

Public Health Committee JOINT FAVORABLE REPORT

Bill No.: SB-326

AN ACT PROHIBITING THE SALE OF FLAVORED CIGARETTES, TOBACCO PRODUCTS, ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR

Title: PRODUCTS.

Vote Date: 3/5/2021

Vote Action: Joint Favorable Substitute

PH Date: 2/8/2021

File No.: 98

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SPONSORS OF BILL:

The Public Health Committee,
Sen. Saud Anwar,
Rep. Cristin McCarthy Vahey,
Rep. Gary Turco,
Rep. Robyn Porter,
Sen. Alex Kasser,
Rep. Stephen Meskers,
Sen. Marilyn Moore,
Rep. Mary Mushinsky,
Rep. Josh Elliott,
Rep. John Hennessy,
Sen. Dennis Bradley,
Rep. Quentin Phipps,
Rep. Charlie Stallworth,
Rep. David Michel,
Sen. Will Haskell,
Sen. Mary Daugherty Abrams

REASONS FOR BILL:

Starting October 1, 2021, this bill prohibits cigarette distributors and e-cigarette dealers from selling, offering or displaying for sale, or possessing with the intent to sell, flavored cigarettes, tobacco products, e-cigarettes, and vapor products. This legislation defines flavored products as those imparted with a distinguishable taste or aroma (i.e., characterizing flavor) other than tobacco, including fruit, chocolate, menthol, mint, wintergreen, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice. Under the bill, a public statement or claim made

or disseminated by a manufacturer that these products have or produce a characterizing flavor is prima facie evidence that the product is flavored.

If the DRS commissioner finds, after a hearing, that (1) a cigarette or tobacco product dealer or distributor or (2) an e-cigarette dealer knowingly violated the bill's ban on flavorings, the commissioner must find that they committed a violation and assess a civil penalty of (1) \$300 for the first violation and (2) \$750 and \$1,000, respectively, for a second and third violation that occurs within 36 months after the first violation.

If a cigarette or tobacco product dealer or distributor commits a third violation within 36 months after the first violation, the DRS commissioner must either suspend the dealer's or distributor's license for at least 30 days or revoke the license. However, the commissioner must revoke the license if they commit a fourth violation within that time period. For e-cigarette dealers, the bill requires the commissioner to revoke the dealer's license or certificate if they commit a third violation within that time period.

RESPONSE FROM ADMINISTRATION/AGENCY:

Representative Bobby Gibson, 15th Assembly District:

Representative Gibson supports this legislation. He is an educator and has coached many children, he has witnessed the work of peer pressure and negative marketing by the tobacco industry. Parent, educators, and community leaders need to teach children the lessons they need to be resilient and disciplined young adults.

Flavored tobacco is everywhere and must be removed from their access. The tobacco industry has worked to disproportionately affect communities of color as well by giving free products to kids in majority-colored neighborhoods. This bill is not making it illegal for adults to buy products and bring them into Connecticut and we must protect children over worrying about the addictions of adults.

Michelle Seagull, Commissioner, Department of Consumer Protection (DCP):

The Department of Consumer Protection is the regulatory agency responsible for issuing certificates of registration to dealers and manufacturers who sell tobacco products and electronic nicotine delivery systems or vapor products in Connecticut.

Prohibiting the sale of the products listed above and requiring DCP to enforce the provisions of the bill is inconsistent with the current regulatory structure outlined in the Tobacco 21 law. Current investigation and enforcement requirements are within the Departments of Mental Health and Addiction Services and Revenue Services.

Passage of SB 326 as currently written would require the DCP to hire additional staff to implement these new provisions.

William Tong, Attorney General, State of Connecticut:

The AG supports the legislation as a bipartisan coalition of 23 attorney generals called on the FDA to ban menthol cigarettes. 80% of kids who have every used tobacco products started with a flavored product and there are over 15,000 flavors available.

NATURE AND SOURCES OF SUPPORT:

Nancy Alderman, President, Environment and Human Health, Inc.:

The company is in support of the bill as e-cigarette flavors need to be banned. They attract a young audience and have toxic consequences. Studies have found that some liquids used in e-cigarettes contain flavorings that are associated with lung problems when inhaled. Currently, these products are unregulated and more than 7,7000 flavors are being sold under more than 450 brands. The FDA has found that menthol cigarettes likely pose a public health risk above that seen with non-menthol cigarettes.

Dr. Melanie Sue Collins, Pediatric Pulmonologist, Connecticut Children's Dr. Alyssa Bennett, Division Head of Adolescent Medicine, Connecticut Children's:

The independent health system supports the legislation. E-cigarettes and vaping products contain harmful substances such as heavy metals, volatile organic compounds, cancer causing chemicals, and ultrafine particles that can be inhaled. Over 2,807 Americans have suffered severe lung damage due to these products. 1 in 10 ninth graders and 1 in 5 twelfth graders are currently using e-cigarettes. Flavors such as fruit and candy appeal more to young people, 93.8% of children who vape are using these non-traditional flavors.

