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Testimony from:

Jeffrey S. Smith, Senior Fellow, Integrated Harm Reduction, R Street Institute

R Street Testimony in opposition to HF 2177, "A bill for an act relating to health; prohibiting the sale or offer for sale of flavored products."

March 5, 2024

Committee on Health Finance and Policy

Chairperson Lieblich and members of the committee,

My name is Jeff Smith, and I am a senior fellow on the Integrated Harm Reduction team at the R Street Institute, which is a nonprofit, nonpartisan public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas. Our efforts to promote tobacco harm reduction are why we have a particular interest in HF 2177.

The R Street Institute has long-standing concerns about the health-related consequences of inhaling combustible cigarettes and has been a staunch advocate for limiting the sale of nicotine-related products to those who are 21 years of age and older. We strongly support varied pathways for quitting smoking, which include access to a wide array of alternative, reduced-risk nicotine products including Electronic Nicotine Delivery Systems (ENDS), Heated Tobacco Systems (HnB), and Oral Tobacco and Nicotine Products (Snus).

We believe HF 2177 would greatly hamper adult smokers on their journey to a smoke-free life by reducing access to flavored reduced-risk products and increasing the costs associated with purchasing them. Along with varied product types, access to a wide variety of flavors has been shown to be a key attribute that helps adult smokers switch from cigarettes to less harmful products. However, removing access to flavored alternatives would greatly curtail the positive movement toward reducing the consumption of combustible products for Minnesota's citizens.

Simply put, flavors help people quit smoking and stay smoke-free.

About a decade ago, scientific evidence emerged demonstrating the importance of non-tobacco-flavored reduced-risk products. In 2015, researchers reported that 66 percent of those who independently chose



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to switch to novel ENDS products were able to completely stop smoking cigarettes.<sup>1</sup> Most of the study's participants attributed their success, which was verified by exhaled carbon monoxide readings, to the availability of non-tobacco- and non-menthol-flavored ENDS products. Just recently, the New England Journal of Medicine (NEJM) published the most comprehensive study on how the use of ENDS products aids those that wish to quit smoking to do so. The researchers were able to clearly show that providing a wide variety of ENDS products (flavors and nicotine levels) significantly improved quit rates of smokers, at a level much higher than traditional nicotine replacement therapy.<sup>2</sup> The findings were so dramatic that the NEJM published a commentary alongside the paper by Dr. Nancy Rigotti, the director of the Tobacco Research and Treatment Center at Massachusetts General Hospital, in which she stated that "the burden of tobacco-related diseases is too big for potential solutions such as e-cigarettes to be ignored."<sup>3</sup>

The appeal and usage of multiple flavor varieties of ENDS among adult current, former, and never-tobacco users has also been investigated. Such studies have suggested that ENDS present potential benefits for current cigarette users without posing a substantial risk of initiation by tobacco non-users, including young adults.<sup>4</sup> In fact, in locations where flavor bans are put into place, smoking rates have risen (in both adult and underage consumers).<sup>5</sup> All agree that reducing youth access to any nicotine product—flavored or not—must be a priority.<sup>6</sup> Because certain flavors, like fruit, candy, dessert, and menthol, are particularly appealing to young adults and adolescents, who are more likely to initiate and

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<sup>1</sup> Tackett, Alayna P, William V Lechner, Ellen Meier, DeMond M Grant, Leslie M Driskill, Noor N Tahirkheli, and Theodore L Wagener. "Biochemically Verified Smoking Cessation and Vaping Beliefs among Vape Store Customers." *Addiction* 110, no. 5 (2015): 868-74. <https://onlinelibrary.wiley.com/doi/abs/10.1111/add.12878>

<sup>2</sup> Auer, Reto, Anna Schoeni, Jean-Paul Humair, Isabelle Jacot-Sadowski, Ivan Berlin, Mirah J Stuber, Moa Lina Haller, et al. "Electronic Nicotine-Delivery Systems for Smoking Cessation." *New England Journal of Medicine* 390, no. 7 (2024): 601-10. <https://www.nejm.org/doi/full/10.1056/NEJMoa2308815>

