



**General Assembly of Maryland
House Economic Matters Committee and
Health and Government Operations Committee
Business Regulation - Flavored Tobacco Products – Prohibition
Hearing on HB-0134, February 10, 2021**

Dear Chairperson and Members of the Committee:

Thank you for the opportunity to submit testimony regarding House Bill-0134 (Business Regulation - Flavored Tobacco Products - Prohibition). The American Consumer Institute is a non-profit, non-partisan research and educational institute with the mission to identify, analyze, and project the interests of consumers in selected legislative and rulemaking proceedings in matters that affect the consumers.

It is our assessment that HB-0134 if enacted, would significantly harm consumer welfare and lead to avoidable negative health outcomes. The bill would ban the manufacture, importation, and sale of flavored tobacco products in the state of Maryland. Included in this prohibition would be flavored vapor products that are used in electronic cigarettes. This proscription would be particularly harmful to Maryland’s consumers because it would prevent those who use flavored tobacco products to quit smoking from accessing a product that has been proven to help smokers quit.

A recent study from researchers at the School of Public Health at the University of Maryland College Park and other public health institutions have shown that “flavors play an important role in e-cigarette preference,” meaning that when smokers have a wide variety of flavors to choose from, they are more likely to use a healthier alternative.¹ Other studies have reinforced this relationship, showing that when states and localities introduce flavor bans, consumers who had been using a healthier alternative simply return to smoking traditional combustible products.²

Considering the results of academic studies over the past decades, it is probable that banning consumers in Maryland from having access to flavored tobacco products would have the unintended consequence of sending smokers who would like to quit back to traditional combustible products, and this would lead to negative health outcomes, such as premature death,

¹ Hyoshin Kim et.al., “Role of Sweet and Other Flavors in Liking and Disliking of Electronic Cigarettes,” *Tobacco Control*, 2016, https://tobaccocontrol.bmj.com/content/25/Suppl_2/ii55.citation-tools.

² Yong Yang, Eric N. Lindblom, Ramzi G. Salloum, and Kenneth D. Ward, “The Impact of a Comprehensive Tobacco Product Flavor Ban in San Francisco Among Young Adults,” *Addictive Behavior Reports*, June 2020. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7186365/#!po=0.961538>.

increased risk of cardiovascular and respiratory disease, and increased likelihood of developing certain cancers.

We are further concerned that SB-0134 does not distinguish between traditional tobacco products and flavored vapor products, placing both under the same category as “smoking.” Placing both in the same category is problematic because flavored e-cigarettes are much safer than the combustible alternative. In fact, e-cigarettes not only are a safer alternative, but a large array of academic and medical research shows that they are an effective tobacco harm reduction tool:

- E-cigarettes are at least 95% safer than traditional cigarettes;³
- Switching to e-cigarettes could save the lives of 6.6 million American smokers;⁴
- E-cigarettes are two times more effective in helping people quit than traditional nicotine-replacement therapies;⁵
- Each year, 7,500 Marylanders die from smoking-related illnesses, and this number would be reduced significantly if flavored electronic cigarettes were available to consumers;⁶
- The use of flavored electronic cigarettes more than doubled the likely hood of smoking session;⁷ and
- Studies have shown that flavored e-cigarette use “was no more associated with youth smoking initiation than vaping tobacco-flavors.”⁸

We are also concerned that the passage of HB-0134 could have serious fiscal consequences for Maryland’s wider economy. As noted by the state’s fiscal estimates, the passage of HB-0134 would see the states general fund revenues “decrease by \$11.8 million in FY 2021” and \$73.3 million by FY 2025.⁹ Additionally, the state also estimates small businesses that often depend on the sale of flavored tobacco products would see a significant fall in revenue,

³ “E-cigarettes: An Evidence Update,” Public Health England, August 28, 2015, <https://www.gov.uk/government/publications/e-cigarettes-an-evidence-update>.

⁴ “Tobacco Smokers Could Gain 86 Million Years of Life if They Switch to Vaping, Study Finds,” Georgetown University Medical Center, October 2, 2017, <https://gumc.georgetown.edu/news-release/tobacco-smokers-could-gain-86-million-years-of-life-if-they-switch-to-vaping-study-finds/>

⁵ Hartmann-Boyce et al., “Can Electronic Cigarettes Help People Stop Smoking, and Do They Have Unwanted Effects When Used for This Purpose,” Cochrane, October 14, 2020, <https://www.cochrane.org/CD010216/TOBACCO-can-electronic-cigarettes-help-people-stop-smoking-and-do-they-have-any-unwanted-effects-when-used#:~:text=For%20every%20100%20people%20using, support%20or%20behavioural%20support%20only.>

⁶ “Center for Tobacco Prevention and Control Program Final Evaluation Report,” University of Baltimore Shaefer Center for Public Policy, June 30, 2020, <https://phpa.health.maryland.gov/ohpetup/Documents/CTPCFinalEvaluationReport.FINAL.06-30-2020.pdf>.

⁷ Abigail Freidman and SiQing Xu, “Associations of Flavored E-Cigarette Uptake with Subsequent Smoking Initiation and Cessation.” *JAMA Network Open*. 2020:3. https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2766787?utm_source=twitter&utm_medium=social_jamapeds&utm_term=3423555898&utm_campaign=partnership&linkId=90922892.

⁸ Ibid.

⁹ “Fiscal and Policy Note: House Bill 134.” *Department of Legislative Services, Maryland General Assembly*. http://mgaleg.maryland.gov/2021RS/fnotes/bil_0004/hb0134.pdf.

costing jobs in the community and lowering the amount of tax revenue the state would receive from the sale of these products and employment income.¹⁰ We are concerned that any budget deficit HB-0134 causes would have to be picked up by residents of Maryland, limiting their long term economic opportunity and prosperity.

Given the above reasons, it is our assessment that this bill is NOT in the interest nor to the benefit of Maryland's consumers as it would give smokers fewer choices when they make the important decision to quit smoking. We also believe that HB-0134 would make it unnecessarily difficult for those seeking to quit smoking.

Sincerely,

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¹⁰ Ibid.