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**Public Health Committee  
February 1, 2021**

**RE: S.B. No. 326 (RAISED) PUBLIC HEALTH. "AN ACT PROHIBITING THE SALE OF FLAVORED CIGARETTES, TOBACCO PRODUCTS, ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS"**

The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit non-partisan advocacy affiliate of the American Cancer Society, advocates for public policies that reduce death and suffering from cancer which include policies targeted at reducing tobacco use. ACS CAN supports **S.B. No. 326 (RAISED) PUBLIC HEALTH. "AN ACT PROHIBITING THE SALE OF FLAVORED CIGARETTES, TOBACCO PRODUCTS, ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS**, a bill that would end the sale of all flavored tobacco products, including e-cigarettes, menthol cigarettes, cigars, hookah and smokeless tobacco.

Ending the sale of all flavored tobacco products can be a critical component to a comprehensive strategy to reduce tobacco use and prevent initiation and lifelong addiction. Laws aimed at ending the sale of all flavored tobacco products are most effective when combined with active enforcement that includes licensing retailers and penalties for non-compliant retailers including license suspension and revocation.

Tobacco use remains the leading preventable cause of death nationwide. In Connecticut, it is estimated that 4900 adults die from smoking every year.<sup>i</sup> There are 56,000 children who are alive now that will die prematurely due to smoking-related disease.<sup>ii</sup> It is the single largest preventable cause of death. The annual health care costs in Connecticut directly caused by smoking are \$2.03 billion.<sup>iii</sup>

Flavors are a marketing weapon used by tobacco manufacturers to target youth and young people to a lifetime of addiction. Altering tobacco product ingredients and design, like adding flavors, can improve the ease of use of a product by masking harsh effects, facilitating nicotine uptake, and increasing a product's overall appeal.<sup>iv</sup> Candy, fruit, mint and menthol flavorings in tobacco products are a promotional tool to lure new, young users, and are aggressively marketed with creative campaigns by tobacco companies.<sup>v</sup> Products with flavors like cherry, grape, cotton candy, and gummy bear are clearly not aimed at established, adult tobacco users and years of tobacco industry documents confirm the intended use of flavors to target youth.<sup>vi</sup> Furthermore, youth report flavors a leading reason they use tobacco products and perceive flavored products as less harmful.<sup>vii,viii</sup>

We do respectfully request an amendment that would explicitly, and simply, designate the CT Department of Mental Health and Addiction Services as having the authority to conduct unannounced compliance checks of licensed premises to ensure compliance with this act.

Consistent with Tobacco 21 enforcement provisions passed in 2019, the Department of Revenue Services has the authority in the bill to enforce noncompliance with regards to the sale of flavored cigarettes and tobacco products, and the Department of Consumer Protection has the authority in the bill to enforce noncompliance with regards to the sale of flavored electronic nicotine delivery systems and flavored vape products. The inclusion of this amendment makes it clear that the Department of Mental Health and Addiction Services has the authority to conduct unannounced compliance checks with regards to the potential sale of flavored cigarettes and tobacco products, thus providing the necessary link between identifying noncompliance, and the potential assessment of appropriate fines. Finally, providing a comprehensive definition of “flavored tobacco products” can aid in compliance and enforcement by clearly specifying which products are included in the law.

Data from the 2016-2017 PATH study, the largest national longitudinal study looking at tobacco use and its effects, found that among teens who use e-cigarettes, 97.0 percent regularly used a flavored product.<sup>x</sup> Also, among those teens who had ever tried an e-cigarette, 96.1 percent used a flavor product for the first time. In 2019, 71.7 percent of high school students who currently use an e-cigarette use a flavored product, and the percentage is 59.9 percent for middle school students. Among exclusive users of e-cigarettes, use of mint or menthol flavored e-cigarettes went up from 16.0 percent in 2016 to 57.3 percent in 2019, while candy-, dessert- and other sweet-flavors decreased.<sup>x</sup> Among young adults who reported using e-cigarettes every or some days in 2013-2014 91.6 percent used a flavored product.<sup>xi</sup>

So-called “little cigars” have the look and feel of a cigarette, and are smoked like a cigarette, yet are often sold individually and are available in a variety of flavors and have likely benefited the most from the cigarette flavor prohibition. In fact, in 2016, the U.S. Food and Drug Administration (FDA) sent warning letters to four tobacco manufacturers stating that they were illegally selling flavored cigarettes labeled as “little cigars.”<sup>xii</sup> Large cigars and cigarillos, which can resemble either “little cigars” or large cigars, can come in a variety of flavors. Cigars were the most popular product among Black high school students.<sup>xiii</sup> Among all teen cigar users, 41.9 percent had smoked a flavored cigar in the past 30 days in 2019.<sup>xiv</sup> According to another study, in 2014, more than 70 percent of teens who have ever smoked a cigar smoked a flavored product.<sup>xv</sup>

Smokeless tobacco companies have a long history of using flavorings, such as mint, cherry, apple, and honey, and other product manipulation to gradually get new, young users addicted to “starter” products, keep them using, and shift them on to more potent smokeless tobacco products. In 2019, 48.0 percent of middle and high school students who used smokeless tobacco had used a flavored product in the last month.<sup>xvi</sup> According to another study, more than 70 percent of teens who had ever used smokeless tobacco used a flavored product the first time.<sup>xvii</sup>