<sup>3</sup> Rigotti, Nancy A. "Electronic Cigarettes for Smoking Cessation—Have We Reached a Tipping Point?", 664-65 *Mass Medical Soc*, 2024. <https://www.nejm.org/doi/pdf/10.1056/NEJMe2314977>

<sup>4</sup> McDowell, Elliott H, Leiyu Yue, Jennifer T Lyden, and William R Bagwell. "Appeal and Likelihood of Use of Multiple Flavor Varieties of Bidi® Stick Electronic Nicotine Delivery Systems among Adult Current, Former, and Never Tobacco Users in the United States." (2022). <https://www.researchsquare.com/article/rs-1962398/v1>

<sup>5</sup> Friedman, Abigail, Alex C Liber, Alyssa Crippen, and Michael Pesko. "E-Cigarette Flavor Restrictions' Effects on Tobacco Product Sales." Available at SSRN (2023). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4586701](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4586701)

<sup>6</sup> Farzal, Zainab, Martha F Perry, Wendell G Yarbrough, and Adam J Kimple. "The Adolescent Vaping Epidemic in the United States—How It Happened and Where We Go from Here." *JAMA Otolaryngology–Head & Neck Surgery* 145, no. 10 (2019): 885-86. [https://jamanetwork.com/journals/jamapediatrics/article-abstract/2592300?utm\\_campaign=scite&utm\\_source=scite&utm\\_medium=referral](https://jamanetwork.com/journals/jamapediatrics/article-abstract/2592300?utm_campaign=scite&utm_source=scite&utm_medium=referral)



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continue smoking flavored products, deterring and preventing use is critically important.<sup>7</sup> To help address this concern, on Dec. 20, 2019, Tobacco 21 (also called “T21”) was signed into law as an amendment to the Federal Food, Drug, and Cosmetic Act.<sup>8</sup> This law made it illegal for anyone under the age of 21 to purchase any tobacco or nicotine product, and it has drastically decreased the use of such products among underage individuals. The existence of this law is a primary driver for the reduction of youth vaping across the country.<sup>9</sup> In 2019, it was estimated that the current use of e-cigarettes by underage individuals (11<sup>th</sup> graders) in Minnesota was 26% and has dropped to 14% as of 2022.<sup>10</sup> These decreases are most likely due to Tobacco 21 laws being enforced and the decline of youth use in Minnesota mirror what is being observed at the national level.<sup>11</sup>

The overwhelming majority of e-cigarettes used by youth were products that are illegally in the marketplace, most of which have been imported illegally from China. These products have not filed applications for approval with the FDA or did and had their application denied. There are a wide variety of brand names associated with these illegal vapes, including Elf Bar, Kangvape, FUME, and Mr. Fog, but the packaging can also be changed by the importer to represent additional brand names and marketing imagery. Attempting to track and enforce all of the hundreds of potential brands of illegal products is a herculean task. There are multiple tools to address underage use, from enforcement for purchasing to targeted prevention campaigns. Recently, localities have even gone so far as to install vape detectors in schools.<sup>12</sup>

Current, federally-funded initiatives are attempting to better evaluate the role of flavors in smoking cessation at the population level by standardizing research measures. We should anticipate that there

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<sup>7</sup> van der Eijk, Yvette, Xian Yi Ng, and Jeong Kyu Lee. "Cross-Sectional Survey of Flavored Cigarette Use among Adult Smokers in Singapore." *Tobacco Induced Diseases* 19 (2021).

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8173988/>

<sup>8</sup> U.S. Food & Drug Administration, “Tobacco 21”,

<https://www.fda.gov/tobacco-products/retail-sales-tobacco-products/tobacco-21>

<sup>9</sup> CDC/FDA, National Youth Tobacco Survey,

[https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm?s\\_cid=mm7244a1\\_w](https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm?s_cid=mm7244a1_w)

<sup>10</sup> Minnesota Department of Health, Minnesota Student Survey (2019).

<https://www.health.state.mn.us/news/pressrel/2019/studentsurvey101719.html>; Minnesota Department of Health, Minnesota Student Survey (2022).

