

February 4, 2024

Dear Chair,

I would first like to thank the Chair and committee members for the opportunity to share important information regarding S18.

My name is Dr. Brian Erkkila and I am the Director of Regulatory Science at Swedish Match North America. I have a PhD in Neurobiology and prior to joining Swedish Match I was Lead Toxicologist at the Food and Drug Administration's Center for Tobacco Products where I was responsible for developing rigorous scientific evidence about nicotine and tobacco products in order to write regulations and determine which products were allowed to go to market.

First and foremost, we would like to commend Vermont for its leadership in Harm Reduction. Harm reduction is an approach to public health which minimizes judgment and puts people first, it is referring to "people who smoke" rather than "smokers". It is not only noting disproportionate rates of combusted tobacco use by race, ethnicity, mental health status (as was so importantly discussed earlier) sexual orientation, social class or intersections among these communities, identities, and circumstances, but providing a less harmful way forward. It is difficult to understand how eliminating a majority of the smoke-free tobacco harm reduction products adult use to reduce their risk and leaving adult consumers with only the most dangerous product, combusted cigarettes, would be in line with this progressive approach.

I recognize that Vermont lawmakers face difficult decisions in this session given the state's need for flooding assistance, education funding, and relief from the housing crisis. But a proposed flavor ban would only give the state less money to meet this growth in demands. Massachusetts lost nearly \$114 million in annual revenue from the state's tobacco tax after it imposed a flavor ban in 2020.¹ This misguided approach to tobacco policy would have lasting and expensive implications for Vermont taxpayers. We know from our own internal sales figures that the fiscal impact of the revised bill is significantly higher than noted by the fiscal analysis. Not only would there be a loss in revenue to the state, but in the long term, there would be a cost increase. This would be due to the restriction of significantly less harmful smoke-free products, leaving only the most harmful product on the market, combustible cigarettes. Certainly this is counter to the goals of the state.

I think it is important to consider the environment in which S18 is being introduced:

1) FDA/CDC data indicates that Youth usage of tobacco and nicotine products are at historic lows – due in part to the high scientific bar required by the FDA for marketing and the increase of the federal

¹ <https://www.mass.gov/doc/task-force-fy22-annual-report/download>

age for purchase to 21 years old. The highest rates of youth tobacco product use were decades ago when unflavored combusted products had a vast majority of the market.

2) However, there are still more than 70,000 adult Vermonters who smoke, putting themselves at greatly elevated risk for disease and even death. A ban on flavored tobacco products would not only deny these people who smoke the freedom to choose a reduced risk product that could be best for their health but could drive many of the 35,000 adults in Vermont who use reduced risk products back to smoking².

We also know that tobacco products exist across a continuum of risk, with combusted cigarettes being by far the most harmful and smoke-free products (smokeless tobacco, electronic cigarettes, heat-not-burn) being much less harmful. S18 ignores countless peer-reviewed scientific articles demonstrating this continuum, paints them all with a broad brush and removes far less harmful choices from Vermonters who smoke.

For example, the FDA has determined that our General Snus products, including flavored oral products, are appropriate for the protection of public health due to their reduced toxicity and the low likelihood that non-users including youth are likely to start using them. The agency even allows us to inform consumers that switching to these flavored tobacco products reduces one's risk of mouth and lung cancer, cardiovascular disease and respiratory disease. S18 would remove most of these federally vetted products from the market despite the fact that rates of youth use of smokeless tobacco in Vermont (3%) are several fold lower than rates of youth use of alcohol (25%) and cannabis (20%)³.

In our continued dedication to develop more choices for adults who smoke we have developed ZYN nicotine pouches. These products are first and foremost only for adults who currently smoke or use other nicotine products. ZYN consists of a plant-based pouch, food grade ingredients, and pharmaceutical grade nicotine; this gives the product a similar chemical make-up as common nicotine replacement therapies (NRT)⁴. ZYN products have helped many adults move away from cigarettes, while at the same time the FDA and CDC report that levels of youth use of nicotine pouches remains exceptionally low (~1%)⁵.

Finally, we at Swedish Match take the issue of underage usage extremely seriously. By only offering adult flavors, mandating that retailers merchandise ZYN as a non-self-serve product and supporting the national 21+ age requirement for purchase of tobacco and nicotine products. Our digital marketing efforts are not one-size fits all but ensures the intended audience is adults (21+) who are current nicotine or tobacco users, and our use of social media is limited to only 21+ age gated platforms. To access our website one must verify their identity and age by a third-party vendor. In addition, we have avoided the use of celebrities, sports figures, social influencers, or any person with special appeal to persons under 21 year of age to advocate for the brand. We employ only actors/models who are only

² 2021 Vermont Behavioral Risk Factor Surveillance System (BRFSS): [Tobacco Data | Vermont Department of Health \(healthvermont.gov\)](https://healthvermont.gov/tobacco-data)

³ 2021 Vermont Youth Risk Behavior Survey: [Youth Risk Behavior Survey \(YRBS\) | Vermont Department of Health \(healthvermont.gov\)](https://healthvermont.gov/youth-risk-behavior-survey)

⁴ Back S, Masser AE, Rutqvist LE, Lindholm J. Harmful and potentially harmful constituents (HPHCs) in two novel nicotine pouch products in comparison with regular smokeless tobacco products and pharmaceutical nicotine replacement therapy products (NRTs). BMC Chem. 2023 Mar 3;17(1):9.

⁵ Birdsey J, Cornelius M, Jamal A, et al. Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023. MMWR Morb Mortal Wkly Rep 2023;72:1173–1182.

ages 35+ and ensure they are not styled to look any younger, and any advertisements are placed in media whose audience is at least 85% 21+.

For these important reasons, I urge the committee to reject S18 and the unintended consequences it will likely cause.

Thank you for taking the time to review my comments and I am available to the committee for any questions or discussion.

Sincerely,

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