



February 10, 2021

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

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SUBJECT: HB 134 Business Regulation—Flavored Tobacco Products—Prohibition

POSITION: Letter of Information

Thank you for the opportunity to provide informational comments regarding HB 134. As drafted, HB 134 would end the sale of menthol cigarettes, flavored cigars and all other flavored tobacco products in Maryland. From a public health perspective, ending the sale of menthol cigarettes, flavored cigars and all other flavored tobacco products is a critical component to a comprehensive strategy to reduce tobacco use, prevent initiation and lifelong addiction.

In Maryland, 27.4% of youth and 18.2% of adults use any tobacco product, including 12.7% who use cigarettes.^{1, 2} 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.³ We know that most people who currently smoke were enticed to begin this deadly addiction as youth, and most report beginning with a flavor tobacco product.

¹ Nccd.cdc.gov. 2019. *Maryland, High School Youth Risk Behavior Survey, 2019*. [online] Available at: <<https://nccd.cdc.gov/Youthonline/App/Results.aspx?TT=A&OUT=0&SID=H5&QID=QQ&LID=XX&YID=2017&LID2=&YID2=&COL=5&ROW1=N&ROW2=N&HT=QQ&LCT=LL&FS=S1&FR=R1&FG=G1&FA=A1&FI=I1&FP=P1&FSL=S1&FRL=R1&FGL=G1&FAL=A1&FIL=I1&FPL=P1&PV=&TST=False&C1=&C2=&QP=G&DP=1&VA=C1&CS=Y&SYID=&EYID=&SC=DEFAULT&SO=ASC>> [Accessed January 2021].

² Campaign for Tobacco Free Kids. The Toll of Tobacco in Maryland. Updated October 20, 2020. http://www.tobaccofreekids.org/facts_issues/toll_us/maryland

³ 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 Unpublished.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 has declined, the sale of menthol cigarettes has 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 who smoke use menthol cigarettes; among African Americans who smoke, 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, LGBTQ communities, and those of lower socioeconomic status 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 end **the sale of flavored tobacco products, including menthol.**⁴

Failing to take the comprehensive approach to end the sale of menthol cigarettes, flavored cigars and all other flavored tobacco products in Maryland will only encourage product switching rather than preventing tobacco use and promoting cessation.

Prior to 2009, cigarette manufacturers aggressively marketed flavored cigarette 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. In 2009, the Family Smoking Prevention and Tobacco Control Act prohibited flavors in cigarettes, except for menthol. An analysis of the partial prohibition 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 a comprehensive flavor restriction on all flavors in all products, are substituting menthol cigarettes or cigars and pipe tobacco, for which the current statutory flavor prohibition does not apply.

Cities across the country have already acted to end the sale of menthol cigarettes, flavored cigars and all other flavored tobacco products. Over 110 localities in California, Colorado, Minnesota, Massachusetts and New York, and the State of Massachusetts and California have done so.

⁴ 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>.



Any flavored tobacco control policy must be comprehensive in nature and inclusive of **all flavors** and **all products without exemptions** to reduce tobacco use, prevent initiation and lifelong addiction.

Therefore, the American Cancer Society Cancer Action Network, American Heart Association, and the American Lung Association urges the committee's thorough exploration of this issue in consideration of HB 134.