Ruth Cabovi, Director of Advocacy, American Lung Association:

The association is in support of the legislation as there is real need for it. There has been great work done in past decades to reduce cigarette smoking rates, but it has been tampered with by the introduction of e-cigarettes. 4,900 Connecticut residents die due to tobacco annually and it costs the state more than \$2 Billion every year. Flavors are one of the main reasons that kids use tobacco products, 81% of kids who have ever used tobacco started with a flavored product. E-cigarettes are not an FDA approved device and there is no valid scientific evidence that demonstrates that they are effective at helping smokers quit.

TJ Clarke II, Majority Leader, Hartford Court of Common Council:

The Councilman supports the legislation as COVID-19 has shown the negative affect of tobacco on the lungs and the deaths that have been caused by these lung illnesses and susceptibility to COVID-19. 4,900 adults have died each year in Connecticut due to smoking and over 7,000 COVID-19 deaths show some association with smoking.

Connecticut Hospital Association:

The association supports the bill. The association was supportive of the 2019 bill to raise the legal age to buy tobacco products from 18 to 21, and also looks forward to working to ensure that any tobacco-control bill works to improve the health of Connecticut residents.

Robert Dudley, MD, Med, FAAP, American Academy of Pediatrics:

The Connecticut Chapter of AAP supports the proposed legislation. In 2018 there was an increase of 1.5 million youth who reported using an e-cigarette. The products contain a liquid that adds a flavor that are appealing mostly to young people. 81.5% of youth e-cigarette users say that they used the products because they came in flavors that they liked. Flavors and bright colors create an impression that a product is less harmful than it really is.

Other sources of support include:

Ellie Angerame, Executive Director, Green Village Initiative
Maureen Boyle-Henninger

Pareesa Charmchi Goodwin, MPH, Executive Director, CT Oral Health Initiative
Marc Donald, Executive Director, Regional Youth Adult Social Action Partnership
Kelley Edwards
Kim Estes
Abigail Friedman, PhD
Dorian Fuhrman, Co-Founder, Parents Against Vaping e-cigarettes
Layne Gakos, Connecticut State Medical Society
Phillip Gardiner, Co-Chair, The African American Tobacco Control Leadership Council
Carol McGruder, Co-Chair, The African American Tobacco Control Leadership Council
Ingrid Gillespie, Member, Connecticut Prevention Network
Violette Haldane, Executive Director, Advocacy to Legacy, Inc.
Violette Haldane
Kathy Hanley, Connecticut Prevention Network
Erin Herring
Akelia James, High School Student
Bryte Johnson, Connecticut Government Relations Director, American Cancer Society
Cancer Action Network
David Koch
Phoebe Lampos, High School Student
Seth Lapuk, MD, FACC, FAAP, Pediatric Cardiologist, Connecticut Children's
Geraldyn Laut, Executive Board Member, Amplify
Roger Levesque
Greer Levy, Greenwich Together Youth Coalition
Reverend D. Stanley Lord, President, Greater Bridgeport Branch, National Association for the
Advancement of Colored People
Melissa McGarry
Russell Mills
Giovanna Mozzo, Director, The Hub
Susan Myers
Tyler Napper
Aidee Nieves, Council President, City Council of Bridgeport
Kevin O'Flaherty, Director of Advocacy, Connecticut Campaign for Tobacco-Free Kids
Leigh Pechillo, President, Central Connecticut Board of Directors, American Heart
Association
Megan Purvis, Social Work Intern, The Hub
Kathleen Redmond, Volunteer, PAVe
Dara Richards, MD, Chief Medical Officer, Southwest Community Health Center
Raquel Rivera
Shanika Rucker, Owner and Psychotherapist, Cathartic Breakthroughs, LLC
Andrew Salner, MD, FACR, Director of Cancer Institute, Hartford HealthCare
Catherine Lester Salchert
Sofia Segura-Perez, Director Community Nutrition Unit, Hispanic Health Council
Mary Seidner, Executive Director, Lymes' Youth Service Bureau
David Sherman, UAW Local 2121
Kathleen Silard, Stamford Health
Tajae Soares, High School Student
Peter Spain, MPH, Flavors Jooks Kids Connecticut campaign
Dylan Ayer, High School Student
George Taylor

Universal Health Care Foundation of Connecticut
Jim Williams, Connecticut Government Relations Director, American Heart Association

Sources of Support given amendments:

Beverley Brakeman, UAW Region 9A Director:
Amendment to include the banning of smoking in the state's casinos in the bill.

