from that, today, I am here to ask you to accept the amendment that the Maryland Vapor Alliance (MVA) has proposed. This bill, as written, will surely close my three stores. 90% + of my e-liquid sales are flavored e-liquid. Grown adults are vaping flavors, and that is what they prefer. Closing my doors would mean my employees, who count on me, will be out of a job, with no income and bills still needing to be paid. I will be liable for the remaining lease balances for my 3 locations, on top of losing my own financial income.

If this bill stays as written, it will cause 1 of 3 things to happen, if not all at once.

1. The responsible business owners (vape stores) will be forced to close their doors.
2. A black market will emerge as consumers search for flavored e-liquid.
3. Many will go back to smoking combustible cigarettes, the top preventable cause of death in the U.S.

In my first point, I said responsible business owners when speaking about vape store owners. I say this because in Maryland, since August 8th, 2016, when the FDA announced it would begin regulation of the e-cigarette market. There has not been a single, strictly vape store that has been in violation of selling products to a minor. So, where are minors getting their products from? The answer, convenience stores, gas stations, generic tobacco stores, etc. In the same time frame, there have been 234 inspection violations from these types of stores, according to the FDA compliance website (U.S. Food & Drug, 2020). Banning e-liquid flavors will only force e-cigarette products to be sold in the more accessible c-stores, because the responsible businesses, vape stores, will be out of business. The same products that we know kids are using Juul will remain available at the places that we know, from data are selling to minors.

In closing, I would like you to know what the members of the Maryland Vapor Alliance, the stores we represent, and myself stand for. We are ex-smokers, who started small businesses in or near the same areas we grew up in, with a passion for helping others find a healthier alternative to combustible cigarettes. We sell e-cigarette products exclusively. Our target market is not the youth, and we do not sell Juul or any other big tobacco product that you will find in a c-store. The proof is in the data, again 0 violations of selling products to minors by Maryland vape stores. We care about our customers because we have been in their position before. We want to help current combustible cigarette smokers live long enough to see their children, grandchildren, nieces, nephews, etc. grow by moving them away from combustible cigarettes. Please do not

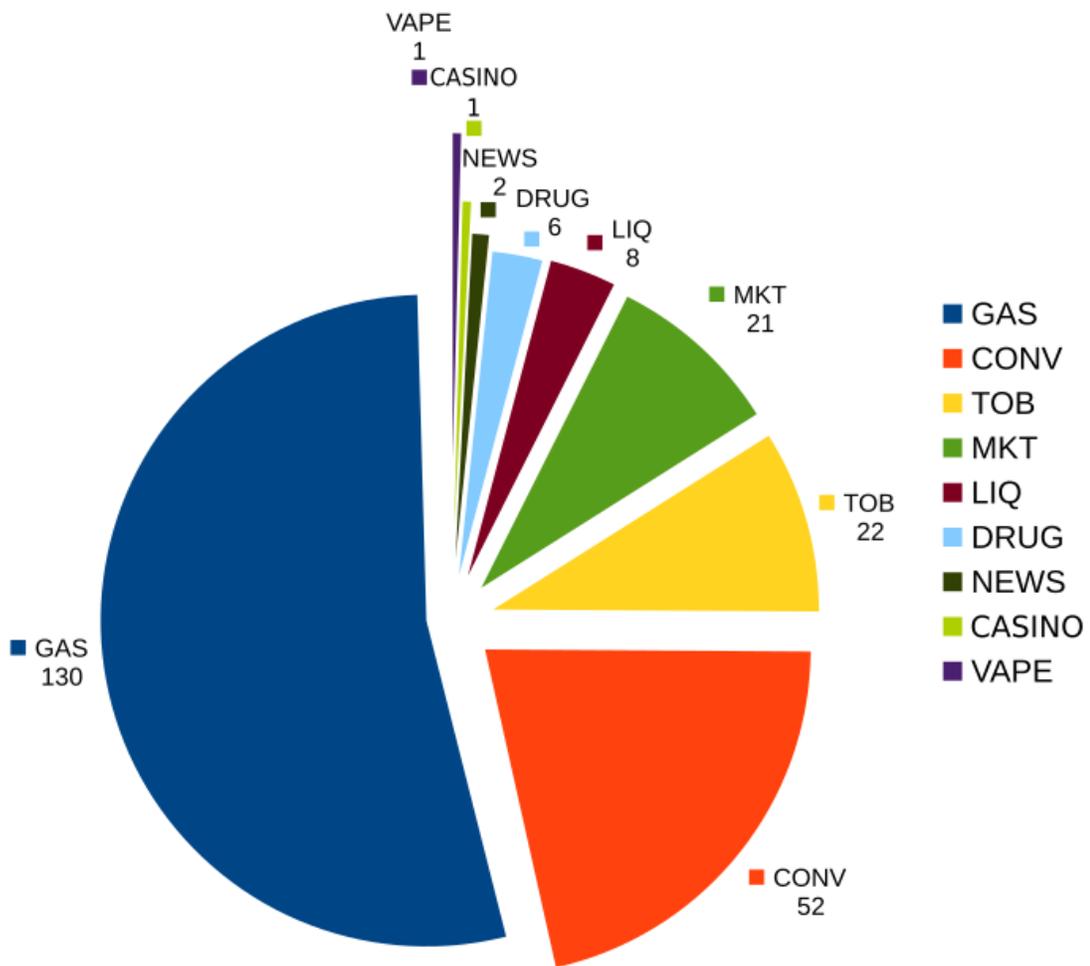
take away the rights of grown adults to have the products they want. Consider the amendment put in place by the Maryland Vapor Alliance. Thank you for your time.

References:

U.S. Food & Drug Administration. (Through 12/31/2019). Compliance Check Inspections of Tobacco Product Retailers. Retrieved from:

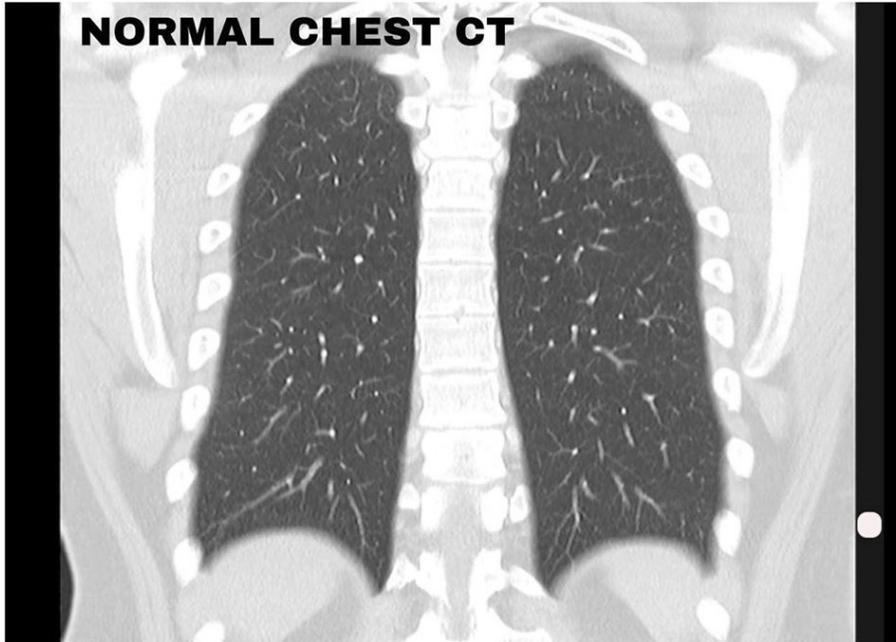
https://www.accessdata.fda.gov/scripts/oc/inspections/oc_insp_searching.cfm

FDA Citations for Sales To Minors of E-Cigarettes By Store Type - Maryland 2016-2019



My Testimony: James Davis
Silver Spring, MD 20904

68 y.o. Male, 47 year smoker, 8 year flavored nicotine vaper
(NO THC, CBD, Vitamin E Acetate, EVER)



(Lung contrast)

My CT:



The ONLY holistic & un-biased science I trust with my health:
NASEM, Public Health England, Royal College of Physicians, Cochrane Review

**Constraining, limiting, adult use of e-cigarettes will only shorten adult lives.
Regressively taxing those seeking better health only creates more hardship.**

The will of God is my ultimate authority.

I WILL remain healthy.

I will NOT abide by unjust government.

James Davis

Dear legislative members,

My name is Stephen Sard, I am a voting resident of Easton, Maryland. I am writing to you today as a consumer to voice my opposition to SB233.

I am 42 years old and began smoking when I was 15 (election day Bill Clinton's first term) I smoked combustible cigarettes for over 22 years. My kids begged me to quit, my wife begged me to quit, and everyone I knew begged me to quit. I tried so hard to quit for them. I tried patches several times, gums, inhalers, hypnosis, and acupuncture. I refused medication, as did my doctor, due to the nasty side-effects they cause. I had given up and made peace with the fact that I would one day die of cancer and that my kids, my wife, my family would have to see me in such a state. It broke my heart. I had always derided vaping. I made fun of vapers, called them names, and told them to "be a man and smoke a real cigarette." I wish I could take those words back.

Finally I decided to try vaping, in secret, to see if it would help. I first used them at work, or out and about. I noticed that I wasn't having cravings like I did with other methods. So I decided for three days straight I would do nothing but vape. To my shock, it worked. I vaped for about 3 months until the store I got them from stopped carrying them (this was 2012). I went back to smoking. I did this off and on for a few years until in 2016 I walked into a vape shop that had just popped up. I walked out with a new device and some Pineapple Mango Dragon Fruit e-liquid. I never smoked again. I literally walked away and never turned back. Over the last few years I have reduced my nicotine levels at a pace that was just right for me. I have been very successful. I can taste the food I eat, I can breathe, I can enjoy life. I no longer have to pause movie night with my wife every hour so I can go outside to smoke, only to return and have her avoid me because I smell horrible. My mental health has improved so much. I no longer feel isolated, or afraid people will smell the smoke and not wish to talk. I am so much happier. I have tried tobacco liquid in the past and I didn't care that much for it. Early on, it made me crave a cigarette. Had it not been for my Pineapple Mango, I would have easily gone back to smoking. That flavor allowed me to dissociate from tobacco. I didn't smell it or taste it, so I didn't crave it. Vaping has added so much to my life and now I have the desire to help others feel as amazing as I do because now there is a light at the end of the tunnel that actually works!

If you were to ban these life-saving flavors, it would force many of us back to smoking. Think about it. Would you give a non-alcoholic beer to a recovering alcoholic? Of course you wouldn't. The taste and smell could cause a relapse. Why would you do this to adult smokers? Smoking kills over 480k people in this country every year. In the time you have taken to read my comments, 3 people have died of a smoking related illness. This has to stop! Smokers, on our own and not big tobacco or pharma found a solution. You seek to destroy all these years of hard work by consumers and industry persons alike.

I urge you to consider my children when drafting nicotine vaping regulations. My kids deserve to have me around as long as possible. If you remove flavors, I could relapse because I am forced to use tobacco tasting flavors. I am so proud of my success. I have never vaped a Juul and it's crazy high nicotine levels. While some smokers may find such high levels needed to quit, it was not necessary. If I am forced to only use a Juul (they will be the only ones left because they

have the cash) because flavor prohibition closes the vape shops that have been so vital to my success, I will be forced from 1mg/ml of nicotine all the way to 35mg/ml of nicotine, which is the smallest strength Juul offers. No one can quit smoking AND vaping at those crazy levels. I can get smaller doses of nicotine from vape shops that are adult-only and card every person who walks in the door.

No one wants to see youth using a product that was created by smokers to help them quit. But a study published in January of this year, 2020 from Nicotine and Tobacco Research (A) found that the reality is, youth use is not as prevalent as tobacco control groups would have you believe. These numbers were used to cause alarm in the public over the deaths and illnesses they incorrectly attributed to nicotine vaping products. But as the CDC and FDA have discovered, these illnesses and deaths are attributed to illegal thc products that are cut with an oil (nicotine vaping is water soluble and uses no oil) called vitamin E acetate (B). This burden should not fall on legal vaping shops who, as a consumer, I use quite often. Add to this the recent move to tobacco 21, and youth use should no longer be a regulatory issue, but rather an enforcement and parenting issues, just like alcohol. Vape shops in Maryland did not receive one single citation for selling to underage persons during the latest operations. The majority of those citations were from convenience stores and not adult-only vape shops. Enforce age restriction laws! Encourage schools to report incidents of vaping in schools to parents and law-enforcement.

Do not punish adults for adolescent curiosity which according to the FDA is the main reason for youth use. Infact flavors ranked number three under curiosity and because the youth saw someone use the product. 77% of youth reported to the FDA via the recent tobacco survey, that flavors were not the reason they tried vaping products (22%).

As a consumer, not connected or affiliated in any way to the vaping industry, I urge you to oppose a prohibition on flavored vaping products for adults. I do support selling flavored products in adult only establishments that require identification in order to enter. This is a great way to curb youth use and brings accountability to the industry. I do not feel this can be achieved outside an adult establishment. It is a fair compromise to allow adult smokers access to live saving tobacco harm reduction products. Thank you for your time.

Stephen Sard
Registered Independent Voter and consumer
311 Choptank Ave.
Easton, MD 21601
410-463-2971
stephensard@gmail.com

Travis Johnson
509 Burning Tree Dr
Arnold, MD 21012

My name is Travis Johnson, I am 34 years old, and I have been vaping flavored nicotine products for the past six years. I started vaping to help me quit smoking cigarettes, which I had been using for nearly 12 years; and almost instantly, I no longer craved a cigarette. Now, my representatives here at the Maryland General Assembly want to take my right to purchase such products away. It's a ridiculous notion to think that such measures will have any meaningful effect to reduce underage nicotine use. All that you will accomplish is that you will, without question, a black market for these products. Furthermore, since there are no penalties for underage possession of nicotine products, this law will especially not keep these products out of the hands of underage users. Time and time again, prohibition has been shown to not work. It does not prevent illicit drug use and it will not reduce nicotine use either. These products should only be available through dedicated 21 and over shops and there should be civil citations to penalize underage possession. Punishing legal consenting adults will not reduce underage use, especially when there are no negative repercussions for those whom acquire these products illegally. Ban non-wholesale online sales, allow dedicated 21 and over shops to retail flavor nicotine products to ADULTS only, and impose civil citations on those whom acquire these forms of products under the age.

Milby_FWA_SB233

Uploaded by: Meyer, Isaac

Position: FWA

Matthew Milby

6814 Autumn View Dr.

Eldersburg, MD 21784

Good Afternoon Chairman and members of the committee,

I am here to ask you for the amendment that the MVA has proposed to this bill, an exemption for vape shops. I have been in front of this committee now for over 3 years and once again I'm here trying to fight for my livelihood. I am a disabled Veteran of the United States Army living with Multiple Sclerosis and I have 3 kids. The vapor industry gave me a second chance at a financial future while helping me to quit cigarettes using flavored vapor. We agree that kids should not be using these products. We are in favor in truly punitive repercussions for retailers that sell to minors. It's time to start taking away these people's ability to do business.

Speaking of taking away people's ability to do business a flavor ban does just that for vape shops. Vapor is the only product we sell, and we have had an excellent track record in **NOT** selling to minors proven by the compliance checks done by the state of Maryland and the FDA. A flavor ban only hurts small businesses and while we go out of business the people who are actively selling to minors will stay in business and proliferate. This bill hands the vapor industry in Maryland over to Big Tobacco, JUUL, black markets and the convenience stores, the Wal-Marts, the CVS's and the tobacco stores who are proven to be selling these products to minors and they will continue to do so.

I have been serving on the Comptrollers vapor taskforce. Last month I reported to the committee that disposable vapor products would be the new JUUL which we all know has been the #1 problem with our youth. Delivering extremely high volumes of nicotine in a very short time to our youth. We will continue to work with state legislators and the comptroller to identify these trends among our youth and help combat underage usage and availability. Our actions reaffirm our stance on underage usage because we believe these products are only for adults who want to transition away from cigarettes.

This bill will also force thousands of Marylanders back into smoking cigarettes or black markets which we know destroy families. You can read firsthand from the people you will send back into smoking by the postcards presented here today. If you read any of the thousands of postcards here today, you will hear stories about how flavors helped them quit cigarettes and that tobacco flavors are nasty and that's exactly what these adults are trying to stay away from.

We vigorously urge you to accept the amendment we have proposed and save small businesses and the families attached to them. I also want to urge you to start punishing retailers that sell to minors with more than just a fine, so we don't have to be back here next year fighting for our livelihood again.

Anthony_FWA_SB233

Uploaded by: Owens, CJ

Position: FWA

**Wyatt Anthony
Age 10
2027 Old Home Ave
Pasadena, MD 21122**

Thank you to the chair and committee for letting me speak today. My name is Wyatt Anthony, I am ten years old and in 5th grade at Monarch Academy Glen Burnie.

Banning flavored E-liquid would remove the best alternative to smoking for millions of people in the world. My dad used to be a heavy smoker, but ever since he started using vapes he has gone to the gym more frequently, started coaching my basketball team, and done outside activities with me more. Both of my parents have told me that they had tried to quit smoking multiple times and they never succeeded, but my mom recently quit vaping and after 3 days she wasn't even craving nicotine anymore.

Another thing that banning flavors would do is create a black market. Throughout history the government has banned many things from being sold and it didn't work. Such as, in 1920 when the 18th amendment got passed banning all intoxicating alcohol from being sold in the US. Due to this, people would start "bootlegging" beers such as moonshine and other liquors which created a black market. Not only were people still getting beer, but the alcohol usage in the united states only went up. In 1933 the US government would pass the 21st amendment making all alcohol legal again.

Currently to make your own e liquid you need a vape license from the Maryland government. If this bill gets passed and it creates a black market people without a license will create it illegally. The people without a license won't know the correct chemicals to use to make sure it is safe so the e liquids would only be more dangerous.

Passing this bill would get rid of the best smoking alternative and leave people no choice but to return to smoking, or start juuling which will end up killing them. It will also create a black market for flavored e liquid and most like make the nicotine usage go up. People will illegally make it and cause it to be more harmful.

Thank you for listening.

Gott_FWA_SB233

Uploaded by: Owens, CJ

Position: FWA

Marlee Gott
63 E Chesapeake Beach Rd.
Owings MD 20736

My name is Marlee and I am 11 years old. Thank you for allowing me to be here today to share my thoughts.

Flavored vapes helped my parents quit smoking. I remember when my mom and dad would smoke cigarettes and how bad their breath, clothes, and hands would smell. They always smelled like an astray. I was very scared that they would not stop and would die. My Dad use to cough in the morning and would always say this is why you should never start smoking.

I didn't know what they were doing at first, but I did not see them smoking cigarettes anymore. They started to stink less. My mom doesn't smoke or vape anymore. My Dad still vapes, but he does not cough in the morning anymore.

My mom always tells my brother and me to be healthy and to good at sports. She also said that I should never smoke or vape, and I won't! Vapes are for adults who want to stop smoking and not for kids. I believed my Mom and Dad when they say vaping saved their lives and was the only thing to help them quit smoking.

I think a lot more adults can stop smoking cigarettes with the help of different flavored vapes because they don't smell as bad and their breath smells better. Like my Mom and Dad, other parents should teach their kids to not smoke or vape.

I was determined to write this testimony by myself so you can here a kid's point of view that has a parent who vapes. Please do not take the only thing away from my Mom and Dad that helped them to quit smoking.

Owens_FWA_SB233

Uploaded by: Owens, CJ

Position: FWA

My name is CJ and I am 13 years old.

I watched my Dad struggle with his addiction to cigarettes ever since I can remember.

Each time he tried the patch or gum he would always tell me that this time he was really going to do it, and when he'd go back to smoking I think it hurt him more that he knew I was disappointed.

My Dad promised me for Christmas one year that he would quit smoking. I know he tried so hard, but it didn't happen again.

One day my Dad came home with a vape. The vape my dad uses isn't like the Juul.

I think my life is just as important as every other kid here today. And that includes me having a healthy Dad who can now play sports with me, and even help coach my football team.

All the posters hung around my school about how bad vaping is, has made my friends curious. I am there to tell them the truth: Vaping is only for adults who need to quit smoking.

Since my Dad has told me about vapes and talks to me about them, I know that it is something I will never be interested in doing. Vaping is to help adults quit smoking. I am glad I have a Dad who talk to me about things like this.

My Dad no longer smells like cigarettes and I don't feel embarrassed anymore when my friends come over.

My Dad no longer wheezes and coughs and can now run and play with me.

My Dad is the best Dad because he finally found something that helped him quit cigarettes, and I know he did it for me.

It makes me very sad to listen to the people here today shame my Dad for using a vape to stop smoking. I am very proud of my Dad and I think it is the best thing he has ever done for himself and for me.

I've seen how worried and upset my Dad has been since he heard that he may no longer be able to get the vape juice that got him off of cigarettes and kept him off of cigarettes. He is very scared he may go back to smoking.

Today I am begging you to not pass a bill that will send my Dad back to smoking cigarettes. My life matters and so does his.

I have one final question: Why haven't you banned cigarettes?

Charles Owens
5949 Deale Beach Rd.
Deale MD 20751

Veins_FWA_SB233

Uploaded by: Owens, CJ

Position: FWA

Joseph Veins

Hi I'm Joey and almost 13 years old. Thank you for letting me speak today. Since this issue is so focused around kids like me, I feel as if you should hear my thoughts. The biggest concern from my understanding is flavors are attracting kids to vape. I don't think flavors are the issue here. I know kids my age could care less about the flavor. They try Juul to be cool or to fit in. They don't talk about what flavor it was, they just want people to know they have done something others haven't, just like with regular cigarettes. To be honest I see kids getting caught smoking cigarettes more than vaping in my school and when it is Juuling they definitely are not using the bigger vape like my Mom has.

My Mom quite smoking around 6 years ago, and vaping was the only thing that helped her do it. When we talk about it, my mom always tells me that adults need vaping to help them quit smoking and that kids should never use a vape. I am so glad my Mom feels better, we do a lot more stuff outside together, and her voice is less scratchy. Her car and clothes don't smell like cigarettes anymore. The smell of cigarettes is horrible, and I am so happy I do not have to smell that anymore.

My mom is now healthier, and she works out all the time. I am so proud of her. My mom is an upfront parent with me and talks to me about everything. She says she rather me be educated so I can make good decisions on my own. You may think taking flavors away will help, but you are wrong. The only thing that will do is hurt people like my Mom. My Mom was so addicted to cigarettes, if you force her to smoke a cigarette flavor, she will go back to cigarettes. How do you expect someone to stay away from cigarettes if that is the only flavor option you are giving them? I would hate to see my mom go back to smoking. So, if you plan on banning flavors just know you are taking away the one thing that has truly helped people quit smoking. You will only encourage cigarettes which is the biggest problem and not the solution.

Yeager_FWA_SB233

Uploaded by: Owens, CJ

Position: FWA

Mary Yeager
545 Higgins Dr
Odenton MD 21113

Good Afternoon members of the committee,

My name is Mary Yeager I am a mother, and a grandmother. Thousands and thousands of Marylanders who are the mothers, fathers, grandmothers, grandfathers got off cigarettes and improved their health by switching to vaping. These are real people with real stories.

Vaping is 95% safer than Cigarettes and gets Adults off cigarettes. Why do I believe this:

- Over thirty-five thousand doctors of the Royal College Of Physicians reviewed the studies and agree
- These doctors are looking at the health of their entire population which includes adults
- My own health has drastically improved since I quit smoking and started vaping.

The following statement makes my head explode. "There have not been enough long-term studies to show that vaping is safe or is an effective cessation product".

In the late 1940's the first modern studies came out linking smoking to lung cancer.

1957 The American Medical Association said more research was needed.

In 1962 The Royal College of Physician came out with the first comprehensive report saying cigarettes cause cancer. Citing this report, the US Surgeon General established an advisory committee

In 1964 the Surgeon General's report came out stating that cigarettes cause cancer. The AMA refused to indorse this report because more research was needed.

My husband is 61 years old and smoked for over 35 Years, four years ago he got off cigarettes by vaping. This summer he ran around the yard chasing our grandbabies. If he had not given up cigarettes he would not be running after grandbabies he would probably on an oxygen tank or coughing up a lung because of his 3 pack a day habit.

We do not have 20 years to wait for "long term" Studies. Vaping Flavors is keeping us and thousands of adult Marylanders off cigarettes NOW. This is our choice.

I believe there are ways to keep kids from getting access to Adult products while still allowing mothers, father, grandmothers and grandfathers their choice to use a product that is 95% safer than cigarettes.

Aaron_Unf_SB233

Uploaded by: Aaron, Justin

Position: UNF

Justin Aaron

Analyst, United States Air Force

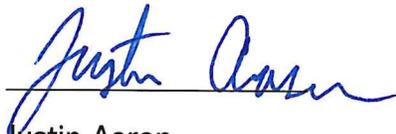
February 13, 2020

Dear Members of the Senate Finance Committee,

I am writing today to ask for an unfavorable report on SB233 entitled "Business Regulation - Flavored Tobacco Products – Prohibition." This bill would ban all flavored tobacco, an initiative that I wholeheartedly believe will be detrimental to a number of different communities.

The military has always been a large consumer base for tobacco products. As a member of the United States Military, I have a number of friends that smoke both flavored (menthol) and non-flavored cigarettes. I would make the argument that this is simply a matter of preference, and it wouldn't be fair to eliminate the ability to make a choice in what kind of tobacco products one uses. While I know both options will be available on base, members of the military also have lives outside of work. I believe the freedom of choice is a fundamental American value, and strongly discourage you from passing this legislation.

Respectfully,



Justin Aaron

LATE - DrugPolicyAlliance_UNF_SB233

Uploaded by: Adesuyi, Queen

Position: UNF

February 13, 2020

Chairperson Delores G. Kelley
Finance Committee of the Maryland Senate
Miller Senate Office Building, 3 East Wing
11 Bladen St
Annapolis, M.D. 21401



Finance Committee on SB-0233 the Business Regulation – Flavored Tobacco Products – Prohibition Act of 2020

Written Testimony of Queen Adesuyi, Policy Manager, Drug Policy Alliance

The Drug Policy Alliance (DPA) appreciates the opportunity to submit written testimony to the Committee regarding SB0233, the Business Regulation – Flavored Tobacco Products – Prohibition Act of 2020. DPA advocates for drug policies that are grounded in science, compassion, health and human rights, with a core mission to reduce the harms associated with drug use and drug prohibition. DPA does not support the legislation under consideration by the Committee.

Several states and jurisdictions have considered bans on flavored tobacco with the intention of reducing the rates of youth use and access to tobacco and nicotine products. Though well intentioned, sweeping bans such as SB-0233 will have disastrous unintended consequences on communities, public health, and public safety.

Decades of the war on drugs and prohibitionist policies have failed at reducing use of illicit substances. In fact, prohibition, sweeping bans, and criminalization all have worked to exacerbate the harms associated with substance use and have complicated public health and public safety goals.

SB-0233 lists several flavors that will fall beneath a potential ban, including candy, fruit, or spice-like flavors. One of the notable flavors on the list is menthol, a flavor that provides a cooling taste and masks the taste of tobacco. While about 29% of White smokers report consuming menthol cigarettes, menthol cigarettes are the cigarettes of choice of 88% of African-Americans smokers.¹ In considering such a sweeping ban on flavored tobacco products, it is critical to understand the serious unintended and racially disproportionate consequences that would be borne of this approach to a public health issue.

Since the 1970s, the United States has waged a devastating war on drugs, the harms of which have been concentrated among poor people and people of color. The prohibition has led to unprecedented levels of incarceration and marginalization of communities of color, without a correlating reduction of problematic drug use or drug-related harms. The overreliance on prohibition, punishment and criminalization, and the underutilization of evidence-based education, social supports, and harm reduction have created significant, lasting effects among communities of color – loss of employment, housing, or federal benefits, separation of families, and loss of economic and social mobility.

It is concerning, then, to consider SB-0233 and the effect that menthol cigarette bans disproportionately will have on chronically overpoliced communities. Banning menthol cigarettes may turn individuals to an illicit market, further increasing their risk of harmful encounters with law enforcement and potentially adulterated products. Reducing the frequency of youth e-cigarette use is an important and achievable goal. It is not best accomplished through the application of prohibition-based policies, which do not account for the autonomy or dignity of people who use drugs and unfairly burden marginalized and overpoliced communities.

Thank you again for the opportunity to submit written testimony. We hope the Committee will reach out with any further questions regarding our position on this legislation and the unintended harmful consequences of banning flavored tobacco products.

Sincerely,

A handwritten signature in black ink, appearing to read "Queen Adesuyi". The signature is stylized and cursive.

Queen Adesuyi
Office of National Affairs
Drug Policy Alliance

¹ Gary A. Giovino, et al, "Differential trends in cigarette smoking in the USA: is menthol slowing progress?" *BMJ: Tobacco Control*, 2013, available at <https://tobaccocontrol.bmj.com/content/24/1/28>

Baradwha_UNF_SB233

Uploaded by: Baradwha, Rishi

Position: UNF

Painters Mill Wine and Spirits

9960 Reisterstown Road

Garrison, MD 21117

February 4, 2020

RE: HB 3/SB 233- Business Regulation - Flavored Tobacco Products - Prohibition

Dear Members of the Economic Matters Committee,

I am writing today to ask you to oppose HB3/SB233 entitled "Business Regulation - Flavored Tobacco Products – Prohibition" As a small business owner in Baltimore, along with my fellow business owners and, more broadly, my fellow citizens of Maryland will suffer from the bill's passage.

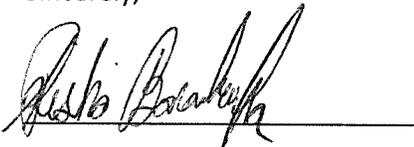
My firm is a family owned and operated retail store and this flavored tobacco ban could prove to be disastrous to small retailers like me, as well as my employees and our communities, with potentially little to no evident public health benefit. We understand addressing the flavoring of vape products to address illegal youth usage, but youth cigarette usage is at historic lows.

On top of the other effects on my business, the increased number of contraband sales would make my neighborhood less safe as it is associated with rises in other kinds of criminal behavior, not to mention increased confrontations between these dealers and law enforcement. The increased contraband sales would raise the number of cigarettes distributed by illicit dealers who don't abide by legal restrictions or regulations, or the voluntary We Card initiative, as my business and numerous others successfully do. Such sales could undermine the years of progress made in reducing underage access to tobacco products in our communities.

I can assure you that my business will remain on the front lines of efforts to keep tobacco products out of the hands of our youth – but that is not possible if an abrupt menthol ban puts me and other retailers like me out of business and opens the door for the unregulated sale of these products.

I respectfully ask that you oppose this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Rishi Baradwha", is written over a horizontal line.

Rishi Baradwha

Partner, Painters Mill Wine and Spirits

Bujack_UNF_SB233

Uploaded by: Bujack, Scott

Position: UNF

Madam Chair, Mr. Vice Chair, and the members of the Finance Committee,

I am writing to you today to express my concern about proposed legislation that would ban menthol flavored products. This bill is certainly well intentioned, it is imperative that tobacco products stay out of the hands of the youth. However, the unintended consequences would be detrimental. Not only is a menthol cigarette ban not the answer, it's not even the question.

By looking at the Food and Drug Administration's (FDA) websites on youth tobacco trends, the source of the problem is clear: the far-greater concern of public health authorities is the rising prevalence of electronic cigarettes among underage users. FDA's page focuses almost entirely on rising e-cigarette use: "While cigarette smoking is at an all-time low among high school students, increases in e-cigarette use have reversed progress made in the decline of overall youth tobacco use."

One step could reverse the progress in reducing youth smoking: expanding the black market. And that would be the obvious unintended consequence of a prohibitionist approach to menthol cigarettes. Surveys suggest that anywhere from a quarter to nearly 90% of menthol sales would simply shift to illicit markets, which – especially if it is true that youth prefer menthol – could entirely undo the effect of raising the age restriction. Very simply, illegal sellers do not observe legal or contractual restrictions on sales.

The conclusion is clear: the legislature's focus now should be on continuing to combat youth vaping and especially, the alarming rise in potentially deadly THC vaping, and not on a menthol ban that could reverse "significant" continuing progress in reducing youth smoking by unintentionally fueling the rise in black markets.

