



The African American Tobacco Control Leadership Council

January 26, 2021

To: Chair Delegate Dereck E. David, Vice Chair Delegate Kathleen M. Dumais and All members of the Maryland General Assembly Economic Matters 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 exemptions in Maryland; Especially in the Midst of the COVID-19 Pandemic!

The African American Tobacco Control Leadership Council (AATCLC) strongly encourages the Maryland General Assembly Economic Matters Committee to put forward legislation to full Senate calling for prohibiting the sale of menthol and all flavored tobacco products, including flavored e-juices, with no adult venue exemptions. We are glad to see that the Committee has put this topic on its agenda, and it could not come at a better time. We already know that 80% of youth's 12-17 start smoking using flavored cigarettes (Ambrose et al., 2015). Indeed, in the midst of the COVID 19 pandemic, this is precisely the time to put strong public health measures in place. And in the midst of the fight for making Black Lives Matter, nothing could be more important than getting these products out of our community. If the Committee 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 be prevented and that the predatory marketing of these products be stopped and recognized as a social injustice issue; an issue that disproportionately impacts poorer communities, marginalized groups, youths and communities of color.

This is no minor matter. Menthol and flavored tobacco products are driving tobacco-related 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 smokers 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 using menthol; nearly 80% of Native Hawaiians; a majority of Filipinos; and a majority of smokers with behavioral health issues smoke menthol cigarettes. Frankly, the most marginalized groups disproportionately use these so-called "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, 2015). 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).

Lawmakers should be aware that menthol, as if to add insult to injury, masks the harsh taste of tobacco and allows for deeper inhalation of toxins and greater amounts of nicotine. The greater the nicotine intake, the greater the addiction. Hence, it is no surprise menthol cigarette users find it harder to quit than non-menthol cigarette users (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 and cigarillos “to go down easier!”**

As we have all become aware, COVID-19 is not an equal opportunity killer: Black and Brown folks are dying disproportionately of this disease all around the country and right here in Denver. We know that smoking weakens the immune system of the lungs, the very site that the coronavirus thrives on. Also, vaping and smoking put young adults at much greater risk for COVID-19, as a new UCSF study points out (Adams et al., 2020). And as if the add insult to injury, an article in the European Respiratory Journal, shows that current smokers and people with chronic obstructive pulmonary disease (COPD) have more receptor cells in their lungs that attract the coronavirus (https://www.eurekalert.org/pub_releases/2020-04/elf-hlo040720.php). And yes, African Americans have disproportionately high rates of COPD! The Legislature needs to take every step that it can to protect the citizens of Maryland, especially its poor communities of color. By preventing Big Tobacco from targeting and hooking youth and low-income communities to flavored tobacco products, we can also help reduce potential vulnerability of these communities to COVID-19 and improve the health of all communities in Maryland.

We all have been reading in the papers about the surge in e-cigarette use, the so-called “JUUL Explosion”. In reality it is 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).

Here are some facts concerning E-Cigarettes that we should not 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

Ultimately, the AATCLC is calling upon the Maryland General Assembly to prohibit the sale of menthol cigarettes and all other flavored tobacco products, including flavored e-juices and become the 3rd State in the Country to outlaw these products. Indeed, in June, the State of Massachusetts became the first State to prohibit the sale of menthol and in August, California became the second State in the Union to prohibit the sale of menthol and all flavored tobacco products state-wide. Be appraised that in June 2018, San Francisco voters passed the first ever citywide restriction on the sales of all flavored tobacco products, including menthol cigarettes and flavored e-cigarette juices. This “strongest flavor ban law ever” was rapidly replicated in the numerous cities in California and around the Country. Today, over 60 municipalities prohibit the sale of menthol and all flavored tobacco products including flavored e-juices. <https://no-smoke.org/wp-content/uploads/pdf/flavored-tobacco-product-sales.pdf> Maryland preempts local jurisdictions from passing such ordinances; this is something the Legislature should look into.

At the federal level, the tobacco industry and the vaporists have lobbied hard in Washington, resulting in half-steps on the part of the FDA to restrict the sale of only some flavored products, but certainly not all. This is the same mistake the Congress made in 2009 when it removed 13 flavors from tobacco products, but exempted menthol. Just as problematic is the FDA’s current half-steps in addressing the menthol and flavors. Heralded initially as a full flavor ban, subsequently the flavor ban devolved into a series of loopholes that you could drive a convoy of tractor trailers through. You can still buy e-cigs with all their kid friendly flavors that are refillable, like Suorin and Smok; you can still buy disposable e-cigs, like Puff Bars; and there is the possibility that some products may return to the market, after FDA approval. And to make matters worse, you can still buy menthol and tobacco flavored Juuls and other non-disposable e-

cigarette tobacco products. Hence, it is imperative that States like Maryland take the lead and join the growing movement to remove *all* flavored tobacco products, especially menthol cigarettes, flavored little cigars and flavored e-juices, from the marketplace.

We should note that some groups, spurred on and funded 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 ordinances adopted around the country would ***prohibit the sale*** of flavored products, it would ***not prohibit the possession*** of these products. The facts are that the adoption of menthol restrictions will not lead to police having any greater interaction with any youth; it won’t be illegal to possess these products, just retailers cannot sale them. Indeed, purchase, use and possession (PUP) of commercial tobacco products should be decriminalized. We shouldn’t be arresting youth for PUP of cigarettes and little cigars; we are certain that police have more pressing matters to attend to in the midst of the Pandemic.

These same groups rail about “unintended consequences.” We respond: **Look at the intended consequences:** Black folks die disproportionately from tobacco related diseases of heart disease, lung cancer, and stroke than other racial and ethnic groups (RSG, 2014); menthol cigarettes and flavored little cigars are the agents of that destruction.

Still other groups funded by the tobacco industry insist that removing menthol cigarettes and flavored little cigars would be taking away “our” cigarette; we’d be discriminatory. This line of argumentation stands history on its head. As was pointed out earlier, it was and is the tobacco industry that predatorially markets these products in the Black Community. As mentioned before, the facts are these: there are more advertisements, more lucrative promotions, and menthol cigarettes are ***cheaper in the Black Community*** compared to other communities (Henriksen et al., 2011; Seidenberg et al., 2010). This is how these flavored death sticks became “our” cigarettes; they were pushed down our throats!

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, Boston 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 in 2010 and recently in October of 2019, providing testimony at the Pallone hearings, a national bill that would prohibit the manufacturing of menthol and all flavored tobacco products. Just this past June the AATCLC along with its partner Action on Smoking and Health (ASH) filed a lawsuit against the FDA for dragging its feet on not getting menthol out of the marketplace; subsequently and importantly the American Medical Association (AMA) and the National Medical Association (NMA) have joined on as a plaintiffs.

Now is the time to adopt strong tobacco control measures that can protect our families. We already know that menthol and flavors “makes the poison go down easier.” Let’s not now allow menthol to make COVID-19 go down easier too! The Legislature needs to put the health of Maryland residents in the forefront of their thoughts, not the interests and profits of the tobacco industry, the vaping industry and their surrogates. This is not the time for half-steps, like continuing to allow these products to be sold in adult-only venues, rather it is time to take a stand for the public’s health and say: **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 menthol 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** the residents 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



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