<https://www.health.state.mn.us/news/pressrel/2022/stsurvey122322.html>

<sup>11</sup> CDC/FDA, National Youth Tobacco Survey,

[https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm?s\\_cid=mm7244a1\\_w](https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm?s_cid=mm7244a1_w)

<sup>12</sup> Mia Nelson, “Lynchburg City Schools installs vape detectors in high schools,” ABC 13 News, March 16, 2023.

<https://wset.com/news/local/lynchburg-city-schools-installs-vape-detectors-ec-glass-heritage-high-school-vaping-tobacco-thc-weed-pen-dr-derrick-brown-director-student-services-lcs-virginia-march-2023>.



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will eventually be FDA-authorized flavored reduced-risk products available for adult consumers to help support them on their journey toward a combustion-free life. A broad-reaching flavor ban, such as the one that HF 2177 would implement, would act to block any future FDA-approved flavored product from being legally marketed in Minnesota.

The R Street Institute urges you to consider all facets of how access to reduced-risk products impacts the health of Minnesota citizens as you review HF 2177. In 2011, the rate of smoking in Minnesota was over 19.1%, which dropped to only 13.8% in 2022.<sup>13</sup> ENDS use increased in adults to 4.9% during that same period.<sup>14</sup> These data are clear; adult smokers are migrating away from cigarettes toward less harmful ENDS products, and that is a clear public health win for Minnesotans. Broad flavor bans on reduced-risk products will lead to more people smoking and that will end up costing the state a lot more financially as the costs associated with smoking-related health care costs in the state are already estimated to be nearly \$4.7 billion.<sup>15</sup> We urge adjustments be made to HB 7225 that allow pathways for FDA-approved flavored products as they will curtail the positive health gains for your citizens in its tracks.

Thank you,

Jeffrey S. Smith, PhD  
Senior Fellow, Integrative Harm Reduction  
R Street Institute  
jsmith@rstreet.org

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<sup>13</sup> Minnesota Department of Health, Downward Trend in Adult Cigarette Smoking Continues (2022), [https://www.health.state.mn.us/communities/tobacco/data/docs/briefs/6-21-22\\_brfss\\_adult.pdf](https://www.health.state.mn.us/communities/tobacco/data/docs/briefs/6-21-22_brfss_adult.pdf)

<sup>14</sup> Ibid.

<sup>15</sup> Blue Cross / Blue Shield, The Cost of Smoking Report (2021). <https://www.centerforpreventionmn.com/cost-of-smoking/>

March 4, 2024

Dear Chair Liebling and Members of the House Health Finance & Policy Committee,

I am the owner of The Station of MV in Mounds View, Minnesota. We are a convenience store which offers a variety of products including gasoline, beverages, snacks, and tobacco products. I am writing to oppose HB 2177 and the proposed ban on flavored tobacco products in our state.

Flavored tobacco products, including vapor products and nicotine pouches, are significant contributors to our tobacco sales. More and more smokers are looking for alternatives to traditional cigarettes, and these flavored products provide them with a viable option. Adults should not be banned from purchasing flavored products if it helps them quit smoking.

If the goal here is keeping flavored products away from youth, I fully support that. As you know, the law already prohibits the sale of tobacco products to individuals under the age of 21. As a responsible retailer, we take this obligation seriously and always check IDs before selling tobacco or any other age-restricted products. We are fully committed to keeping tobacco out of the hands of youth, but we also support the ability of adults to purchase these legal products.

Instead of banning flavored tobacco products sold by responsible retailers, I urge you to focus your efforts on the illicit products being sold online or on the streets. These products are not subject to the same regulations as those sold in our store and pose a greater threat to anyone using them. By targeting these illicit products, we can best protect our youth while still allowing adults access to legal and regulated products.

I ask that you oppose HF 2177 and the effort to ban flavored tobacco products. Flavored products play a vital role in helping adults transition away from traditional cigarettes, and a ban would only serve to hinder these efforts.

Thank you for your consideration.