Sincerely,

Scott Bujack

Taylor-Cage-Written-Testimony-Feb.-6-2020

Uploaded by: cage, taylor

Position: UNF

Taylor Cage
2822 Benson Rd
Finksburg, MD 21048

Right now, my uncle Buddy in Texas is dying of throat cancer, no doubt caused by smoking cigarettes every day of his life since he went into combat in the Vietnam War. This is weighing heavily on me because as a member of this industry and community I have access to every kind of cessation method in every flavor, strength, and variation. For the past five years, I have been trying to help him quit or cut back on cigarettes by offering him these products but he tells me that he doesn't know what's in them and genuinely doesn't want to quit smoking. Despite having inside knowledge of how most of these products are made, and intimate knowledge of the ingredient components that go into them, I could not get my uncle to really understand that these products are NOT the same as big tobacco products. It seems we are battling that misconception here today as well.

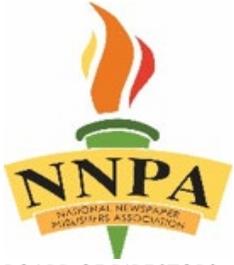
At one point or another, smoking has claimed the life of someone we love and big tobacco has been the enemy of every person in this room and as the saying goes, "The enemy of my enemy is my friend." We are friends in this battle and we all want the same things. We all want kids to quit using these products and we all want this young generation to see a smoke-free world. We won't get there by pinning the blame on the people that are following the rules and manufacturing and selling responsibly. We won't get there by banning access to this technology that has already saved millions of adults who now get to spend more time raising the children in their families. We need to work together for sensible regulation. None of us produce the products that teens are using. The good stewards of this industry in this state, represented by Maryland Vapor Alliance do NOT market to children, do NOT sell to anyone underage, and can boast that there have been NO underage sales from vape shops in the FDA's compliance check inspections of tobacco product retailers. None.

There is a way to restrict underage access while allowing adults the freedom to quit smoking on their own terms (in addition to harsher penalties for retailers that don't with age restrictions), and that's by eliminating access points like convenience stores while allowing access to flavored and high nicotine products only at age 21 and up vape shops. Instead of driving youth and adults alike into the sinister clutches of the big tobacco death machine, I urge you to work with us towards regulations that make sense. Keep the \$389 million dollars of economic activity in the State of Maryland, keep the jobs of over 1200 Maryland residents, and consider the amendments proposed by the Maryland Vapor Alliance so that our children will never have to watch a loved one die of cancer caused by smoking cigarettes.

NNPA_UNF_SB233

Uploaded by: Chavis, Ben

Position: UNF



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BLACK PRESS OF AMERICA

February 13, 2020

Delores Kelley, Chair
Brian Feldman, Vice Chair
Maryland Senate Finance Committee
OPPOSED - SB233
Miller Senate Office Building, 3 East Wing
11 Bladen St.
Annapolis, MD 21401 – 1991

**Re: Racially Discriminatory Legislation and Policies Must Be Stopped
The Unintended Consequences of a Menthol Cigarette Ban to Black America**

Dear Madam Chair and Mr. Vice Chair:

From pro-slavery laws to Jim Crow, to Prohibition, to racial profiling, to Stop- and-Frisk, history is clear: racist laws and discriminatory bans have been devastating for Black America.

Today, Law Enforcement Action Partnership (LEAP) and National Newspaper Publishers Association (NNPA) have joined together with other African- American law enforcement executives to call on you - our readers in Black communities across the nation - to see the warning signs of yet another proposed racially discriminatory law: the menthol cigarette ban.

It is a well-known fact that over 85 percent of African Americans who smoke prefer menthol cigarettes. There is no factual basis to assert that a menthol cigarette ban will stop African Americans from smoking. In fact, the unintended consequences of such a racially discriminatory ban will set the stage for more negative and more likely counterproductive interactions between law enforcement and African Americans.

While proponents argue that a menthol cigarette ban could encourage menthol cigarette smokers to quit smoking cold-turkey, another possible outcome could be extremely dangerous - the creation of an illicit market. If this happens, illegal sales of menthol cigarettes will likely be concentrated in communities of color, leading to a greater police presence, citations, fines, and arrests for selling a product that for the past 50 years has been legal.

Possible bans on menthol cigarettes are not being considered throughout the United States as add-ons to e-cigarettes bans. It must be said that while FDA has deemed teen vaping an “epidemic” there is no teen menthol cigarette epidemic. The fact is teen cigarette use has steadily been on the decline over the past decade.

Recently in New York, the mothers of Trayvon Martin and Eric Garner courageously issued a public statement warning against the consequences of a proposed menthol cigarette ban. Sybrina Fulton and Gwendolyn Carr stated, "When you ban a product sold mostly in Black communities, you must consider the reality of what will happen to that very same over-represented community in the criminal justice system."

Law enforcement leaders like Law Enforcement Action Partnership (LEAP), National Organization of Black Law Enforcement Executives (NOBLE), Grand Council of Guardians, and National Association of Black Law Enforcement Officers (NABLEO) *have* stated countless times that a ban on menthol cigarettes will have unintended negative consequences, especially for African Americans.

Over the past 30 years, we *have* reduced tobacco consumption overall across this country by about 40 percent. And we did not do that with the criminal justice community. We did that with education, we did it with treatment, we did it from a health and educational perspective. Let's continue with that. Let's not do something that's going to end up with these unintended consequences of increasing interaction between police and community members.

Major Neill Franklin (Ret.), Executive Director of the Law Enforcement Action Partnership (LEAP): *"I dedicated 34 years of my life to public safety, enforcing the laws that our legislators placed before me. That's what cops do, and we trust that those laws are well thought out, studied and based upon sound data and evidence. As we begin to mirror the days of alcohol prohibition with tobacco bans, expect the violence and corruption that comes with the illicit market and add something else, the over criminalization of the black community."*

Jiles Ship, President of the National Organization of Black Law Enforcement Executives - New Jersey (NOBLE): *"Banning menthol cigarettes would be a 21st Century attempt at Prohibition, a past failure of government to restrict a previously legal product. As we learned with Prohibition, every time the government tries to ban something, it seems to cause other problems. And unfortunately, a menthol cigarette ban would be another example of government action that disproportionately disrupts the Black community."*

Charles Billips, National Chair-Person of Grand Council of Guardians, *"The first question I asked is how are they going to implement this ban on menthol cigarettes, knowing that a large number of Black and Brown people smoke menthol cigarettes? It would be best to educate the communities on the affect it has on our health instead of a ban enforced through Law Enforcement."*

As The Reverend Dr. Martin Luther King Jr. once prophetically said, "The time is always right to do what is right." And the right thing to do for our families and communities and for all who stand for freedom, justice and equality is to speak out against all forms of racial discrimination

Delores Kelly, Chair
Brian Feldman, Vice Chair
February 13, 2020
Page Three

and disproportionate law enforcement, as well as the systems, laws, bans and policies that perpetuate them.

**We oppose the following bills in the Maryland State Legislature:
Maryland House Bill HB3 and Maryland State Senate SB233.**

Sincerely,

A handwritten signature in blue ink that reads "Benjamin F. Chavis, Jr." The signature is written in a cursive style with a large initial 'B' and 'C'.

Dr. Benjamin F. Chavis, Jr.
NNPA President and CEO

Deck_UNF_SB233

Uploaded by: Deck, Christopher

Position: UNF

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

AisianAmericanRetailersAssoc_UNF_SB233

Uploaded by: Desai, Shrinath

Position: UNF



Dear Members of the Finance Committee,

I write to explain why SB233, the “Business Regulation - Flavored Tobacco Products - Prohibition,” is not in our businesses’ or communities’ best interest. I strongly urge you to reject this bill.

The Asian American Retailers Association (AARA) encourages and promotes the responsible sale of legal products and the rights and responsibilities of alcohol beverage retailers. Many of our members who own and operate small stores are struggling to compete with large chains, grocery stores and major national retailers. One way many AARA members compete is selling tobacco products. This brings people and revenue into our stores and helps us stay afloat.

With regard to youth tobacco use, AARA has been vocal in its support for the *We Card* movement. We support and enforce age restrictions for tobacco and alcohol. We also agree we need to address underage vaping. However, banning all flavored tobacco products, including menthol cigarettes, as provided for in SB233, makes no sense.

If enacted, the sale of these products would go from lawful businesses with standards to an underground market for these products, including flavored e-cigs. Illicit sellers would not abide by *We Card* or honor regulations as our members do to protect young people. This could actually enable more tobacco consumption among our youth. In addition, the presence of illegal sellers in neighborhoods and communities in Maryland creates new risks for families and new burdens for law enforcement.

The stores, vendors and hardworking people that make up the AARA take the law seriously. We believe providing safe and responsible sales of our products supports the local economy and protects communities. Please vote no on SB233.

Sincerely,

Shrinath Desai
The Asian American Retailers Association

Sal Filippelli Testimony 2.13.2020

Uploaded by: filippelli, sal

Position: UNF

Sal Filippelli
103 Highshire Ct
Dundalk, MD 21222

2/12/2020

Good afternoon Chairman and members of the committee,

My name is Sal Filippelli and I'm the owner of Harbor Vapor in Baltimore City. Using strawberry flavored vapor helped me quit smoking and inspired me to open a store to help others quit tobacco cigarettes. Harbor Vapor has now been open for nearly 6 years and has help thousands of customers quit and stay off of cigarettes with the help of various flavors.

It became clear to us very early on that flavored vapor products helped adults quit and stay off of cigarettes. Adults find that using flavors other than tobacco helps them stay off of cigarettes by breaking the mental connection with the taste of tobacco. It has been proven that cigarettes are dangerous and our customers want to have the choice of a better alternative. Our customers have seen the benefits of switching to vapor products and want to continue to have that option. Less than 5% of our sales are tobacco flavor and it proves that adults enjoy and want choices in flavors.

Some of my adult customers use disposable vapor devices that the Comptroller has enacted a ban on this week. This decision will only remove one more choice for them in using an alternative to cigarettes. Even with the disposable devices the most popular sellers were the various flavored ones.

A full out ban on flavors will force my business to close, which is how my employees and myself provide for our families. It will force all shops in Maryland to endure the same fate, which adds up hundreds of stores with thousands of employees. Small businesses are the cornerstones of our communities and this will seal their fate. Vape shops take their responsibility of only selling to adults seriously and to my knowledge not one vapor store in Maryland has been fined for selling to minors. Owner operators who have a vested interest in making sure we comply with all laws run many of the stores. I truly believe this why we have been so successful in these audits. We have taken great pride in only selling to adult customers, which cannot be said for other types of stores. Only adults are allowed in our stores and we verify each customers age before purchase.

I recommend an exemption for vapor stores to be allowed to continue selling flavored vapor products. This will allow us to continue to provide our adult customers with the products they so desire. Adults deserve the right to have a choice in the products they buy, no matter what industry. Please help us to continue to give adults smokers in Maryland a choice when it comes to switching from deadly tobacco cigarettes. Their lives literally depend on it.

Thank you for your time,

Sal Filippelli

NFranklin_UNF_SB233

Uploaded by: FRANKLIN, NEILL

Position: UNF



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To: Delores G. Kelley, Chair
Brian J. Feldman, Vice Chair, and
Senate Finance Committee

From: **Major Neill Franklin (Ret.), on behalf of the
Law Enforcement Action Partnership (LEAP)**

Oppose - Senate Bill 233

Business Regulation – Flavored Tobacco Products - Prohibition

Hearing: Thursday, February 13, 2020, 1:00 p.m.

Distinguished Senators of Maryland, thank you for the opportunity to submit written testimony. I am representing myself and the Law Enforcement Action Partnership (LEAP), of which I am the executive director. LEAP is a nonprofit group of police, prosecutors, judges, and other criminal justice professionals who speak from firsthand experience to endorse evidence-based public safety policies. Our mission is to make communities safer by focusing law enforcement resources on the most serious priorities, promoting alternatives to arrest and incarceration, addressing the root causes of crime, and healing police-community relations. My colleagues and I at LEAP oppose SB233 because it is an unscientific, reactionary policy that would have negative public safety outcomes.

I understand why you're considering this legislation. It comes from the same desire I had as a narcotics task force commander to stamp out the drug sales that were causing harm to my community. We are all on the side of public health and safety, but I can practically guarantee that SB233 would take us further from our shared goals.

Having spent 34 years working drug cases for the Maryland State Police and Baltimore Police Departments, I've learned that drug bans (prohibitions) endanger the health and safety of communities even more than drugs themselves.

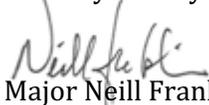
Banning menthol is not going to make the demand for menthol products go away. We know this because illegal drugs are used by people in every community in every state across this country. What does that say about prohibition? It says that when there is a high demand, an illegal market will fill the void if a legal, regulated market does not. Rather than reduce or eliminate harmful activities, drug bans actually create crime that need police resources to enforce.

It is a well-known fact that over 80 percent of African Americans who smoke prefer menthol cigarettes. There is no factual basis to assert that a menthol cigarette ban will stop African Americans from smoking. In fact, the unintended consequences of such a racially discriminatory ban will set the stage for more negative and counterproductive interactions between law enforcement and African Americans.

Law enforcement leaders like Law Enforcement Action Partnership (LEAP), National Organization of Black Law Enforcement Executives (NOBLE), National Latino Officers Association (NLOA), Grand Council of Guardians, and National Association of Black Law Enforcement Officers (NABLEO) have stated countless times that a ban on menthol cigarettes will have unintended negative consequences, especially for African Americans.

Menthol bans are not neutral policies designed to reduce all types of smoking. If we truly believed that bans would stop smoking, we would outlaw all cigarettes. Instead, by going after menthol products, we only criminalize the selling of tobacco products favored by Black smokers, creating yet another reason for police to go into communities of color. We don't need another Eric Garner, who was stopped by police while selling loose cigarettes illegally and died in police custody and we certainly don't need another Freddie Gray, so I urge you for an unfavorable report on SB233.

Thank you for your time,



Major Neill Franklin (Ret.)

Executive Director

The Law Enforcement Action Partnership

Formerly with the Maryland State Police and Baltimore Police Departments

**This testimony does not necessarily represent the views of these departments.*

Charles Giblin_UNF_sb233

Uploaded by: Giblin, Charles

Position: UNF

Charles E. Giblin SB33 Testimony before Maryland State Senate Finance Committee

Madam Chair, members of the Senate Finance Committee, thank you for your time. My name is Charles E. Giblin. I'm testifying at the request of Altria Client Services' registered lobbyist. The views I am sharing are entirely my own.

While we all appreciate the sponsor's public health intention of this legislation, as a 45-year law enforcement official, I need to strongly caution you: while this bill is very well-intentioned, it won't end the sale of these products. It will just change how they get into your communities. This bill will create a public safety crisis, by creating a sprawling criminal enterprise and worsening an already-fragile relationship with the law enforcement community responsible for protecting our communities

I spent 36 years of my career as a special agent with the NJ department of the treasury, office of criminal investigation. I retired as the special agent in charge. As a "state revenue law enforcement officer" I have not only made hundreds of arrests for tobacco and financial related crimes, but I have developed and promulgated programs, policies and procedures, some of which have been adopted by other jurisdictions. I was awarded the federation of tax administrators lifetime achievement award for tobacco enforcement and have been an expert witness in federal and state courts.

We all agree that reducing underage access to tobacco and vaping is an appropriate goal. I have personal experience with this in my own family.

I understand the desire to take more action. But this legislation won't eliminate flavored tobacco products from Maryland communities. Instead, it will just shift the market from legal and regulated businesses to illegal, unregulated smuggling networks.

Once the bill passes, cross border smuggling from neighboring states will dramatically increase. For Maryland this migration from legal to illicit market will be very easy. Maryland is situated at the epicenter of cigarette smuggling activity in the United States - the interstate i-95 corridor. Currently millions of cigarette cartons and other tobacco products are smuggled annually from low tax states such as Virginia, through Maryland, to higher tax states including New York, New Jersey and points north. And Maryland is ringed with hundreds of Virginia, Delaware, D.C., and Pennsylvania retailers who will become ready sources for smugglers bringing in illicit products without regard to tax, licensing, or age verification laws.

Secondly, contraband activities bring other and very serious crimes with them. There are many criminal cases that have made the link between contraband tobacco smuggling and terrorism. Additionally, cigarette smugglers often engage in racketeering, extortion, attempted murder, narcotics, gun smuggling, and id theft. And, without a doubt, with every contraband case comes general tax evasion from Maryland's treasury. I'm happy to provide a list of these cases to the committee, which include a November 2019 bust by Maryland comptroller agents which seized nearly half million dollars' worth of contraband cigarettes.

With this increased criminal activity come increased demands on law enforcement personnel. But at the same time, because it moves these products out of the tax-paying distribution channel, Maryland will see a very significant reduction in tax revenues, and thus less funding to pay for increased policing.

This increased burden cannot be overstated and must be considered as you review this legislation.

In closing, I applaud your effort to help reduce the level of youth usage of vaping products. But regulating these products by criminalizing them has enormous implications that require much more discussion, with law enforcement at the table. Thank you for your time and I'm happy to answer any questions you may have.

RECENT EXAMPLES OF CONTRABAND CIGARETTE CASES INVOLVING OTHER CRIMINAL CONDUCT

Smuggling

'Floor to ceiling': Maryland comptroller touts biggest tobacco bust in state history

Maryland's comptroller says his agents have completed the largest bust of untaxed tobacco products in state history.

State agents announced Wednesday that they seized more than \$450,000 worth of cigars, hookah tobacco, cigarettes and other tobacco products during a series of raids earlier this month at storage units, stores, a home and a car in Prince George's County. They also inspected stores in Prince George's County and Baltimore City.

The storage units were packed "floor to ceiling" with untaxed tobacco products, said Jeffrey A. Kelly, chief of the comptroller's Field Enforcement Division.

Kelly said his team believes the tobacco products were smuggled into Maryland from Pennsylvania, and if they had been taxed properly, the state would have taken in \$286,000 in taxes.

Comptroller Peter Franchot said the smuggling and illicit sales were coordinated by "a vast organized crime ring of bad actors" who were trying to circumvent state tax laws.

Monzurul Islam, 29, of Columbia and Mehboob Chowdhury, 37, of Capitol Heights were charged with selling tobacco products that weren't bought from a wholesaler, according to the comptroller's office. Neither man's charges were listed in online court records Wednesday, and officials said they could face additional charges.

Abdul Karim Rubel, an 18-year-old store clerk from Baltimore, faces misdemeanor charges of selling tobacco products that weren't bought from a wholesaler, possessing untaxed tobacco products and possessing and selling untaxed cigarettes.

The comptroller's agents began their investigation with a tip from state Sen. Joanne C. Benson, who said she noticed a proliferation of tobacco stores while on a bus tour of southern Prince George's County last fall. She asked the comptroller and Prince George's County officials to look into whether they were legal.

"We are working hard in the state of Maryland to discourage people from smoking," said Benson, a Democrat.

Benson praised Franchot and Prince George's County State's Attorney Aisha Braveboy for their work on the case. She said that perhaps lawmakers should rethink the law they passed earlier this year to eventually move tobacco and alcohol enforcement out of Franchot's office.

"In view of what has happened here ... I think we in the Senate and House should revisit what we discussed last year," Benson said.

Franchot said the tobacco bust shows that the enforcement system is "not broken."

The new law strips Franchot of tobacco and alcohol authority starting July 1, 2020. By then, the state is required to create an independent Alcohol and Tobacco Commission that would employ agents and run investigations.

The law was passed amid a feud between Franchot, a Democrat, and the Democratic-led General Assembly.

Franchot claimed lawmakers were stripping his power as punishment for his outspoken support for the craft beer industry.

Lawmakers countered that they didn't think it was appropriate for the state's chief alcohol regulator and tax collector to be collecting campaign donations from the very industry he oversees. And they said the idea came from a task force that studied the state's liquor laws.

Franchot said the move would cost state taxpayers \$50 million over the next decade. But an analysis by the nonpartisan Department of Legislative Services found that it would cost \$4 million in the first year to establish the commission and move the field investigators. After that, the state would face about \$700,000 each year in increased expenses.

Organized Crime

U.S. v. Pirk, case no. 1:15-CR-00142 (W.D.N.Y. 2019) (convictions of members of the Kingsmen Motorcycle Club, a criminal organization which engaged in distribution of controlled substances, possession, use and sale of firearms, sales of untaxed cigarettes, and promoting prostitution; 16 members convicted of RICO, drug and firearm offenses for participating in a drive-by shooting of rival Club members), *see* DOJ Press Release at <https://www.justice.gov/usao-wdny/pr/another-kingsmen-motorcycle-club-member-sentenced-rico-conspiracy>

U.S. v. Chow, case no. CR 14-00196 (N.D. Calif. 2018) (defendants were members of a San Francisco Chinatown-based organization, the Chee Kung Tong, that engaged in racketeering activity; charges included money laundering, drug trafficking, cigarette trafficking, trafficking in stolen liquor, firearms trafficking, and murder for hire), *see* DOJ Press Release at <https://www.justice.gov/usao-ndca/pr/eight-defendants-sentenced-prison-crimes-charged-shrimp-boy-indictment>

U.S. v. Shulaya, U.S. v. Fishman, U.S. v. Jikia, U.S. v. Gindinov (S.D.N.Y. 2017) (indictments of members of Russian crime syndicate for racketeering, extortion, robbery/theft, murder-for-hire, fraud, narcotics (cocaine and heroin), firearm offenses, gambling and cigarette trafficking, committed across the country), *see* DOJ Press Release at <https://www.justice.gov/usao-sdny/pr/members-and-associates-russian-crime-syndicate-arrested-racketeering-extortion-robbery> ; indictments at <https://www.justice.gov/usao-sdny/press-release/file/972206/download> ; <https://www.justice.gov/usao-sdny/press-release/file/972191/download> ; <https://www.justice.gov/usao-sdny/press-release/file/972201/download> ; <https://www.justice.gov/usao-sdny/press-release/file/972196/download>

U.S. v. Parrello, case no. 16crim522 (S.D.N.Y. 2016) (indictments of 46 individuals who were part of a long-running racketeering conspiracy composed of members of the Genovese, Gambino, Luchese, Bonanno and La Cosa Nostra crime families, operating throughout the East Coast of the United States; charges include racketeering, extortion, arson, illegal trafficking in firearms, assault, gambling, credit card and healthcare fraud and contraband cigarette trafficking), *see* indictment at <https://www.justice.gov/usao-sdny/file/882166/download>

U.S. v. Chen, case no. 2:05-cr-00806-DSF-2 (C.D. Calif. 2010) (conviction of individual under anti-terrorism statute for smuggling Chinese-made QW-2 shoulder-fired missiles into the United States; the conviction was the result of an investigation of 87 individuals for smuggling counterfeit U.S. currency (\$100 super notes made in North Korea), drugs (methamphetamine and cocaine), counterfeit and contraband cigarettes, and other

contraband into the United States), *see* DOJ Press Release at <https://www.justice.gov/archive/usao/cac/Pressroom/pr2010/144.html>

Congressional Research Services, *Report on Senegal* (March 2019) (“According to the State Department, Senegal is a transit point for cocaine trafficking between South America and Europe. Cannabis is also cultivated in Casamance for domestic and regional markets. The drug trade may leverage networks used to smuggle duty-free cigarettes, counterfeit medications, small arms, and migrants.”), found at <https://www.justice.gov/eoir/page/file/1148566/download>

U.S. State Department, *The Global Illicit Trade in Tobacco: A Threat to National Security* (Dec. 2015) (“Cigarettes are one of the most smuggled ‘legal’ products in the world, and cigarette smuggling is a form of transnational organized crime (TOC). Moreover, the illicit trade in tobacco, including cigarettes, has been linked to the financing of terrorist organizations. In some cases, smugglers deal in cigarettes and other illicit commodities, such as drugs, weapons, bulk cash smuggling, stolen antiquities, diamonds, and counterfeit goods. In most cases, the criminals also engage in identity theft, money laundering, and bulk cash smuggling to either continue their illicit enterprises, or to use their illegal profits.”), found at <https://2009-2017.state.gov/documents/organization/250513.pdf>

Controlled Substances and Firearms

U.S. v. Feliciano, case no. 3:19-cr-00135 (D. Connecticut 2020) (individual convicted of drug (cocaine) trafficking and illegal firearm possession; cigarettes with fraudulent tax stamps also found), *see* DOJ Press Release at <https://www.justice.gov/usao-ct/pr/hartford-man-sentenced-46-months-federal-prison-gun-possession-and-cocaine-distribution>

U.S. v. Landon (D. Id. 2018) (indictment of seven correctional officers involved in a large-scale drug trafficking organization for trafficking in contraband cigarettes, distribution of controlled substances (including cocaine), and possession of firearm in connection with a drug trafficking crime), *see* DOJ press release at <https://www.justice.gov/usao-id/pr/four-correctional-officers-indicted-federal-court>

U.S. Collins (C.D. Cal. 2018) (indictment of four law enforcement officers for providing security for distribution of 45 pounds of cocaine, 13 pounds of methamphetamine, marijuana, counterfeit cigarettes and cash), *see* DOJ Press Release at <https://www.justice.gov/usao-cdca/pr/deputy-sheriff-three-cohorts-arrested-drug-trafficking-scheme-after-agreeing-provide>

U.S. v. Almuttan, case no. 4:17CR00234 (E.D. Mo. 2017) (indictment of 35 individuals on charges of trafficking in contraband cigarettes and distribution of synthetic drugs (K2) and importation of K2 precursors from China), *see* indictment at <https://www.justice.gov/usao-edmo/press-release/file/970366/download>

U.S. v. Saed, 2:16-cr-00171 (E.D. La. 2017) (convictions of three individuals for trafficking in narcotics (heroin) and contraband cigarettes, and firearms violations), *see* DOJ Press Release at <https://www.justice.gov/usao-edla/pr/three-men-including-two-former-local-law-enforcement-officers-plead-guilty-trafficking>

U.S. v. Rakhamimov (D. Md. 2016) (conviction for trafficking in contraband cigarettes, distribution of oxycodone and counterfeit drugs, and international money laundering); *see* DOJ Press Release at <https://www.justice.gov/usao-md/pr/leader-conspiracy-distribute-over-66-million-contraband-cigarettes-sentenced-prison>

Fraud

U.S. v. Williams, case no. 1:17-cr-214, 226, 227, 240, 252, 251, 254, 312 (E.D. Va. 2018) (convictions of 12 individuals in credit card fraud and ID theft ring; defendants purchased stolen information and credit/debit card numbers, forged credit cards, and purchased cigarettes with stolen/forged credit cards to resell on illicit market; one defendant participated in an organized dog-fighting ring), *see* DOJ Press Release at <https://www.justice.gov/usao-edva/pr/ringleader-sentenced-credit-card-fraud-and-id-theft-scheme>

U.S. v. Salahedin, case no. 3:36-cr-29 (E.D. Va. 2017) (conviction of individual for using fictitious identity to set up businesses in Virginia to purchase cigarettes and traffic them to New York and New Jersey), *see* DOJ Press Release at <https://www.justice.gov/usao-edva/pr/new-jersey-man-sentenced-trafficking-contraband-cigarettes>

U.S. v. Diallo, case no. 5:15cr146 (E.D.N.C. 2016) (two individuals convicted for using stolen credit card account information to purchase large quantities of cigarettes in North Carolina which were resold in other states; the defendants acquired stolen credit card data from other conspirators and encoded the stolen data onto the magnetic strip of what appeared to be legitimate gift cards), *see* DOJ Press Release at <https://www.justice.gov/usao-ednc/pr/identity-thief-sent-prison-more-7-years-role-credit-card-and-cigarette-trafficking>

Contraband in Correctional Institutions

U.S. v. Plummer, case no. 2:19-cr-25 (E.D. Va. 2019) (conviction for smuggling heroin, cocaine, cell phones and e-cigarettes into Chesapeake City Jail), *see* DOJ Press Release at <https://www.justice.gov/usao-edva/pr/former-chesapeake-sheriff-s-deputy-sentenced-corruption>

BLEA_UNF_SB233

Uploaded by: Hampton, Ronald

Position: UNF

To:
Senator Delores Kelley – Chair
Senator Brian Feldman – Vice Chair
Senate Finance Committee

From:
Ronald E. Hampton
Washington, DC, Representative
Blacks in Law Enforcement of America

OPPOSE – SENATE BILL 233 (SB233)

Hearing: Thursday, February 13, 2020

It is our duty as peace officers and members of Blacks in Law enforcement of America to continue the fight for freedom, justice, and equality for all citizens. We will be advocates of law enforcement professionals by establishing continuous training and support. As black law enforcement professionals, we pledge our time, honor, and talent for the uplifting of our communities. We are truly the leaders of the community, in and out of our blue uniform.

As civil service officers, it is our duty to uphold the laws of our local, state, and federal governments. However, as natural leaders it is our moral, ethical, and human duty to reach and teach our families and youth by providing increased involvement and support, thereby enriching lives and enhancing our communities.

Blacks In Law Enforcement of America believes that Law Enforcements' purpose is to protect and serve. Not to contain the poor, the economically disadvantage or to take advantage of those who cannot fight back or have a true voice in the matter at hand.

While the BLEA applauds the intentions of the Senate Finance Committee in attempting to prevent underage tobacco use, a flavor ban that includes menthol cigarettes will be counterproductive to this goal and detrimental to the society at large.

It stands to reason why conscientious policymakers and public health professionals are zealous in their efforts to do whatever it takes to improve the safety, quality of life and health of all Americans, especially those in marginalized communities – even if it means making selected harmful products unavailable by imposing bans and prohibitions.

This proposal seems race-neutral. But over 85% of African Americans who choose to smoke prefer menthol cigarettes while most White tobacco consumers prefer unflavored tobacco. To draw up a ban only against products favored by people of color seems not only unjust but also remarkably insensitive in a city that has long struggled with improving police and black community relations.

Giving officers even more reason to detain and engage on the basis of a flavored tobacco ban, including menthol, would assuredly lead to encounters that are likely to escalate to the unnecessary use of force, arrests, and possibly deadly force.

The more encounters we as police initiate, the more opportunity there is for hostility, and the less likely it is that people will trust us when we need them the most. If people don't trust us, they won't serve as witnesses and they won't come forward with information. That means we can't do our jobs.

Prohibitions and flavor bans, including menthol, will not only lead to overcriminalization, but will result in growing an already robust illicit market and increase the influx of dangerous, unregulated substitutes which negatively impact public health. Illicit marketers and traffickers will not care about age restrictions.

Over the past 30 years, we have reduced tobacco consumption overall across this country by about 40 percent. Education and treatment work. Young people are less likely to smoke if they get open, honest health information and tools to deal with peer pressure. Adults who struggle with smoking addiction are more likely to make healthier decisions when they have access to counseling, treatment, smoking cessation aids and are helped to develop stress management skills. We

The BLEA would welcome the opportunity for positive, realistic, solutions-oriented dialogue with supporters of a menthol ban – public health professionals, law enforcement officials, community leaders, and civil rights activists

As the Senate Finance Committee debates implementing tobacco flavor bans including menthol, it is important to make note of the unintended consequences and past failures of bans and prohibitions.

Failing to consider how prohibitions and bans have had a negative impact on marginalized communities does a disservice to those communities and the police officers tasked with enforcing the law.

The BLEA urges the members of the Maryland Senate Finance Committee to consider the disastrous consequences of past bans and prohibitions, especially on communities of color, as they consider these new proposals.

Respectfully submitted,

**Ronald E. Hampton
February 12, 2020**

Honeycutt_Unf_SB233

Uploaded by: Honeycutt, Jason

Position: UNF



February 4, 2020

Dear Members of the Economic Matters Committee,

I'm writing today to express my sincere concern about HB3/SB233 entitled "Business Regulation - Flavored Tobacco Products – Prohibition." I maintain a number of personal and professional reasons for opposing a full-on flavor ban.

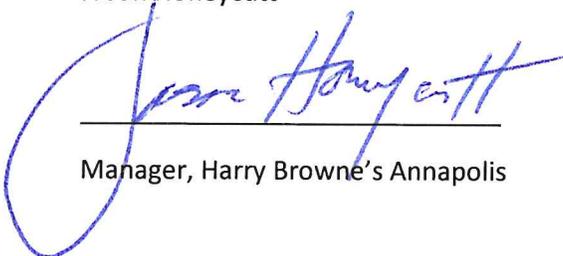
Maryland has previously taken several preventative measures to deter cigarette smoking, such as raising the tax on cigarettes and investing in cessation training. Additionally, the legal age to purchase cigarettes was raised to 21 last year, a measure I fully support for the health of Maryland's children.

Flavor bans on tobacco products limit the options of those who chose to use such products. It limits personal preference with no basis on which to ban certain flavors. This legislation is not an absolute ban on tobacco but rather picking certain types of products as if those products and additives are more detrimental to one's health – which they are not.

From an economic standpoint, as someone in the hospitality industry, revenues to those that sell flavored tobacco products will take a substantial hit. If Maryland acts alone, we will see the rise of a black market from states like Virginia that will export inexpensive flavored products without the regulation and public safety protections, such as demanding identification for underage smokers. Additionally, as a Maryland taxpayer, I am concerned about the loss of revenue to the State as well as the blow dealt to small business owners who sell such products.

