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Jeffrey A. Kelly
Executive Director

Maryland Alcohol and Tobacco Commission

February 16, 2023

Hon. Melony Griffith
Chair
Finance Committee
Maryland State Senate
State of Maryland
3 East, Miller Senate Office Building
Annapolis, MD 21401

Re: Letter of Information – Senate Bill 259 – Flavored Tobacco Products - Prohibition

Chair Griffith:

The Alcohol and Tobacco Commission (“ATC”) takes no position on Senate Bill 259 but offers the following information for the Finance Committee’s consideration.

Senate Bill 259 (“bill”) would ban the sale of flavored tobacco products – to include menthol and mint flavored products - in the State of Maryland. Specifically, this bill would apply the flavor ban to all tobacco products in the State to include Cigarettes, Other Tobacco Products, and Electronic Smoking Devices.

Passage of this bill would prohibit manufacturers creating such products, wholesalers selling and/or distributing such products to retailers, and retailers selling such products to consumers in the State. This bill also creates misdemeanor penalties for the manufacturing, wholesaling, or retailing of flavored tobacco products in the State of Maryland.

If flavored tobacco products are prohibited in Maryland, the illicit market for such products would greatly expand within the State. In 2020 when the ban on flavored tobacco products was last proposed, there was testimony given by a representative from the convenience store industry that testified that 46% of all cigarette sales in the State of Maryland were menthol cigarettes.

If this testimony was even relatively accurate, the illicit market for such products would be in the millions on a per unit basis, given that this ban would impact all tobacco

products. The agency would likely see increased expenditures in four areas: (1) Enforcement Agents; and (2) Equipment and Vehicles; and (2) Secure Storage; and (4) Contractual Services.

The ATC would need at least five (5) new sworn law enforcement positions (1 supervisor and 4 field agents), to ensure that the agency has the adequate resources necessary to address the surge in contraband product. These agents need to be outfitted with the equipment and vehicles necessary for them to conduct enforcement around the State.

Currently, the ATC maintains approximately 3600 square feet of secure storage space at its headquarters located at the Treasury Building, 80 Calvert Street, Annapolis, MD 21401. Within this allotted storage space, the ATC houses all the evidence associated with enforcement activities related to alcohol and tobacco. Stored evidence related to tobacco products seizures amount to approximately 2500 square feet of space. This amounts to 70% of all the ATC's allotted secure storage space.

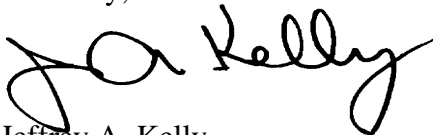
A prohibition against flavored tobacco would result in a surge of out of State contraband driven into the marketplace, given that surrounding States to include Virginia, Pennsylvania, and West Virginia do not have similar bans. As a result, the agency estimates that it would need at least 2500 more square feet of secured storage space to ensure it has the capacity to seize and secure evidence related to contraband flavored tobacco immediately upon the passage of this emergency piece of legislation.

Lastly, the ATC currently contracts with multiple vendors to ensure that contraband tobacco products are destroyed in a safe and appropriate manner. Such contractual costs include transportation and fees associated with controlled burns of tobacco products at an off-site facility.

While the ATC would work faithfully to ensure the ban on Flavored Tobacco Products is enforced if Senate Bill 259 becomes law, the agency would require an immediate influx of the aforementioned additional resources to successfully uphold this important prohibition.

I welcome the opportunity to address any questions or concerns the Finance Committee may have for the ATC regarding this Letter of Information concerning Senate Bill 259.

Sincerely,



Jeffrey A. Kelly
Executive Director