



March 1, 2021

Senate Health & Welfare Committee
State House
Montpelier, VT 05602

RE: Testimony in **OPPOSITION to S.18**

The Cigar Association of America (CAA) is the premier voice of the cigar industry in the United States. CAA is the leading national trade organization representing the interests of cigar manufacturers, importers, distributors, and major suppliers of the industry. CAA was founded in 1937 as a non-profit trade organization. Today, its member companies come from all sectors of the industry, from major manufacturers of handmade premium cigars to the largest producers of machine-made cigars. CAA members manufacture a significant share of the large, premium, little, and filtered cigars sold in the United States. Its members also include internet retailers of cigars, as well as leaf, and other suppliers to the cigar industry. CAA is a key stakeholder in any discussion of regulation of cigars, as changes in laws and/or regulations significantly affect its members' ability to conduct business.

CAA submits this testimony in opposition to S.B. No. 18 (the "Proposed Flavor Ban").¹ Put simply, there is no legal, factual, or scientific basis to prohibit the sale of flavored cigars and pipe tobacco. Doing so would be detrimental to Vermont businesses and deprive adult cigar and pipe tobacco consumers of their right to a legal product.

The Proposed Flavor Ban seeks the same sweeping action -- banning flavors and removing adult consumers' ability to choose -- across nearly all categories of tobacco products. Such draconian measures, however, are simply not justified for cigars or pipe tobacco, as there is no youth epidemic of use of these products. CAA estimates that flavored cigars represent up to 47% of the cigar market, and nearly all pipe tobacco can be considered flavored based simply on the process used to manufacture the product. Passage of the Proposed Flavor Ban would be a deeply flawed decision, causing great financial harm to Vermont businesses selling these products.

Critically, extending the Proposed Flavor Ban to cigars and pipe tobacco is not supported by scientific data. Surveys conducted or funded by government agencies all show that youth usage of cigars, *including flavored cigars*, is at historic lows, and youth usage of pipe tobacco is nearly unmeasurable. In fact, youth usage of cigars, including flavored cigars, is at an all-time low both in Vermont and nationwide. In Vermont, the most recent survey data available from 2019 showed that youth usage of cigars was 6.0%, down from 13.0% in 2011.² While updated data is not available for Vermont, nationwide there have been steep declines in youth usage of cigars since 2019. The National Youth Tobacco Survey tells us that in

¹ CAA submits these comments solely to address the impropriety of the Proposed Flavor Ban as applied to cigar and pipe tobacco products. CAA does not address herein the propriety of the Proposed Flavor Ban as it would apply to other categories of tobacco products.

² https://www.healthvermont.gov/sites/default/files/documents/pdf/HS_2019_Tobacco_Data_Pages_2022_04.pdf





2022, youth usage of cigars was at 1.9% and in 2021, youth usage of flavored cigars was at 0.6%.³ In contrast, the 2019 Vermont Youth Risk Behavior Survey reported that in 2019, 26.0% of

Vermont high school students reported current e-cigarette / vapor products use while 27% of Vermont high school students reported current marijuana use.⁴

Evidence from other localities demonstrates that if a flavor ban is enacted, consumers will purchase products from out of state or through illicit markets. More importantly, it shows that flavor bans can increase youth *cigarette* smoking rates. A study done after a flavor ban was instituted in San Francisco, CA found that “Difference-in-differences analyses found that San Francisco’s flavor ban was associated with more than doubled odds of recent smoking among underage high school students relative to concurrent changes in other districts (adjusted odds ratio, 2.24 [95% CI, 1.42-3.53]; P = .001.”⁵

The Proposed Flavor Ban does nothing but restrict the choices of adult tobacco consumers, damage Vermont businesses, and encourage unregulated illicit market sales. Flavored cigars and pipe tobacco are sold through licensed businesses that are vigilant at age verifying purchases of such products. Imposing a prohibition on the legal sale of these products will do nothing but drive adult consumers to purchase these products (i) through an untaxed illicit market; or (ii) in neighboring states.

We have seen this exact situation in Massachusetts after a flavor ban was enacted there in 2020. The data shows that the flavor ban has done little to alter consumer consumption behavior – other than to force Massachusetts consumers to purchase flavored tobacco products in other states.⁶ The Tax Foundation stated this upon analyzing the impact of the Massachusetts flavor ban:

The end result of the ban, in fact, is that Massachusetts is stuck with the societal costs associated with consumption, while the revenue from taxing flavored tobacco products is being raised in neighboring states. In fact, the flavor ban has been far from successful, as sales in both New Hampshire and Rhode Island experienced double-digit growth—almost making up for the entire decrease in Massachusetts.⁷

Vermont itself saw a 6% increase in excise tax revenues following the Massachusetts ban. Further, enacting the Proposed Flavor Ban would do nothing but substantially decrease Vermont tax revenues.

³Park-Lee E, Ren C, Cooper M, Cornelius M, Jamal A, Cullen KA. Tobacco Product Use Among Middle and High School Students — United States, 2022. *MMWR Morb Mortal Wkly Rep* 2022;71:1429–1435. DOI: <http://dx.doi.org/10.15585/mmwr.mm7145a1>; See Consilium Sciences, “Evaluation of Flavored Cigar Products as they Relate to Questions of Public Health – Supplement to October 2020 Report” (2022), Appendix Tables 1 and 3. (on file with author and available in CAA’s publicly filed comments to FDA’s Proposed Product Standard on Characterizing Flavors in Cigars).

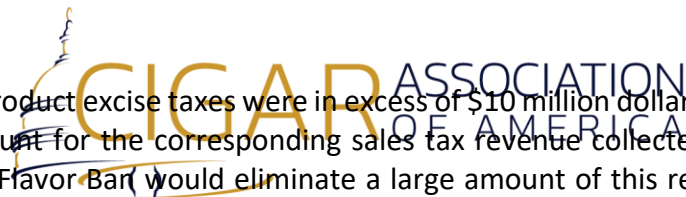
⁴ See *supra* note 2; https://www.healthvermont.gov/sites/default/files/documents/pdf/ADAP_Data_Brief_Marijuana.pdf.

⁵ Abigail Friedman, *A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California*, *JAMA Pediatrics* 175:8; 863-865 (2021).

⁶ Bosen, U. Massachusetts Flavored Tobacco Ban: No Impact on New England Sales. Tax Foundation (Feb. 3, 2022) <https://taxfoundation.org/massachusetts-flavored-tobacco-ban-sales-jama-study/>

⁷ *Id.*





Vermont other tobacco product excise taxes were in excess of \$10 million dollars in fiscal year 2021.⁸ This figure does not also account for the corresponding sales tax revenue collected from the sales of these products. The Proposed Flavor Ban would eliminate a large amount of this revenue, and in the case of cigars potentially up to 47% of the market. In short, S.B. No. 18 is a solution in search of a problem.

Thank you for the opportunity to present this testimony. For the foregoing reasons, the Cigar Association of America is OPPOSED to S.B. 18.

Respectfully Submitted,

David M. Ozgo
President
Cigar Association of America, Inc.

⁸ <https://earmarking.guerrillaeconomics.net/res/VT%20Excise%20Tax%20Revenue.pdf>