I believe a flavor ban on tobacco products is in fact short sighted and fully needs to be evaluated for the potential of unintended consequences. I appreciate the opportunity to add my thoughts to this debate. If you have any questions regarding my letter, please feel free to contact me.

Jason Honeycutt



Manager, Harry Browne's Annapolis

LEAP_UNF_SB233

Uploaded by: Jackson, Ed

Position: UNF



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ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS

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Tennessee, USA

Detective Sergeant Neil Woods, Ret.
Derbyshire, England, LEAP UK

Date: February 13, 2020

Re: SB 233

Position: Oppose

To: Maryland Senate Finance Committee

Distinguished Members of the Committee,

Thank you for the opportunity to submit written testimony. I am representing myself as a retired senior commander of the Baltimore Police Department, who is now Chief of the Annapolis Police Department and a speaker for the Law Enforcement Action Partnership (LEAP). LEAP is a nonprofit group of police, prosecutors, judges, and other criminal justice professionals who speak from firsthand experience to endorse evidence-based public safety solutions. Our mission is to make communities safer by focusing law enforcement resources on the most serious priorities, promoting alternatives to arrest and incarceration, addressing the root causes of crime, and healing police-community relations.

My colleagues and I at LEAP oppose SB233 because it will create unnecessary crime and take away our power to regulate a harmful, addictive drug.

As we strive to create healthy environments, we must consider all relative consequences, which means involving all those affected in the decisionmaking processes. Across the nation, law enforcement, which is the primary policy enforcement arm of government, has been left out of the decisionmaking process.

Tobacco bans – prohibition – obligate police to identify sources of illegal sales. The easiest targets tend to be in low-income communities and communities of color in which impoverished people sell small amounts of contraband for a modest profit – typically on street corners to avoid eviction from zero-tolerance public housing. We're not talking about organizational masterminds making real money, but young people in the

LawEnforcementActionPartnership.org

Formerly known as Law Enforcement Against Prohibition

neighborhood, struggling to support themselves and their families. Enforcement of menthol bans would fall uniquely hard on black community members, who tend to prefer menthol cigarettes at much higher rates than white people.

On top of race-based enforcement, tobacco bans increase the total number of hostile contacts between police and the community. This combination fuels tensions that can quickly escalate into violence. The police killing of Eric Garner in New York City, a father of six who was trying to make ends meet by selling loose cigarettes on the sidewalk, offers an important lesson. Sometimes no law is better than a bad law. While well-intentioned, menthol bans are ineffective and harmful because they deteriorate the already strained relationships between police and the communities we serve.

Bans will not make young people stop using addictive drugs. What they will do, however, is make those products more expensive - and more profitable - as they move into the underground market. With this profitability comes a never-ending supply of illegal sellers who make regulating the safety of nicotine products impossible to control. The product gets more profitable, but communities see none of the tax revenue or employment benefits.

When young people inevitably find nicotine illegally, because nobody in the underground market checks their ID, they are at an even greater risk of becoming addicted to nicotine or harmed by an unknown additive. We cannot inspect or regulate flavored tobacco products if we let criminal businesses assume control over them.

SB233 removes regulators from the equation and strips us of the ability to create smart public health and safety restrictions that allow us to prevent young people from accessing this addictive drug.

If the intent behind SB233 is to prevent nicotine addiction, this bill misses the mark. I support public health approaches including research, fact-based education, and restrictions on how nicotine products are sold. I support preventing youth addiction, but I oppose this bill.

Thank you for your time,

Chief Ed Jackson, Annapolis Police Department; Speaker, Law Enforcement Action Partnership

EJackson_UNF_SB233

Uploaded by: JACKSON, EDWARD

Position: UNF



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To: Delores G. Kelley, Chair
Brian J. Feldman, Vice Chair, and
Senate Finance Committee

From: **Chief Edward Jackson, on behalf of the
Law Enforcement Action Partnership (LEAP)**

Oppose - Senate Bill 233

Business Regulation – Flavored Tobacco Products - Prohibition

Hearing: Thursday, February 13, 2020, 1:00 p.m.

Distinguished members of the Committee, thank you for the opportunity to submit written testimony. I am representing myself as a retired senior commander of the Baltimore Police Department, who is now Chief of the Annapolis Police Department and a speaker for the Law Enforcement Action Partnership (LEAP). LEAP is a nonprofit group of police, prosecutors, judges, and other criminal justice professionals who speak from firsthand experience to endorse evidence-based public safety solutions. Our mission is to make communities safer by focusing law enforcement resources on the most serious priorities, promoting alternatives to arrest and incarceration, addressing the root causes of crime, and healing police-community relations. My colleagues and I at LEAP oppose SB 233 because it will create unnecessary crime and take away our power to regulate a harmful, addictive drug.

As we strive to create healthy environments, we must consider all relative consequences, which means involving all those affected in the decision-making processes. Across the Nation, law enforcement, which is the primary policy enforcement arm of government, has been left out of the decision-making process.

Tobacco bans – prohibition – obligate police to identify sources of illegal sales. The easiest targets tend to be in low-income communities and communities of color in which impoverished people sell small amounts of contraband for a modest profit – typically on street corners to avoid eviction from zero-tolerance public housing. We're not talking about organizational masterminds making real money, but young people in the neighborhood, struggling to support themselves and their families. Enforcement of menthol bans would fall uniquely hard on black community members, who tend to prefer menthol cigarettes at much higher rates than white people.

On top of race-based enforcement, tobacco bans increase the total number of hostile contacts between police and the community. This combination fuels tensions that can quickly escalate into violence. The police killing of Eric Garner in New York City, a father of six who was trying to make ends meet by selling loose cigarettes on the sidewalk, offers an important lesson. Sometimes no law is better than a bad law. While well-intentioned, menthol bans are ineffective and harmful because they deteriorate the already-strained relationships between police and the communities we serve.

Bans will not make young people stop using addictive drugs. What they will do, however, is make those products more expensive - and more profitable - as they move into the underground market. With this profitability comes a never-ending supply of illegal sellers who make regulating the safety of nicotine products impossible to control. The product gets more profitable, but communities see none of the tax revenue or employment benefits.

When young people inevitably find nicotine illegally, because nobody in the underground market checks their ID, they are at an even greater risk of becoming addicted to nicotine or harmed by an unknown additive. We cannot inspect or regulate flavored tobacco products if we let criminal businesses assume control over them.

SB 233 removes regulators from the equation and strips us of the ability to create smart public health and safety restrictions that allow us to prevent young people from accessing this addictive drug.

If the intent behind SB 233 is to prevent nicotine addiction, this bill misses the mark. I support public health approaches including research, fact-based education, and restrictions on how nicotine products are sold. I support preventing youth addiction, but I oppose this bill.

Thank you for your time,

Chief Ed Jackson
Annapolis Police Department
Speaker, Law Enforcement Action Partnership

**This testimony does not necessarily represent the views of these departments.*

Mabin_UNF_SB233

Uploaded by: Mabin, Randy

Position: UNF

Painters Mill Wine and Spirits

9960 Reisterstown Road

Garrison, MD 21117

February 4, 2020

RE: HB 3/SB 233- Business Regulation - Flavored Tobacco Products - Prohibition

Dear Members of the Economic Matters Committee,

I am writing today to ask you to oppose HB3/SB233 entitled "Business Regulation - Flavored Tobacco Products – Prohibition" As one of many small business owners in Baltimore, I believe my fellow business owners and, more broadly, my fellow citizens of Maryland will suffer from the bill's passage.

My firm, a family owned and operated retail store, believes this proposed flavored tobacco ban could be catastrophic to small retailers like me, as well as my employees and our community, with potentially little public health benefit. We understand addressing flavors in vape products that could lower illegal youth usage, but youth cigarette usage is at historic lows.

Additional other effects on my business would include contraband sales, making my neighborhood less safe as it is associated with rises in other kinds of criminality, not to mention confrontations between potential dealers and law enforcement. Contraband sales could increase the number of cigarettes distributed by these illicit dealers who don't abide by legal restrictions, or the voluntary "We Card" initiative, as my business successfully does. Such sales would undermine the years of progress we have made in reducing underage access to tobacco products.

I can assure you that my business will remain on the front lines of efforts to keep tobacco products out of young people's hands – but this efforts will be in vain if an abrupt menthol ban puts me and other retailers like me out of business.

I respectfully ask that you oppose this legislation.

Sincerely,



Randy Mabin

Manager, Painter's Mill Wine and Spirits

wmda_unf_SB 233

Uploaded by: mccauley, kirk

Position: UNF



WMDA/CAR Service Station and Automotive Repair Association

February 13, 2020

Chairman: Delores G. Kelley
Members of Senate Finance Committee

RE: SB 233 Flavored Tobacco Products – Prohibition

Position: In Opposition

Banning menthol cigarettes and flavored smokeless tobacco in Maryland will have unintended consequences to adult and potential youth smokers, taxes received and retailers.

Maryland has already seen contraband sale arrests in recent months on a large-scale operation. Banning traditional menthol cigarettes and smokeless flavors will bring organized gangs and criminals into our neighborhoods to sell not only these products but many others including the back room brewed vape products that need to be banned. These people ask for no I.D. and pay no taxes. They make criminals out of formally honest citizens and smokers, or worse, out of our youth.

Retailers who have seen expenses and labor costs go up in recent years will not only lose tobacco sales, but ancillary sales, and the state loses taxes from those sales. Adult smokers should not have to sneak around to buy their product or drive to a surrounding state who will gladly sell them tobacco or fuel at lower price.

In closing, prohibition didn't work out and neither will a menthol ban to persons 21 and older. Maryland will only enrich the states around them, create crime and lose the best way to verify age. Make the state of Maryland a 100% swipe verification state, no exceptions and let the retailers do their job.

Please give SB233 an unfavorable report.

WMDA/CAR is a trade association that has represented service stations, convenience stores and independent repair shops since 1937. Any questions can be addressed to Kirk McCauley, 301-775-0221 or kmccauley@wmda.net

CEI_UNFAV_SB233

Uploaded by: Minton, Michelle

Position: UNF

1310 L Street, NW, 7th Floor
Washington, DC 20005
cei.org

202 331 1010 *main*
202 331 0640 *fax*



Testimony for: SB 233 (Flavored Tobacco Products – Prohibition)

Committee: Senate Finance Committee

Position: OPPOSED

Contact: Michelle Minton, Senior Fellow

Competitive Enterprise Institute

1310 L St. NW, 7th Floor

Washington, DC 20005

202-331-2251

Michelle.Minton@cei.org

Chairman Kelley and members of the Committee:

Thank you for giving the public an opportunity to provide input as you consider this proposal. I sincerely hope you listen to the testimony you'll hear today from consumers, business owners, and experts in the field, like me. My name is Michelle Minton. I am a Senior fellow with the non-partisan think tank the Competitive Enterprise Institute where I have dedicated my career to the study of consumer risk regulation. As an expert on consumer policy, as a Maryland resident, and someone who cares about public health, I urge you not to repeat the mistakes of our past. I urge you not to enact a new prohibition on e-cigarette flavors.

If there is one thing I've learned over my 13-year career that I hope you'll take away from my testimony, it is this: prohibitions don't work. They have never and will never work. Policies meant to save people from the perils of their own choices, whether through taxation, restrictions on products, or outright bans do not make people better off. In fact, as well-meaning as they may be, bans invariably backfire, causing people to engage in riskier behaviors.

We have seen this over and over again, yet we never seem to learn. Alcohol prohibition did not save people from excessive alcohol consumption: it led to harder drinking, speakeasies, funneled billions of dollars to organized criminals, and left many dead from tainted bathtub liquor.

New York hasn't banned cigarettes, but has made them prohibitively expensive through taxation. As it always does, the black market rose to meet the demand for cheaper cigarettes and now more than 60 percent of cigarettes sold in the state are from illegal sources. Not only is law enforcement incapable of preventing tobacco bootlegging, attempts to stop it have only resulted in tragedies, such as the death of Eric Garner, the Staten Island man choked to death by police who believed he was selling untaxed cigarettes.

Marijuana prohibition didn't stop people from using pot. Attempts to enforce the law caused incalculable harm, primarily to lower income communities and people of color, while doing not to stop

the rise of drug cartels and the creation of an enormous global cannabis black market. It was this very black market that caused the outbreak of lung injuries we saw over the summer. Most of those injured lived in states without legal marijuana or were not of age to legally purchase it so they relied on the black market which has zero quality control and no incentive to verify customers' age. As a result, nearly 3,000 people were hospitalized by THC vaping products tainted with vitamin E acetate and 60 people are dead.

Instead of recognizing this outbreak as a failure of prohibition, activists used the outbreak and public confusion around it, to compel state legislatures to enact bans on nicotine e-cigarettes; products that had nothing to do with it.

Restrictions on nicotine e-cigarettes that ban certain devices, nicotine strengths, or flavors will do nothing to prevent another outbreak. It will also not address the other reason proponents assert for removing flavors from the market; the so-called "epidemic" of youth vaping.

First, there is no youth vaping epidemic. Despite the headlines, the vast majority of youth who report using e-cigarettes are not using them habitually. Analysis of the 2018 survey data shows that just 7 percent of students reported vaping five or more times in the last month. Of those who reported vaping more than five times a month, only 0.4 percent were never users of tobacco.¹

By the CDC's definition, an "epidemic" refers to a usually sudden increase in the number of cases of a disease in a given population, above what is expected in that area.² E-cigarette *use* by youth, though concerning, is not a disease. In fact, there is not a single case in the U.S. of any person—adolescent or adult—developing a disease as the result of inhaling the vapor produced by electronic nicotine delivery devices.

This is not an epidemic.

Epidemic or not, we should seek out ways to discourage adolescents from initiating nicotine use through e-cigarettes. A flavor ban will also fail to achieve this goal because flavors are not the reason youth vape. According to the CDC, the number one reason youth say they vape is curiosity.³ In the United Kingdom, where e-cigarettes are embraced as a means of reducing harm for adult smoker and available in every imaginable flavor, youth uptake of vaping is almost nonexistent. But, in the United States, it is clear why adolescents have become so curious about these devices with an endless flood of headlines and multimillion-dollar campaigns telling them one thing: vaping is for adults only and even though all your friends are doing it, you shouldn't. One doesn't need a degree in child psychology to see why this backfired.

Nobody is suggestion that youth vaping should be ignored. It shouldn't, but the rate of use among adolescents and the relatively low-risk associated with e-cigarettes do not justify stripping adults of access to products that could save their lives. And e-cigarettes *can* save lives.

This is no longer a controversial statement as the evidence is clear. Though we may not know the exact amount of risk e-cigarettes pose in the long-term, we know that this is far lower than with combustible tobacco. We also know that e-cigarettes are an effective smoking cessation option, with trials showing

they are at least twice as effective as nicotine replacement therapy.⁴ And flavors are one of the main reasons they are so effective.

Despite absurd claims that adults don't like flavors, the vast majority of adult vapers use non-tobacco flavors. More importantly, adults who successively switch from smoking to exclusive vaping are more likely to use fruit, desert, and candy flavored e-cigarettes and research even shows that the number of flavors regularly used by a vaper is independently associated with smoking abstinence.^{5,6} Flavors work because, in addition to making vaping pleasurable, they also help users disassociate the effects of nicotine from the taste of tobacco. As result, relapsing is less appealing, increasing users' intention and self-efficacy to stay smoke-free.⁷

Banning e-cigarette flavors won't stop youth vaping, but will put at risk the more than 250,000 Maryland adults who rely-on e-cigarettes to stay smoke free.⁸ The ban will significantly reduce the effectiveness and appeal of e-cigarettes for adults, causing fewer to switch from smoking and many to relapse back to smoking or turn to non-legal substitutes.

Some will make their own liquid at home. Thanks to YouTube tutorials, it is fairly simple to figure out how to do this safely. However, more people making homemade e-liquid will mean more homes with liquid nicotine concentrate. No doubt, this will result in more cases of accidental poisoning as children get their hands-on uncapped nicotine concentrate. This is exactly what happened in 2014 when a one-year-old died after drinking the bottle of nicotine that his mother used to make her own e-cigarette liquid in their New York.⁹

Those less inclined toward DIY will turn to the black market where consumers will be presented with products of uncertain origin and quality. Some may not even be aware that what they are buying is counterfeit, as happened after Juul voluntarily removed some of its flavors from the market and knockoff versions—produced in China—made their way onto store shelves in America.¹⁰ If all flavored e-cigarettes are banned, there will be a massive influx of illegal cartridges, more cases of illness, and more deaths related to tainted products.

I urge the members to seriously consider the consequences of this proposal. Smoking costs the state of Maryland nearly \$3 billion dollars a year in health care costs and claims the lives of 7,500 residents every year.¹¹ Our public health goal should not only be focused on the unknown risks e-cigarettes may pose to youth, but also on reducing the death and disease caused by smoking. Thankfully, smoking (among adults and youth) is lower now than it has ever been. But, if e-cigarettes can help reduce this rate by any amount, as the evidence indicates they can, we ought to do everything in our power not to squander that opportunity. Every new rule or law that makes e-cigarettes less attractive or less accessible means more deaths from smoking.

If you are serious about reducing tobacco-related harm for both adolescents and adults you should reject proposed laws that would deter smokers from switching to lower risk products and push consumers into black markets. Instead, we should employ the strategies that have worked for other adult products, such as gambling, alcohol, and marijuana: stricter age verification requirements, responsible advertising standards, treatment over criminalization, and enforcement of existing laws.



These approaches would address the youth vaping issue without producing the unintended consequences that always go hand-in-hand with prohibition.

I sincerely urge you to reject this proposal and find an approach that doesn't sacrifice the lives of adult Marylanders to the imagined threat e-cigarettes pose to youth.

Thank you for your time,

Michelle Minton
Senior Fellow, Competitive Enterprise Institute
202-331-2251
Michelle.minton@cei.org

¹ Allison M. Glasser, Amanda L Johnson, Raymond S Niaura, et al., "Youth Vaping and Tobacco Use in Context in the United States: Results from the 2018 National Youth Tobacco Survey," *Nicotine & Tobacco Research*, January 13, 2020, <https://academic.oup.com/ntr/advance-article-abstract/doi/10.1093/ntr/ntaa010/5701081?redirectedFrom=fulltext>.

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⁴ Peter Hajek, Anna Phillips-Waller, Dunja Przulj, et al., "A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy," *The New England Journal of Medicine*, 2018. <https://athra.org.au/wp-content/uploads/2019/01/Hajek-P.-A-randomised-trial-of-e-cigarettes-versus-nicotine-replacement-therapy.-NEJM-2019.pdf>.

⁵ Christopher Russell, Neil McKeganey, Tiffany Dickson, and Mitchell Nides, "Changing patterns of first e-cigarette flavor used and current flavors used by 20,836 adult frequent e-cigarette users in the USA," *Harm Reduction Journal*, Vol. 15, Article 33 (2018), <https://harmreductionjournal.biomedcentral.com/articles/10.1186/s12954-018-0238-6>.

⁶ Konstantinos Farsalinos, Giorgio Romagna, Dimitris Tsiapras, Stamatis Kyrzopoulos, Alketa Spyrou, and Vassilis Voudris, "Impact of Flavour Variability on Electronic Cigarette Use Experience: An Internet Survey," *International Journal of Environmental Research and Public Health*, Vol. 10, No. 12, (December 2013), pp. 7272-7282, <https://europepmc.org/abstract/med/24351746>.

⁷ Caitlin Notley, Emma Ward, Lynne Dawkins, Richard Holland, "The unique contribution of e-cigarettes for tobacco harm reduction in supporting smoking relapse prevention," *Harm Reduction Journal*, 2018, Vol. 15, Article 31, <https://harmreductionjournal.biomedcentral.com/articles/10.1186/s12954-018-0237-7>.

⁸

https://nccd.cdc.gov/STATESystem/rdPage.aspx?rdReport=OSH_State.CustomReports&rdAgReset=True&rdShowModes=showResults&rdShowWait=true&rdPaging=Interactive&islMeasure=174ECU

⁹ Keshia Clukey, "Case closed in Fort Plain liquid nicotine death," *Times Union*, April 12, 2015, <https://www.timesunion.com/news/article/Case-closed-in-Fort-Plain-liquid-nicotine-death-6195411.php>.

¹⁰ Angelica LaVito, "Fake Juul pods line store shelves, worrying users and posing another threat to the embattled company," *CNBC*, August 26, 2019, <https://www.cnbc.com/2019/08/26/fake-juul-pods-fill-shelves-after-vaping-giant-pulled-fruity-flavors.html>.

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LATE - TheresaMoyer_UNF_SB233

Uploaded by: Moyer, Theresa

Position: UNF

February 10, 2020

Theresa Moyer
546 Franklin St.
Perryville, MD 21902

MEMORANDUM FOR RECORD

SUBJECT: MARYLAND FLAVOR BAN AGAINST VAPING

I am writing this memo in hopes that I can give you a better understanding of vaping, the position that we support as vapers and how vaping has benefitted myself and many others.

After being a smoker for 27 years, I developed a chronic cough, I wheezed at night when I laid down to sleep, I could not walk up a flight of stairs without stopping to catch my breath and couldn't keep up the pace to walk around the block with my grandchildren.

I was desperate to stop smoking. I tried the patch, I tried Nicorette gum, Chantix and I even tried hypnosis and none of those things worked for me. Then I discovered vaping. I did some research, talked to other individuals that vaped to get a better understanding of the product and then I bought a small device to try it out. It was difficult to get use to at first because it was different from smoking.

It wasn't very long after I started vaping, that I started a new job at the VA Hospital. This was a very stressful job and my daily duties revealed many disturbing things. Mostly patients with different types of cancer, mouth, throat and lung. Patients who could no longer talk or eat because of throat cancer. Patients who could not take a breath on their own, patients on respirators, numerous cases of COPD and ALMOST ALL CAUSED BY SMOKING. This was definitely a turning point for me, I realized that if I didn't make a change this could someday be me.

So in 2014 I decided to open a small vape shop. I needed to stop smoking and although I could not help those patients that were already very sick, perhaps this was my pathway to quit and a way for me to help others find a healthier alternative to smoking.

Let me say that again, vaping is a much healthier alternative to smoking.

The center of focus seems to be that vaping has become an epidemic and addicting our youths to nicotine. Well before vaping came along our youths were addicted to cigarettes. There are plenty of statistics that show that millions of people have died from cigarettes but yet that seems to be a topic that gets brushed aside. However we grasp onto the random accusations that vaping has killed people. Even after it was confirmed that none of the lung illnesses were linked to any commercially available nicotine products, but the public is still latching on to this false news.

I am trying to understand why the industry is under constant attack.

Let's review some facts: In 2015 there was rumor that vaping was causing popcorn lung. This was attributed to a chemical called diacetyl. The use of this product was evaluated and manufacturers eliminated this chemical from all e-liquids that contained this chemical. By the way Diacetyl is still in

used in many products that we come in contact with every day but it can no longer be associated with vaping.

Let's review some additional facts: In 2016 there was a rumor concerning small children and animals were able to open and consume the e-juice from the bottles. So, the FDA recommended a need for child protective caps, and we were given a suspense date to comply. The industry jumped on board and changed all of their packaging to include child protective caps and within the required timeline, and those protective caps are still presently in place.

Let's review another fact: In 2017 there were complaints that the labeling of e-juice is appealing to younger people and that the labels needed to be changed in a way that was less appealing to younger people. Once again the industry went back to the drawing board and changed the look of their products within the time allocated for the change by the FDA.

Additional Facts: In 2018 the FDA determined that e-juice is a dangerous product and that are product should be categorized the same as tobacco and every bottle, every box, every post, every advertisement, every marketing campaign anything that is seen by the public must display this warning label. Once again, the industry went back to the drawing board and reestablished their labeling according to the specific direction of the FDA.

The FDA had also provided a timeline in which all companies were required to submit their product ingredients for further review and approval and this process will be extremely costly and with no guarantees that your product can continue to be sold.

The industry has complied with everything that has been required.

Another fact: In 2019, there was an announcement put out by the National Youth Tobacco Survey (NYTS) that indicated vaping among young people rose from 21% in 2018 to 28% in 2019 however it was also mentioned that there was an accelerated decline in **youth smoking**. This statistic is important because it reveals that basically the amount of youths smoking has really not changed that much but the paradigm has shifted and some who were smoking are now vaping, and although that may not be the ideal statistic, they have chosen a less harmful alternative to smoking.

In 2019 the age restriction of 21 was implemented. We have educated our public, posted signs, checking ID's, whatever is required. So why are we under constant attack? Why are we being held accountable at this time for the actions of these youths?

In 2019 there were bogus reports that indicated vaping was causing lung damage and killing people. Even after many investigations were conducted and concluded that the culprit was THC cartridges laced with vitamin E oil and yet the public is still latching onto random accusations that these lung illnesses are associated with products sold commercially that contain nicotine.

The center of focus seems to be that vaping has become an epidemic and addicting our youths to nicotine. Well before vaping came along our youths were addicted to cigarettes. There are plenty of statistics that show that millions of people have died from cigarettes but yet that seems to be a topic that gets brushed aside.

I sat by and listened to comments last week regarding younger people vaping in school. Why are we not implementing stricter policies in the schools? Implement no tolerance for vaping and if you are caught you are expelled. Young people today and even young people back in my day, when you tell them not to do something, they are going to find a way to do it until there is a consequence. Make them accountable for their actions and I guarantee all you will need is to carry through on one incident, uphold one punishment, make an example of one individual and see what happens.

Chipping away at the vaping industry is not going to accomplish what you think. It is just going to create a whole mirage of different problems that will be more difficult to deal with. Transporting products from other states, products being produced and sold on the black market and this is just to name a few.

You are punishing the wrong party. Our intent is to provide smokers with a healthier alternative to smoking. To improve their quality of life and reverse the ailments that plagued each of us when we were smoking, and vaping has done that.

It's unbelievable how this whole process has reminded me of a short film clip released in 1938 called "Reefer Madness". Perhaps some of you have seen it. This was a form of propaganda displayed to scare America's youths away from smoking marijuana. It portrays how one puff can plunge our youths into a web of murder, sex, suicide and lunacy. They would have never imagined that after 80 years it would become legal and would actually help people of all ages deal with all sorts of ailments and conditions.

So why are we looking at vaping in this manner. Vaping has improved my overall health. I can breath again, I can take long walks again, I can taste food again and play with my grandchildren again and they don't complain that I smell bad. Vaping has benefitted many people and it can benefit many more.

You know, every time a customer comes into my shop and says they haven't smoked a cigarette in 30 or 60 days I get so excited because I have help others change to a healthier, positive lifestyle. We don't want to go back to smoking cigarettes.

We are small businesses and we have done everything that has been asked of us and eliminating our businesses could be a choice between life and death for some of us, so why would anyone even consider taking that choice away from us? Thank you for your time.

Cigar Association of America_Opposed_SB233

Uploaded by: Newbry, Chris

Position: UNF

CIGAR ASSOCIATION OF AMERICA, INC.

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Senate Finance Committee

Bill number: SB233

Position: Opposed

Dear Chair Kelley and the Members of the Senate Finance Committee,

The Cigar Association of America (CAA) is the premier voice of the cigar industry in the United States. CAA is troubled by efforts to remove flavored cigars from the market and as such we oppose sb233. CAA believes there are not scientific or legal justification for such actions. Importantly, there is no scientific data or research to support restricting flavors in cigars in Maryland. Youth usage of cigars in Maryland has been on a continual year-over-year downward trend.

- The 2016 Maryland YRBS/YTS data reported that in 2016 only 9.0% of Maryland high school students smoked a cigar in the past 30 days a decrease from a 12.5% in 2013.
- Use of flavored tobacco products (excluding menthol cigarettes) by Maryland high school students declined from 13.3% in 2013 to 7.4% in 2016.
- In contrast in 2016, 13.3% of Maryland high school students used an electronic vapor product in the past 30 days

Even outside of the data in Maryland, unlike the recently released data on e-cigarettes, there has not been an increase in youth usage of cigars, or flavored cigars, in particular, that supports a change in law:

- The 2016 National Survey on Drug Use and Health (NSDUH) reported that only 1.8% of youth were current cigar smokers, decreasing from 4.1% in 2006
- The 2017 Youth Risk Behavior Surveillance System (YRBS) reported 8.0% of youth ever smoked a cigar, a decline from 13.6% in 2007
- The 2018 National Youth Tobacco Survey (NYTS) reports a significant decline from 2011-2018 in high school usage of cigars from 11.6% to 7.6%, and the 2019 NYTS reports the same 7.6% of high school students using cigars
- The 2019 Monitoring the Future Survey (MTF) reports a decline in past thirty day use for 8th and 10th graders for all types of cigars, and a decline in flavored little cigar and regular little cigar usage in 12th graders. Flavored little cigar use has continued on a steady decline since 2014 when this result began to be tracked

We urge an unfavorable report.

Joe Perez_UNF_SB233

Uploaded by: PEREZ, JOE

Position: UNF



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Asst. District Attorney Allison Watson, Fmr.
Tennessee, USA

Detective Sergeant Neil Woods, Ret.
Derbyshire, England, LEAP UK

Date: Feb 13, 2020

Re: SB 233 - Business Regulation - Flavored Tobacco Products - Prohibition

Position: Oppose

To: Senate Finance Committee

Distinguished Members of the Committee,

Thank you for allowing me to speak on this issue on behalf of myself and the Law Enforcement Action Partnership.

When we speak about tobacco bans, it's not a question of whether we think smoking is a habit to be encouraged. At this point is there anyone who still believes this? But the question isn't about whether smoking is healthy. It's about whether a ban will improve the communities in which it's instituted, and I believe it will not.

Banning menthol tobacco puts law enforcement in a difficult spot. Prohibiting a substance only serves to make it vastly more profitable. The vast majority of black smokers prefer menthol cigarettes to other forms of tobacco, and so were there to be a ban, the illegal market that will inevitably rise will take place largely in black communities. There will be violence between competing factions of street corner operations. Police will be called into these already over-policed areas both because of this violence and because even though our time would be better spent investigating violent crime, there are easy arrests to be made in any outdoor illegal market. More arrests mean more promotions for police.

The intentions behind this ban come from a good place - it seems commonsense that banning a product would make it less likely to be used, especially by children. However, police know the reverse is true. Any time you create an illegal market, children are used for holding, moving, and selling the illicit products. That gives them more access to those products and makes them more likely to enter the perpetual cycle of the criminal justice system, from which many of them will never emerge.

Once we take menthol from the hands of licensed, regulated, taxed businesspeople and put it into the hands of street sellers who don't check IDs, children will have greater access than ever.

Bans simply don't work as a way to keep cigarettes away from kids, but we know what does: treatment and education. We know this because it worked with cigarettes, whose rate of use has dropped tremendously over the past three decades as we've educated people on the harms of tobacco, given current smokers the resources to quit, and prevented potential new smokers from starting.

Why do we give white people the freedom to make their own decisions, but want to criminalize black people for making the wrong ones?

Thank you for the opportunity to share my experience in opposition to this bill.

Captain Joseph Perez (Ret.)
Prince George's County Police Department
Speaker, Law Enforcement Action Partnership

SB233_UKVapingRegs_MRA

Uploaded by: Price, Sarah

Position: UNF

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ESSAY

Why the U.K. Isn't Having Problems With Vaping

The lessons of Prohibition's failure in the U.S. haven't been lost on the British.



A woman vaping in London, Feb. 2019. PHOTO: ALAMY

By Matt Ridley

Oct. 24, 2019 10:53 am ET

The Volstead Act prohibiting intoxicating beverages became law on October 28, 1919—a century ago this week—and came into force a few months later. Most people now agree that Prohibition was a failure, driving the alcohol industry underground, where its products became unsafe, its profits lucrative and tax-free, and its methods violent. Most countries have since taken the view that it is better to legalize, regulate and tax drink than to ban it.

Today, there is a similar debate over vaping, a popular new practice prohibited or heavily restricted in many countries. Electronic cigarettes, which use heating elements to vaporize liquids usually containing nicotine, were invented in China in the early 2000s by Hon Lik, a chemist looking for a way to satisfy his nicotine addiction without dying of lung cancer as his father had. Nicotine itself is far less harmful to smokers than the other chemicals created during combustion. Heavyweight studies confirm that there are much lower levels of dangerous chemicals in e-cigarette vapor than in smoke and fewer biomarkers of harm in the bodies of vapers than smokers.

Some countries argue that vaping is an effective means of reducing smoking, while others want to see it stamped out altogether, fearing that it could give a new lease on life to the tobacco industry. As with drugs and prostitution, this debate pits prohibition against “harm reduction”: the idea that it is better to regulate harmful habits to make them safer than to ban them in the hope of enforcing abstinence, which results in criminals making them more dangerous.

