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January 28, 2021

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

The Honorable Guy Guzzone, Chair
The Honorable Jim Rosapepe, Vice Chair
Members of the Senate Budget and Taxation Committee
3 West
Miller Senate Office Building
Annapolis, MD 21401

FROM: Jocelyn Collins, Maryland and Washington, D.C. Govt. Relations Director
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SUBJECT: SB 273 Electronic Smoking Device Regulation Act of 2021

POSITION: OPPOSE

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 opposition of **SB 273 Electronic Smoking Device Regulation Act of 2021**.

While we deeply appreciate the Sponsor's commitment to resolve youth use of electronic smoking devices and to address the sale of flavored electronic smoking devices, the dangers of tobacco do not start and end with electronic smoking devices. As drafted, this legislation is extremely problematic as it encourages product switching by not ending the sale of all flavored tobacco products equally.

SB 273 tries to restrict the sale of flavored electronic smoking devices and regulate the sale of some electronic smoking devices by restricting the sale of disposable products but allowing the sale of "cartridges" and "pods" in some circumstances. Additionally, the wording used in the bill to clarify the restriction on flavored electronic smoking devices classifying these products as, "A NATURAL FLAVORING OR ARTIFICIAL FLAVOR, OTHER THAN TOBACCO," does not suffice and does not end the sale of all

flavored electronic smoking devices or other flavored tobacco products. The legislation also does not sufficiently address issues with electronic smoking devices and the Clean Indoor Air Act.

We need to be taking a comprehensive approach to tobacco control in Maryland, based on evidence-based policies that are proven to work. Such policies include raising the tobacco tax. Increasing the price of cigarettes and all other tobacco products through regular and significant tobacco tax increases helps to keep kids from starting to use tobacco and helps adults quit.

The Maryland General Assembly has the opportunity this Session to override the Governor's veto of the tobacco tax (HB 732), in which, increases the State's cigarette tax by \$1.75 per pack with an increase in the tax on some other tobacco products, including taxing electronic smoking devices for the first time.

The legislation also includes line items for \$18.25 million of the revenue from the tobacco taxes to sustain evidence-based, statewide tobacco use prevention and cessation programs for the Maryland Health Departments. This legislation is projected to bring in \$95.76 million in State Revenue. Again, ACS CAN encourages the Legislature to overturn this veto.

To address flavored tobacco products, such as electronic smoking devices— we need to end the sale of menthol cigarettes, flavored cigars and all other flavored tobacco products. Legislation put forth this Session: SB 177/HB 134 would fully address this, not SB 273.

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 current smokers were enticed to begin this deadly addiction as youth, and most report beginning with a flavor tobacco product.

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 American youth 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, 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.

¹ Nccd.cdc.gov. 2019. *Maryland, High School Youth Risk Behavior Survey, 2019*. [online] Available at: <http://nccd.cdc.gov/Youthonline/App/Results.aspx?IT=&OUT=0&ID=HS&QID=QQ&LID=XX&YID=2017&LID2=&YID2=&COL=S&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&PL=P1&PV=&TST=False&C1=C2=&P=G&D=P1&VA=CI&CS=Y&YID=8&YID=&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.

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

Cities across the country have already acted to end the sale of menthol cigarettes, flavored cigars and all other flavored tobacco products. Over 300 localities in California, Colorado, Minnesota, Massachusetts and New York, and the State of Massachusetts and California have done so. And many other communities and states are currently considering similar proposals. It’s now Maryland’s turn!

In 2021, it is estimated that approximately 34,590 Maryland residents will be diagnosed with cancer while 11,010 will die from the disease.⁵ Moreover, 26.3% of cancer deaths in Maryland are attributable to smoking according to the American Cancer Society.⁶

Again, evidence-based legislation that properly addresses the enforcement and regulation of all tobacco products is always essential. SB 273 does not do that. ACS CAN respectfully asks the Committee for an **“unfavorable” report** of SB 273.

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>.

⁵ American Cancer Society. Maryland Cancer Facts and Figures 2021. Atlanta: American Cancer Society; 2021.

⁶ Analysis by ACS, 2020.