



The African American Tobacco Control Leadership Council

February 20, 2023

To: Senator Virginia Lyons, Chair, Senator David Weeks, Vice Chair, Senator Ruth Hardy, Senator Martine Gulick, Senator Terry Williams and Alex McCracken, Committee Assistant, Senate Committee on Health, and Welfare

From: The African American Tobacco Control Leadership Council

**Re: Prohibit the Sale of Menthol and all Other Flavored Tobacco Products in Vermont!
No Exemptions: All Flavors, All Products at All Locations!**

The African American Tobacco Control Leadership Council (AATCLC) strongly encourages the Vermont Senate Committee on Health and Welfare to pass S. 18 that would prohibit the sale of menthol and all flavored tobacco products, with no exemptions in the State of Vermont. We are glad to see that the Committee is taking this matter up. Frankly, this couldn't come at a better time. We already know that 80% of youth, 12-17 start smoking using flavored cigarettes (Ambrose et al., 2015). Indeed, in the aftermath and lingering impact of the COVID 19 pandemic's Omicron surge, nothing could be more important than getting these products out of our community. Unfortunately, we know that smokers are more susceptible to COVID infection (CDC, 2020). If the Senate Committee on Health and Welfare truly wants a healthier Vermont, and we believe that you do, then it is imperative that you end the sale of menthol and all flavored tobacco products. Passage of S. 18 will end the predatory marketing of these products that disproportionately impacts poorer communities, marginalized groups, youths, and communities of color.

Menthol the Ultimate Candy Flavor; It Helps the Poison Go Down Easier!

This is no minor matter. Menthol and flavored tobacco products are driving tobacco-related deaths and diseases nation-wide. While the use of non-flavored tobacco cigarettes has been decreasing, the use of menthol cigarettes is on the rise, among youth and adults; among Latinos, Blacks, and Whites (Villanti, 2016). Let's be clear, the majority of women smokers smoke menthol cigarettes; folks from the LGBTQ community disproportionately smoke these products; 47% of Latino smokers prefer menthol cigarettes, with 62% of Puerto Rican smokers using menthol; nearly 80% of Native Hawaiians; a majority of Filipinos; and a majority of smokers with behavioral health issues smoke menthol cigarettes. Frankly, the most marginalized groups disproportionately use these so-called "minty" products (CDC, 2010; Fallin, 2015; Forbes, 2013; Delnevo, 2011; Hawaii State Dept. of Health, 2009; Euromonitor, 2008; Hickman, 2015).



The African American Tobacco Control Leadership Council

Be appraised that 85% African American adults and 94% of Black youth who smoke are using menthol products (Giovino, 2013). These striking statistics arise from the predatory marketing of these products in the Black Community, where there are more advertisements, more lucrative promotions, and most disturbing menthol cigarettes are *cheaper in the Black community* compared to other communities (Henriksen et al., 2011; Seidenberg et al., 2010). These predacious practices for the past 50 years have led to Black folks dying disproportionately from heart attacks, lung cancer, strokes, and other tobacco related diseases (RSG, 2014).

Take note that new research, shows that menthol cigarettes were responsible for 1.5 million new smokers, 157,000 smoking-related premature deaths and 1.5 million life-years lost among African Americans over 1980–2018. While African Americans constitute 12% of the total US population, these figures represent, respectively, a staggering 15%, 41% and 50% of the total menthol-related harm (Mendez & Le, 2021).

The Senate Committee on Health and welfare should be aware that menthol is an anesthetic by definition, and as if to add insult to injury, masks the harsh taste of tobacco and allows for deeper inhalation of toxins and greater amounts of nicotine. The greater the nicotine intake, the greater the addiction. Hence, it is no surprise menthol cigarette users find it harder to quit than non-menthol cigarette users (Ton et al., 2015; Levy et al., 2011). The “cool refreshing taste of menthol” heralded by the tobacco industry is just a guise; **ultimately, menthol and all flavors allow the poisons in cigarettes and cigarillos “to go down easier!”**

Hookah: The Manipulation of Culture for Industry Profits!

While we have all become aware of the meteoric rise of E-Cigarette use, especially among kids, another addictive product is growing in popularity: flavored shisha / Hookah. Let’s not be fooled: passing tobacco smoke through water does nothing to stop the user from inhaling all the toxins, nicotine and cancer-causing chemicals associated with tobacco smoking. Let’s be clear, Hookah is just as deadly as cigarettes, if not more. Studies show that in a single hookah smoking session of 40 minutes, smokers consume 25 times the tar, 125 times the smoke 2.5 times the nicotine and 10 times the carbon monoxide compared to smoking a cigarette (Primack et al., 2016). Moreover, both patrons and employees at Hookah lounges are exposed to elevated levels of 2nd hand smoke an already recognized cause of cancer (Zhou et al., 2016)

Then there is the fiction that Hookah smoking is a 1000-year-old tradition in the Middle East. Look, tobacco only made its way the Europe some 500 years ago and only gradually made its way to the Middle East 3 to 4 hundred years ago. Make no mistake about it, it’s the Hookah Lounge owner’s manipulation of culture argument that is used to attract more business and profits. **Flavored shisha like Blue Mist, Irish Kiss and Sex on the Beach has nothing to do with Middle Eastern Culture.** Once it was determined in the 1960s that smoking kills, Islamic



The African American Tobacco Control Leadership Council

Leaders deemed tobacco, Hookah and Shisha Forbidden. At bottom, Hookah lounges with their nightclub atmosphere have nothing to do with Middle Eastern Culture, rather it's all about the Benjamin's! **It's not about getting rid of all hookahs or all tobacco products, it's about getting rid of all flavors, at all places, in all products, period.**

We Can't Wait on the FDA

Today over 90 municipalities prohibit the sale of all menthol tobacco products including flavored e-juices; <https://no-smoke.org/wp-content/uploads/pdf/flavored-tobacco-product-sales.pdf>

Indeed, in June of 2020, the State of **Massachusetts** became the first State to prohibit the sale of menthol and all flavored tobacco products state-wide and just this past November, **California** followed suit and became the second state to do so. **Vermont** could be the 3rd! Be aware that the tobacco industry is flooding the California market with new "non-menthol" products. At closer examination, these products are just new ways of delivering flavors; they must be banned too.