In both the U.K. and the U.S. the rapid growth in vaping has coincided with rapid reductions in smoking rates, especially among young people. Yet there is a stark contrast between the two countries in how vaping has been treated by public health authorities and, as a result, in its safety for users.

In Britain, vaping is all about nicotine, not drugs. It is socially acceptable and is confined almost entirely to people who have smoked, even among the young. Less than 1% of vapers are people who have never smoked, and there is little sign of young people taking it up faster than they would have taken up smoking.



A barrel of beer is destroyed during Prohibition in the U.S. PHOTO: BETTMANN ARCHIVE/GETTY IMAGES

There are now 3.6 million vapers in the U.K. and 5.9 million smokers (some people are in both categories). Many British smokers have switched entirely to vaping, encouraged by the

government, whose official position is that vaping is 95% safer than smoking, an assertion now

backed by early studies of disease incidence. The organizations that have signed a statement saying that vaping is significantly less harmful than smoking include Public Health England, the Association of Directors of Public Health, the Royal College of Physicians and the Royal Society for Public Health.

There have been no deaths and few if any cases of lung illness directly attributed to vaping in the U.K. A recent study has concluded that vaping is now helping up to 70,000 people stop smoking every year by reaching those who failed to quit smoking by other means. "The British public have voted with their feet and are choosing to use e-cigarettes. This is a positive choice, and we should promote it," says Prof. Linda Bauld of Cancer Research U.K.

In the U.S., vaping has killed at least 33 people and injured about 1,500.

In the U.S., by contrast, vaping has killed at least 33 people, injured about

1,500 and earned the wrath of both the Centers for Disease Control and Prevention (CDC) and President Trump. "Big Vape is intentionally addicting our kids to nicotine, merging with Big Tobacco while disguised as antismoking crusaders, peddling known and unknown chemical harms to the adolescent brain ... providing a dangerous new delivery platform for potheads and spreading a deadly lung disease," writes Katy French Talento, until recently President Trump's health policy adviser.

Why the different experience? The CDC says that most cases of illness are linked to vaping products laced with THC oil, an ingredient of cannabis, "particularly those obtained off the street or from other informal sources (e.g., friends, family members, illicit dealers)." In addition, many American nicotine e-cigs are much stronger than those allowed in Britain, where there is a 2% limit on nicotine concentrations under the EU's Tobacco Products Directive. A typical Juul is nearly three times as strong.

In Britain, a manufacturer or importer of e-cigarettes must submit a notification to the authorities six months in advance of a product launch and is subject to strict product-safety regulations, including toxicological testing of the ingredients and emissions, as well as rules ensuring tamper-proof and leakproof packaging. Stimulants, colorings and vitamin additives are tightly regulated.

Few such regulations exist in the U.S. For many observers, this explains the higher injury rate: “What’s happening in the U.S. is not happening here [in Britain], nor is it happening in any other countries where vaping is common,” says John Britton, director of the U.K. Centre for Tobacco & Alcohol Studies at Nottingham University.

MORE ESSAYS

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-

The U.S. Food and Drug Administration has recently proposed rules for regulating e-cigarettes that would echo the British approach by “reviewing a tobacco product’s components, ingredients, additives, constituents, toxicological profile and health impact, as well as how the product is

manufactured, packaged and labeled.”

Some fear that this is too late and that politicians will react to the moral panic over vaping by preferring prohibition instead. Michelle Minton of the Competitive Enterprise Institute says: “A ban on flavors, devices or nicotine levels will have the same effect as every other prohibition. People will turn to illicit dealers or try to do it themselves. And, as we saw with the outbreak of tainted THC, this will result in overdoses, injury and death.”

Of course, neither country has gotten everything right. In Britain, the vaping industry argues that some restrictions prevent lifesaving interventions. Philip Morris International—which has developed heat-not-burn products to compete with the rise of vaping and now promises a “smoke-free future”—would like to insert slips into cigarette packs urging smokers to switch, but the ban on advertising e-cigarettes prevents this. And in both countries independent vaping firms argue that strict regulations act as barriers to entry that favor big firms. Mike Hogan, of the U.S. Smoke-Free Alternatives Trade Association, told Politico, “We may be putting the entire ‘harm reduction henhouse’ in the hands of the fox industry”—by which he means Big Tobacco.

The argument for harm reduction is not one that comes easily to some public-health advocates, because it means promoting behaviors that may still be harmful, just less so than the alternative. Vaping doesn’t have to prove entirely safe for it to save lives, given that it mostly replaces smoking.

Vaping doesn’t have to prove entirely safe for it to save lives, given that it mostly replaces smoking.

In
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1980s the British government took the unpopular decision to encourage the distribution of free

needles to heroin addicts so that they would not contract H.I.V. by reusing dirty needles. This condoned a dangerous and illegal activity, but it worked: The incidence of H.I.V. among people who inject drugs is much lower in the U.K. than in other countries that initially rejected this approach, including much of the U.S.

By contrast, the U.S. is gradually accepting the harm reduction argument for cannabis, while Britain remains wedded officially to prohibition and has high death rates from drug use. The argument for legal cannabis holds that prohibition makes cannabis on the market stronger and more dangerous, rewards illegal gangs with bumper profits and spawns violence. As with alcohol, decriminalization allows quality control and crime reduction as well as tax revenue.

A century after the American experiment with Prohibition, neither the U.S. nor the U.K. has fully absorbed the lesson of its failure: that public health and safety are best served when governments treat our harmful habits as problems to regulate, not evils to ban.

—Mr. Ridley is a member of the House of Lords and the author of many books, including most recently “The Evolution of Everything: How New Ideas Emerge.”

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PRUITT_UNF_SB233

Uploaded by: Pruitt, Sonia

Position: UNF

OPPOSITION to SB 233

BANNING MENTHOL CIGARETTES:

MAKING THE WAY FOR ANOTHER 'ERIC GARNER'

Sonia Y.W. Pruitt

Telephone: 301-351-3789

Sonia Pruitt <spruitt@blackpolice.org>

Concerned Citizen
Maryland Resident
Police Captain

As a police captain and Maryland resident, I must often review how we navigate police use of force situations; how we police the legalization and decriminalization of marijuana; and I study how members of the Black community are faring in police encounters.

In 2009, the Family Smoking Prevention and Control Act gave the Food and Drug Administration (FDA) the authority to regulate tobacco products. FDA research made clear that the use of menthol cigarettes impacts people of color, as it is their choice of cigarette. The idea of banning menthol cigarettes as a way to stem smoking in the Black community gained traction. Unfortunately, public policy experts did not adequately weigh the disparate impact the ban would have on communities of color by increasing police encounters. No one should endure a stop for "smoking while black" just because they prefer a menthol cigarette. Having 27 years in law enforcement, I have seen how the best-intentioned law seem to impact disadvantaged communities most. From the Supreme Court's support of pretextual stops to the use of crack cocaine sentencing that target black and brown people, our communities of color are being adversely hit, and its citizens amassing arrests, criminal records, and jail time for minor offenses. This stresses the Black community's financial and mental health resources, and places families on a downward spiral difficult to recover from.

I believe that the criminalization of menthol cigarettes will lead to a black market, and that Black people will continue to use a product that has been deemed illegal, while all other subsets of tobacco will continue to be legal to use. As a result, Black people will continue to be disparately impacted by an unjust criminal justice system, under the guise of public health advocacy. We do not need more tragic incidents such as the Eric Garner death, created through the over-policing of a group of people.

I ask that the ban on menthol cigarettes be abandoned, and that the approach to the problem of smoking in the Black community be backed by sound public health policy and sufficient resources. Cigarette smoking concerns should be addressed in a

humane, responsible, and educated way, designed to empower communities, not criminalize them for making a choice that others take for granted.

Debbie Ramsey_UNF_SB233

Uploaded by: RAMSEY, DEBBIE

Position: UNF



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st. District Attorney Allison Watson, Fmr.
Tennessee, USA

Detective Sergeant Neil Woods, Ret.
Derbyshire, England, LEAP UK

Date: February 13th, 2020

Re: SB233 - Business Regulation - Flavored Tobacco Products - Prohibition

Position: OPPOSE

To: Senate Finance Committee

Distinguished Committee Members,

Thank you for the opportunity to testify today. I am representing myself as a retired Baltimore patrol officer, community policing officer, and detective, and as a speaker for the Law Enforcement Action Partnership (LEAP). LEAP is a nonprofit group of police, prosecutors, judges, and other criminal justice professionals who speak from firsthand experience to endorse evidence-based public safety policies. Our mission is to make communities safer by focusing law enforcement resources on the most serious priorities, promoting alternatives to arrest and incarceration, addressing the root causes of crime, and healing police-community relations.

My colleagues and I at LEAP oppose SB233 because it will harm the fragile relationships police depend on to keep neighborhoods safe.

Every officer knows relationships are key to solving crime. When we need tips and witnesses, we have to talk to people in our communities. If they do not trust us enough, our work is nearly impossible. Right now, too many people fear and distrust police more than they want to help solve crime. They don't return our calls or answer the door when we need information. It is a sad reality that demoralizes and disheartens us. I would put on my uniform every day with the goal of serving and protecting others, and I had to put in extra work just to rebuild broken bridges so that people would trust me.

SB233 includes a ban on menthol cigarettes, the overwhelming choice of Black smokers.¹ With this demand for menthol cigarettes, I guarantee you that people will drive truckloads of cartons in from other states and sell them on the corner to make a quick profit. Then storeowners will call the police to

¹ <https://www.lung.org/stop-smoking/smoking-facts/tobacco-use-racial-and-ethnic.html>

enforce the ban, which means more searches and arrests in Black communities. This type of low-level enforcement is exactly the type of interaction that makes communities of color resent police. SB233 would drive yet another wedge into the relationships officers like me have worked so hard to repair.

We can already see the results of tasking law enforcement with policing illegal cigarette markets. In New York City, Eric Garner, a father of six, was choked to death by police while being arrested for selling loose cigarettes. Black communities across the country remember Eric Garner's name. We do not need more opportunities for police and communities of color to interact with each other over issues like cigarettes. We have to move beyond criminal approaches to drug issues and leave this issue to public health professionals.

Putting police in charge of reducing nicotine use is like asking a dentist to perform brain surgery – just because there is a medical concern about the head does not mean a dentist is qualified to ensure a successful outcome.

Detective Debbie Ramsey (Ret.)
Speaker, Law Enforcement Action Partnership
Baltimore Police Department

*This testimony does not necessarily represent the views of the department.

Sidh_unf_SB233

Uploaded by: Sidh, Jitender

Position: UNF

February 4, 2020

RE: HB 3/SB 233- Business Regulation - Flavored Tobacco Products - Prohibition

Dear Members of the Economic Matters Committee,

I am writing today to ask you to oppose HB3/SB233 entitled "Business Regulation - Flavored Tobacco Products – Prohibition" As a small business owner in Baltimore, I believe my fellow business owners and, more broadly, my fellow citizens of Maryland suffer from the bill's passage.

My firm is a family owned and operated retail store and such a flavored tobacco ban could be catastrophic to small retailers like me, as well as my employees and our community, with potentially little public health benefit. We understand addressing flavors in vape products to address illegal youth usage but youth cigarette usage is at historic lows.

On top of the other effects on my business, contraband sales would make my neighborhood less safe as it is associated with rises in other kinds of criminality, not to mention confrontations between illicit sellers and law enforcement. Contraband sales could increase the number of cigarettes distributed by illicit sellers who don't abide by legal restrictions, or the voluntary We Card initiative, as my business successfully does. Such sales could undermine the years of progress made in reducing underage access to tobacco products.

I can assure you that my business will remain on the front lines of efforts to keep tobacco products out of the hands of young people – but that is not possible if an abrupt menthol ban puts me and other retailers like me out of business.

I respectfully ask that you oppose this legislation.

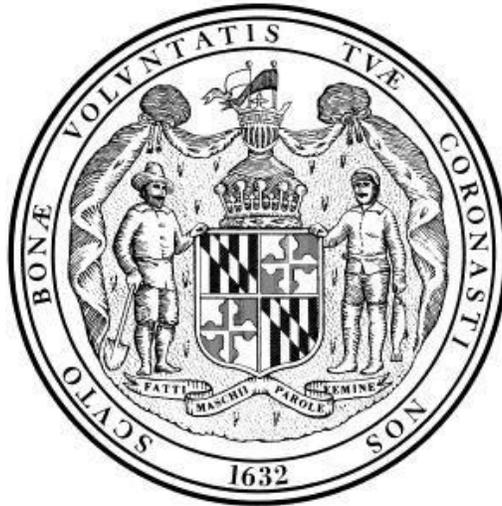
Sincerely,


Jitender Sidh
President

Turner_UNF_SB233

Uploaded by: Turner, Frank

Position: UNF



Delegate Frank Turner

Members of the Committee -

It's come to my attention that the Legislature - in attempting to address the youth vaping epidemic - is considering a ban on menthol cigarettes in the state, and as a former Vice-Chair of the House Ways and Means Committee in particular, I'm very concerned about some of the unintended consequences of this legislation.

Very simply, I'm afraid that this approach will expand illegal activity. Research confirms what common sense already tells us: because menthol restrictions amount to an outright ban for smokers who favor that variety, they will resort to illegal sources – an easy thing to do given the nearby presence of states like Virginia and Delaware that are already major suppliers, costing tens of millions of dollars in revenues.

Increasing this loss of revenues, of course, would be one unintended consequence of bigger black markets – one estimate puts additional foregone taxes at more than \$200 million. But there would be other, equally serious outcomes:

- Potentially stopping and even reversing progress in preventing youth smoking. The youth smoking rate has been declining rapidly, especially in Maryland, where the most recent available figures show it dropping more than a third from 2011 to 2017. Black marketers selling loose cigarettes near schools are not going to check IDs or obey the new law restricting sales to 21 and older.
- Tainting the cigarette supply. Cigarettes are deadly over time, but tainted supplies could be even more deadly and immediately. The recent fatal vaping lung disease outbreak has been mostly attributed to fake THC vape brands (also aimed at children) with a dangerous additive. The same thing could happen to bootleg mentholized cigarettes.
- Increased crime. Black markets and violent crime go together, as gangs, organized crime and even terrorist seek to muscle in and control territories. Law enforcement groups have

warned not only of the difficulty of enforcement, but of additional strains on already stretched first responders.

- Further overcriminalization of communities of color. There's a long and well-documented history of the sale of loosies – unpackaged single cigarettes – in Baltimore and other communities of color, and menthol is by far the flavor of choice for African-Americans. Put those facts together, and you have a formula for more confrontations of young adult blacks in particular, and maybe even another incident like Eric Garner, the Staten Island man choked to death in a police crackdown on loosies.

Finally, a menthol cigarette ban represents the wrong solution at the wrong time. The plummeting youth smoking rate – down from nearly 16% to just 5.8% in less than a decade – and the overall decline in smoking demonstrates that education and cessation efforts, along with increased legal restrictions, are already working. In fact, both Maryland and the federal government have just established a new legal age for tobacco sales of 21 years, which should be given time to take effect before drastic and potentially counterproductive course of action are pursued, along with doubling down on investments in smoking prevention programs and smoking cessation programs.

Thank you for considering these views. I hope you'll take a step back before approving rash measures like a menthol ban that have the potential to do far more harm than good.

Sincerely,

Frank Turner

MAPDA_unfav_sb233

Uploaded by: valentino, ellen

Position: UNF



Mid-Atlantic Petroleum Distributors Association
P.O. Box 711 ★ Annapolis, MD 21404
410-693-2226 ★ www.mapda.com

To: Senate Finance Committee

From: Ellen Valentino

Date: February 13, 2020

Re: SB 233 BR Flavored Tobacco Products – Prohibition
Opposed - Retailer Perspective

From the retailer perspective there are harsh consequences if SB 233 were to pass. Consequences that are not solely based in economics but consequences that center around criminal activity.

The fiscal note speaks to the cost to small business owners and loss to retail sales should legal products be banned for sale at Maryland's retail locations. Approximately 6700 Maryland retailers will feel the negative impacted.

To be clear, we do not defend the vaping and tobacco companies. However, we have a responsibility to share the reality and situation we see every day on the street and in our stores. There is rapidly growing criminal activity that is no longer "underground" but "open air" in parts of Maryland. ***The passage of this legislation will make for the first time a legal product exclusively available for sale by gangs/criminals on our parking lots and streets.***

With each new tax and with the increased age of 21 the street market has grown. Dealing in cigarettes/tobacco is lucrative and comes with very little consequence if you are under the age of 21. And one thing we can all agree on – criminals don't request ID or pay taxes. Maryland's retailers do.

This bill is a missed opportunity and will not substantially reduce underage tobacco and vaping use. As retailers committed to Maryland, we can be part of the solution and have proven that in previous collaborative efforts.

Please vote unfavorable and do not put us at this disadvantage.

Feeding and fueling the economy through gas, coffee, food, heating oil and propane.

MAPDA is an association of convenience stores and energy distributors in Maryland, Delaware & the District of Columbia.

Dylan-Vogtman-written-testimony

Uploaded by: vogtman, dylan james

Position: UNF

Dylan Vogtman
2822 Benson Rd.
Finksburg, MD 21048

Hello. My name is Dylan Vogtman, I am 26 years old, I live in Finksburg Maryland and own and operate a vapor business in Finksburg MD. I am here to vehemently oppose this flavor ban.

The majority of people in this room have had significant life improvements thanks to vapor products. You'll hear about it saving lives and altering death sentences. The stories we tell are not fabricated and we would gladly make the same statements under oath. Hundreds of millions of people have started smoking around the same young, adolescent age and many of their stories ended their death. Approximately 320 million people have died from smoking related diseases from 1980 to 2020 and this is the real issue that needs to be addressed

I spent my teenage years participating in missionary programs all across the country and even abroad. I know the power of Christ, I've seen it with my own eyes and the new life it has given people. I thought the transformations were amazing. In the Spring of 2015, I began working in a vape shop to help people quit smoking. I found that the transformations in this medium were just as amazing as Christ's. I knew I had found a calling and I wanted to help every single smoker in the world quit. New life had a whole new meaning. Watching someone transition from cigarettes to vapor products is truly a spiritual experience and I hope all of you find time to go visit a place that does this work and see it for yourself.

You'll hear over and over and over that flavors are the reason that people are able to quit. Tobacco tastes terrible and adding menthol to tobacco barely tastes better. When an alcoholic is quitting drinking he shouldn't be drinking O'douls. We are shaking the foundation of our country with the most disruptive technology since the microwave.

We want to end the era of the deadly combustible cigarette.

We want to end smoking related diseases.

Some people will say that these products are not cessation products, but I can introduce you to a thousand people who will say that it is. Flavors are vital to nicotine gum, and flavors are vital to ENDS products.

Currently, you can access foreign-owned websites and with just a credit card number you can access hundreds of ENDS products. We have zero control over these sites

selling and shipping to underage kids. A flavor ban would force adults to use the sites and increase the likelihood that kids will find them.

Cannabis has been federally illegal since 1935. After nearly a century of filling prisons, it is still federally illegal while its health benefits are just now being utilized and understood. With the introduction of vapor technology, the cannabis industry found a way to vaporize liquid cannabis. Drug dealers, with no intent to operate within the confines of the law, have produced products containing vitamin e acetate that have killed more than 50 people. With a flavored vapor ban I expect bad actors will arise and there will be more sickness and death as uneducated consumers turn to a dangerous black market.

Something needs to be done. Something that will work and be supported by the companies that make up this industry. We need to reach everyone trapped in an addiction with cigarettes in every part of Maryland to help them quit.

LATE - WalkerEnterprises_UNF_SB233

Uploaded by: Walker, Penny

Position: UNF

Walker Enterprises LLC

DBA/MaddCatt Vapors
200 S. George Street
Cumberland, MD 21502

February 13, 2020

Re: Opposition to Senate Bill 233

Dear Madam Chair and Fellow Committee Members:

My name is Penny Walker and I am a former smoker and current owner of two full-service awarding winning vape shops in Cumberland and Hagerstown, Maryland. I employ a total of twenty-five people, pay a living wage, and my company bears 80% of the cost of health insurance for all employees.

As a smoker since I was 14 years of age, I had tried everything to quit. I was unsuccessful with gums, patches, straws, Chantix, and a prescription nicotine delivery system. I was suffering from early fibrosis of my left lower lung, so my addition to cigarettes was becoming a matter of life or death. Finally, on December 6, 2011, I was able to successfully quit smoking by using an electronic cigarette and a raspberry flavor. Through the miracle of vaping, I was successful on my very first attempt. At the age of 41, I had finally quit, and have not gone back since.

I was so excited about this transformative technology that I opened a vape shop in 2012. Due to the large number of customers traveling from neighboring Washington County, I opened a second vape shop there in 2014. I applied my love of cooking to e-liquid, developing flavors/recipes that have helped countless others to quit smoking. Over the past seven years, I have built and run both vape shops while working full-time at Maryland Legal Aid, a non-profit public interest law firm.

Every single person who smokes wants to quit! Banning flavors will simply make people go back to smoking. I know this because this is what my customers tell me. At the same time, a flavor ban will destroy legitimate and tightly regulated small business vape shops for whom flavors represent up to 95% of their business. When these compliant vape shops close their doors, a black market is guaranteed to thrive. Between the black market and the folks who will resume smoking, such ill-conceived legislation is setting up a public health disaster.

I could recite numbers and studies, but I think a more practical and interesting approach is to simply share my observations, based on helping thousands of members of my community transfer their deadly smoking habit to a much safer alternative.

1. People do come in thinking they want a vape flavor to taste just like their favorite cigarette. But after they quit smoking, and usually within a week to ten days, their taste buds return, and they realize how bad the flavor actually is, and more often than not, they quickly switch to something more appealing, like a fruit or desert flavor. Very quickly, flavors become the main attraction, and it is the availability of these flavors that keeps them from going back to cigarettes and that awful tobacco taste. Flavors comprise over 90% of our e-liquid sales, and 100% of our sales are to adults.

2. People find it very difficult to quit smoking and we have been working on this since the 1970's. We all know someone who, despite being very ill, has smoked right up until the day they passed away or were hospitalized. Smoking is a serious addiction. If we had a treatment for opioids that was anywhere near as successful as vaping is for smokers, we would all celebrate wildly. Still, smoking kills far more people than opioids; just slower.
3. All adults like flavors. I like flavors. All of you like flavors. I have a 70-year old man who will never quit vaping, but because of vaping, he doesn't smoke anymore. His favorite flavor is root beer barrel. It reminds him of when he was a small child, and this association finally broke his 60-year addiction to combustible cigarettes when nothing else did. He started smoking when he was 9 years old. We have flavored alcohol and flavored energy drinks, which children have died from, so it seems more than a little crazy to the adult vaper that their elected representatives are trying to ban much less harmful flavored nicotine products from adults, products that have proven to help them deal with a deadly addiction. It is simply undeniable that flavors keep our customers interested and involved in the recovery journey away from their deadly smoking habit.
4. The vaping industry has managed to reduce smoking rates without spending one dollar of taxpayer money. This industry is self-taught, possesses specialized knowledge and technical skills to guide consumers through the difficult journey of transitioning to a harm reduction product. These experts also see customers week-to-week to advise and consult, which ensures far more successful transitions. How much taxpayer money has been dedicated to this goal over the last 20-30 years? Just think about that. Vaping is a disruptive technology that is more effective than any other solution ever invented. Again, if we had a solution this effective to the opioid addiction, or the alcohol problem in this country, just envision how huge a victory that would that be? And would we try to ban it? Perhaps the vaping industry should be getting a tax credit/subsidy instead of being threatened with industry crushing taxes. We are not big tobacco.
5. In my community, local pediatricians send young parents who smoke to a vape shop. While smoking is banned in many public places, adults are smoking in cars and homes. Children are suffering 2nd and even 3rd hand smoke. Many people who live in apartments with multiple units are exposing others to 2nd and 3rd hand smoke through duct systems. Every adult who quits smoking in a community with flavored e-liquids is a reduction in the exposures to 2nd and 3rd hand smoke to children and other people. We should all want that. I have had both of these situations in my business.

In closing, I would like to make this committee aware that we are registered with the FDA. My registration was over 20,000 pages and both of my stores are visited by the FDA. We do a bi-annual update with the FDA. Additionally, I would like to encourage every single one of you to visit the vape shops in your district. Speak to people when you are out in your community and ask them questions. Most people are really happy to share because they are thrilled to finally be free from combustible tobacco. We can protect our children and allow adults to access to these life-saving products at the same time.

Respectfully,

Penny Walker

LATE - RonaldWard_UNF_SB233

Uploaded by: Ward, Ronald

Position: UNF

Ronald A. Ward Jr., Esq.
Owner
The Vapers' Edge
8116-A Harford Road
Parkville, MD 21234
443-921-5190 (mobile)
443-725-5251 (work)
thevapersedge@gmail.com (e-mail)

Written Testimony

To: Maryland Senate Finance Committee
From: Ronald A. Ward Jr., Esq.
Date: February 13, 2020
Re: Opposition to Maryland Senate Bill 233

I. Introduction

My name is Ronald Ward and I am a life-long resident of Maryland. I have been an electronic cigarette or “e-cigarette” user for over 10 years, a smoke free alternatives activist for over 9 years and have owned an electronic cigarette store in Baltimore County, MD for the past 6 years.

Senate Bill 233, as written, shows a serious lack of knowledge of the products it intends to regulate, namely Electronic Smoking Devices (hereinafter “ESDs”) and contains a highly subjective, overly broad definition of “Flavored Tobacco Product.” For these reasons, SB 233 will enact a vague product standard that will complicate compliance for retailers and might be ripe for abuse by enforcement officers. I respectfully urge this Committee to issue an unfavorable report for Senate Bill 233.

II. Proposed Legislation

The definition of “Flavored Tobacco Product,” on Page 2, lines 13 to 20, and elsewhere in the bill, would constitute a prohibition of ALL flavored ESD liquid, including tobacco flavors. Much like leaf tobacco products that include flavorings other than tobacco, ESD tobacco flavors rely on many of the flavorings listed in the bill to approximate a tobacco-like flavor. But rather than prohibiting sales of products with a “characterizing” flavor other than tobacco, SB 233 makes the litmus test for a violating product merely the detection of a flavor other than tobacco. Note that no ESD liquid product currently on the market can claim a one-to-one flavor experience with combustible tobacco.

Senate Bill 233 demonstrates a fundamental misunderstanding of the product it wishes to regulate. ESD products do not rely on combustion of leaf tobacco to work. Instead, a liquid

solution is aerosolized by a heating element which makes the flavor experience remarkably different from that of inhaling the products of combustion. To the untrained nose or palette, a tobacco flavored ESD liquid might taste like several different things other than tobacco. While many people who vape report that tobacco flavored ESD liquids can act as relapse triggers, people who do not smoke or vape may not recognize a tobacco flavored ESD product by smell or taste alone. Considering that either one of these senses can be used to determine that an ESD liquid is a flavor other than tobacco, it is possible that enforcement will be inconsistent and, in the worst cases, predatory.

This legislation lacks direction to enforcement officers regarding use of objective testing protocols to determine if an ESD product is compliant with the flavors prohibition. Smell, taste, or marketing materials observed in isolation are not substantive, objective tests needed to make an accurate determination. It is not reasonable to assume that an “ordinary consumer” possesses the skills to identify the differences between a tobacco flavored ESD liquids and many non-tobacco flavored ESD liquids.

In addition to the obvious issues with enforcement, Senate Bill 233 would prohibit the sale of new tobacco products that the Food and Drug Administration (FDA) determines to meet the appropriate for the protection of public health standard. In fact, SB 233 would ban sales of leaf tobacco products offered in mint and wintergreen for which the FDA has granted modified risk orders that allow a manufacturer to market its tobacco products as lower risk compared to smoking. Rather than claim this regulatory authority, the legislature would better serve its citizens by deferring to the more deliberative FDA in this matter.

III. Importance of legitimate access to flavors for adult ESD users

Flavors are the reason why ESD liquids work to help adult smokers switch from the use of traditional cigarettes. Most vapers find tobacco flavors unappealing, specialized Vape Shops like my business rely heavily on the sale of flavored ESD liquid and, if Maryland consumers are unable to purchase flavored ESD liquid from reputable, licensed retail establishments, they will inevitably turn to the black market or attempt to manufacture their own liquid by buying the components online. This would only worsen the situation in that it would allow for more youth access and may create even more ESD liquid safety concerns.

But, if this committee intends to move forward with a favorable report for Senate Bill 233, I urge you to amend the bill to include an exemption for adult-only specialty tobacco and vapor retailers. Vape shops, such as mine, act as the true “gatekeepers” against youth use. The proof is in the numbers. According to the FDA Compliance Check Inspection of Tobacco Product Retailers (through November 30, 2019), out of 222 violations, not a single vape shop was cited for selling vapor products to underage consumers. Vape shops only sell ESD products and provide expert instruction and technical support to people who are transitioning off of cigarettes. Due to these facts, vape shop owners take youth usage very seriously and are acting

as a vital part of the solution. We must also consider whether the Recent Tobacco 21 laws are effective before we take these drastic measures that basically constitute prohibition.

It is also relevant that the Senate Finance and House Economic Matters Committees have contemplated banning the indoor use of ESDs since 2010 and has declined to issue any favorable reports. Now, in the current climate, this Committee is contemplating whether to destroy the entire industry. That is quite a leap.

V. Conclusion

I recommend that the Senate Finance Committee issue an **unfavorable** report for Senate Bill 233. In the alternative, I request that the State allow an exemption for licensed vape shops in Maryland that are only accessible to adults over the age of 21.

Thank you for considering my comments and please contact me with any questions or concerns. I will contact your staff to bring your attention to my written testimony and express my desire to discuss this issue more at length.

Respectfully Submitted,

Ronald Ward, Esq.

Senate Tax Bill Letter

Uploaded by: warehime, chad

Position: UNF

Chad Warehime

3510 Buena Vista Avenue

Baltimore, MD 21211

Members of the Committee,

Flavored vapes gave me something I'm sure it did most people who started, a second chance at a BETTER life, but my story is a little different. I turned to vaping, yes, to stop smoking two packs a day plus a can of chew, but also because of the atmosphere of the first shop I ever walked into out of curiosity. I was in a bad place at that time and my local vape shop became my sanctuary. Quickly, I began to see that I wasn't depending on an inhaler anymore, and my quality of breathing had improved as well as my gums and breath. I started working in that same shop in 2014 and went on to manage 3 of their locations. Vaping gave me something suboxone, methadone, and all the other prescribed drugs that doctors had been giving couldn't. A PURPOSE and a place that I could share my experience with and give them the same hope that I had been given. Vaping may have not cured my asthma, but after carrying an inhaler for over 15 years and within 3 months of vaping and not having to do that anymore, shows that there is proof in this pudding also called flavored vape! I have been smoke free for almost 10 years and that because of the flavors that are available to me. As a store owner and father I am faced with knowing that children do use nicotine products, but as a father I make sure that in MY STORE, we always card and strive to keep nicotine products out of children's hands. A flavor ban or a 86% tax will not keep kids from using nicotine, it will force legal taxpaying adults to partake in scrupulous actions, so that they can continue to vape and not smoke. It will also force those same children, to do what they do best, and that's find a new way to get nicotine, and that isn't hard. Lastly, imposing a flavor ban or a hefty tax like the one proposed in this bill would put someone like myself, an ex junkie, who turned his life around out of business. I have been clean for 6 years because of not only flavored vape, but the people in this industry who DO care about the quality of life, and saw something in me and gave me a chance. This would be detrimental because after all the hard work I've put into not being a junkie, criminal, and drain on the society, I would be left severely in debt and potentially homeless. I'm not a quitter and I refuse to sit down and let something be taken away without people hearing my story and the millions of other stories just like mine.

LATE - ScottWebber_UNF_SB233

Uploaded by: Webber, Scott

Position: UNF

VAPING AWARENESS PUBLIC EDUCATION SOCIETY

SPEARHEADING THE FIGHT TO BREAK CIGARETTE ADDICTION



WWW.VAPESOCIETY.ORG

Scott Webber

Scott@VAPESociety.org

Written Testimony Regarding

SENATE BILL 233

IN OPPOSITION

WRITTEN ORAL TESTIMONY

SUPPORTING EXHIBITS

1. Deaths Attributed to Vaping in Maryland 2007-2017
2. Minnesota Study Showing 95% Vaping Tax Increased Smoking By 8.1%
3. Truth Initiative Fact Sheet – Minnesota
4. Truth Initiative Fact Sheet – Maryland
5. Public Health England Study, E-Cigarettes Are About 95% Safer Than Smoking

SB233 Vaping Flavor Ban Hearing Feb 13, 2020
[Alternate Presentation]

Good Afternoon Chair Kelly and fellow members of the Senate Finance Committee.

