



Public Health Committee

Public Hearing – February 1, 2021

SB 326 AA Prohibiting The Sale Of Flavored Cigarettes, Tobacco Products, Electronic Nicotine Delivery Systems and Vapor Products

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I would like to thank the leadership and members of the Public Health Committee for providing me with the opportunity to provide comment on SB 326, which would prohibit the sale of all flavors, in all tobacco products, in all CT locations. We are in strong support of this bill but would very much like to see a friendly amendment added to the language (proposed amendment has been submitted as additional testimony and made available to the committee Chairs) that we feel is necessary and strengthens the bill.

The amendment that we request 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. 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 spells it out and 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 tobacco products, which it already exercises with regards to the purchase of tobacco products by underage persons, thus providing the necessary link between identifying noncompliance, and the potential assessment of appropriate fines.

The American Heart Association (AHA) is the nation's oldest and largest voluntary organization dedicated to fighting heart disease and stroke. Our mission is to be a relentless force for a world of longer, healthier lives. We take our mission very seriously here in CT.

Heart disease is the # 1 cause of death in Connecticut, and smoking is a leading risk factor for heart disease.¹ 480,000 state residents, or 18.4% of the adult population used some form of tobacco on one or more of the past thirty days, and an estimated 4,900 adults die in CT each

year as a result of their own smoking.² In CT, 900 kids under the age of 18 become new daily smokers each year.² 56,000 kids who are now under the age of 18 and alive in CT will ultimately die prematurely from smoking.

Smoking not only kills CT residents but is also associated with some staggering monetary costs. \$2.03 billion in annual health care costs in CT are directly caused by smoking, \$520.8 million of which is covered by the state Medicaid program.² The federal and state tax burden for residents from smoking-caused government expenditures is \$799 per household.²

Flavored Tobacco Products Are On The Rise

Cigarettes with specific characterizing flavors were prohibited in the U.S. on September 22, 2009, as part of the Family Smoking Prevention and Tobacco Control Act (TCA) that gave the U.S. Food and Drug Administration (FDA) authority over tobacco products.³ However, before that, tobacco companies marketed cigarettes with flavors, images, and names that appealed to a young audience.

Despite the FDA's ban on flavored cigarettes, the overall market for flavored tobacco products is growing. Continuing a long tradition of designing products that appeal explicitly to new users, tobacco companies in recent years have significantly stepped up the introduction and marketing of flavored other tobacco products (OTPs), particularly e-cigarettes and cigars, as well as smokeless tobacco and hookah. With their colorful packaging and sweet flavors, today's flavored tobacco products are often hard to distinguish from the candy displays near which they are frequently placed in retail outlets.

Although tobacco companies claim to be responding to adult tobacco users' demand for variety, flavored tobacco products play a key role in enticing new users, particularly kids, to a lifetime of addiction. This growing market for flavored tobacco products is undermining the nation's overall progress in reducing youth tobacco use.

What About Menthol Cigarettes?

Menthol cigarettes, the only remaining flavored cigarette, maintain a significant market share. While overall cigarette sales have been declining, the proportion of smokers using *menthol* cigarettes has been increasing.⁴ Data from the Federal Trade Commission (FTC) show that in 2017 (the most recent year for which data are available), menthol cigarettes comprised 36% of the market, the highest proportion on record since FTC began collecting this data in 1963.⁵

Before cigarettes with specific characterizing flavors were prohibited by the Tobacco Control Act, R.J. Reynolds' "Camel Exotic Blends" came in flavors such as Twista Lime, Kauai Kolada, Warm Winter Toffee and Winter Mocha Mint, among others. Bright, colorful and alluring ads for these cigarettes have appeared in magazines popular with kids, including *Rolling Stone*, *Cosmopolitan* and *Sports Illustrated*.

Using data from the 1999-2013 Youth Tobacco Surveys, a 2017 study analyzed the impact of the 2009 ban on characterizing flavors in cigarettes on youth tobacco use. The researchers found

that cigarette use declined significantly after the ban, whereas cigar and pipe tobacco use significantly increased. Further, use of menthol cigarettes, the only remaining flavored cigarette, increased significantly after the ban.⁶

As the only flavored cigarette left on the market, it is no surprise that menthol cigarettes are popular among youth. Menthol cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating tobacco use.⁷ Over half (54%) of youth smokers ages 12-17 use menthol cigarettes compared to one-third (32%) of older adult smokers.⁸ Prevalence of menthol use is even higher among African Americans: 85% of all African American smoker's smoke menthol cigarettes and seven out of ten African-American youth smokers smoke menthol cigarettes.⁹

According to the 2019 National Youth Tobacco Survey (NYTS), half a million middle and high school students are menthol cigarette smokers.¹⁰ The popularity of menthol flavored cigarettes is also evidenced by brand preference among youth. According to data from the 2016 National Survey on Drug Use and Health, about one in five (18.9%) smokers ages 12-17 prefers Newport cigarettes, a heavily marketed menthol cigarette brand. Preference for Newport is even higher among African American youth smokers (70.9%) because of targeted marketing by the tobacco industry.¹¹ Daily menthol cigarette smokers have higher odds of also using flavored little cigars/cigarillos compared to occasional non-menthol smokers.¹²

According to FDA's Tobacco Product Scientific Advisory Committee (TPSAC):¹³ Menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking. Young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers. The availability of menthol cigarettes reduces smoking cessation, especially among African Americans, and increases the overall prevalence of smoking among African Americans.