Sincerely,

Abduljabbar Hayek

Owner, The Station of MV  
2280 County Road I  
Mounds View, MN 55112



ADVOCATES FOR  
BETTER HEALTH

March 5, 2024  
House Health Finance and Policy Committee  
RE: HF2177

Dear Chair Liebling and Committee Members:

My name is Dr. M. Etienne Djevi, and I am an Infectious Disease physician and President of Advocates for Better Health (ABH). ABH is an organization dedicated to creating a healthy, equitable and thriving state by engaging physicians, students and healthcare providers in community-driven public health initiatives. Our healthcare provider advocates see firsthand the devastating impact commercial tobacco has on our communities, and recognize it's time for Minnesota to end the sale of all flavored commercial tobacco products across the state.

The tobacco industry uses flavored tobacco products to target adolescents whose brains are particularly vulnerable to nicotine addiction. Among Minnesota's 8<sup>th</sup> and 11<sup>th</sup> graders who use tobacco, a stunning 75% report using flavored products. Removing flavored tobacco from the marketplace, including menthol, is a critical prevention policy that will improve the health of our communities and save lives.

A new report commissioned by Blue Cross and Blue Shield of Minnesota shows that the costs to Minnesotans caused by commercial tobacco remain significant. Annually, smoking is responsible for \$9 billion in excess health care costs and lost productivity in our state. Smoking also takes the lives of 6,530 Minnesotans every year and not all Minnesotans bear this burden equally. Low-income individuals experience significantly higher rates of smoking and smoking-related health issues. Also, people with a mental illness or substance use disorder smoke at rates almost double that of the general population.

Additionally, other communities, as a direct result of targeting by Big Tobacco, are especially hard-hit by tobacco inequities. Nearly one in four Black Minnesotan adults smoke and 85% of them use menthol tobacco. That is not a coincidence, but the direct consequence of decades of targeting by the tobacco industry. It's clear the tobacco industry does not care about the health of Minnesotans.

The staggering costs of tobacco in both healthcare costs and loss of life cannot be compared to the loss of profits for the tobacco industry. The time to act is now. Thank you for your consideration and we hope you will stand up for the health of all Minnesotans.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Etienne Djevi', is placed over a light grey circular stamp.

M. Etienne Djevi, MD  
Advocates for Better Health  
President



March 5, 2024  
House Health Finance and Policy Committee

RE: HF2177 Support

Dear Chair Liebling and Committee Members:

On behalf of the American Cancer Society Cancer Action Network (ACS CAN), I'm writing today to express our strong support for HF2177 (Cha), legislation to end the sale of menthol cigarettes and all other commercial flavored tobacco products. We want to thank Representative Cha and the bill's bipartisan coauthors for their leadership on this issue.

This year in Minnesota, more than 37,930 people will hear the words "you have cancer." The good news is the five-year relative survival rate for all cancers continues to improve. Much of the success in fighting cancer is due to public policy. Some of the most critical cancer decisions are not made in the doctor's office, but instead made here in Saint Paul. Smart public policy is a key driver of cancer prevention, improved survival rates, and fewer cancer deaths.

For more than half a century, the tobacco industry has targeted Black Americans, LGBTQIA2S+ communities, American Indians and young people with menthol and other candy- and fruit- flavored tobacco products. These communities are disproportionately burdened by tobacco-related disease and death. As a result, 85 percent of Black people who smoke use menthols, versus 29 percent of white people who smoke. Nationally, tobacco use is the number one cause of preventable death among Black Americans, claiming 45,000 Black lives every year. In Minnesota, smoking rates among American Indians are at epidemic levels (59 percent), and 42 percent of urban American Indians who smoke use menthol cigarettes.

Tobacco companies add chemicals to improve the flavor of their products. Menthol, other candy, and fruit-flavored tobacco products mask the harsh taste of tobacco and are often incorrectly perceived to be "less harmful," but the use of such products, including menthol cigarettes, can still lead to cancer. Minnesota lawmakers have an opportunity this session to make Big Tobacco's deadly and addictive products less appealing.

Tobacco products with flavors like menthol, kiwi emoji, cotton candy, pineapple, mint, and chocolate milkshake are clearly not aimed at adults who use tobacco. Tobacco industry documents confirm the intended use of flavors has been to target new youth users. In Minnesota, 20.5% of high school and 4.1% of middle school students report having used a tobacco product in the past 30 days. One in seven Minnesota 11th graders uses e-cigarettes. Two-thirds of Minnesota's high school students who use tobacco report using menthol or other flavored tobacco products. One in three Minnesota high school students who smokes use menthol.