My name is Scott Webber, proud MD citizen since 1986, currently living in Bethesda, Mont. County.

I am the Founder, along with my son, of the Vaping Awareness Public Education [V.A.P.E.] Society, a Non-Profit research and political advocacy organization formed to address the scourge of smoking, focused on the benefits - and risks - of vaping.

On the topic of vaping, I do consider myself an expert. I likely know as much about vaping as anybody in the entire State. I tell you this, not to brag, but rather, to simply convey that I know what I am talking about because I have done my homework.

Accordingly, I can comfortably say SB233 will have VERY bad outcomes for the State and its citizens, both from a public health perspective, and certainly from a fiscal perspective. It is based on extremely bad science, is facially dishonest, will likely result in the closing of many dozens of small businesses, actually reducing State revenues by the hundreds of millions of dollars, while simply moving vaping sales out-of-state, to the Internet, or most likely, to the black market.

This afternoon, I would like to impress upon you the absurdity of SB233.

Teen Vaping is a lot like Teen Sex

Teen Vaping is a lot like Teen Drinking

What do they have in common? Teens should NOT be engaging in such activity... but they are.
... anyone who denies this basic truth is simply denying reality.

One way to deal with risky teenage behavior is to simply ignore it – that’s not responsible.

Another approach is to just make stuff up, lie, distort facts, and try to impart as much fear and confusion into the general public as possible, figuring the ends justify the means. This is the tactic of the likes of Stanton Glantz, Tobacco Free Kids, and similar entities that are willing to spout out and perpetuate any distortion or outright falsehood in their overzealous quest to wipe out vaping as an alternative to smoking.

A third approach is to stick to logic, reason, statistics, and facts, because here, truth matters.

Let me share a few common-sense facts about vaping:

By the laws of fundamental physics, Vaping is NOT smoking. They are entirely separate and distinct products, and to treat them with parity – as equals – is both dishonest and just wrong.

Vaping is indeed 95-99% safer than smoking because there is no combustion.

There is NO such thing as a ‘naturally flavored’ vaping liquid. So called ‘Tobacco Flavored’ flavors are flavors with very sophisticated flavor profiles.

Adults like flavors just as much as teens, because they are both human beings with identical taste buds.

Banning all vaping 'flavors' for adults, because teens like flavors, makes as much sense as banning all 'flavors' of alcohol "because teens have been shown to enjoy flavors."

And the solution is just as logical. Ban ALL flavored alcohol, and leave the entire alcoholic beverage field to EveryClear. Because teens have been proven to prefer flavored alcohol, the entire teen drinking problem will simply disappear in the absence of flavors... Right?

The same logic applies to teen sex. Teenage pregnancy, including death, and sexually transmitted diseases are a serious problem. Following the same SB233 logic, if the State harshly taxes, or simply bans all candy-colored condoms, and flavored lubricants, teens will simply stop having sex and the problems will disappear.

To anybody who actually understands vaping, SB233 is every bit as absurd. But if you REALLY understand vaping, you realize how dangerous and expensive legislation such as SB233 truly is.

I would lastly point out per the Fiscal Note attached to this bill, that this ill-conceived flavor ban is projected to COST MD taxpayers between \$70 and \$184 MILLION PER YEAR in lost SALES TAX alone! Over the next decade, a flavor ban is likely to cost the State from \$700 Million to nearly \$2 BILLION.

But the actual cost over the next decade is going to be MUCH greater, because a flavor ban will wipe out almost all of the independent vape shops, eliminating many hundreds of millions of dollars in income taxes, employment taxes, real estate revenues, and all other associated revenues for about 200 businesses that will be destroyed as the result of a flavor ban on vaping products.

SB233 is a VERY destructive piece of legislation that will NOT achieve its intended outcome, will create a very dangerous black market, and will cost the State of Maryland BILLIONS of dollars that could otherwise be spent on other priority budget items, such as funding for the Kirwan Commission Blueprint.

I strongly request that the Committee issue an UNFAVORABLE report on SB233.

Banning Candy Colored Condoms will NOT Prevent Teens From Engaging In Teen Sex



But It Will Eliminate
Adult Choice

Banning Flavored Personal Lubricants will NOT Prevent Teens From Engaging In Teen Sex



But It Will Eliminate
Adult Choice

Banning Flavored Alcohol will NOT Prevent Teens From Engaging In Teen Drinking



But It Will Eliminate
Adult Choice

Banning Flavored Vape Liquid will NOT Prevent Teens From Engaging In Teen Vaping



But It Will Eliminate
Adult Choice

SB233 Vaping Flavor Ban Hearing Feb 13, 2020

Good Afternoon Chair Kelly and fellow members of the Senate Finance Committee.

My name is Scott Webber, proud MD citizen since 1986, currently living in Bethesda, Mont. County.

As many of you may know from our annual visits to Annapolis, I am the Founder, along with my son, of the Vaping Awareness Public Education [V.A.P.E.] Society, a Non-Profit research and political advocacy organization formed to address the scourge of smoking, focused on the benefits - and risks - of vaping.

On the topic of vaping, I do consider myself an expert. I have been intensely researching the vaping universe since 2013. I have read hundreds of articles, reports, and studies on the topic, compiling multiple thousands of hours of combined time in this space. I likely know as much about vaping as anybody in the entire State. I tell you this, not to brag, but rather, to simply convey that I know what I am talking about because I have done my homework.

Accordingly, I can comfortably say SB233 will have VERY bad outcomes for the State and its citizens, both from a public health perspective, and certainly from a fiscal perspective. It is based on extremely bad science, is facially dishonest, will likely result in the closing of many dozens of small businesses, actually reducing State revenues by the hundreds of millions of dollars, while simply moving vaping sales out-of-state, to the Internet, or most likely, to the black market.

I have submitted supporting documentation in my testimony packet that highlights what happened in MN after they imposed a 95% vaping tax, that decimated their vaping industry; similar to the 86% tax in SB3 under consideration in your sister Budget & Taxation Committee. As the result of this ill-conceived and excessively punitive treatment of vaping, smoking rates ROSE more than 8%, and their youth vaping rate is 50% higher than in MD. Illogical flavor bans, like draconian taxes, have the affect of shutting down local vape shops, and migrating users back to smoking tobacco. This is both unfortunate, but predicable to anyone who understands vaping.

SB233 will create a situation, just like in MN, where legislators are intentionally destroying small business vape shops and forcing users to either go black market, or the internet. As a result, the State will lose the sales tax, employment tax, income tax, and real estate revenues, AND lose the ability to monitor, regulate, and enforce these laws because the Comptroller can't walk in on the internet to test compliance. There is NOTHING smart about this legislation, and everything destructive and counterproductive to the intended outcome.

As evidenced in my packet, Vaping has been found to be 95-99% less harmful than smoking, and to give the two parity, and regulate them equally, is nothing short of misguided Legislative malpractice.

I'm not ignoring there are risks, but the benefits SOOO outweigh the risks, that no intelligent, or compassionate, or reasonable person – who has done their research - can logically deny the overwhelming superiority of vaping over smoking.

I would like to help put together a better bill, but one based on honesty, science, responsibility, fairness, and reality. I am offering myself as a resource to you and your staff to that end, but first, we need to stop this misguided legislation from inadvertently killing thousands of Maryland citizens while costing us hundreds of millions of dollars.

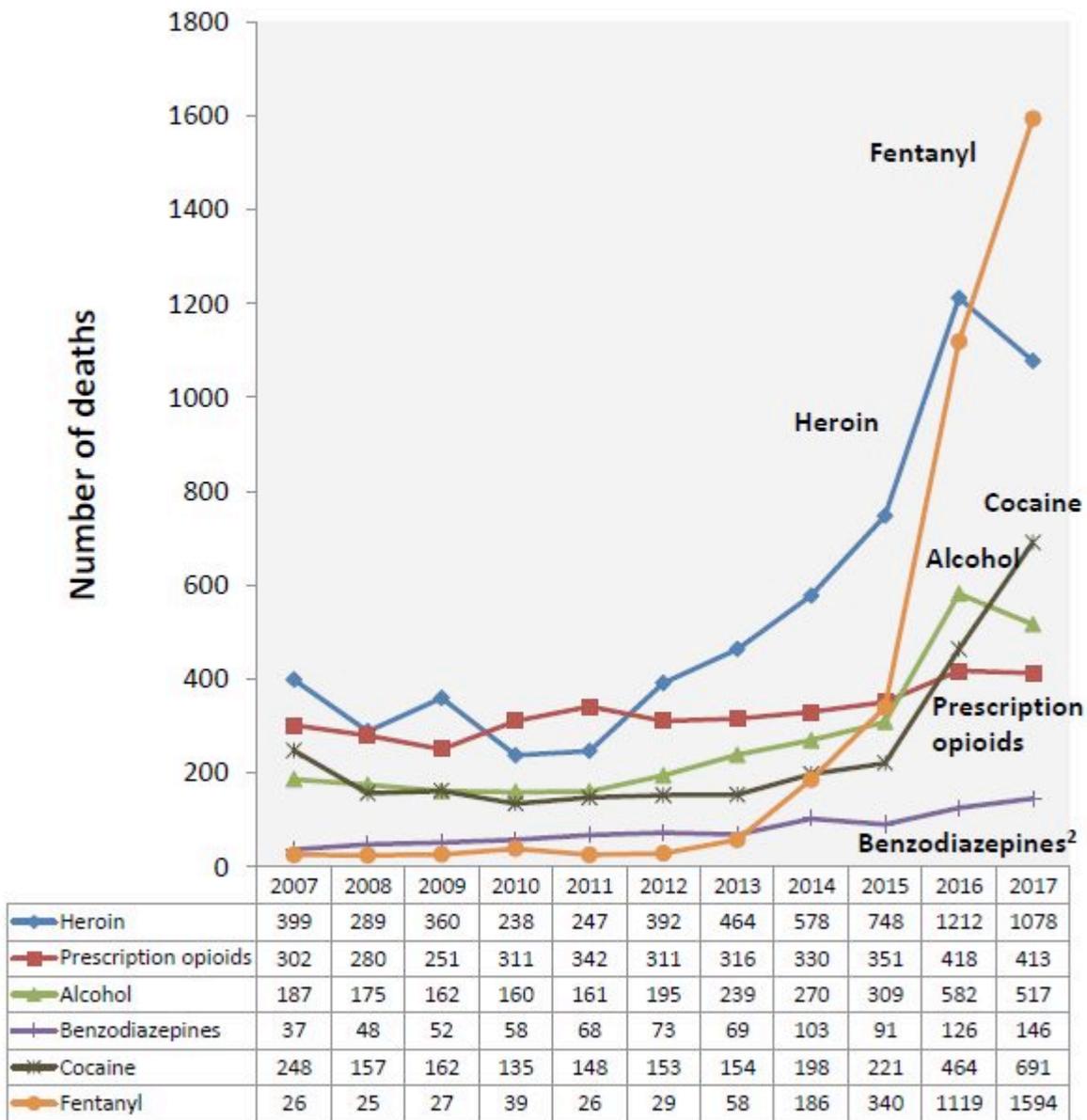
Thank you.

Scott Webber

1. Deaths Attributed to Vaping in Maryland 2007-2017

Deaths Attributed To Vaping 2007-2017 = Zero [0]

Figure 5. Total Number of Drug- and Alcohol-Related Intoxication Deaths by Selected Substances¹, Maryland, 2007-2017.



¹Since an intoxication death may involve more than one substance, counts of deaths related to specific substances do not sum to the total number of deaths.

²Includes deaths caused by benzodiazepines and related drugs with similar sedative effects.

2. Minnesota Study Showing
95% Vaping Tax Increased
Smoking By 8.1%

NBER WORKING PAPER SERIES

E-CIGARETTES AND ADULT SMOKING:
EVIDENCE FROM MINNESOTA

Henry Saffer
Daniel L. Dench
Michael Grossman
Dhaval M. Dave

Working Paper 26589
<http://www.nber.org/papers/w26589>

NATIONAL BUREAU OF ECONOMIC RESEARCH
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E-Cigarettes and Adult Smoking: Evidence from Minnesota
Henry Saffer, Daniel L. Dench, Michael Grossman, and Dhaval M. Dave
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ABSTRACT

E-cigarettes use a battery powered heater to turn a liquid containing nicotine into a vapor. The vapor is inhaled by the user and is generally considered to be less harmful than the smoke from combustible cigarettes because the vapor does not contain the toxins that are found in tobacco smoke. Because e-cigarettes provide an experience that is very similar to smoking, they may be effective in helping smokers to quit, and thus the availability of e-cigarettes could increase quit rates. Alternatively, e-cigarettes may provide smokers with a method of bypassing smoking restrictions and prolong the smoking habit. There is very little causal evidence to date on how e-cigarette use impacts smoking cessation among adults. Although there is no federal tax on e-cigarettes, a few states have recently imposed heavy taxes on them. We provide some of the first evidence on how e-cigarette taxes impact adult smokers, exploiting the large tax increase in Minnesota. That state was the first to impose a tax on e-cigarettes by extending the definition of tobacco products to include e-cigarettes. This tax, which is 95% of the wholesale price, provides a plausibly exogenous deterrent to e-cigarette use. We utilize data from the Current Population Survey Tobacco Use Supplements from 1992 to 2015, in conjunction with a synthetic control difference-in-differences approach. We assess how this large tax increase impacted smoking cessation among adult smokers. Estimates suggest that the e-cigarette tax increased adult smoking and reduced smoking cessation in Minnesota, relative to the control group, and imply a cross elasticity of current smoking participation with respect to e-cigarette prices of 0.13. Our results suggest that in the sample period about 32,400 additional adult smokers would have quit smoking in Minnesota in the absence of the tax. If this tax were imposed on a national level about 1.8 million smokers would be deterred from quitting in a ten year period. The taxation of e-cigarettes at the same rate as cigarettes could deter more than 2.75 million smokers nationally from quitting in the same period. The public health benefits of not taxing e-cigarettes, however, must be weighed against effects of this decision on efforts to reduce vaping by youth.

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1. Introduction

A number of battery-powered devices on the market today deliver nicotine to the user in an aerosol or vapor form and are referred to as electronic cigarettes (e-cigs). Use of e-cigs is often called vaping in contrast to smoking conventional combustible cigarettes.¹ Because e-cigs are a relatively new product, there is no research on the long-term health effects of use. Nevertheless, e-cigs are generally considered to be less harmful than combustible cigarettes because the vapor produced by them does not contain the toxins and nitrosamines that are found in tobacco smoke (Goniewicz et al. 2013; Czogala et al. 2014). The U.S. National Institute on Drug Abuse states that because e-cigs deliver nicotine without burning tobacco, they appear to be a safer, less toxic alternative to conventional cigarettes.² Public Health England, a public health agency within the U.K.'s Department of Health and Social Care, has taken a more definitive position and stated that e-cigs are significantly less harmful to health and are about 95 percent safer than smoking (McNeil et al. 2015).

The public health debate surrounding the regulation of e-cigs has centered on harms to non-smoking adolescents and harm reduction for adults who smoke. For adolescents the concern is that e-cig use may have negative effects on cognitive development, result in long term nicotine addiction, and may lead to conventional cigarette use. For those adolescents who wish to experiment with nicotine, e-cigs may be a safer option than cigarettes and may have contributed to the decline in adolescent smoking. E-cigs may be effective in helping adult smokers to quit the habit. Currently between 14-19 percent of adults continue to use cigarettes (2017, National Health Interview Survey, NHIS and National Survey of Drug Use and Health, NSDUH), and interest in quitting smoking remains high. Almost two-thirds of current smokers report that they want to quit smoking completely, and among those who expressed such an intent about 60 percent follow-up with an actual cessation attempt (NHIS 2015). However, most

¹ All e-cigs have certain components in common, including a power source or battery that heats a liquid (usually propylene glycol) containing nicotine into an aerosol that is then inhaled by the user.

² See <https://www.drugabuse.gov/publications/drugfacts/electronic-cigarettes-e-cigs>.

attempts end in relapse, and less than one in ten smokers overall successfully quit in the past year (Babb et al. 2017).³ E-cigs may be an effective substitute for smoking, particularly for smokers who have had a difficult time quitting in the past through other methods. Thus, the accessibility of e-cigs might enhance smoking cessation rates. On the other hand, it is also possible, as some contend, that e-cig use may adversely impact smoking cessation by undermining smoking restrictions and providing smokers with an alternative nicotine source for situations where smoking is not permitted.

This paper focuses on the potential for harm reduction for adults. There is very little causal evidence to date on how e-cig use impacts smoking cessation among adults. Acknowledging the potential for e-cigs to help smokers quit along with limited empirical evidence on this issue, the Food and Drug Administration (FDA) has thus far refrained from regulating their access for adults. For instance, unlike conventional cigarettes, e-cig manufacturers continue to be able to advertise in broadcast media, and the FDA has resisted banning or restricting such advertising. The FDA has also postponed for now the requirement that e-cig manufacturers submit marketing applications, a condition which would otherwise have effectively banned all e-cig products from the market until the FDA reviewed and approved the applications.⁴

In contrast to the FDA's relatively more accommodative stance at least with respect to adult access, a growing number of state and local governments have taken steps to more forcefully regulate the sale, marketing, and use of e-cigs. Attorneys General for 29 states signed a letter in 2014 urging the FDA to regulate the sale of e-cigs and restrict its advertising and marketing.⁵ By the time the federal e-cig minimum legal sale age law of 18 went into effect in August of 2016, all states but two had a similar law in place. As of June 2019, 15 states

³ In general, less than one in four cessation attempts is successful. For the average smoker, the expected number of quit attempts before quitting smoking successfully has been estimated as ranging from 6 to 30 attempts (Chaiton et al. 2016).

⁴ While the FDA continues to make e-cigs available and accessible in the market for adults, it has taken a more aggressive approach towards regulating access for youth and educating them about the dangers of e-cigs.

⁵ See https://ag.ny.gov/pdfs/FINAL_AG_FDA_Comment_Re_Deeming_Regulations.pdf.

raised their e-cig minimum purchase age to 21. An increasing number of states are also requiring licenses for retail sales of e-cigs and are expanding their smoking bans and clean indoor air laws to include vaping. Several states have also banned sales of flavored e-cigs and Walmart has announced that it will end sales of all e-cigs.

There is no federal tax on e-cigs, unlike on cigarettes and other tobacco products. With e-cigs being relatively new, states have struggled to determine whether and how to tax them. As of the end of 2018, ten states (in addition to several cities and counties) had started to levy taxes on e-cigs or the liquid nicotine used with e-cigs. Nine additional states began to do so in 2019 and two more will follow suit in 2020 (Campaign for Tobacco-Free Kids 2019). Given that one aspect of tobacco taxes is to improve public health and reduce tobacco-related health expenditures, there exists a key knowledge gap in the literature to inform policymakers contemplating taxes on e-cigs. It remains unclear how e-cig taxes impact smoking cessation. If higher e-cig taxes dissuade adult smokers from shifting to vapor products and from quitting smoking in the process, the forgone harm reduction must be taken into account; this would provide justification for taxing e-cigs less than traditional tobacco products, if at all. Similarly, if e-cig taxes promote smoking cessation, by making it more difficult for smokers to circumvent smoking restrictions and by reducing the overall addictive stock of nicotine, then this would provide additional rationale for levying taxes on e-cigs at the federal and state levels.

Our study directly addresses this knowledge gap, and makes several contributions in the process. We provide some of the first rigorous evidence on how taxing e-cigs impacts smoking cessation among adults. The empirical analysis exploits the large e-cig tax hike in Minnesota (MN), the first state to tax e-cigs, in conjunction with a synthetic control difference-in-differences approach to identify plausibly causal effects of e-cig use on adult smoking. In addition to providing direct estimates of the cross-effects of e-cig taxation, we also add to the very limited evidence base on the substitution and complementarity between e-cigs and cigarettes. We find consistent evidence that higher e-cig taxes increase adult smoking rates and reduce quits, implying that e-cigs are a likely substitute for conventional cigarettes among current smokers.

The remainder of the paper proceeds as follows. The next section briefly provides some background on the previous literature. Section 3 details the data and the empirical methods that we apply to this question, following by a discussion of the results. The concluding section summarizes our findings and places them in context along with some policy implications.

2. Background

Much of the literature that has considered the relationship between e-cig use and smoking among adults has relied on correlational evidence and not addressed the endogeneity between both behaviors.⁶ The evidence from these sets of studies should be interpreted as descriptive and is fairly mixed. Several studies find that e-cig use is associated with reduced smoking. Zhu et al. (2017) analyze data from the Tobacco Use Supplements of the Current Population Surveys. They find that the population smoking cessation rate for 2014-2015 was significantly higher than for 2010-2011, coinciding with an increase in e-cig use. Exploiting information on e-cig use from the 2014-2015 wave, they also find that e-cig users were more likely than non-users to attempt to quit and more likely to succeed in quitting (defined as abstinence for 3 months or longer). Zhuang et al. (2016) conduct a two-year follow up of 2097 adult smokers, who were initially sampled using GfK's Knowledge Panel in 2012. Comparing short-term e-cig users (used in 2012 but not 2014) vs. long-term e-cig users (used e-cigs in both 2012 and 2014) vs. non-users, they find that long-term e-cig users had a higher quit attempt rate as well as a higher successful quit rate relative to both non-users and short-term e-cig users. A common pattern in tobacco consumption is dual cigarette and e-cig use, and there is some concern that prolonged dual use might impede or postpone the attempt to quit smoking. Zhuang et al. (2016) do not find, however, that dual use is associated with a lower smoking cessation rate.

⁶ In this case, the endogeneity can reflect both reverse causality with e-cig use affecting smoking and vice versa as well as selection on unobserved factors (for instance, a propensity for addictive behaviors, risk tolerance, time preference) that may affect participation in both behaviors.

Brown et al. (2014) assessed the effectiveness of e-cigs when used to aid smoking cessation, in comparison with nicotine replacement therapy (NRT) and with unaided quitting. They rely on a cross-sectional survey of the English population that includes 5863 adults who had smoked within the previous 12 months and made at least one quit attempt during that period with either e-cigs, NRT or no aid. Their results show that e-cig users were more likely to report smoking abstinence (defined as non-smoking status at time of survey) than either those who used NRT or no aid.

Grana, Benowitz, and Glantz (2014) contend that although e-cig use may reduce smoking, it also may inhibit complete smoking cessation. They note that while some smokers cite a desire to quit smoking through the use of e-cigs, other common reasons given by smokers who also vape are to circumvent smoke-free laws and to cut down on conventional cigarettes. This may reinforce dual use patterns and delay or deter quitting. Kalkhoran and Glantz (2016) provide a review of papers that attempt to assess the relationship between e-cig use and smoking cessation by adult smokers. The question they are interested in is whether cigarette smokers who report e-cig use have a higher or lower probability of quitting smoking. Summarizing evidence from 38 studies, and performing a meta-analysis of 20 studies with control groups (most of these are cross-sectional or cohort studies), they conclude that the odds of quitting cigarettes were about 28 percent lower among e-cig users compared with non-users. Weaver et al. (2018) conduct a prospective cohort study, recruiting 1284 U.S. adult smokers in mid-2015 and following up with them about one year later. The odds of quitting smoking were found to be significantly lower among smokers who used e-cigs at baseline compared to smokers who did not vape. Smokers who had used e-cigs at some point during the study period were also less likely to quit smoking (defined as abstinence for at least 30 days prior to follow-up) relative to non-users. These studies are correlational rather than causal and cannot account for unmeasured confounders.

Huang et al. (2014), Zheng et al. (2016, 2017), and Tuchman (2019) provide evidence of causal effects of e-cigarette use on cigarette smoking in a reduced form setting. They do so by

examining the impact of changes in the price of one good on the use of the other one. If, for example, the two goods are substitutes (a reduction in the price of one leads to a reduction in use of the other) that would suggest that an increase in e-cigarette use causes a reduction in smoking. All four studies employ Nielsen ScanTrack, which contains store scanner data at the point of sales, from 2009 or 2010 through 2012, 2013, or 2015 depending on the study. Except for Zheng et al. (2016), these studies find that the two goods are substitutes.

Several problems arise in this line of research. Price is computed by dividing sales revenue by sales in physical units. This introduces bias in the regression models because price and sales are not measured independently. Indeed, the own-price elasticity of demand for cigarettes in these studies usually is larger than one in absolute value, which is much larger than any of those in the previous literature reviewed by Cawley and Ruhm (2012). This problem aside, the demand functions may be subject to simultaneity bias due to the presence of an upward-sloping supply function in a competitive model or due to the behavior of firms in oligopolistic markets. Moreover, given that e-cigs are a new product, retailers may have incentives to begin to sell the product in areas where demand for it is expected to be substantial. Finally, e-cig sales in 2009, 2010, and 2011 were very limited. Consequently the price data for e-cigs in those years may be inaccurate.

Cotti, Nesson, and Teft (2018) overcome some of the issues just discussed by exploiting within-state variation in cigarette excise taxes to measure effects on e-cig and cigarette use from the Nielsen Homescan Panel, which contains actual purchases made by households, from 2011 through 2015. Cigarette taxes are not subject to measurement error and can reasonably be assumed to be exogenous in cigarette and e-cig demand functions. They find that higher cigarette taxes decrease both cigarette and e-cig purchases, suggesting that cigarettes and e-cigs are complements. Because e-cigs are a relatively new product, the sample period is short, which limits the identifying variation in cigarette taxes. This may have contributed to their finding of very large elasticity estimates (-1.9 to -2.6) of purchases of e-cig refills and starter kits with respect to the cigarette excise tax. Furthermore, because these are tax elasticities, the

implied elasticities with respect to cigarette price are higher in magnitude. This study does not directly consider effects of e-cig taxes.

Pesko, Courtemanche and Maclean (2019) extend the previous study by examining the effects of e-cigarette taxes as well as those of cigarette taxes on smoking and vaping participation by adults. They employ a dichotomous variable for the adoption of any type of tax on e-cigs, which conflates very different tax schemes (ad valorem vs. excise; very small and relatively large taxes). These different approaches to state e-cig taxation policy have resulted in a trivial effect on price in some states and a large effect on price in other states. Pesko et al. (2019) use data from the Behavioral Risk Factor Surveillance System and the National Health Interview Surveys between 2011 and 2017 in conjunction with a difference-in-differences model. This sample period excludes Minnesota, which had the largest e-cig tax, from the within-state identifying variation because the state had a tax on e-cig in place for the entire sample period. Moreover, it ignores the extremely large e-cig excise tax hike that occurred in that state in 2013 (see the next section for details). The study adds two more years to the data used by Cotti, Nesson, and Teft (2018). Unlike Cotti, Nesson, and Teft (2018), Pesko et al. (2019) find that higher cigarette taxes increase adult e-cig use but find no effects of their-cig tax measure.

Abouk et al. (2019) use US birth records 2013 to 2017 to examine the effect of e-cig taxes on pre-pregnancy smoking and prenatal smoking. They find that e-cig taxes increase pre-pregnancy and prenatal smoking, implying that e-cigs and traditional cigarettes are substitutes among pregnant women. The e-cigarette tax measures are more refined than those in the one by Pesko et al. (2019). Abouk et al. (2019) do not, however, capitalize on the potential evidence contained in the quasi-natural experiment contained in the Minnesota experience and focus on a small segment of the population.⁷

⁷ Abouk et al. (2019) exclude Minnesota from most of their analysis because it enacted an e-cigarette tax prior to the beginning of their sample year. When they start the study period in 2011 and include Minnesota, the state provides no within-state variation in one of their two wholesale tax measures: the presence of a tax. They do account for the Minnesota tax hike in 2013 (see the next section for details) but assume that Minnesota can be treated in the same manner as the seven other places (the District of

A few studies have conducted randomized control trials (RCT) to test the effectiveness of e-cigs vs. other modes in promoting smoking cessation. Bullen et al. (2013) conducted an RCT that included 657 smokers who wanted to quit. They were randomized into groups which were given e-cigs, placebo e-cigs (without any nicotine), and NRT. The trial lasted for 12 weeks, and the participants were also given limited counseling. Abstinence rates, verified chemically at six months, were 7.3% for the e-cig arm, 4.1% for the placebo e-cig arm, and 5.8% for the NRT arm. Thus, e-cigs resulted in a greater likelihood of quitting, and were more effective than both placebo e-cigs and NRT, though the differences were not statistically significant. For those who failed to quit, the median time to relapse was twice as long for participants using e-cigs relative to both placebo e-cigs and NRT. Hajek et al. (2019) conducted an RCT with 886 participants who had sought assistance from the National Health Service in the U.K. to quit smoking. The 1-year abstinence rate was 18.0% for the e-cig group, as compared with 9.9% in the nicotine-replacement group. They concluded that e-cigs were more effective for smoking cessation than nicotine replacement therapy, when both products were accompanied with behavioral support. While RCTs can provide more definitive causal evidence, they are limited in their capability of assessing population-level effects under patterns of real-world use and conditions. Furthermore, they do not provide any information on the effects of policies such as e-cig taxation.

Our study provides some of the first evidence of the effects of e-cig taxes on smoking cessation among adults. We also provide the first estimate of the price elasticity of smoking participation with respect to the price of e-cigs implied by the impact of the first imposition of and subsequent large increase in an excise tax on e-cigs in the U.S. in the literature. This estimate is an important input towards evaluating the costs and benefits of e-cig taxation and the harm reduction debate. In the process, we add to the limited literature on how e-cig use is impacting

Columbia; Montgomery County, Maryland; and five counties in Alaska) that imposed e-cigarette taxes as a percent of wholesale prices during their sample period. All of these places did so for the first time in 2015 or 2016, which was much later than Minnesota. Moreover, none of them is a state.

adult smokers, drawing on the Minnesota tax hike as a natural experiment to drive exogenous variation in e-cig use.

3. Approach

The objective of this study is to provide plausibly causal evidence of the effects of e-cig use on adult smoking. In the empirical work, e-cig taxes serve as a lever that affects e-cig use. E-cig prices are less suitable because of their potentially endogeneity with use. The policy chosen must also have sufficient statistical power to change e-cig use in order to be able to identify downstream effects on smoking. We therefore rely on the large e-cig tax imposed in Minnesota (MN). Nicotine taxes are arguably exogenous to use because they are typically employed by states to raise revenue from products that are seen as harmful and thus face less resistance than taxes on other consumer goods.

MN was the first state to impose a tax on e-cigs by expanding its definition of “tobacco products” to include electronic cigarettes. The taxation began on August 1st 2010 (Public Law Health Center) with a tax rate of 35 percent. This tax was raised by another 60 percentage points to a total tax rate of 95 percent of the wholesale price on July 1st 2013. This large tax hike on e-cigs had a substantial impact on prices. Based on retail sales from the Nielsen Scanner Data, e-cig retail prices of replacement pods in 2012 were \$3.25 in MN (Figure 1).⁸ Dave and Saffer (2013) and studies they cite indicate that tobacco product retailers apply a markup of approximately 1.33 to the wholesale price in setting the retail price. That estimate implies a 2012 wholesale price inclusive of tax of a replacement pod of about \$2.44 inclusive of tax and exclusive of tax about \$1.80. The 95 percent tax on \$1.80 would equal a wholesale price of \$3.52 and a retail price of \$4.69. The actual retail price in MN in 2015 was \$4.76, which suggests that our estimate is a close first-order approximation.⁹

⁸ E-cig sales in 2010 and 2011 were very limited and consequently the price data for e-cigs in these years may be inaccurate.