While it is important that the FDA announced that they will put forward a Rule outlawing the menthol as a characterizing flavor in cigarettes, we know that even this process will be fraught with disorder. First, the FDA says they will promulgate the rule in August of 2023. If past practices are any indication of future practices, then it is almost certain that the ruling won't come in August. Even if the ruling comes in August of 2023, it will probably give the industry a year to implement the rule, pushing the date to the summer of 2024 and once a final rule is made public and there is more public comment, the industry will **sue** to stop the process from going forward, thus extending the time period for years to come. **The bottom line is that: We Can't Wait on the FDA.** Vermont must take steps to protect the health of their citizens, lives are at stake.

Who Are the Racists: The Tobacco Control Advocates or the Tobacco Industry?

Some groups funded by the tobacco industry insist that removing menthol cigarettes and flavored little cigars would be taking away "our" cigarette; we'd be discriminatory; racist. This line of argumentation stands history on its head. As was pointed out earlier, it was and is the tobacco industry that predatorially markets these products in the Black Community. The facts are these: there are more advertisements, more lucrative promotions, and most disturbing is that menthol cigarettes are **cheaper in the Black Community** compared to other communities (Henriksen et al., 2011; Seidenberg et al., 2010). This is how these flavored death sticks became "our" cigarettes, they pushed them down our throats!

Still other groups, spurred on and funded by the tobacco industry, have been spreading falsehoods, stating that restricting the sale of menthol and flavored tobacco products, including



The African American Tobacco Control Leadership Council

flavored e-juices will lead to the “criminalization” of particularly youth of color. Nothing could be further from the truth. All ordinances adopted around the country *prohibit the sale* of flavored products, *they don’t prohibit the possession* of these products. Indeed, the FDA proposed rule states explicitly that there are no penalties for individual use or possession. The facts are that the adoption of menthol restrictions will not lead to police having any greater interaction with any youth; it won’t be illegal to possess these products, just retailers cannot sell them.

These same groups rail about “unintended consequences.” We respond: **Look at the Intended Consequences!** As mentioned before, Black folks die disproportionately from tobacco related diseases of heart disease, lung cancer, and stroke compared to other racial and ethnic groups. (RSG, 2014); menthol cigarettes and flavored little cigars are the agents of that destruction. It is estimated that 45,000 Black folks die each year from tobacco related diseases (RSG, 1998). In this regard, the Senate Committee on Health and Welfare should remove all criminal penalties associated with the purchase, use and possession of all tobacco products. Decriminalize tobacco! Hold retail owners responsible, not clerks, don’t punish kids!

The AATCLC

Formed in 2008, the African American Tobacco Control Leadership Council is composed of a cadre of dedicated community activists, academics, public health advocates and researchers. Even though based in California, we are national in our scope and reach. We have partnered with community stakeholders, elected officials, and public health agencies, from Chicago, Boston and Minneapolis to Berkeley and San Francisco. Our work has shaped the national discussion and direction of tobacco control policy, practices, and priorities, especially as they affect the lives of Black Americans, African immigrant populations and ultimately all smokers. The AATCLC has been at the forefront in elevating the regulation of mentholated and other flavored tobacco products on the national tobacco control agenda, including testifying at the FDA hearings in 2010 and 2011 when the agency was first considering the removal of menthol cigarettes from the marketplace. In November of 2019 we testified on Capitol Hill in support of HR 2339 (The Pallone Bill), this bill would prohibit the manufacturing and sale of menthol and all flavored tobacco products throughout the United States. This Bill was passed in the House of Representatives in February of 2020 but went nowhere in the Senate. In June of 2020 the AATCLC along with its partner Action on Smoking and Health (ASH) filed a lawsuit against the FDA for dragging their feet by leaving menthol on the marketplace with overwhelming scientific evidence showing that it should be removed immediately. Subsequently and importantly the American Medical Association (AMA) and the National Medical Association (NMA) have joined the lawsuit as plaintiffs. It was this lawsuit that forced the FDA to act. And even though



The African American Tobacco Control Leadership Council

the law suit has been dropped, we are prepared to re-file if the FDA drags its feet again and doesn't announce a rule in august of 2023.

Call to Action!

Now is the time to adopt strong tobacco control measures that can protect our families. We already know that menthol and flavors “makes the poison go down easier.” Let’s not now allow menthol to make COVID-19 go down easier too! The Senate Committee on Health and Welfare needs to put the health of Vermont Citizens in the forefront of their thoughts, not the interests and profits of the tobacco industry, the vaping industry, and their surrogates. This is not the time for half-steps, like continuing to allow these products to be sold in adult-only venues, rather it is time to take a stand for the public’s health and say: **No Selling of Menthol Cigarettes and All Other Flavored Tobacco Products, including Flavored E-Juices and Flavored Hookah in the State of Vermont!** Say “No” to the continued predatory marketing of menthol flavored tobacco products to our youth and say “Yes” to the health and welfare of our kids, who are the most vulnerable. In fact, say “Yes” to the protection for **all** residents of Vermont.

We are all counting on you!

Sincerely,

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