For waterpipe or hookah use, more than 31.2 percent of current middle and high school users used a flavored product in 2019.<sup>xviii</sup> What’s troubling, is that the flavorings used in waterpipe tobacco, the sweet aromas and use of water make users misperceive this practice as safer than cigarette smoking.<sup>xix</sup> In fact, hookah tobacco and smoke are as dangerous as cigarettes, and contain carcinogens and other substances that can cause cancer and other diseases.<sup>xx</sup> An hour-long waterpipe or hookah session typically involves 200 puffs of smoke, whereas smoking a single cigarette typically involves 20 puffs of smoke.<sup>xxi,xxii</sup>

Long before cigarette companies started adding fruit, candy, and alcohol flavorings to cigarettes, they were manipulating levels of menthol to addict new, young smokers. Menthol acts to mask the harsh taste of tobacco with a minty flavor and by reducing irritation at the back of the throat with a cooling sensation. Additionally, menthol may enhance the delivery of nicotine. Knowing that youth who experience less negative physiological effects of smoking are more likely to continue smoking regularly, the tobacco industry has spent decades manipulating its menthol brand-specific product line to appeal to youth and African Americans. The FDA's preliminary scientific investigation on menthol cigarettes concluded that that menthol cigarette smoking increases initiation and progression to smoking, increases dependency, and reduces cessation success, particularly among African American smokers.<sup>xxiii</sup>

Adding insult to injury, tobacco manufacturers have aggressively targeted certain communities with their menthol products, leading to an unequal burden of death and disease. The overwhelming majority of all African Americans who smoke (85.5 percent) report smoking menthol cigarettes compared to less than a third of whites who smoke (28.7 percent).<sup>xxiv</sup> Almost half of youth who smoked cigarettes used menthol cigarettes (46.7 percent).<sup>xxv</sup> Internal tobacco industry documents show that the tobacco companies were intentionally targeting African Americans and other minorities through advertising in magazines with high readership by these populations, including youth, and by targeting specific neighborhoods with higher Hispanic and African American populations with more advertising and promotions.<sup>xxvi</sup>

Recognizing the danger that flavors in cigarettes has in attracting and addicting new smokers, especially youth, the Family Smoking Prevention and Tobacco Control Act (TCA) of 2009 prohibited the use of characterizing flavors, except for menthol and tobacco, in cigarettes. To understand a consequence to limiting the flavor prohibition to only cigarettes and exempting menthol flavoring, an analysis evaluated youth tobacco use before and after the prohibition.<sup>xxvii</sup> The analysis found a decrease in the likelihood of being a smoker (17.1 percent) and fewer cigarettes smoked (59 percent) associated with the flavor prohibition, but also a 45 percent increase in the probability that the youth smoker used menthol cigarettes. Furthermore, the flavor prohibition was associated with increases in both cigar use (34.4 percent) and pipe use (54.6 percent). This suggests that youth smokers, in the absence of comprehensive sales restriction on all flavors and all products, are substituting with menthol cigarettes or cigars and pipe tobacco, for which the federal flavor prohibition does not apply.

The aggressive use of flavors and marketing tactics by the tobacco industry, rapid increased use of flavored products by youth and young adults, and under regulation of these products requires the General Assembly to take action to protect youth and young adults, and the public health at-large.

As of June 20, 2020, 1 state and at least 100 localities have enacted laws restricting the sale of all flavored tobacco products including menthol cigarettes. It's time for Connecticut to join them.

SB 326 will make it harder for the tobacco industry to target youth and young adults with enticing flavors. This legislation is one part of a comprehensive tobacco control strategy that includes regular and significant tobacco tax increases, implementing comprehensive smoke-free laws, and fully funding best practice tobacco prevention and cessation programs to reduce youth initiation and help people who use tobacco quit. We urge your support.

Thank you.

Bryte Johnson  
Connecticut Government Relations Director  
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- <sup>iii</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in Connecticut. Updated 10/2020. <https://www.tobaccofreekids.org/problem/toll-us/connecticut>
- <sup>iv</sup> FDA Guidance for Industry and FDA Staff, "General Questions and Answers on the Ban of Cigarettes that Contain Certain Characterizing Flavors (Edition 2)" ("FDA Guidance on Characterizing Flavors").
- <sup>v</sup> Delnevo, C, et al., "Preference for flavoured cigar brands among youth, young adults and adults in the USA," *Tobacco Control*, epub ahead of print, April 10, 2014. King, BA, et al., "Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students," *Journal of Adolescent Health* 54(1):40-6, January 2014
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- <sup>xii</sup> <https://www.fda.gov/newsevents/newsroom/pressannouncements/ucm532563.htm>
- <sup>xiii</sup> Centers for Disease Control and Prevention. Tobacco Use Among Middle and High School Students—United States, 2011–2018. *Morbidity and Mortality Weekly Report*, 2019;68(6):157–164.
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- <sup>xvi</sup> Wang TW, Gentzke AS, Creamer MR, et al. Tobacco Product Use and Associated Factors Among Middle and High School Students —United States, 2019. *MMWR Surveill Summ* 2019;68(No. SS-12):1–22. DOI: <http://dx.doi.org/10.15585/mmwr.ss6812a1>
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