The Family Smoking Prevention and Tobacco Control Act (TCA) of 2009 granted the FDA the authority to regulate the manufacture, marketing, sale, and distribution of tobacco products for the first time. One of

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the most powerful provisions of the law included the requirement that all new tobacco products, including the majority of e-cigarettes and some cigars, smokeless tobacco, hookah and pipe tobacco, undergo premarket review by FDA to determine if they are “appropriate for the protection of the public health,” otherwise known as the public health standard. All tobacco products must receive a marketing order from FDA before the product can be sold legally. FDA's "safe and effective" standard for evaluating medical products does not apply to tobacco. Instead, FDA regulates tobacco products based on a public health standard intended to reduce the toll that tobacco product use takes on public health.

ACS CAN believes no flavored tobacco product can meet the standard of “appropriate for the protection of the public health” and therefore any flavored tobacco product should be denied premarket review. There is extensive evidence that the tobacco industry adds flavors to tobacco products to target youth, Black people, American Indians, and individuals who identify as LGBTQIA2S+ and others with its deadly products.

Finally, this is not a new policy. This bill has been introduced at the Minnesota State Capitol in past bienniums and has had successful hearings in the Minnesota House and Senate. Massachusetts, California, and hundreds of localities across the U.S. have some kind of restriction on the sale of flavored tobacco products, including 29 communities here in Minnesota. Flavored tobacco product sales restrictions can reduce tobacco product availability, sales, retailer advertising, and use rates. Equally important, the enforcement of these policies is critical to their effectiveness. ACS CAN supports that this policy does not include penalties for purchase, use, possession.

We urge this committee and the Minnesota Legislature to pass HF2177. We can't wait another year to pass HF2177. Every year we do nothing, another 6,587 Minnesotans will suffer from cancer deaths caused by cigarette smoking.

Sincerely,

Emily Myatt  
Regional Government Relations Director



The Office of  
**Minnesota Attorney General Keith Ellison**  
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March 5, 2024

The Hon. Tina Liebling  
Chair, House Health Finance & Policy  
Committee  
477 State Office Building  
St. Paul, MN 55155

The Hon. Joe Schomacker  
Ranking Member, House Health Finance &  
Policy Committee  
209 State Office Building  
St. Paul, MN 55155

**Re: House File 2177**

Dear Chair Liebling and Ranking Member Schomacker:

Pursuant to my duty under section 8.32 of the Minnesota Statutes to recommend statutory changes to protect consumers, I write to support House File 2177. This important legislation is necessary to protect consumers, particularly Minnesota's youth and other vulnerable populations, from the harmful effects of flavored tobacco and e-cigarette products.

I. Background

Minnesota has been a tobacco regulation leader for many years. In one of the most consequential pieces of litigation in the 20th century, my predecessor, Attorney General Skip Humphrey, sued the tobacco industry in 1994 for, among other things, conducting a longstanding campaign to get Minnesota's youth hooked on cigarettes. Attorney General Humphrey took Big Tobacco to trial and secured a monumental \$6.5 billion settlement with the industry.

More than 20 years after this landmark litigation, my Office sued Juul Labs and Altria, the reincarnation of Big Tobacco defendant Philip Morris, for following in Big Tobacco's footsteps by marketing their e-cigarette products to young Minnesotans. One of Juul's insidious tactics was using flavors like menthol, mango, cucumber, crème brûlée and fruit medley to attract young Minnesotans to use e-cigarettes. After a three-week trial in March 2023, my Office secured a \$60.5 million settlement, with the money dedicated to the Department of Health to fund youth tobacco use cessation, prevention, and education efforts.

But litigation alone cannot solve this public health problem. Youth use of e-cigarettes, also known as electronic nicotine delivery systems ("ENDS"), remains troublingly high. Youth use is fueled largely by the increasing popularity of flavored disposable ENDS that flooded the market following a decline in the use of pod-based ENDS products like Juul. Data shows that nationwide, over 2.2 million high school and middle school students used fruit, candy, or dessert flavored ENDS; nearly 1.4 million used disposable products.<sup>1</sup>

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<sup>1</sup> Fatma Romeh M. Ali et al., *E-cigarette Unit Sales by Product and Flavor Type, and Top-Selling Brands, United States, 2020-2022*, 72 Morbidity and Mortality Weekly Report 672, 672 (2023), <https://www.cdc.gov/mmwr/volumes/72/wr/pdfs/mm7225a1-H.pdf>.