⁹ We assume that the retail market for e-cigarettes can be characterized by the pure version of the Cournot model of oligopoly (Tirole 1988; Scherer and Ross 1990). Hence the retail price of e-cigarettes

The timing of the MN e-cig tax is also important for our analysis. In 2010 e-cigs were virtually unknown and sales were still relatively low in 2013. A new product needs to be heavily advertised and moderately priced to attract potential consumers. Thus, the MN tax impacted e-cigs at a particularly vulnerable time and probably had a greater impact than a similar tax imposed on a mature product. The timing of the MN e-cig tax hike further permits a sufficient time window to be able to observe any changes in smoking rates. A period of two or more years following the tax increase may be necessary because the addictive nature of smoking can lead to dynamics in the consumer response to new incentives and new potential substitutes. In the presence of such lagged effects and given the delay in data availability on smoking, we are necessarily limited to analyzing tax changes that were enacted prior to 2016. The states that had levied taxes on e-cigs prior to 2016 are North Carolina (6/2015), Louisiana (7/2015) and Minnesota.¹⁰ The taxes in North Carolina and Louisiana are only five cents per milliliter of e-liquid. To put these taxes into perspective, a replacement pod which supplies roughly the nicotine equivalent of a pack of cigarettes cost about \$3.47 in a state with no tax in 2015. The five cents per milliliter tax adds about four cents to the retail price which is trivial, leaving the North Carolina and Louisiana taxes under-powered to detect changes in smoking rates and thus empirically irrelevant. After the tax hike in MN in 2013, which raised its total tax rate to 95

is given by $P = [\varepsilon/(\varepsilon - h)]C$, where ε is the market price elasticity of demand, h is the Herfindahl index, C is the sales-share weighted average of each retailer's average cost (assumed to be independent of pods sold) of selling e-cigarettes, and $\varepsilon > h$. Define m as $\varepsilon/\varepsilon - h$; assume that ε and h are constant; and note that $m > 1$. Average cost is given by $C = W^*(1 + r) + T$, where W^* is wholesale price exclusive of tax, r is the wholesale tax rate and T denotes other costs incurred by the retailer per unit of sales. Hence $P = m[W^*(1 + r) + T]$. Given these assumptions, the tax pass-through (the increase in P due to an increase in r with W^* held constant) exceeds one: $\partial P/\partial rW^* = m$. Let W be the wholesale price inclusive of tax. Then $P/W = k$, $k = m[1 + (mT/W)]$. We use a value of k of 1.33 in the computations above. We realize that T/W will change as W increases due to an increase in r , but assume that this effect is small enough to be ignored. Since our estimate of the retail price in Minnesota in 2015 differs from the actual price by only 7 cents, our assumption is very reasonable. Put differently, the tax pass-through to the retail price is approximately 1.33.

¹⁰ See <https://www.publichealthlawcenter.org/sites/default/files/States-with-Laws-Taxing-ECigarettes-September152019.pdf>. More recently Pennsylvania and California have enacted large e-cig taxes, which can be evaluated as additional waves of data become available. D.C. imposed a tax on e-cigs in late 2015 after the 2015 CPS-TUS data were collected. We limit our data to waves prior to 2018 to draw a sharp contrast between the first state to enact an e-cig tax and all other states and to have a long-enough post period for potential effects to develop.

percent of the wholesale price, the MN tax remains the highest tax on e-cigs imposed by any U.S. state.

Our aim in this paper is to evaluate the effect of the imposition of a large excise tax on electronic cigarettes by the state of Minnesota on responses by adult smokers ages 18 years and older. We do so by examining its impacts on participation in electronic cigarettes and combustible cigarettes in that state and in a comparison group of states. Few people begin to smoke after that age, causing variations in smoking participation to be governed by decisions to start smoking e-cigarettes and to quit smoking combustible cigarettes. As pointed out above, the imposition of the e-cig excise tax raised the price of e-cigs by a substantial amount. Below, we show that the price of e-cigs relative to that of combustible cigarettes also rose in MN, while it fell in the comparison states. Therefore, to get insights into their impacts on smoking participation, we focus on price effects in equations determining the probability of starting to vape and stopping to smoke.

Decisions to start vaping by current vapers depends on a comparison between the money price of vaping and its reservation price. The latter is defined as the monetary value of the marginal utility of vaping, at the point at which no e-cigarettes are purchased. A smoker will not vape if the reservation price is less than the money price, while she will begin to vape if the reverse holds. An increase in the money price will cause some smokers to decide not to begin to vape. Given that consumers who are just at the margin of beginning to vape at the initial price incur fixed costs in the decision-making process, this negative effect can be quite large. These include the cost of the starter kit if a rechargeable device is employed. They also include the need to allocate resources to the acquisition of information about a new product that in part can be characterized as an experience good in the sense that smokers need to try it to decide whether or not they like it. Given the fixed cost, the entry decision also involves comparing the level of utility from two different baskets: one in which no e-cigs are vaped and the other at which a positive number are vaped. There will be one unique relative price at which these two baskets are on the same indifference curve. Hence, the relative price that induces entry must

be smaller than the one that induces entry in the absence of fixed costs. If there are a large number of consumers with the same utility function, the demand function for starting to vape will be infinitely elastic at the relative price at which this occurs.

Another point to note is that under reasonable assumption about the utility function, vaping is less likely if its effect on the marginal utility of smoking is negative rather than positive. Moreover, the larger in absolute value is this cross-utility effect, the more elastic is the demand function for vaping. Smokers who do not vape at the initial money price are more likely to have a negative cross-utility term than those who do vape. The upshot is that fixed costs combined with negative cross-utility terms are likely to cause a significant number of current smokers to begin to vape and to cause some of them to quit smoking altogether when the price of e-cigs falls. The reverse occurs when the price rises.

For current vapers (dual users of e-cigs and combustible cigs) an increase in its price generates an income effect as well as a substitution effect. The latter involves more smoking and less vaping provided that the two goods are net (utility-constant) substitutes while both smoking and vaping fall if the goods are net complements. The income effect causes the consumption of both to fall provided each one has a positive income elasticity. If they are gross (money income-constant) substitutes, smoking will rise and vaping will fall, while both will fall if they are gross complements.

In summary, this analysis suggests that an increase in the price of vaping will reduce starts and quits and raise smoking participation. This prediction becomes somewhat ambiguous if cigs and e-cigs are gross complements. Moreover, it is possible that the price increase induces some smokers who began to vape because they wanted to quit but were not successful to resort to another method that results in successful quits.

The primary data come from the Current Population Survey Tobacco Use Supplements (CPS-TUS), which are sponsored by the National Cancer Institute and administered periodically as part of the Census Bureau's CPS since 1992. The CPS-TUS offers several advantages for our analyses, including large samples and consistent information on smoking behaviors over

time, and measures of smoking on the intensive margin. We use eight available waves of the CPS-TUS, which were fielded in 1992-1993, 1995-1996, 1998-1999, 2001-2002, 2003, 2006-2007, 2010-2011 and 2014-2015. The CPS-TUS is nationally-representative and contains information on about 240,000 individuals within a given wave; it provides a key source of national, state, and sub-state level data regarding smoking and the use of other tobacco products among adults ages 18 and older. This yields a sample of approximately two million adults drawn from repeated cross-sections spanning 1992 to 2015. We rely on aggregate data at the state-level from each wave, and use smoking participation and cigarette consumption as outcome measures.¹¹

The first e-cig tax (35 percent of wholesale price) went into effect in August 2010 in MN, and the subsequent tax hike (to 95 percent) went into effect in July 2013. We consider all waves up to 2010-2011 as the pre-treatment periods. Given that the prevalence of e-cig use in 2010 and 2011 remained quite low (less than 1 percent; see Dave et al. 2019) and given that it may take some time to change smoking habits, any effect of the e-cig tax in 2010 is unlikely to materialize until after 2010. In addition, the 2010-2011 TUS was conducted in May, 2010, August 2010, and January 2011. Data from the 2014-2015 wave of the CPS-TUS are considered the post-treatment period, allowing us to observe any potential effects on adult smokers that may have materialized 2-3 years post MN's e-cig tax.

We employ a difference-in-differences (DD) model to estimate how the e-cig tax hike in MN impacted adult smoking behaviors. The key assumption necessary for the DD estimate to signify an unbiased causal effect is that the control group of states represents a valid counterfactual for MN in the absence of the e-cig tax. Figure 4 plots the trend in the smoking rate in MN and the rest of the U.S. (excluding MA and IL as they substantially increased their cigarette excise in the post-treatment period). Smoking rates in MN and the rest of the U.S., while trending downward over the past two decades, do not appear to be doing so in a lockstep

¹¹ More information on the CPS-TUS can be found at: <https://cancercontrol.cancer.gov/brp/tcrb/tus-cps/questionnaires.html>.

parallel manner. Particularly, the difference in the pre-treatment smoking rate between the two groups is widening over most of the 1990s, then narrows until about 2007, before widening again. Hence, the rest of the U.S. may not be a good counterfactual for what would have happened in MN in the absence of the e-cig tax. Since any downstream effects from e-cig taxes to e-cig use to smoking cessation may be small, they risk being confounded from even relatively small deviations from pre-treatment parallel trends.

We therefore undertake a synthetic control design, following Abadie, Diamond, and Hainmueller (2010), to ensure that the treatment (MN) and control states share common pre-treatment trends in adult smoking outcomes. The algorithm underlying this method assigns weights to each donor state so that any pre-treatment differences in outcomes between MN and the synthetically matched “state” (SMN) are minimized. Hence, by expressly forcing the e-cig tax counterfactuals to have more similar pre-treatment trends, a synthetic control DD design raises the likelihood of satisfying the “parallel trends” assumption.¹²

One challenge in this framework relates to the computation of the correct standard errors, given that there is only a single treatment group and a single control group. Donald and Lang (2007) show that standard significance tests cannot be applied in this case. They refer to Moulton (1990) who shows that in regression models with individual data, the failure to account for the presence of common group errors results in standard errors that are biased downward and consequently overstate significance levels. Clustering the standard errors is not an option with only two groups or clusters. We follow the approach in Donald and Lang (2007), who suggest first computing group means to eliminate the common group error and then computing the difference between the treatment and control group for each period. We then estimate a regression of these differences on an indicator for the post-tax period.

The standard errors may still need to be adjusted for serial correlation of the group difference over time, which can be done by taking adjacent period differences in the outcome

¹² Lagged values of the dependent variable were used as matching variables.

difference between the treated and control groups for each period. This adjustment for serial correlation proposed by Donald and Lang (2007) assumes that the disturbance term follows a random walk. It also assumes time spacing between the data points, which is not the case with the CPS-TUS waves. One option is to drop the 2001-2002 wave, which creates a time series with two three-year gaps and four four-year gaps. In this case, the correlation in the error terms across three-year intervals and four-year intervals is assumed to be approximately similar. We refer to these data as *Wave Differences* in the presentation of the results and tables.

Changes in cigarette prices during the post-treatment period are relevant because they can affect smoking rates in the potential donor pool and in MN outside of any effects due to the e-cig tax. The post-treatment period spans 2011 through mid-2015 as the TUS in 2015 was last collected in May. Minnesota increased its cigarette excise tax by \$1.60 to \$2.83 in July 2013 and by another \$0.07 in January 2015. Massachusetts and Illinois both increased their cigarette excise tax by \$1.00 during the post-treatment period and were therefore dropped from the pool of potential donor states. They were the only states other than MN that enacted large cigarette tax hikes during this period. The range of small cigarette tax increases in the included states during the post-period is from \$0.10 in New Hampshire to \$0.40 in Connecticut.

To understand the effects of these tax changes on e-cig prices and cigarette prices, trends in both and in the relative price are presented in Figures 1-3 for MN and its synthetic control.¹³ Price measures from the Nielsen Retail Scanner data indicate that the average price of a pack of cigarettes in MN in 2011 was \$5.41 and fairly similar at \$5.89 in the synthetic control group (SMN). By 2015 these prices had increase in MN to \$7.83 and \$6.07 in SMN (Figure 2). Figure 3 shows the relative price of e-cigs versus cigarettes in MN and SMN. In 2012, relative prices for both MN and the control group were virtually the same, 0.55 and 0.56 respectively. By 2015, following the tax increase, the relative price in MN had risen to 0.61 and

¹³ SMN is the synthetic control group formed by applying the synthetic weights generated from the smoking participation model. We do not generate new weights specifically for matching prices, since we want to analyze the tax pass-through and effects of the tax on prices based on the same control group for which we analyze smoking outcomes.

fallen in SMN to 0.52. That is, in MN the price of e-cigs rose by 17 percent relative to cigarettes, when compared to SMN.

As predicted by the theory, this increase in the relative price of vaping would lead to a decrease in participation and use of e-cigs. Given the lack of information on e-cig consumption in the pre-treatment period, we focus on what happens to smoking participation. Our focus on cigarette use is also salient in that it directly addresses the harm reduction debate surrounding adult smokers. The increase in the price of e-cigs, and in the relative price of e-cigs is predicted to increase smoking rates given that smoking and vaping are substitutes. This conclusion depends on the relationship between e-cigs and cigarettes and is ultimately an empirical question.

4. Results

As a point of comparison, we start by presenting standard DD estimates utilizing the rest of the U.S. (excluding MN, and MA and IL) as a control group, in Table 1. An alternate specification, following Donald and Lang (2007), is estimated to generate appropriate standard errors that adjust for within-group correlated errors when there is only a single treatment and control group. The model denoted DL1 is based on the difference in the aggregated outcome across the treated group (MN) and the control group, which adjust for within-group and year correlated errors. The model denoted DL2 further corrects for serial correlation (thus adjusting for any correlated errors over time) by further differencing the DL1 data across adjacent waves. These estimates do not indicate any significant effects of the large e-cig tax in MN on smoking rates. The effects however may be biased due to differential pre-treatment trends between MN and the rest of the U.S. (Figure 4), and we therefore rely on the synthetic control approach to generate a more suitable counterfactual for MN.

Tables 2-4 present estimates from synthetic control DD models for three smoking outcomes. In Table 2, we report estimates of the effects on current smoking prevalence, which is the percentage of adults who reported ever smoking at least 100 cigarettes and who currently

smoke every day or some days. The corresponding event study graph comparing MN with synthetic MN is in Figure 5. It is evident from the figure that the control group here matches MN virtually lockstep with respect to changes in the smoking rate in all of the pre-treatment periods, with a divergence observed only after the imposition of the large e-cig tax. Estimates in Table 2 confirm the graphical evidence that the e-cig tax in MN is associated with a significant increase in the prevalence of smoking among adults. Estimates from the first two specifications indicate an increase in smoking prevalence by almost one percentage point (0.8 to 0.9 percentage points), representing about a 5.4 percent increase relative to the immediate pre-treatment mean in MN. Ideally the time-differenced data used in the DL2 model should be based on the same spacing between adjacent periods. However, given the staggered nature of the CPS-TUS surveys, the spacing is somewhat uneven.¹⁴

We alternately tested for statistical significance based on a permutation of placebo tests, in the spirit of Abadie, Diamond and Hainmueller (2010) as modified by Bedard and Kuhn (2012) and Stearns (2015). This placebo test alternatively assumes that each state is the treatment state and finds a synthetic control group for that placebo. Then we estimate the DL2 specification for all placebo states. This provides a p-value for the treatment effect for each placebo state, generating a distribution of p-values. Finally, we compare the actual treatment state's (MN) position in this distribution of p-values in order to gauge whether the results could be generated due to chance. For example, if 49 states are used and MN has the highest p-value of all states, then the test statistic would be $1/49 = 0.02$. This would be interpreted as a 2 percent probability that the outcome for MN was due to chance. This placebo p-value is presented in the graphs for each outcome.

For the model for current smoking prevalence, the placebo test found that MN had the second smallest p-value out of 49 states, implying about a 4 percent probability of a Type 1 error. Figure 5 and the treatment effects in Table 2 show that smoking increased in MN relative

¹⁴ Note that a relatively large t-statistic is needed to achieve statistical significance due to the small sample sizes with group-period aggregated data.

to the control group following the e-cigarette tax. Because the relative price of e-cigs increased in MN compared to SMN (Figure 3), these results imply that cigarettes and e-cigs are substitutes among current smokers.

For adults, any changes in smoking prevalence are very unlikely to reflect the initiation margin (given that most current smokers have initiated by age 19 or 20). Changes in smoking prevalence then reflects mostly the cessation margin or possibly the relapse margin from former to current smoking. In Figure 6, with corresponding DD estimates in Table 3, we report effects on smoking cessation, by defining the ratio of the number of individuals who smoked but recently quit (former smokers) divided by the number of ever smokers. Trends in this outcome are virtually identical between MN and the control group. The placebo test indicated that MN had the third smallest p-value out of 49 iterative state tests, implying about a 6% probability of a Type I error. Estimates in Table 3 indicate that the e-cig tax in MN led to a decrease in quitting by about 1.14 percentage points, which is the same order of magnitude as in the models for smoking prevalence. This suggests that virtually all of the increase in current smoking prevalence in MN, associated with the e-cig tax, is driven by a decrease in successful quits.

Finally, we also consider whether the e-cig tax led to any changes in cigarette consumption at the intensive margin. That is, even if smokers in MN may not have quit, did they reduce their consumption of combustible cigarettes? Cigarettes per day may decline, for instance, as smokers may be trying to cut down as a progressive step toward cessation. Figure 7, and the corresponding estimates in Table 4, indicate that this is not the case. Cigarettes per day are not reported for 2003 and thus, for this variable, the 2002 data are used. We do not find any significant change in the number of cigarettes consumed among current everyday smokers in MN relative to the control group following the e-cig tax.

As a robustness check, we also tested data on current smoking prevalence from the Behavioral Risk Factor Surveillance System (BRFSS). The BRFSS is a cross-sectional telephone survey that state health departments conduct by phone with a standardized questionnaire and technical assistance from CDC. The BRFSS is based on between 355,000 to

506,000 interviews each year between 2006 and 2017. The sample period begins in 2006 because in that year the CDC introduced a new weighting method to insure a representative sample at the state level. Another issue with the BRFSS is that it changed its survey design in 2011, which is also the first period of the treatment. The 2011 BRFSS data reflects a change in weighting methodology and the addition of cell phone only respondents. This change is evident in figure 8 as a jump in the smoking rate in 2011. However, because this change affected all states it should not lead to any systematic differential between MN and the control states. Again, MA and IL are dropped from the control pool because of large increases in the cigarette tax in the post-period. Figure 8 presents the graph comparing MN and its synthetic control group from the BRFSS. While the smoking rates in the BRFSS are noisier than those in the TUS, pre-treatment trends are well-balanced between the treatment and the control. There is a small apparent effect in 2011 which was not seen in the TUS data. The reason for this is likely because the 2011 TUS data is for 2010-2011 and primarily reflects 2010. The BRFSS effect size gets larger with the exception of 2013, which might be due to a transitory effect of the 2013 cigarette tax increase in MN. The placebo test resulted in a value of $p < .13$.

The DL1 results in table 5 suggest that smoking prevalence increased in MN following the e-cig tax relative to the control group. Effect magnitude for the entire post period is similar to the effect estimated from the TUS and suggests an increase in smoking prevalence of about 1 percentage point. The serial correlation adjustment used in DL2 is not useful with the BRFSS data because it measures only the effect in the first post period rather than the average effect over the entire post period (see the second regression in table 5). As an alternative we specify a model with lagged effects of the e-cig tax for each post-policy period, which is a post period event history study. All the post dummies are equal to 0 in 2006-2010. Then, $post_0 = 1$ in 2011 and equals 0 in all other post years. $post_1 = 0$ in 2011, equals 1 in 2012 and 0 in all other post years, etc. This is a model in level form. We then define the time difference specification to account for serial correlation. This regression provides the correct standard errors and 95 percent confidence intervals for each of the 7 post-year differences. These data are presented

in figure 9. The average effect over the seven years is 1.0084 with a standard error = 0.5488 and p-value < 0.14. This average value is slightly smaller than the value of 1.0404 in the level model (DL1). Also, the confidence intervals for all post periods includes the numeric value 1. Confidence in the conclusions are enhanced because both the BRFSS models and the TUS models predict about a 1 percentage point increase in smoking participation due to the tax.

5. Conclusions

The results presented in this study provide some of the first evidence on whether, and the extent to which, e-cig taxation affect adult smoking behaviors. We exploit the natural experiment provided by MN, the first state to impose a tax on e-cigs. Because the cross effects of a tax on e-cigs on smoking outcomes may be small, a large tax change is necessary to reliably detect such effects in population surveys. Also, because quitting smoking takes time, MN's early adoption of the large e-cig tax makes it possible to study effects on cessation that may take time to materialize. We find consistent and robust evidence that the e-cig tax in MN increased adult smoking relative to what it would have been in the absence of this tax. MN included e-cigs with other non-cigarette tobacco products when increasing the tax on these goods. This inclusion was based on the assumption that e-cigs are a hazard and not a cessation aid such as nicotine replacement products, which are not similarly taxed. It is not known at this time whether these results are generalizable to other states. Higher e-cig taxes are predicted to reduce e-cig consumption, and if the results from MN carry over to other states that have imposed taxes very recently, then they suggest that these taxes will also reduce quit rates in these states among adult smokers.

The results from the TUS and the BRFSS allow us to estimate the cross-price elasticity of current smoking participation with respect to e-cig prices. The e-cig price data prior to 2012 is based on a limited sample of observations, which may introduce bias. Thus, we estimate the changes in price using data from 2012 onward. As shown in figure 1, the price of e-cigs in MN and SMN were about the same in 2012. The e-cig tax increase of 60 percent (change from 35

percent to 95 percent) of the wholesale price in 2013 led to about a 50 percent increase in the price of e-cigs in MN in 2015 relative to the synthetic control. Given the large percentage increase in price, we estimate the arc price elasticity, which allows for the possibility that the elasticity may not be constant over the entire range of the smoking participation equation. The DD estimates indicate that this change is associated with about a 0.8 percentage point increase in current smoking prevalence, which is about a 5.4 percent increase in MN relative to its control. Division of the increase in price of \$1.61 by the average of the SMN and MN price in 2015 of \$3.96 yields a 40.7 percent increase in price and an arc cross-price elasticity of 0.13.

This estimate is a lower bound because the simultaneous increase in cigarette prices would have decreased smoking.¹⁵ It is notable that the much more modest 17 percent increase in the relative price of e-cigarettes was accompanied by an approximate 5 percent increase in smoking participation. That suggests that if states raise cigarette and e-cigarette taxes by substantial amounts at the same time, smoking will rise if the relative price of e-cigarettes rises.

In 2014 there were about 600,000 adult smokers in Minnesota. Our estimates indicate that the e-cig tax deterred about 32,400 adult smokers from quitting. Currently there are approximately 34 million adult smokers. If the Minnesota tax had been a national one, we estimate that it would have deterred around 1.83 million smokers from quitting.¹⁶ Some have suggested that e-cigs should be taxed at the same rate as cigarettes. Implementation of that policy would raise the price of e-cigs by approximately 62 percent, increase smoking participation by 8.1 percent, and deter approximately 2.75 million smokers from quitting.¹⁷

¹⁵ The simultaneous increase in other non-cigarette tobacco prices would probably have had a small positive effect on cigarette smoking offsetting some of the effects of higher cigarette taxes.

¹⁶ This figure is obtained by multiplying 600,000 by the percentage increase in smoking participation divided by 100 ($600,000 \times 0.054 = 32,400$). If MN data apply to the entire US, $0.054 \times 34 \text{ million} = 1.83 \text{ million}$.

¹⁷ A JUUL pod contains the nicotine equivalent of a pack of cigarettes and costs about \$4.00. The combined federal cigarette tax and state average cigarette tax is \$2.73 per pack. A tax of \$2.73 with a pass-through of 1.33 (see note 8) would raise the price by of e-cigs by \$3.63, which is an increase of 62 percent relative to an average of the initial and the final price. Divide that figure by 100 and then multiply the result by the arc cross-price elasticity of 0.13 to get an increase in smoking participation of 0.081 or 8.1 percent. Multiplication of the former number by 34 million gives 2.75 million.

While these increases may appear to be large, they are likely to be realized over a period as long as a decade. That is the short-run impact of the price hikes are likely to be much smaller than the long-run impacts. To put this in a somewhat different perspective, a projection of current trends in the number of smokers who quit over the next decade suggests that around 11 million smokers will quit by the end of that decade.¹⁸ Our computations imply a reduction in that number by around 25 percent.

Our study addresses how e-cig use impacts adult smoking, which represents one side of the policy debate surrounding e-cigs. For adolescents, nicotine addiction, the potential progression from vaping to smoking, and the growing percentage of using e-cigs are also important considerations in this policy debate. E-cigs are considered to be harmful to youth due to the effect of nicotine on the developing brain and due to the potential for vaping to lead to nicotine addiction (regardless of whether or not the youth transitions to smoking). While the results from this study indicate that e-cigs may help adult smokers to quit smoking and thus lead to a decrease in smoking-related harms, this needs to be balanced against the goal of reducing vaping and nicotine use among youth. Deterrents to adolescent use include raising the national minimum purchase age to 21, allocating resources to enforcing that law, enacting stiff fines for violating it, and banning flavors and marketing targeted at youth. The public health benefits of not taxing e-cigarettes must be weighed against effects of this decision on efforts to reduce vaping by youth.

¹⁸ Currently, approximately 1.3 million smokers quit each year, which implies a quit rate of 0.038 (3.8 percent). If there are no starters or relapsers, there would be $(0.962)^{10} \times 34$ million = 23 million remaining smokers ten years hence and 11 million quitters over that period. If the net percentage reduction in the number of smokers is less than 3.8 percent, we overestimate the number quitters.

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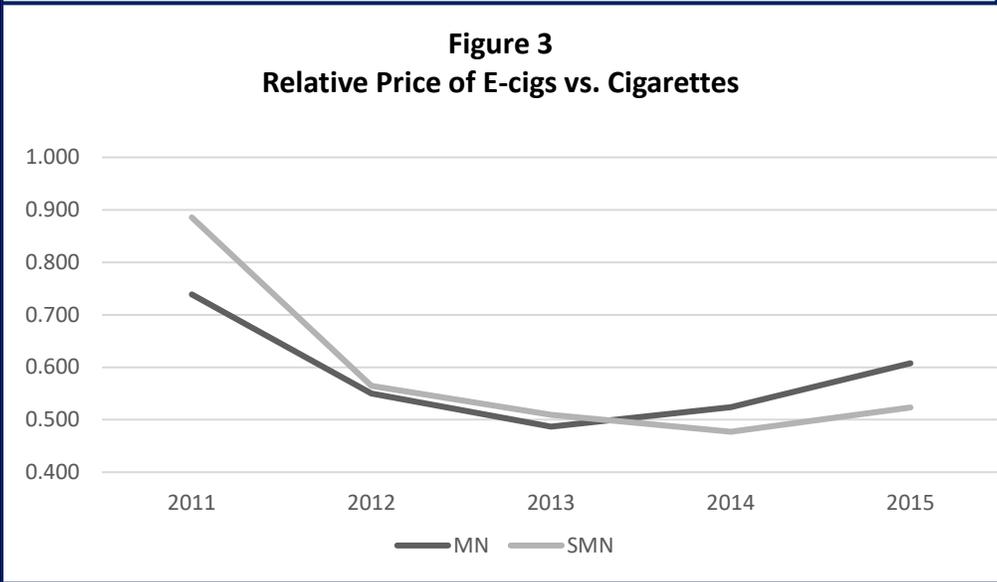
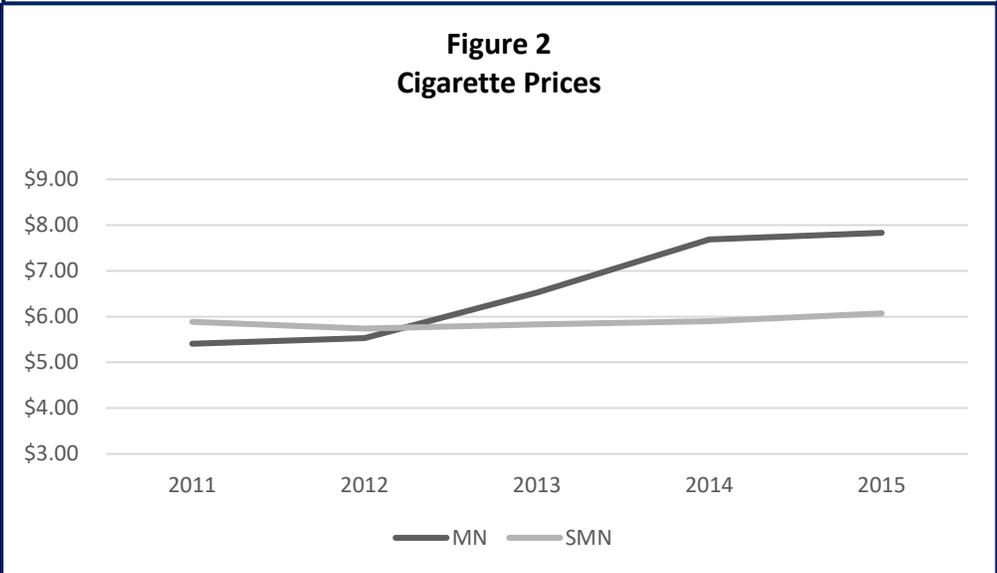
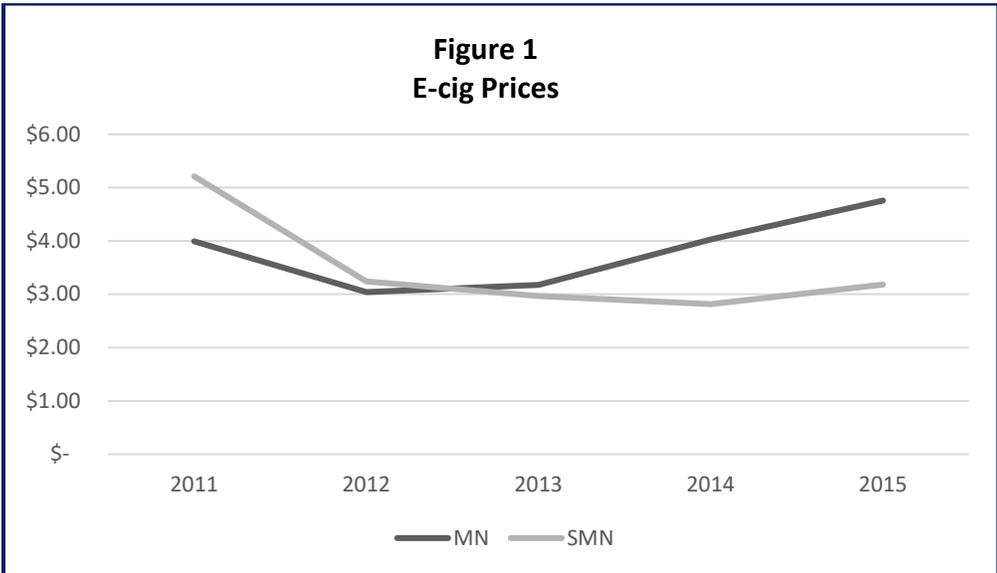
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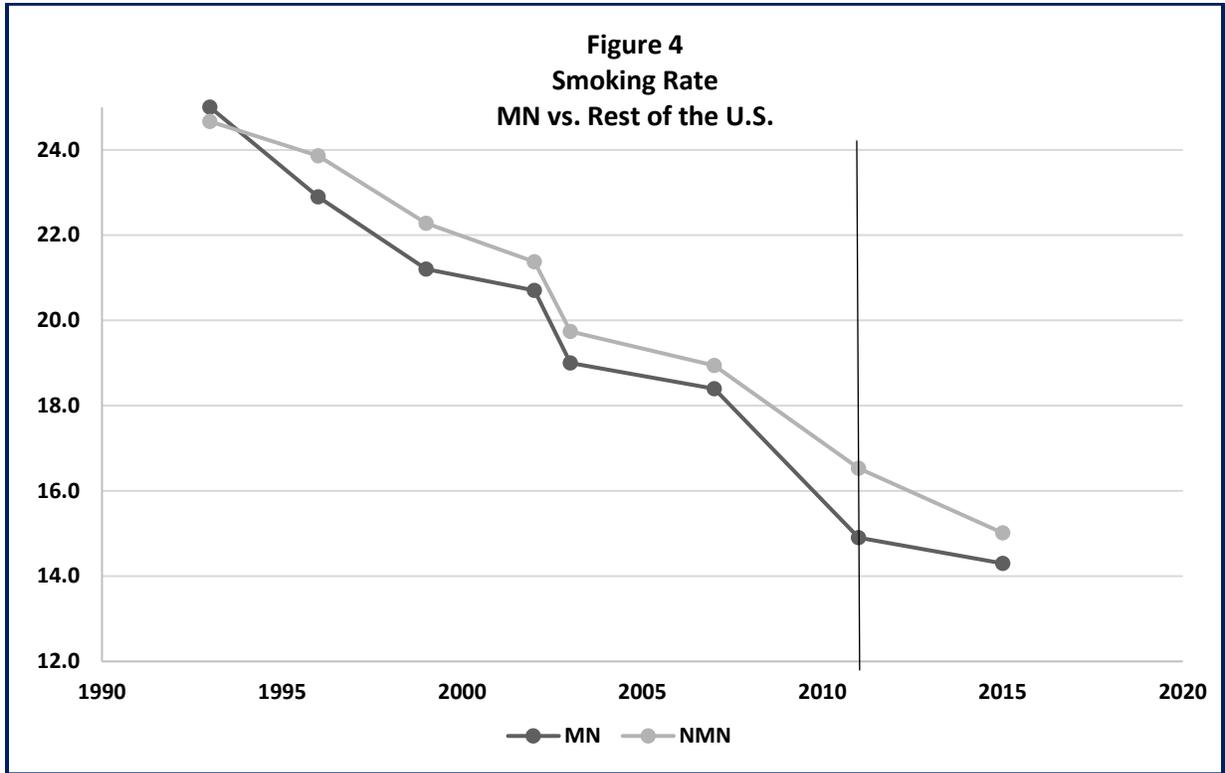
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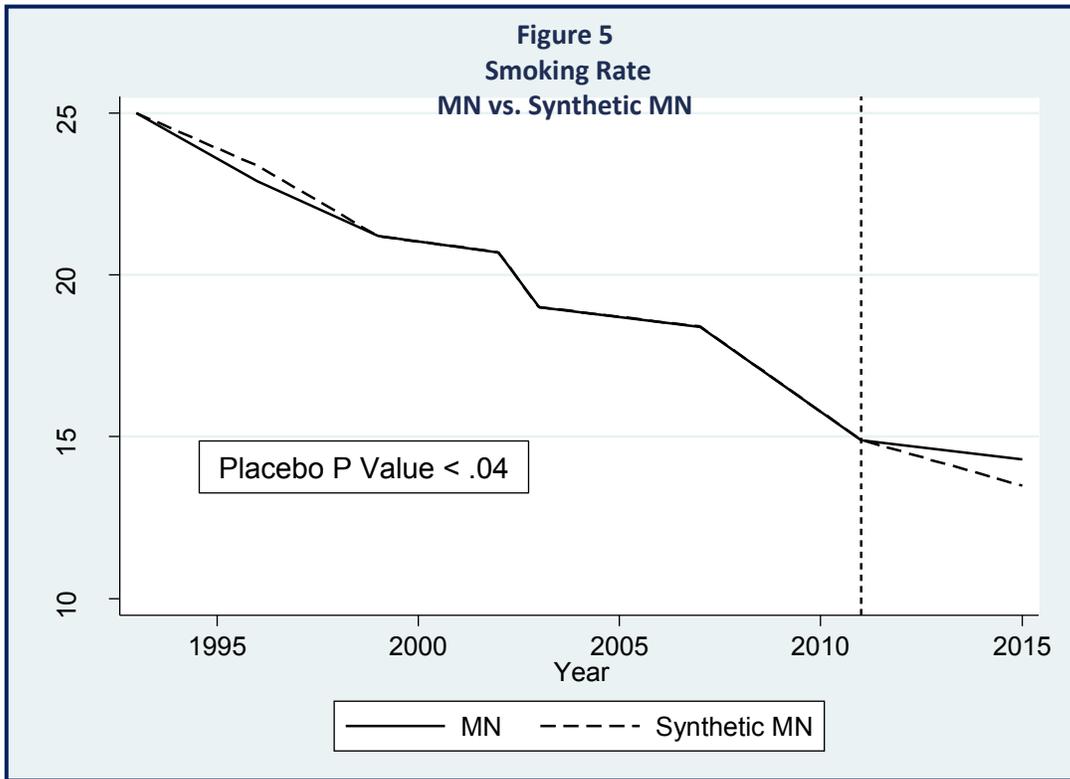


Note: Price computations are based on the Nielsen Scanner Data for MN and synthetic MN.



