



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Acting Secretary

February 10, 2021

The Honorable Dereck E. Davis
Chair, House Economic Matters Committee
Room 231, House Office Building
Annapolis, Maryland 21401

RE: House Bill 134 - Business Regulation – Flavored Tobacco Products – Prohibition – Letter of Information

Dear Chair Davis and Committee Members:

The Maryland Department of Health (MDH) is submitting this letter of information for House Bill 134 (HB 134) entitled “Business Regulation – Flavored Tobacco Products – Prohibition.” HB 134 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. Flavors are defined within the bill and include mint and menthol. HB 134 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.^[i] Research indicates that youth are more likely to try flavored ESDs and that youth are unaware that nearly all ESDs contain nicotine.^{[ii],[iii]} Following a partial ban of fruit flavored ESDs, use of mint and menthol flavors surged between 2018 and 2019.^{[iv],[v]} Menthol flavoring has been evidenced as intensifying nicotine dependence and the urge to smoke, making it harder for smokers using menthol to quit.^[vi] 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.^[vii]

The Centers for Disease Control and Prevention (CDC) has also concluded that smoking is a risk factor for severe complications related to the COVID-19 virus.^[viii] Furthermore, any behavior – such as smoking or vaping – that precludes a user from wearing a face mask and requires users to frequently touch their mouths and faces can increase the risk of contracting COVID-19.

HB 134 would have a fiscal impact on MDH, requiring a one-time increased expenditure of \$54,600 in state fiscal year 2022. These funds would be used to produce, print, and mail approximately 7,000 letters to licensed tobacco and ESD retailers statewide to notify them of the

new law, as well as update and distribute existing retailer toolkits to reflect changes to current laws and practices.

I hope this information is useful. If you would like to discuss this further, please do not hesitate to contact me at webster.ye@maryland.gov / (410) 260-3190 or Heather Shek, Deputy Director of Governmental Affairs at heather.shek@maryland.gov and at the same phone number.

Sincerely,



Webster Ye
Assistant Secretary, Health Policy

[i] <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>.

[ii] 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>.

[iii] 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>.

[iv] 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/>.

[v] <https://www.fda.gov/news-events/press-announcements/trump-administration-combating-epidemic-youth-e-cigarette-use-plan-clear-market-unauthorized-non>, retrieved 3January 2019.

[vi] 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/>.

[vii] 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.

viii Centers for Disease Control and Prevention. COVID-19. Updated January 29, 2020. Accessed January 13, 2021 <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.