The data is clear that kids in Minnesota prefer tobacco products with flavors. Nearly 4 in 5 Minnesota high school and middle school students report that their first tobacco product was flavored.<sup>2</sup> Of Minnesota students that are tobacco users, more than 80% used a flavored tobacco product in the last 30 days.<sup>3</sup> The numbers are even more staggering for e-cigarettes, as researchers found that 87.1% of student ENDS users were using flavored e-cigarettes.<sup>4</sup>

These problems are not limited to flavors in ENDS devices. The only currently-allowed<sup>5</sup> flavor in combustible cigarettes—menthol—remains popular as well. Research shows that menthol products are more appealing to youth and to people who have never smoked.<sup>6</sup> Due to the tobacco industry’s long and relentless campaign of targeted marketing, youth, women, LGBTQ+ individuals, low-income persons, and racial and ethnic minorities are more likely than other groups to start smoking and become addicted to tobacco.<sup>7</sup>

For instance, of the portion of Minnesota students that smoke cigarettes, 32.8% of them use menthol cigarettes.<sup>8</sup> This is higher than the roughly 27% share of adult smokers that use menthol cigarettes. These deadly products also disproportionately harm Black Americans. Researchers found that approximately 81% of non-Hispanic Black adults who currently smoked cigarettes used menthol cigarettes, compared to just 34% of non-Hispanic White adults.<sup>9</sup> Studies also show that over 93% of Black smokers began cigarette use with menthol cigarettes.<sup>10</sup>

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<sup>2</sup> Minnesota Department of Health, *Teens and Tobacco in Minnesota: Highlights from the 2020 Youth Tobacco Survey*, at 9 (Feb. 23, 2021), available at <https://www.health.state.mn.us/communities/tobacco/data/docs/2020mytsreport.pdf>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> The Food and Drug Administration has proposed a federal ban on menthol cigarettes that is currently under review at the White House Office of Management and Budget. In January 2024, I joined 20 other state attorneys general in urging the White House to quickly finalize this rule. <https://oag.ca.gov/system/files/attachments/press-docs/1.16.2024%20Multi-State%20Letter%20to%20White%20House%20OMB%20re%20Menthol%20Ban.pdf>

<sup>6</sup> Centers for Disease Control and Prevention, *Menthol Tobacco Products* (Aug. 23, 2023), [https://www.cdc.gov/tobacco/basic\\_information/menthol/index.html](https://www.cdc.gov/tobacco/basic_information/menthol/index.html).

<sup>7</sup> *Id.*

<sup>8</sup> Minnesota Department of Health, *Teens and Tobacco in Minnesota: Highlights from the 2020 Youth Tobacco Survey*, at 10 (Feb. 23, 2021), available at <https://www.health.state.mn.us/communities/tobacco/data/docs/2020mytsreport.pdf>.

<sup>9</sup> 8 Renee D. Goodwin et al., *Menthol Cigarette Use Among Adults Who Smoke Cigarettes, 2008–2020: Rapid Growth and Widening Inequities in the United States*, *Nicotine & Tobacco Research*, vol. 25(4), 692–698 (2023), <https://doi.org/10.1093/ntr/ntac214>; see also Ctrs. for Disease Control & Prevention, *Menthol Smoking and Related Health Disparities* (Nov. 2, 2023), [https://www.cdc.gov/tobacco/basic\\_information/menthol/related-health-disparities.html](https://www.cdc.gov/tobacco/basic_information/menthol/related-health-disparities.html).

<sup>10</sup> Joanne D’Silva et al., *Differences in Subjective Experiences to First Use of Menthol and Nonmenthol Cigarettes in a National Sample of Young Adult Cigarette Smokers*, *Nicotine & Tobacco Research*, vol. 20(9), 1062–68 (2018), <http://dx.doi.org/10.1093/ntr/ntx181>.