FDA's own scientific analysis concluded that menthol cigarettes lead to increased smoking initiation among youth and young adults, greater addiction, and decreased success in quitting smoking.¹⁴ Although they are no longer on the market, older studies on flavored cigarettes other than menthol are still relevant to reinforce the general appeal of flavors to youth and young adults. When they were available, flavored cigarettes were being tried and used primarily by the young.¹⁵ Candy-flavored cigarettes clearly had their greatest appeal to new smokers, 90% of whom were teens or younger. Research indicated that youth and young adults were more likely to notice flavored tobacco products and their ads, and this awareness translated into higher use rates among young smokers.

Older adolescents and young adults aged 17 to 19 years old were more than twice as likely to report using flavored cigarettes (specifically Camel Exotic blends, Kool Smooth Fusion or Salem Silver Label brands) in the past 30 days compared to those aged 22 years or older.¹⁶ A significant gradient in flavored cigarette use was seen across age, with the highest rates of

utilization among 17-year-old smokers (22.8%) and 18-19-year-old smokers (21.7%). Nine percent of 24-26-year-old reported flavored cigarette use.¹⁷

This committee has shown great leadership over the years with the goal of doing everything that it can to prevent another generation from tobacco addiction and related disease. With the inclusion of the above referenced requested amendment, this bill will certainly do much to achieve that goal.

Sincerely,

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¹ CT Department of Public Health "Tobacco Control Program." Found at <https://portal.ct.gov/DPH/Health-Education-Management--Surveillance/Tobacco/Tobacco-Use-Prevention--Control-Program> on 3/2/2020.

² The Toll of Tobacco in Connecticut. Campaign for Tobacco-Free Kids. Last updated 11/17/17. Accessed at <https://www.tobaccofreekids.org/problem/toll-us/connecticut> on 3/2/2020.

³ See U.S. Food and Drug Administration's (FDA) Flavored Tobacco webpage at <http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/FlavoredTobacco/default.htm>.

⁴ Villanti, A., et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014," *Tobacco Control*, published online October 20, 2016.

⁵ U.S. Federal Trade Commission (FTC), *Cigarette Report for 2017*, 2019, https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2017-federal-trade-commission-smokeless-tobacco-report/ftc_cigarette_report_2017.pdf [data for top 5 manufacturers only].

⁶ Courtemanche, CJ, et al., "Influence of the Flavored Cigarette Ban on Adolescent Tobacco Use," *American Journal of Preventive Medicine*, published online January 9, 2017.

⁷ FDA, *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes*, 2013.

⁸ Villanti, A, et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014," *Tobacco Control*, published online October 20, 2016.

⁹ Villanti, A, et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014," *Tobacco Control*, published online October 20, 2016

¹⁰ Wang, TW, et al., "Tobacco Product Use and Associated Factors Among Middle and High School Students—United States, 2019," *MMWR*, 68(12): December 6, 2019, <https://www.cdc.gov/mmwr/volumes/68/ss/pdfs/ss6812a1-H.pdf>.

¹¹ SAMHSA's public online data analysis system (PDAS), National Survey on Drug Use and Health, 2016.

https://pdas.samhsa.gov/#/survey/NSDUH-2016-DS0001?column=CATAG3&results_received=true&row=CIG30BR2&weight=ANALWT_C and https://pdas.samhsa.gov/#/survey/NSDUH-2016-DS0001?column=CATAG3&control=NEWRACE2&results_received=true&row=CIG30BR2&weight=ANALWT_C.

¹² Sterling, K, et al., "Association between menthol-flavoured cigarette smoking and flavoured little cigar and cigarillo use among African-American, Hispanic, and white young and middle-aged adult smokers," *Tobacco Control* 25(Suppl 2):ii21-ii31, November 2016.

¹³ Tobacco Products Scientific Advisory Committee, Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations, July 21, 2011,

<http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>

¹⁴ FDA, *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes*, 2013.

¹⁵ Carpenter, CM, et al., "New Cigarette Brands with Flavors that Appeal to Youth: Tobacco Marketing Strategies," *Health Affairs* 24(6):1601-1610, Nov/Dec 2005. Lewis, M, et al., "Dealing with an Innovative Industry: A Look at Flavored Cigarettes Promoted by Mainstream Brands," *American Journal of Public Health* 96(2), February 2006.

¹⁶ Klein, S, et al., Use of flavored cigarettes among older adolescent and adult smokers: United States, 2004 – 2005," *Nicotine and Tobacco Research*, Volume 10, Number 7, July 2008.

¹⁷ Klein, S et al., Use of flavored cigarettes among older adolescent and adult smokers: United States, 2004 – 2005," *Nicotine and Tobacco Research*, Volume 10, Number 7, July 2008.