Note: NMN is the population-weighted average smoking rate for the rest of the U.S. excluding MN. IL and MA are excluded from the rest of the U.S. (see text).

Model type	Data	Treatment Effect	Standard Error	t-value	P-value
DL1	Levels	-0.0289	0.6416	-0.04	0.966
DL2	Wave Differences	0.9200	0.6320	1.46	0.196



Model type	Data	Coefficient of the treatment variable	Standard Error	t-value	P-value
DL1	Levels	0.9264***	0.2094	4.42	0.004
DL2	Wave Differences	0.8449**	0.3250	2.60	0.048

Note: 2002 data are not used in the model for Wave Differences. Asterisks denote significance as follows: *** p-value \leq 0.01, ** 0.01 < p-value \leq 0.05, * 0.05 < p-value \leq 0.10.

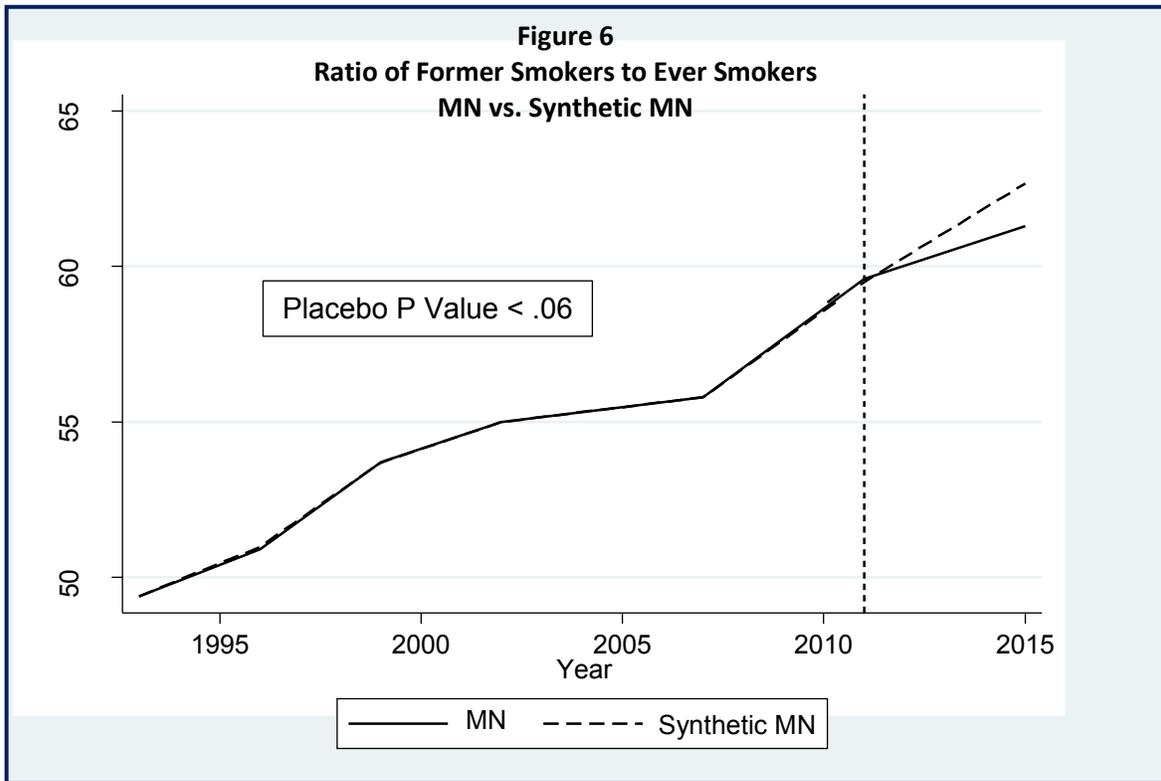


Table 3
Effect of the MN E-cigarette Tax on Ratio of Former Smokers
DD: MN vs. Synthetic MN

Model type	Data	Coefficient of the treatment variable	Standard Error	t-value	P-value
DL1	Levels	-0.9526***	0.1870	5.09	0.002
DL2	Wave Differences	-1.2326***	0.2425	5.08	0.004

Note: 2002 data are not used in the model for Wave Differences. Asterisks denote significance as follows: *** p-value \leq 0.01, ** 0.01 < p-value \leq 0.05, * 0.05 < p-value \leq 0.10.

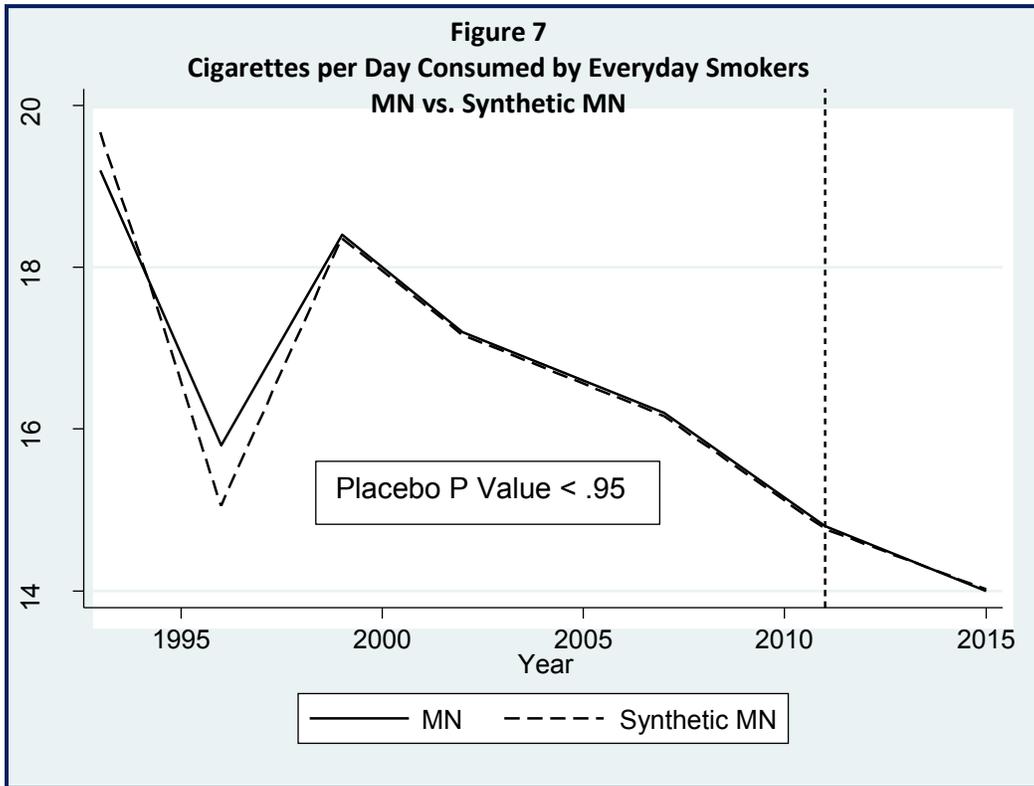
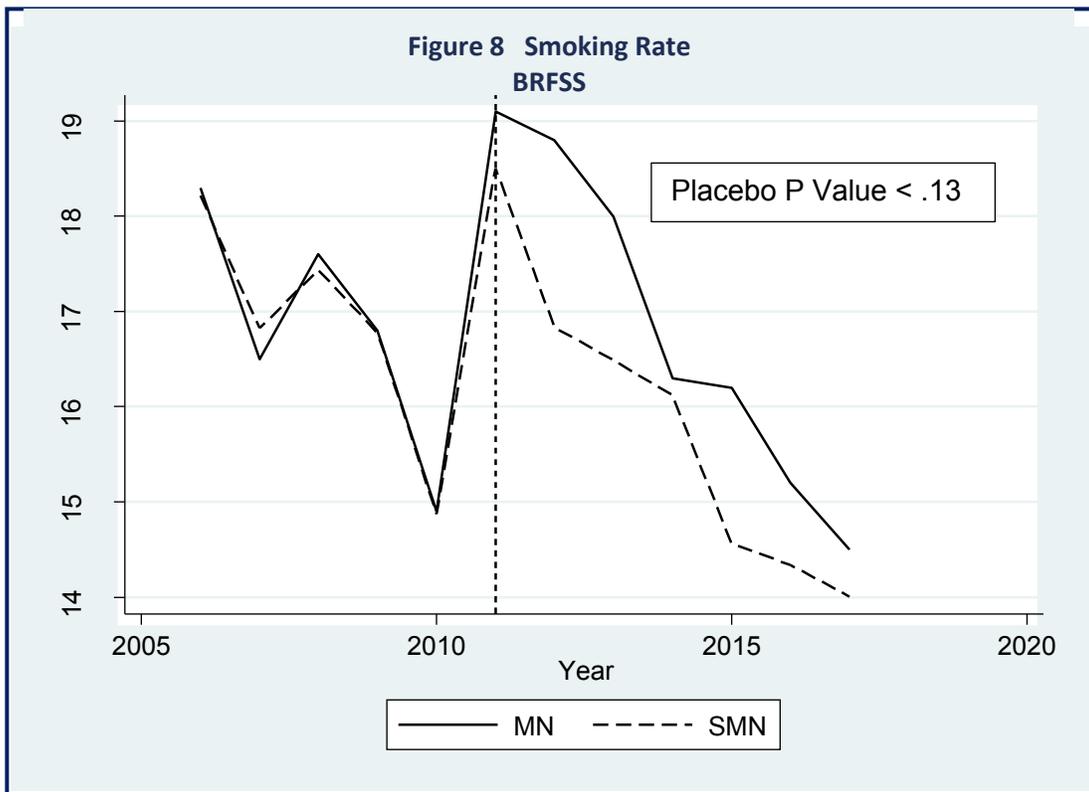


Table 4
Effect of the MN E-cigarette Tax on Daily Cigarette Consumption (Intensive Margin)
DD: MN vs. Synthetic MN

Model type	Data	Coefficient of the treatment variable	Standard Error	t-value	P-value
DL1	Levels	0.0885	0.4195	0.21	0.841
DL2	Wave Differences	0.0517	0.6298	0.08	0.938

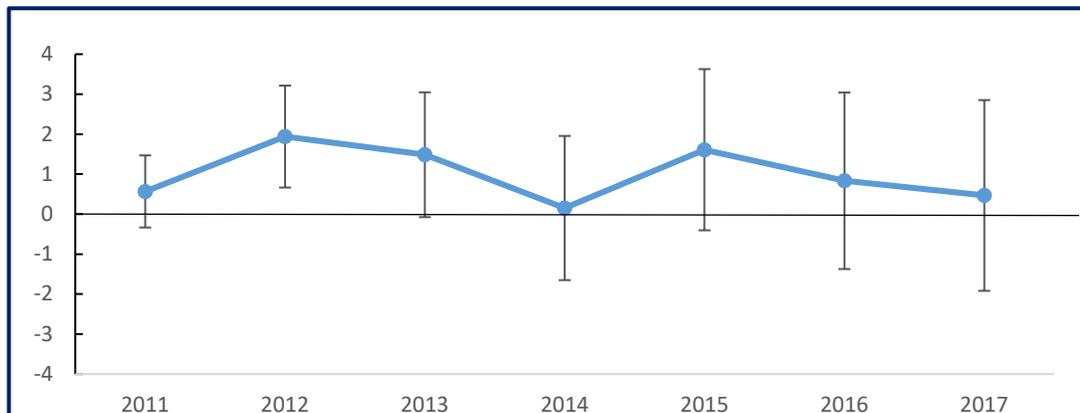
Note: Data on cigarettes consumed are not available for 2003. Asterisks denote significance as follows: *** p-value \leq 0.01, ** 0.01 < p-value \leq 0.05, * 0.05 < p-value \leq 0.10.



**Table 5
Effect of the MN E-cigarette Tax on Smoking Rate from the BRFSS
DD: MN vs. Synthetic MN**

Model type	Data	Coefficient of the treatment variable	Standard Error	t-value	P-value
DL1	Levels	1.0404***	0.3124	3.33	0.008
DL2	Year Differences	0.5677	0.8457	0.67	0.517

**Figure 9
BRFSS Effects of Lagged Treatment Variables with 95% confidence intervals**



3. Truth Initiative Fact Sheet – Minnesota

Tobacco use in Minnesota 2019

Jun. 28, 2019 | 3 min read

Cigarette use: Minnesota

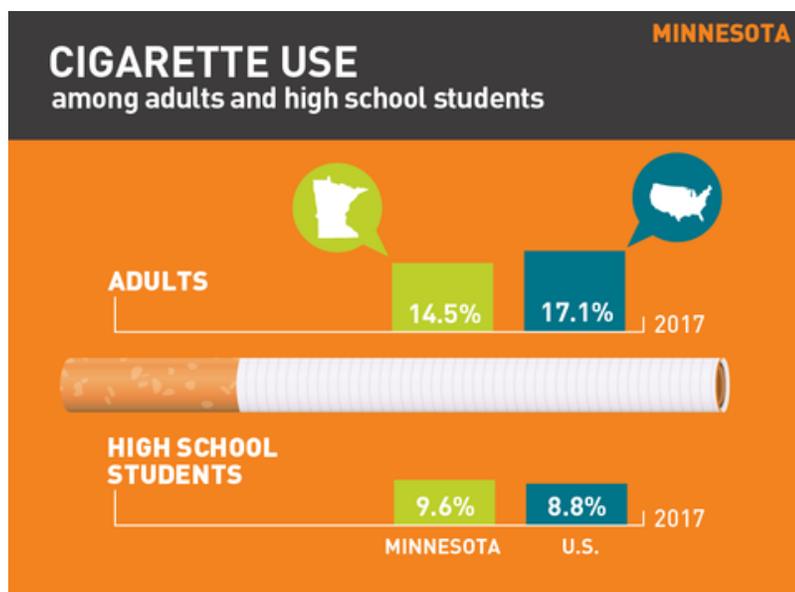
- In 2017, 14.5% of adults smoked. Nationally, the rate was 17.1%.¹
- In 2017, 9.6% of high school students in Minnesota smoked cigarettes on at least one day in the past 30 days. Nationally, the rate was 8.8%.^{2,3}

TOPIC

Smoking by
Region

SUBTOPIC

State Facts

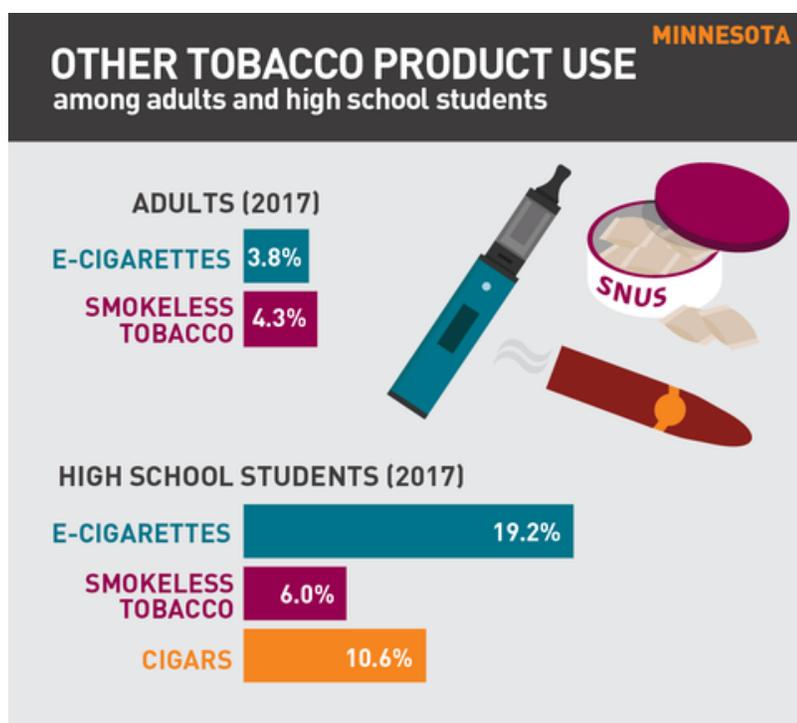


Other tobacco product use: Minnesota

- In 2017, 3.6% of adults used e-cigarettes and 4.8% used

smokeless tobacco.⁴

- In 2017, 19.2% of high school students in Minnesota used electronic vapor products on at least one day in the past 30 days.²
- In 2017, 6.0% of high school students in Minnesota used chewing tobacco, snuff or dip on at least one day in the past 30 days.²
- In 2017, 10.6% of high school students in Minnesota smoke cigars, cigarillos or little cigars on at least one day in the past 30 days.²



Economics of tobacco use and tobacco control

- Minnesota received \$703.6 million (estimated) in revenue from tobacco settlement payments and taxes in fiscal year 2019.³
- Of this, the state allocated \$17.3 million in state funds to tobacco prevention in fiscal year 2019, 32.7% of the Centers

for Disease Control and Prevention's annual spending target.³

- Smoking-caused health care costs: \$2.51 billion per year.⁵
- Smoking-caused losses in productivity: \$1.54 billion per year.⁶



Minnesota tobacco laws

Tobacco taxes

- Minnesota is ranked 8th in the U.S. for its cigarette tax of \$3.04 per pack (enacted January 2018), compared to the national average of \$1.81. (The District of Columbia has the highest tax at \$4.50 and Missouri has the lowest at 17 cents.)⁵⁻⁷
- Moist snuff containers weighing less than 1.2 ounces are taxed at the greater of 95% of the wholesale price or a minimum price equal to the cigarette tax at each container. Moist snuff containers weighing more than 1.2 ounces are taxed at the greater of 95% of the wholesale price or a minimum tax equal to the cigarette tax on each container multiplied by the number of ounces of moist snuff in the container, divided by 1.2 (container = smallest consumer-size can, package or other container that is marketed or packaged by an entity for separate sale to a retail

purchaser).

- Premium cigars are taxed at 95% of the wholesale or 50 cents per cigar, whichever is less.
- All other tobacco products, including e-cigarettes, are taxed at 95% of the wholesale sales price.^{7,8}

Clean indoor air ordinances

- Smoking is prohibited in all government workplaces (workplaces with two or fewer employees are exempt), private workplaces (workplaces with two or fewer employees are exempt), schools, childcare facilities, restaurants, bars, casinos/gaming establishments (tribal establishments are exempt), retail stores and recreational/cultural facilities.⁶
- The use of e-cigarettes is prohibited in day care and health facilities, government owned or operated buildings, facilities owned by Minnesota state colleges and universities, the University of Minnesota, facilities licensed by the commissioner of human services, and in public and charter schools and any facility or vehicle owned, rented or leased by a school district.⁹

Youth access laws

- The minimum age to purchase tobacco products in Minnesota is 21. In December 2019, the United States adopted a law raising the federal minimum age of sale of all tobacco products to 21, effective immediately.
- Minors are prohibited from buying nicotine delivery products, including e-cigarettes.⁵
- Self-service sales are prohibited, except in adult-only facilities.^{7,8}

Local tobacco laws

- Minneapolis and 33 other localities in the state raised their minimum age requirement for the purchase of tobacco products to 21.¹⁰

- In Minneapolis and St. Paul, the sale of flavored tobacco products is restricted to tobacco product shops. The sale of menthol flavored tobacco products is prohibited except in adult-only tobacco shops and liquor stores.^{11,12}
- In Duluth, Falcon Heights and Lauderdale, the sale of flavored tobacco products, including menthol, is prohibited except in adult-only tobacco stores.¹³⁻¹⁵
- In Mendota Heights, Robbinsdale, Shoreview and St. Louis Park, the sale of flavored tobacco products is prohibited except in adult-only tobacco stores. Menthol, mint and wintergreen flavors are exempt from the restriction.¹⁶⁻¹⁹
- In Arden Hills, the sale of all flavored tobacco products is prohibited.²⁰
- In Minneapolis, Robbinsdale and St. Paul, the minimum price for cigars (after coupons and discounts have been applied and before sales tax) is \$2.60 for a single cigar, \$5.20 for a 2-pack or “double” pack, \$7.80 for a 3-pack and \$10.40 for packs with four or more cigars.^{12,17,21}
- Rock County prohibits pharmacies from selling tobacco products.²²

Quitting statistics and benefits

- The CDC estimates 46% of daily adult smokers in Minnesota quit smoking for one or more days in 2017.⁴
- In 2014, the Affordable Care Act required that Medicaid programs cover all tobacco cessation medications.^{8**}
- Minnesota’s state quit line invests \$13.18 per smoker, compared to the national average of \$2.21.⁸
- Minnesota does not have a private insurance mandate provision for cessation.⁸

Notes and references

Updated April 2019

*National and state-level prevalence numbers reflect the most recent data available. This may differ across state fact sheets.

**The seven recommended cessation medications are NRT gum, NRT patch, NRT nasal spray, NRT inhaler, NRT lozenge, Varenicline (Chantix) and Bupropion (Zyban).

Fiore MC, et al. Treating Tobacco Use and Dependence: 2008 Update. Clinical Practice Guideline. Rockville, MD: US Department of Health and Human Services. Public Health Service: May 2008.

1. CDC, Behavioral Risk Factor Surveillance System, 2017.
2. Minnesota Youth Tobacco Survey, 2017.
3. CDC, Youth Risk Behavior Surveillance System, 2017.
4. CDC, Behavioral Risk Factor Surveillance System, State Tobacco Activities Tracking and Evaluation System, 2017.
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18. The Association for Nonsmokers-Minnesota. Shoreview

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4. Truth Initiative Fact Sheet – Maryland

Tobacco use in Maryland 2019

Jun. 28, 2019 | 3 min read

Cigarette use: Maryland

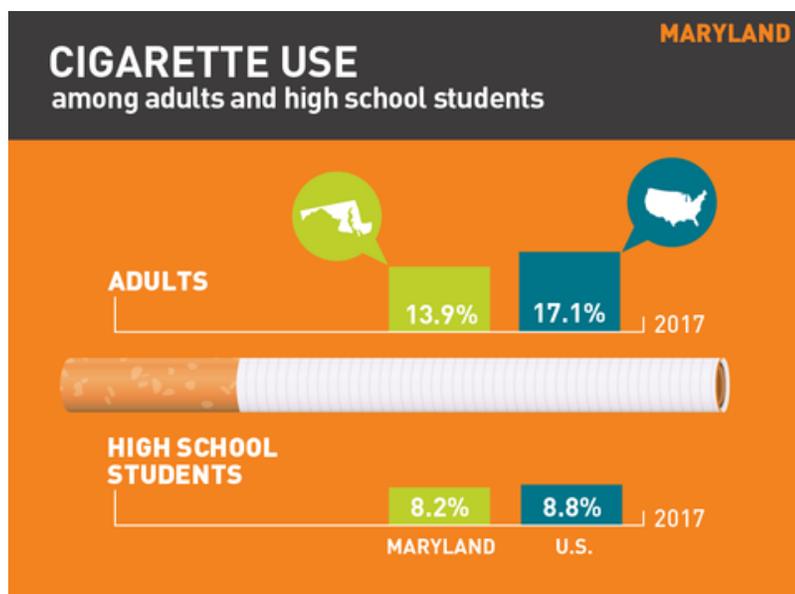
- In 2017, 13.9% of adults smoked. Nationally, the rate was 17.1%.¹
- In 2017, 8.2% of high school students in Maryland smoked cigarettes on at least one day in the past 30 days. Nationally, the rate was 8.8%.²

TOPIC

Smoking by
Region

SUBTOPIC

State Facts

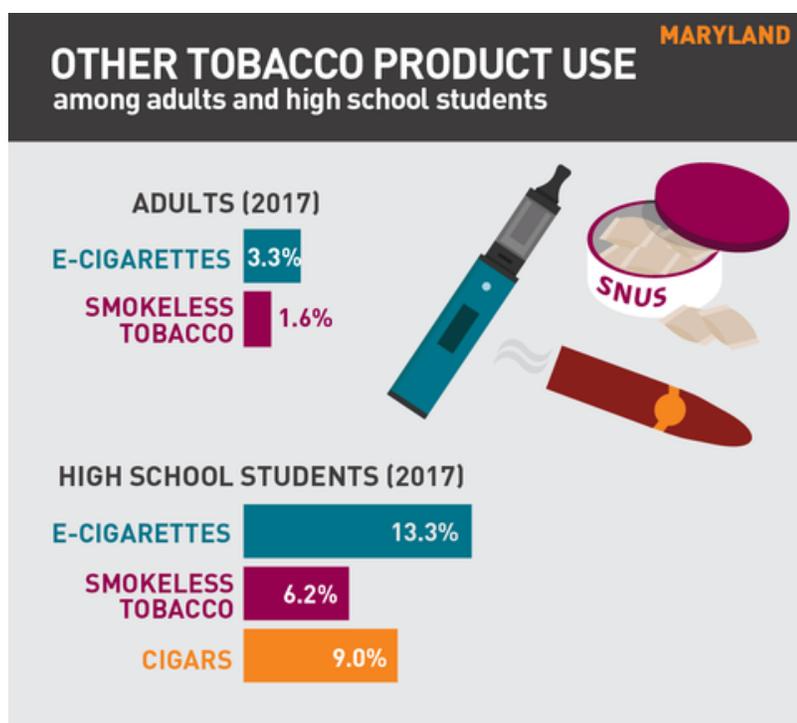


Other tobacco product use: Maryland

- In 2017, 3.3% of adults used e-cigarettes and 1.6% used

smokeless tobacco.³

- In 2017, 13.3% of high school students in Maryland used electronic vapor products on at least one day in the past 30 days. Nationally, the rate was 13.2%.²
- In 2017, 6.2% of high school students in Maryland used chewing tobacco, snuff or dip on at least one day in the past 30 days. Nationally, the rate was 5.5%.²
- In 2017, 9.0% of high school students in Maryland smoked cigars, cigarillos or little cigars on at least one day in the past 30 days. Nationally, the rate was 8.0%.²



Economics of tobacco use and tobacco control

- Maryland received \$525 million (estimated) in revenue from tobacco settlement payments and taxes in fiscal year 2019.⁴
- Of this, the state allocated \$10.5 million in state funds to tobacco prevention in fiscal year 2019, 21.8% of the Centers for Disease Control and Prevention's annual spending

target.⁴

- Smoking-related health care costs: \$2.71 billion per year.⁴
- Smoking-related losses in productivity: \$2.22 billion per year.⁵



Maryland tobacco laws

Tobacco taxes

- Maryland is ranked 17th in the U.S. for its cigarette tax of \$2 per pack (enacted January 2008), compared with the national average of \$1.81. (The District of Columbia has the highest tax at \$4.50 and Missouri has the lowest at 17 cents.)⁶⁻⁸
- Cigars are taxed at 70% of the wholesale price and premium cigars are taxed at 15% of the wholesale price. All other tobacco products are taxed at 30% of the manufacturer's list price.^{6,7}

Clean indoor air ordinances

- Smoking is prohibited in all government and private workplaces, schools, childcare facilities, restaurants, bars, casinos/gaming establishments, retail stores and recreational/cultural facilities.⁷

- No smoke-free restrictions exist for e-cigarette use.⁹

Youth access laws

- The minimum age to purchase tobacco products in Maryland is 21. In December 2019, the United States adopted a law raising the federal minimum age of sale of all tobacco products to 21, effective immediately.
- Minors are prohibited from buying electronic smoking devices, including e-cigarettes.^{6,7}

Quitting statistics and benefits

- The CDC estimates that 50.4% of daily adult smokers in Maryland quit smoking for one or more days in 2017.³
- In 2014, the Affordable Care Act required that Medicaid programs cover all quit medications.^{7**}
- Maryland's state quit line invests \$3.39 per smoker, compared with the national average investment per smoker of \$2.21.⁷
- Maryland does have a private insurance mandate provision for cessation.⁷

Notes and references

Updated April 2019

*National and state-level prevalence numbers reflect the most recent data available. This may differ across state fact sheets.

**The seven recommended quitting medications are NRT gum, NRT patch, NRT nasal spray, NRT inhaler, NRT lozenge, Varenicline (Chantix) and Bupropion (Zyban).

Fiore MC, et al. Treating Tobacco Use and Dependence: 2008 Update. Clinical Practice Guideline. Rockville, MD: US

Department of Health and Human Services. Public Health Service: May 2008.

1. CDC, Behavioral Risk Factor Surveillance System, 2017.
2. CDC, Youth Risk Behavior Surveillance System, 2017.
3. CDC, Behavioral Risk Factor Surveillance System, State Tobacco Activities Tracking and Evaluation System, 2017.
4. Campaign for Tobacco-Free Kids, Broken Promises to Our Children: a State-by-State Look at the 1998 State Tobacco Settlement 20 Years Later FY2019, 2018.
5. Campaign for Tobacco-Free Kids, Toll of Tobacco in the United States.
6. American Lung Association, State Legislated Actions on Tobacco Issues (SLATI).
7. American Lung Association, State of Tobacco Control, 2019.
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<http://www.publichealthlawcenter.org/resources/us-e-cigarette-regulations-50-state-review>.
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https://www.tobaccofreekids.org/assets/content/what_we_do/state_local_issues/sales_21/states_localities_MLSA_21.pdf.

5. Public Health England Study,
E-Cigarettes Are About 95%
Safer Than Smoking

E-cigarettes around 95% less harmful than tobacco estimates landmark review

Expert independent review concludes that e-cigarettes have potential to help smokers quit.

[Public Health England](#)

An [expert independent evidence review](#) published today by Public Health England (PHE) concludes that e-cigarettes are significantly less harmful to health than tobacco and have the potential to help smokers quit smoking.