II. HF 2177

House File 2177 proposes a straightforward, commonsense solution to this problem: prohibiting the sale of flavored tobacco products, including e-cigarettes and menthol cigarettes, by retailers in Minnesota. The bill bans the sale of tobacco products that “impart[] a taste or smell, other than the taste or smell of tobacco,” and provides that offenders are subject to administrative penalties as well as potential enforcement action by the Department of Revenue or the Attorney General’s Office.

I strongly support this legislation. Research shows that flavor bans like this bill are effective in reducing tobacco product sales and mitigating youth use.<sup>11</sup> Minnesota should continue its tradition of being on the cutting edge of public health policy and prevent its youth and vulnerable populations from being unfairly exploited by tobacco companies looking to profit from addiction.

Finally, to assuage some community concerns, I can commit that the Attorney General’s Office cannot, and would not, seek to enforce prohibitions on flavored tobacco against individuals who purchase, possess, or use flavored tobacco. **This proposed bill does not outlaw individual purchase, possession, or use of flavored tobacco.** Instead, the bill directs goes upstream to prohibit retailers and distributors from selling and distributing these products in Minnesota.

I strongly encourage your committee to advance this important bill. I thank you for allowing me to provide my recommendations. If you have any questions or would like additional information, my team and I would be happy to help in any way that we can.

Sincerely,



KEITH ELLISON  
Attorney General

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<sup>11</sup> Fatma Romeh M. Ali et al., *E-cigarette Unit Sales by Product and Flavor Type, and Top-Selling Brands, United States, 2020-2022*, 72 *Morbidity and Mortality Weekly Report* 672, 675 (2023), <https://www.cdc.gov/mmwr/volumes/72/wr/pdfs/mm7225a1-H.pdf>.



March 4, 2024

Re.: Support for House File 2177

Dear Representative Liebling:

On behalf of the American Lung Association in Minnesota, I am writing to express our support for HF 2177, which will help protect youth from the harms of flavored commercial tobacco products.

The American Lung Association is the oldest voluntary health organization in the United States. For more than 120 years, the Lung Association has been working to save lives by improving lung health and preventing lung disease through education, advocacy, and research. The Lung Association works on behalf of the 37 million Americans living with lung diseases.

**The Need is Clear:**

Since the late 1990's, we have been making tremendous progress in reducing cigarette smoking rates to all-time lows. However, this positive news has been tempered by a dramatic increase in youth e-cigarette use and a tobacco product use rate that hasn't really changed in a decade.<sup>i</sup> According to the Lung Association's [2024 State of Tobacco Control](#) report tobacco use is a very present and real issue in Minnesota impacting too many, especially our most vulnerable populations.

- Nearly 5,910 Minnesota residents die due to smoking attributable deaths annually.
- Tobacco costs Minnesota more than \$2.5 billion in healthcare costs directly related to smoking every year.
- 14.9% of Minnesota high schoolers reported using tobacco products in the last year.

**Why address flavors?**

Flavors, including menthol, are one of the main reasons kids use tobacco products and have played a big role in the youth vaping epidemic. Research shows that 81% of kids who have ever used tobacco products started with a flavored product. Youth also cite flavors as a major reason for their current use of tobacco products.<sup>ii</sup>

Recognizing that almost all tobacco users begin their use during their adolescence or young adulthood, tobacco companies have spent billions of dollars marketing their products and making them more attractive to young people. It is well established that flavors are attractive to children and young people. Both the U.S. Surgeon General<sup>iii</sup> and the National Academy of Sciences, Engineering and Medicine<sup>iv</sup> have written comprehensive reports on e-cigarettes that discuss the subject. For decades, the tobacco industry has used flavors to attract youth. Indeed, the industry's decades-long conspiracy to deceive the public includes many documents that demonstrate the industry's understanding of the role flavors play in kids starting to use tobacco products. While most flavored cigarettes are prohibited, the industry is once again using flavored e-cigarettes – as well as cigars – to attract youth – and then

addict them with products claiming to taste like Gummy Bears, Atomic Fireball, Captain Crunch, Apple Juice and a wide variety of other fruit, candy and sweet flavors, there is no question that these flavors appeal to youth.