Judicial Branch, State of Connecticut:
Amend to remove the term "infraction" and substituting "violation" in Section 2 (c) (lines 91, 93, 95, and 99) and Section 4 (c) (lines 180,181, 182, and 183).

NATURE AND SOURCES OF OPPOSITION:

Tim Andrews, Director of Consumer Issues, Americans for Tax Reform:

The group is in strong opposition to the legislation as it would have a disastrous impact on businesses and public health throughout the state. E-cigarettes and their flavors offer a lifesaving reduced risk tobacco alternative for adults. The ban of these products would cause a boom in illicit smuggling operations that would cause harm to minority populations. E-cigarettes use of water vapor to deliver nicotine has been shown to be 95% safer than combustible cigarettes. According to an analysis by the Georgetown University Medical Centre, if a majority of Connecticut smokers made the switch to vaping, over 70,000 lives would be saved. This ban would also disproportionately impact people and communities of color. 80% of blacks and 35% of Latinx who smoke prefer menthol cigarettes.

Christian Herb, President, Connecticut Energy Marketers Association:

The association is opposed to the proposed legislation. They are supportive of eliminating underage smoking but believe that the 1,000 convenience stores that they represent lawfully abide by the age limit. They support the sale of these products to adults and flavored products should be a part of that. A ban on these products will likely drive underage people to the street or black market to obtain them. Allowing the products to be sold at the associations locations is the best line of defense from underage purchase.

April Meyers, Managing Partner, Northeast Vapor Supplies, LLC, Board President and CEO, Smoke-Free Alternatives Trade Association:

The Northeast Vapor Supplies and SFATA both oppose the proposed legislation. The bill would decimate the Connecticut vapor industry, which would be harmful and deadly to public health. There is no basis to the claims that the flavors are made specifically to attract children. And the claim that they are must be weighed against the evidence that they are popular with adult users. Curbing the sale and usage of these products to and by children is important and high standards and reasonable regulation are supported.

Andrew O'Bright, President, Connecticut Chapter of Smoke-Free Alternatives Trade Association:

The association opposes the legislation as the customers of these products are adults who have a right to these flavors. Responsibility has been shown by introducing age restrictions before it became law. The SFATA shops make up less than 0.2% of all youth sales violation letters issued by the FDA. The association asks to work together to stop youth usage of these products, but the banning of the sale is unprecedented.

Kate Rumbaugh, Vice President State Government Affairs, Juul Labs:

The company opposes the legislation. They ask that the bill be put aside to instead engage with the stakeholders of the company to develop a thoughtful, risk-proportionate framework to stop young people from gaining access to the products. Laws such as Tobacco 21 have shown to combat underage use of vapor products. The passing of this legislation would lead to adverse consequences in the state while not effectively addressing underage usage of vapor products.

Jonathan Shaer, Executive Director, New England Convenience Store and Energy Marketers Association:

The association opposes the legislation as it is an ill-conceived policy that is doomed to result in a public health and financial disaster for the state and the 2,000 businesses in the state. Reducing youth access to nicotine is a common goal, but there are many other approaches that are better than this bill. The CDC recommends many approaches to reduce youth tobacco use and a flavor ban is not one of them. Connecticut has designed legal, licenses, regulated, and enforced framework for a variety of age-restricted products. Statewide FDA-verified compliance is over 90%.

Other sources of opposition include:

Sam Alhallak

Mark Anton, Executive Director, Smoke-Free Alternatives Trade Association

Joe Augustus, Executive Vice President of Global Affairs, Swisher

Marvi Ayaz

Brewer

Thomas Briant, Executive Director, National Association of Tobacco Outlets, Inc.

Hugh Brooks

Sohail Chaudhry

Nayna Chheda

Pradeep Chheda

Cigar Association of America, Inc.

Kenneth Coomes

Pastor Cousin

Kyle Feldman, Vice President of Harold Levinson Associates, National Convenience Distributors

Donna Fortier

Darnell Goldson

Matthew Halverson

Davis Hancox, CIA, CGFM

Derrick Holloway

Kimber

Nickey Kollie

Danielle M

Shaka McAdams

Rodney Butler, Chairman, Mashantucket Pequot Tribal Nation

Sterling Osborn, Operations Manager, Mercury Fuel

David Penn

Cheryl Richter, Executive Director, New York State Vapor Association

Shevalle Santos

Scott Soucey
Wayne Staggs
Lindsey Stroud, Policy Analyst, Taxpayers Protection Alliance
Ronald Tateosian, Chief Operating Officer, Aldin Associates Limited Partnership and Savin
Brands
Saquib Zamir

Reported by: Alexandra Dorotinsky

Date: 4/1/2021