Key findings of the review include:

- the current best estimate is that e-cigarettes are around 95% less harmful than smoking
- nearly half the population (44.8%) don't realise e-cigarettes are much less harmful than smoking
- there is no evidence so far that e-cigarettes are acting as a route into smoking for children or non-smokers

The review, commissioned by PHE and led by Professor Ann McNeill (King's College London) and Professor Peter Hajek (Queen Mary University of London), suggests that e-cigarettes may be contributing to falling smoking rates among adults and young people. Following the review PHE has published a paper on the [implications of the evidence for policy and practice](#).

The comprehensive review of the evidence finds that almost all of the 2.6 million adults using e-cigarettes in Great Britain are current or ex-smokers,

most of whom are using the devices to help them quit smoking or to prevent them going back to cigarettes. It also provides reassurance that very few adults and young people who have never smoked are becoming regular e-cigarette users (less than 1% in each group).

However, the review raises concerns that increasing numbers of people think e-cigarettes are equally or more harmful than smoking (22.1% in 2015, up from 8.1% in 2013: ASH Smokefree GB survey) or don't know (22.7% in 2015, ASH Smokefree GB survey).

Despite this trend all current evidence finds that e-cigarettes carry a fraction of the risk of smoking.

Emerging evidence suggests some of the highest successful quit rates are now seen among smokers who use an e-cigarette and also receive additional support from their local stop smoking services.

Professor Kevin Fenton, Director of Health and Wellbeing at Public Health England said:

Smoking remains England's number one killer and the best thing a smoker can do is to quit completely, now and forever.

E-cigarettes are not completely risk free but when compared to smoking, evidence shows they carry just a fraction of the harm. The problem is people increasingly think they are at least as harmful and this may be keeping millions of smokers from quitting. Local stop smoking services should look to support e-cigarette users in their journey to quitting completely.

Professor Ann McNeill, King's College London and independent author of the review, said:

There is no evidence that e-cigarettes are undermining England's falling smoking rates. Instead the evidence consistently finds that e-cigarettes are another tool for stopping smoking and in my view smokers should try vaping and vapers should stop smoking entirely.

E-cigarettes could be a game changer in public health in particular by reducing the enormous health inequalities caused by smoking.

Professor Peter Hajek, Queen Mary University London and independent author of the review said:

My reading of the evidence is that smokers who switch to vaping remove almost all the risks smoking poses to their health. Smokers differ in their needs and I would advise them not to give up on e-cigarettes if they do not like the first one they try. It may take some experimentation with different products and e-liquids to find the right one.

Professor Linda Bauld, Cancer Research UK's expert in cancer prevention, said:

Fears that e-cigarettes have made smoking seem normal again or even led to people taking up tobacco smoking are not so far being realised based on the evidence assessed by this important independent review. In fact, the overall evidence points to e-cigarettes actually helping people to give up smoking tobacco.

Free Stop Smoking Services remain the most effective way for people to quit but we recognise the potential benefits for e-cigarettes in helping large numbers of people move away from tobacco.

Cancer Research UK is funding more research to deal with the unanswered questions around these products including the longer-term

impact.

Lisa Surtees, acting director at Fresh Smoke Free North East, the first region where all local stop smoking services are actively promoted as e-cigarette friendly, said:

Despite making great strides to reduce smoking, tobacco is still our biggest killer. Our region has always kept an open mind towards using electronic cigarettes as we can see the massive potential health benefits from switching.

All of our local NHS Stop Smoking Services now proactively welcome anyone who wants to use these devices as part of their quit attempt and increase their chance of success.

Background

PHE's remit letter for 2014 to 2015 requested an update of the evidence around e-cigarettes. PHE commissioned Professors Ann McNeill and Peter Hajek to review the available evidence. The review builds on previous evidence summaries published by PHE in 2014.

The full list of authors of the report are:

- McNeill A, Brose LS, Calder R, Hitchman SC: Institute of Psychiatry, Psychology & Neuroscience, National Addiction Centre, King's College London and UK Centre for Tobacco & Alcohol Studies
- Hajek P, McRobbie H (Chapters 9 and 10): Wolfson Institute of Preventive Medicine, Barts and The London School of Medicine and Dentistry Queen Mary, University of London and UK Centre for Tobacco & Alcohol Studies

Implications of the evidence for policy and practice: Based on the findings of the evidence review PHE advises that:

- e-cigarettes have the potential to help smokers quit smoking, and the evidence indicates they carry a fraction of the risk of smoking cigarettes but are not risk free
- e-cigarettes potentially offer a wide reach, low-cost intervention to reduce smoking in more deprived groups in society where smoking is elevated, and we want to see this potential fully realised
- there is an opportunity for e-cigarettes to help tackle the high smoking rates among people with mental health problems, particularly in the context of creating smokefree mental health units
- the potential of e-cigarettes to help improve public health depends on the extent to which they can act as a route out of smoking for the country's eight million tobacco users, without providing a route into smoking for children and non-smokers. Appropriate and proportionate regulation is essential if this goal is to be achieved
- local stop smoking services provide smokers with the best chance of quitting successfully and we want to see them engaging actively with smokers who want to quit with the help of e-cigarettes
- we want to see all health and social care professionals providing accurate advice on the relative risks of smoking and e-cigarette use, and providing effective referral routes into stop smoking services
- the best thing smokers can do for their health is to quit smoking completely and to quit for good. PHE is committed to ensure that smokers have a range of evidence-based, effective tools to help them to

quit. We encourage smokers who want to use e-cigarettes as an aid to quit smoking to seek the support of local stop smoking services

- given the potential benefits as quitting aids, PHE looks forward to the arrival on the market of a choice of medicinally regulated products that can be made available to smokers by the NHS on prescription. This will provide assurance on the safety, quality and effectiveness to consumers who want to use these products as quitting aids
- the latest evidence will be considered in the development of the next Tobacco Control Plan for England with a view to maximising the potential of e-cigarettes as a route out of smoking and minimising the risk of their acting as a route into smoking

From October this year it will be an offence to sell e-cigarettes to anyone under the age of 18 or to buy e-cigarettes for them. The government is [consulting on a comprehensive array of regulations](#) under the European Tobacco Products Directive.

Photo by [pixelblume](#), used under [Flickr Creative Commons](#)

Please contact PHE press office for:

- the full review [E-cigarettes: an evidence update - A report commissioned by Public Health England](#)
- interviews with PHE spokespeople or the review's independent authors
- case studies of stop smoking services who work with e-cigarette users and smokers who have quit completely with a combination of e-cigarettes and attending a service



Underpinning evidence for the estimate that e-cigarette use is around 95% safer than smoking: authors' note

The estimate that e-cigarette use is around 95% safer than smoking is based on the facts that:

- the constituents of cigarette smoke that harm health – including carcinogens – are either absent in e-cigarette vapour or, if present, they are mostly at levels much below 5% of smoking doses (mostly below 1% and far below safety limits for occupational exposure)
- the main chemicals present in e-cigarettes only have not been associated with any serious risk

Our reviewⁱ aimed to assess whether studies that have recently been widely reported as raising new alarming concerns on the risks of e-cigarettes changed the conclusions of the previous independent review ([Britton and Bogdanovica, 2014](#)) and other reassuring reviews.

We concluded that these new studies do not in fact demonstrate substantial new risks and that the previous estimate by an international expert panel ([Nutt et al, 2014](#)) endorsed in an expert review ([West et al, 2014](#)) that e-cigarette use is around 95% safer than smoking, remains valid as the current best estimate based on the peer-reviewed literature.

Some flavourings and constituents in e-cigarettes may pose risks over the long term. We consider the 5% residual risk to be a cautious estimate allowing for this uncertainty.

Ongoing monitoring is needed to ensure that if any new risks emerge, recommendations to smokers and regulatory requirements are revised accordingly.

On current evidence, there is no doubt that smokers who switch to vaping reduce the risks to their health dramatically.

Professor Ann McNeill
Institute of Psychiatry, Psychology & Neuroscience, National Addiction Centre, King's College London



Public Health
England

Protecting and improving the nation's health

Professor Peter Hajek
Wolfson Institute of Preventive Medicine, Barts and The London School of Medicine and
Dentistry Queen Mary, University of London

ⁱ McNeill et al, [E-cigarettes: an evidence update – A report commissioned by Public Health England](#), Public Health England, August 2015

6. Public Health Consequences Of E-Cigarettes



January 2018

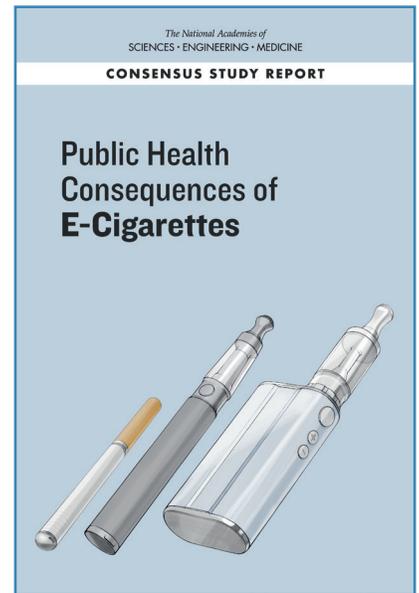
Public Health Consequences of E-Cigarettes

Millions of Americans use electronic cigarettes (e-cigarettes). Young people especially, age 17 and under, have quickly taken up their use: Substantially more young people use e-cigarettes than any other tobacco product, including traditional combustible tobacco cigarettes.

Despite their popularity, little is known about the health effects of e-cigarettes. Perceptions of potential risks and benefits of e-cigarette use vary widely among the public, users of the products, health care providers, and the public health community.

With support from the Center for Tobacco Products of the Food and Drug Administration (FDA), the National Academies of Sciences, Engineering, and Medicine convened an expert committee to conduct a critical, objective review of the scientific evidence about e-cigarettes and health. The resulting report, *Public Health Consequences of E-Cigarettes*, provides an overview of the evidence, recommends ways to improve the research, and highlights gaps that are priority focus areas for future work.

As part of its work, the committee conducted a comprehensive, in-depth review of the scientific literature around e-cigarettes, including key constituents in e-cigarettes, human health effects, initiation and cessation of combustible tobacco cigarette use, and harm reduction. The committee considered the quality of individual studies and the totality of the evidence to provide 47 structured, consistent conclusions on the strength of the evidence (categorized as conclusive, substantial, moderate, limited, insufficient, and no evidence—all defined on the next page).



CONSTITUENTS OF E-CIGARETTES

E-cigarettes contain liquids (called e-liquids), which typically contain nicotine, flavorings, and humectants (to retain moisture).

With respect to nicotine, conclusive evidence shows that exposure to nicotine from e-cigarettes is highly variable. It depends on characteristics of the products, including those of the device and e-liquids, as well as how the device is operated. Substantial evidence also shows that among experienced adult e-cigarette users, exposure to nicotine can be comparable to that from combustible tobacco cigarettes.

Most of the flavorings used in e-cigarettes are generally regarded as safe by the FDA, although these designations relate to oral consumption (flavorings used in food), and most have not been studied for safety when inhaled with an e-cigarette.

The primary humectants are propylene glycol and glycerol (also known as vegetable glycerin). Similar to flavorings, they are generally regarded as safe for ingestion, but less is known about their health effects when inhaled.

Overall, e-cigarette aerosol contains fewer numbers and lower levels of toxicants than smoke from combustible tobacco cigarettes. Nicotine exposure can mimic that found with use of combustible tobacco cigarettes, but it is highly variable. The exposure to nicotine and toxicants from the aerosolization of flavorings and humectants depends on device characteristics and how the device is used.

HEALTH EFFECTS OF E-CIGARETTES

Because e-cigarettes have only been on the U.S. market for a relatively brief time—first imported in 2006, most have entered the market much more recently—it is difficult to scientifically compare their health effects to those of combustible tobacco cigarettes, whose health effects were not fully appreciated until after decades of use. However, in contrast to long-term effects, research on short-term health effects of e-cigarettes is now available.

The committee evaluated the current state of knowledge on outcomes including dependence and abuse liability, cardiovascular diseases, cancers, respiratory diseases, oral diseases, reproductive and developmental effects, and injuries and poisonings.

Overall, the evidence reviewed by the committee suggests that e-cigarettes are not without biological effects in humans. For instance, use of e-cigarettes results in dependence on the devices, though with apparently less risk and severity than that of combustible tobacco cigarettes. Yet the implications for long-term effects on morbidity and mortality are not yet clear.

To see the full text of the committee's conclusions organized by levels of evidence and outcome, visit nationalacademies.org/eCigHealthEffects.

Levels of Evidence for Conclusions

Conclusive evidence: There are many supportive findings from good-quality controlled studies (including randomized and non-randomized controlled trials) with no credible opposing findings. A firm conclusion can be made, and the limitations to the evidence, including chance, bias, and confounding factors, can be ruled out with reasonable confidence.

Substantial evidence: There are several supportive findings from good-quality observational studies or controlled trials with few or no credible opposing findings. A firm conclusion can be made, but minor limitations, including chance, bias, and confounding factors, cannot be ruled out with reasonable confidence.

Moderate evidence: There are several supportive findings from fair-quality studies with few or no credible opposing findings. A general conclusion can be made, but limitations, including chance, bias, and confounding factors, cannot be ruled out with reasonable confidence.

Limited evidence: There are supportive findings from fair-quality studies or mixed findings with most favoring one conclusion. A conclusion can be made, but there is significant uncertainty due to chance, bias, and confounding factors.

Insufficient evidence: There are mixed findings or a single poor study. No conclusion can be made because of substantial uncertainty due to chance, bias, and confounding factors.

No available evidence: There are no available studies; health endpoint has not been studied at all. No conclusion can be made.

The net public health outcome of e-cigarette use depends on the balance between positive and negative consequences.

E-CIGARETTES AND HARM REDUCTION

FDA regulations require that tobacco products introduced to the U.S. market over the past decade must show a net public health benefit. In considering this public health effect, a product must pose less risk to users than combustible tobacco cigarettes. Additionally, if a product caused more people to start harmful tobacco use, or caused fewer people to quit tobacco use, a product would be kept off the market. So separate from the health effects of e-cigarettes, the tobacco control field must pay close attention to the effects of e-cigarettes on starting and quitting combustible tobacco products.

For youth and young adults, there is substantial evidence that e-cigarette use increases the risk of ever using combustible tobacco cigarettes. For e-cigarette users who have also ever used combustible tobacco cigarettes, there is moderate evidence that e-cigarette use increases the frequency and intensity of subsequent combustible tobacco cigarette smoking.

There is insufficient evidence from randomized controlled trials about the effectiveness of e-cigarettes as cessation aids compared to no treatment or to FDA-approved smoking cessation treatments. While the overall evidence from observational trials is mixed, there is moderate evidence from observational studies that more frequent use of e-cigarettes is associated with increased likelihood of cessation.

Overall, the evidence suggests that while e-cigarettes might cause youth who use them to transition to use of combustible tobacco products, they might also increase adult cessation of combustible tobacco cigarettes.

Completely substituting e-cigarettes for combustible tobacco cigarettes conclusively reduces a person's exposure to many toxicants and carcinogens present in combustible tobacco cigarettes and may result in

reduced adverse health outcomes in several organ systems. **Across a range of studies and outcomes, e-cigarettes appear to pose less risk to an individual than combustible tobacco cigarettes.**

To examine the possible effects of e-cigarette use at the population level, the committee used population dynamic modeling. Under the assumption that using e-cigarettes increases the net cessation rate of combustible tobacco cigarettes among adults, the modeling projects that in the short run, use of these products will generate a net public health benefit, despite the increased use of combustible tobacco products by young people. Yet in the long term (for instance, 50 years out), the public health benefit is substantially less and is even negative under some scenarios. If the products do not increase combustible tobacco cessation in adults, then with the range of assumptions the committee used, the model projects that there would be net public health harm in the short and long terms.

RESEARCH RECOMMENDATIONS

There is a great need for more evidence around the new field of e-cigarettes; research with both long- and short-term horizons is required.

The committee identified gaps in the literature in every aspect in its work and provides overarching categories of research needs and specific research suggestions within the final chapters of each of the three major sections of the report. These overarching categories include: (1) addressing gaps in substantive knowledge and (2) improving research methods and quality through protocol and methods validation and development, including the use of appropriate study design.

To download a copy of the report and read the full text of the committee's recommendations, please visit **[nationalacademies.org/eCigHealthEffects](https://www.nationalacademies.org/eCigHealthEffects)**.

Committee on the Review of the Health Effects of Electronic Nicotine Delivery Systems

David L. Eaton (Chair)

University of Washington

Anthony J. Alberg

University of South Carolina

Maciej Goniewicz

Roswell Park Comprehensive Cancer Center

Adam Leventhal

University of Southern California

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Sharon McGrath-Morrow

Johns Hopkins University School of Medicine

David Mendez

University of Michigan

Richard Miech

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Ana Navas-Acien

Columbia University

Kent E. Pinkerton

University of California, Davis

Nancy A. Rigotti

Harvard Medical School and Massachusetts General Hospital

David A. Savitz

Brown University

Gideon St.Helen

University of California, San Francisco

CONCLUSION

Although e-cigarettes are not without risk, compared to combustible tobacco cigarettes they contain fewer toxicants; can deliver nicotine in a similar manner; show significantly less biological activity in most, but not all, in vitro, animal, and human systems; and might be useful as a cessation aid in smokers who use e-cigarettes exclusively. However, young people who begin with e-cigarettes are more likely to transition to combustible cigarette use and become smokers who are at risk to suffer the known health burdens of combustible tobacco cigarettes. The net public health outcome of e-cigarette use depends on the balance between positive and negative consequences.

More and better research is needed to help clarify whether e-cigarettes will prove to reduce harm—or induce harm—at the individual and the population levels. The approach taken by the committee to evaluate the health effects of e-cigarettes in this report is anticipated to provide a generalizable template for future evaluations of the evidence.

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U.S. Food and Drug Administration

To read the full report, please visit
[nationalacademies.org/eCigHealthEffects](https://www.nationalacademies.org/eCigHealthEffects)

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Position: UNF

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The Honorable William C. Smith
Chairman
Senate Judicial Proceedings Committee
Miller Senate Office Building, 2 East
11 Bladen Street
Annapolis, MD 21401

February 13, 2020

Dear Chairman Smith:

I am writing to express my opposition to SB 233, entitled Business Regulation – Flavored Tobacco Products – Prohibition. If nothing else, I would ask that the bill be amended to exempt pipe tobacco.

As drafted, the bill will outlaw nearly all, if not all, pipe tobacco. All pipe tobacco has either a topping or casing of some sort of flavor, such as vanilla, cocoa, fruit essence, maple, etc. Pipe tobacco falls broadly in two categories: non-aromatic pipe tobacco, which relies on different varieties of tobacco for its flavor; and aromatic pipe tobacco, which relies on added flavorings such as vanilla, chocolate, or fruit essences. The vast majority of pipe tobacco sold in the United States is aromatic, so under the bill, the majority of pipe tobacco would be illegal in Maryland.

I am a pipe smoker. I smoke English blends, some Virginia blends, burley blends, as well as aromatic and cross-over blends. A cross-over blend would be an English blend, which is a tobacco blend that contains Latakia tobacco, and an aromatic component, usually vanilla. I also smoke some aromatic blends. I'm also a regular at my gym and a guy who takes the stairs to the fifth floor of the parking garage where I park at work.

The bill fundamentally misunderstands the purpose of aromatic tobacco. Unlike vape fluid, aromatic pipe tobacco doesn't necessarily taste quite like what it smells like. The flavoring adds more to what pipe smokers call room note than they do to the flavor of the tobacco. Take a look at the reviews of aromatic tobaccos on tobaccoreviews.com, and you will see aromatic tobaccos rated on whether they taste at all like what they smell like.

Aromatic pipe tobacco is not like the liquid in a vaping device. They're not just getting kid-friendly flavors, and they're certainly not trying to lure underage smokers. The average briar pipe costs around \$100, and most regular pipe smokers own more than 20 pipes. I own more than 200. Aromatic pipe tobacco gives adult pipe smokers options. Plus, aromatic blends give a better room note the nonsmokers in the family.

Pipes are not the same as cigarettes. Pipe smokers don't inhale the smoke into their lungs, and their life expectancy is not dissimilar to that of nonsmokers. Unlike menthol cigarettes, aromatic pipe tobacco really is as much for others as it is for pipe smokers, themselves.

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As a general rule, aromatic pipe tobacco has a lower nicotine content than most nonaromatic tobacco. Ironically, then, with respect to pipe tobacco, this bill will force pipe smokers to use stronger tobacco, meaning tobacco with a higher nicotine content.

Again, I urge an unfavorable report on the bill. At the very least, the bill should not apply to pipe tobacco. I would be happy to work with the committee and committee counsel.

Sincerely,

A handwritten signature in blue ink, appearing to read "T. Ryan Wilson". The signature is fluid and cursive, with the first name "T. Ryan" and the last name "Wilson" clearly distinguishable.

T. Ryan Wilson

Wisniewski_UNF_SB233

Uploaded by: wisniewski, richard

Position: UNF

Richard Wisniewski
2815 Lanarkshire Way
Abingdon, Md 21009
443-922-7325

OPPOSITION to SB233

I am writing to express my opposition to SB233 of prohibition of flavors for Open Vapor Systems.

The reason I am opposed to the bill is because it is targeted to class small businesses in Maryland. As an owner of a vapor store, in the White Marsh area, I can honestly say that it we cause me to lock my doors, and eliminate an outlet to the hundreds of adults that we were able to help by offering an alternative solution from smoking combustible tobacco cigarettes. I have great pride in helping people to improve their lives.

We are just a local brick and mortar store. I am not part of Big Tobacco or JUUL. Stores like mine cannot survive by selling Tobacco and Menthol Flavors. Over 95% of adults who quiet combustible cigarettes, or are in the mist of trying, accomplish this goal by using flavors other then tobacco/ cigarette flavors.

Example: I want to lose weight and I must eliminate soda from my diet for my health concerns. So, all the dietary food and supplements have soda flavor to them. Some people believe this will curve the appetite for sodas. At first it may for a little while, but it is easy to cheat or go back because there is no difference to the pallet. My point to this is to quit drinking soda, one must drink water for a time period sustaining for soda so that when that person does drink a soda it becomes unsatisfying because the soda is now extremely sweet which is now enjoyable. This is the same philosophy to totally get off combustible cigarettes to truly kick that habit.

As I watch people go through the process of quitting Combustible and quitting Vaping, I notice how nicotine in vaping does not have such a mental old on individuals then cigarettes. People feel so much more comfortable lowering the Nicotine Levels on a weekly, bi-weekly, or monthly basis until they try to go from 1mg to 0mg (but they typically fight through the struggle).

Seeing people improve their lives and the pride they have when they tell their stories is incredibly rewarding to me. I am proud to operate a store that truly cares and (I whole heartily believe) believe we have providing a better meaning for people to improve their lives.

Let's take a second to see what this ban would create:

1. Local businesses would close causing an inrush of people loses jobs and inflating the local unemployment rate.
2. Most people will go back to cigarettes increasing public health concerns.
3. Black Market would be the sole benefactor. Also raising public health concerns.

Solutions:

1. Totally eliminate online retail. This is the easiest means for kids to get products.
2. Only allow Vape products to be sold in specialty store that ***ONLY SPECIALIZE*** in Vaping.
3. These stores should be licensed and meet requirements. (aka Liquor Stores)

Testimony from Guy Bentley_ SB 233

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Position: INFO

Testimony: SB 233
Guy Bentley, director of consumer freedom
Reason Foundation
February 13, 2020

Chair Kelley, members of the committee, thank you for the opportunity to submit testimony on SB 233.

My name is Guy Bentley, and I'm the director of consumer freedom at the Reason Foundation, a 501(c)3 nonprofit think tank. My research focus is on the regulation and taxation of tobacco products.

Proposals to ban the sale of all flavored e-cigarettes to stem and reverse the rise of youth vaping have been made all but obsolete by actions taken at the federal level. In December, the tobacco age was raised to 21. In January, the Food and Drug Administration (FDA) banned the sale of all fruit and sweet flavors in the pod and cartridge-based e-cigarettes.

Furthermore, data released by the Centers for Disease Control and Prevention in December (CDC) shows flavors are not even the leading reason why youth initiate vaping.

According to the CDC, the primary reason was "curiosity," followed by "friend or family member used them," with "they are available in flavors, such as mint, candy, fruit, or chocolate" coming a very distant third.¹ According to the Youth Risk Behavior Surveillance System (YRBSS), in 2018, just 3.2 percent of Maryland high school students said they vaped because of flavors, again coming third after familial and peer influences and "other reasons."² Just as the availability of flavored marijuana, alcohol, or condoms fails to predict drug use, drinking, or sexual behavior, the same is true for e-cigarettes.

Further bans would, however, entail high costs. Maryland's vape businesses are directly responsible for more than 1,000 jobs, as well as hundreds more secondary jobs, contributing more than \$31 million in state taxes.³ The scientific evidence from both the United States and European Union has proved beyond any reasonable doubt that e-cigarettes are safer than

¹ Wang TW, Gentzke AS, Creamer MR, et al. Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019. *MMWR Surveill Summ* 2019;68(No. SS-12):1–22. https://www.cdc.gov/mmwr/volumes/68/ss/ss6812a1.htm#T6_down

² Maryland Department of Health. "Youth Risk Behaviour Survey/Youth Tobacco Survey (YRBS/YTS) 2018-2019." <https://phpa.health.maryland.gov/ccdpc/Reports/Pages/YRBS2018.aspx>

³ Stroud, Lindsey. "Policy Tip Sheet: Tobacco Harm Reduction 101: Maryland." The Heartland Institute. January 12, 2020.

<https://www.heartland.org/publications-resources/publications/policy-tip-sheet-tobacco-harm-reduction-101-maryland>

combustible cigarettes and are significantly more successful in helping smokers quit than traditional nicotine replacement therapies.⁴⁵⁶ Prohibition would not just fuel illicit markets and close businesses; it would slow the decline in adult smoking. A 2017 study by researchers from the Yale School of Public Health found “a ban on flavored e-cigarettes would drive smokers to combustible cigarettes, which have been found to be the more harmful way of getting nicotine.”⁷

When it comes to the prohibition of menthol cigarettes, again, the argument for a ban is out of date and not supported by the data. A recent study produced by Reason Foundation demonstrates that states with the largest volume of menthol cigarettes as a proportion of all cigarettes sold, such as Maryland, have the lowest youth smoking rates.⁸

The latest survey data show that among the minority of youth that does smoke, menthol cigarettes are no more popular than regular cigarettes. Prohibition would also disproportionately discriminate against African American adult smokers and present a significant profit opportunity for criminals to supply the product from Virginia, which is the third-highest outbound smuggling state in the country.

The National Organization of Black Law Enforcement Executives (NOBLE), Grand Council of Guardians (GCGNY), National Association of Black Law Enforcement Officers (NABLEO), and Law Enforcement Action Partnership (LEAP) have consistently made the case that prohibitions of all kinds disproportionately affect communities of color and that in the case of menthol cigarettes it's truer than most.⁹

On public health grounds, there is no more reason to prohibit menthol cigarettes than non-menthol cigarettes. Any consideration of menthol prohibition should be made in the context of rapidly falling youth cigarette use, the lack of association between the volume of menthol cigarettes sold and youth smoking rates, and the high costs of prohibition.

⁴ Royal College of Physicians. “Nicotine without the smoke: Tobacco harm reduction.” London RCP, 2016. <https://www.rcplondon.ac.uk/projects/outputs/nicotine-without-smoke-tobacco-harm-reduction-0>

⁵ Stephens WE. “Comparing the cancer potencies of emissions from vapourised nicotine products including e-cigarettes with those of tobacco smoke.” *Tobacco Control* 2018;27:10-17. <https://tobaccocontrol.bmj.com/content/27/1/10>

⁶ Hajek, Peter et al. “A Randomized Trial of E-Cigarettes versus Nicotine-Replacement Therapy.” *N Engl J Med* 2019; 380:629-637 <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>

⁷ Buckell J, Marti J, Sindelar JL. “Should flavours be banned in cigarettes and e-cigarettes? Evidence on adult smokers and recent quitters from a discrete choice experiment.” *Tobacco Control*. 2019;28:168-175. <https://tobaccocontrol.bmj.com/content/28/2/168.citation-tools>

⁸ Bentley, Guy, Rich, Jacob. “Does Menthol Cigarette Distribution Affect Child or Adult Cigarette Use?” Reason Foundation: Policy Study. January 30, 2020. <https://reason.org/policy-study/does-menthol-cigarette-distribution-affect-child-or-adult-cigarette-use/>

⁹ Franklin, Neil. “Ban on Menthol Cigarettes Would Have Unintended Consequences.” *City Limits*. December 2, 2019. <https://citylimits.org/2019/12/02/opinion-ban-on-menthol-cigarettes-would-have-unintended-consequences/>

Thank you for your time.

Guy Bentley, director of consumer freedom
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MD Dept of Health_INFO_SB0233

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Position: INFO



DEPARTMENT OF HEALTH

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

February 13, 2020

The Honorable Delores G. Kelley, Chair
Senate Finance Committee
3 East Miller Office Building
Annapolis, MD 21401-1991

RE: SB 233 - Business Regulation – Flavored Tobacco Products – Prohibition – Letter of Information

Dear Chair Kelley and Committee Members:

The Maryland Department of Health (MDH) submits this letter of information for Senate Bill 233 (SB 233) entitled “Business Regulation – Flavored Tobacco Products – Prohibition.” SB 233 is an emergency bill that prohibits businesses licensed to manufacture, sell, buy, and store tobacco products from manufacturing, shipping, importing, or selling any flavored tobacco products. Such tobacco products include cigarettes, electronic smoking devices (ESDs), and other tobacco products. SB 233 would also prohibit the sale of flavored tobacco products in vending machines.

In 2018, the U.S. Surgeon General declared youth vaping an epidemic, evidenced by a 78 percent increase in current ESD use among high school aged youth between 2017 and 2018.¹ Research indicates that youth are more likely to try flavored ESDs and that youth are unaware that nearly all ESDs contain nicotine.^{2,3} Following a partial ban of fruit flavored ESDs, use of mint and menthol flavors surged between 2018 and 2019.^{4,5} Menthol flavoring has been evidenced as intensifying nicotine dependence and the urge to smoke, making it harder for smokers using menthol to quit.⁶ ESDs are not an FDA-approved cessation device, and use of ESDs may lead to dual use of ESDs and cigarettes with associated health risks.⁷

SB 233 would have a fiscal impact on MDH, requiring a one-time increased expenditure of \$50,390 in Fiscal Year 2020. These funds would be used to produce, print, and mail approximately 7,000 letters to licensed tobacco and ESD retailers statewide as well as update and distribute the toolkit to reflect changes to current laws and practices.

If you have any further questions, please contact Director of Governmental Affairs Webster Ye, at (410) 260-3190 or webster.ye@maryland.gov.

Sincerely,

Robert R. Neall
Secretary

-
- ¹ <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>
- ² Willett JG, Bennett M, Hair EC, *et al* Recognition, use and perceptions of JUUL among youth and young adults *Tobacco Control* 2019;28:115-116. <https://tobaccocontrol.bmj.com/content/28/1/115.info>.
- ³ Kristy L. Marynak, Doris G. Gammon, Todd Rogers, Ellen M. Coats, Tushar Singh, and Brian A. King, 2017: [Sales of Nicotine-Containing Electronic Cigarette Products: United States, 2015](https://doi.org/10.2105/AJPH.2017.303660) *Am J Public Health* 107, 702_705, <https://doi.org/10.2105/AJPH.2017.303660>.
- ⁴ Schneller LM, Bansal-Travers M, Goniewicz ML, McIntosh S, Ossip D, O'Connor RJ. Use of Flavored E-Cigarettes and the Type of E-Cigarette Devices Used among Adults and Youth in the US-Results from Wave 3 of the Population Assessment of Tobacco and Health Study (2015-2016). *Int J Environ Res Public Health*. 2019;16(16):2991. Published 2019 Aug 20. doi:10.3390/ijerph16162991 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6720922/>.
- ⁵ <https://www.fda.gov/news-events/press-announcements/trump-administration-combating-epidemic-youth-e-cigarette-use-plan-clear-market-unauthorized-non>, retrieved 3January 2019.
- ⁶ Ahijevych, K and BE Garrett, The role of menthol in cigarettes as a reinforcer of smoking behavior. *Nicotine Tob Res*, 2010 12 Suppl 2:p S110-6. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3636955/>.
- ⁷ Dharma N. Bhatta, PhD, MPH; Stanton A. Glantz, PhD Electronic Cigarette Use and Myocardial Infarction Among Adults in the US Population Assessment of Tobacco and Health *J Am Heart Assoc*. 2019;8:e012317. DOI: 10.1161/JAHA.119.012317.