For decades, communities of color and lower socioeconomic status have born a disproportionate burden of the negative health outcomes that comes tobacco use and exposure to secondhand smoke. Menthol cigarettes remain a key vector for tobacco-related death and disease in Black communities, with over 80% of Black Americans who smoke using them. Nearly 9 in 10 African American smokers (88.5 percent) aged 12 years old and older use menthol cigarettes.<sup>v</sup> This is not by chance – the sale and marketing of menthol cigarettes disproportionately burdens the African-American community by the tobacco industry.<sup>vi</sup> Also, use of menthol cigarettes is more common among youth, female smokers, LGBTQ+ smokers<sup>vii</sup>, and those with mental illness.

A recent study showed that while overall cigarette use declined by 26% over the past decade, 91% of that decline was due to non-menthol cigarettes.<sup>viii</sup> This underscores what an FDA scientific advisory committee already found:<sup>ix</sup> menthol cigarettes are hard to quit, and they disproportionately affect Black communities.<sup>x</sup> In fact, a study released in 2021 found 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 from 1980–2018.<sup>vii</sup>

The health disparities we see with tobacco use and tobacco related disease are some of the reasons the American Lung Association supports ending the sale of all flavored commercial tobacco products.

We appreciate the opportunity to submit this testimony and your attention to addressing the issue before us. With a vision of a world free of lung disease, the American Lung Association is working to eliminate the use of all commercial tobacco products. We support strong tobacco prevention policies that are proven to reduce tobacco rates. A comprehensive approach, including passage of House File 2177 and ending the sale of all flavored commercial tobacco products is needed to realize this vision and prevent Minnesota’s youth from being the next generation of kids addicted to tobacco products.

Sincerely,



Pat McKone, Senior Director

Public Policy and Advocacy

American Lung Association in Minnesota

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<sup>i</sup> E-cigarettes are Reversing Progress in Reducing Youth Tobacco Use. Campaign for Tobacco Free Kids. <https://www.tobaccofreekids.org/assets/factsheets/0408.pdf> Accessed January 29, 2021.

<sup>ii</sup> Flavored Tobacco Products Attract Kids: Brief Overview of Key Issues. Campaign for Tobacco-Free Kids. <https://www.tobaccofreekids.org/assets/factsheets/0399.pdf> Accessed January 29, 2021.

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<sup>iii</sup> U.S. Department of Health and Human Services. (2016.) E-Cigarette Use Among Youth and Young Adults. Retrieved from [https://e-cigarettes.surgeongeneral.gov/documents/2016\\_sgr\\_full\\_report\\_non-508.pdf](https://e-cigarettes.surgeongeneral.gov/documents/2016_sgr_full_report_non-508.pdf)

<sup>iv</sup> National Academies of Sciences. (2018). Public Health Consequences of E-Cigarettes. Retrieved from <http://nationalacademies.org/hmd/Reports/2018/public-health-consequences-of-e-cigarettes.aspx>

<sup>v</sup> <https://truthinitiative.org/news/6-key-takeaways-new-fda-plan-e-cigarettes-flavored-tobacco-products>

<sup>vi</sup> Too Many Cases, Too Many Deaths: Lung Cancer in African Americans, American Lung Association. <https://www.lung.org/assets/documents/research/ala-lung-cancer-in-african.pdf>

<sup>vii</sup> Menthol cigarette smoking among lesbian, gay, bisexual, and transgender adults. Fallin A1, Goodin AJ2, King BA3. <https://www.ncbi.nlm.nih.gov/pubmed/25245795>

<sup>viii</sup> Delnevo CD, Ganz O, Goodwin RD, Banning Menthol Cigarettes: A Social Justice Issue Long Overdue. *Nicotine Tob Res*, 2020 Oct 8;22(10):1673-1675. <https://doi.org/10.1093/ntr/ntaa152>.

<sup>ix</sup> Tobacco Products Scientific Advisory Committee (TPSAC). Menthol cigarettes and public health: review of the scientific evidence and recommendations. Rockville, MD: Food and Drug Administration, 2011.

<sup>x</sup> Delnevo CD, Ganz O, Goodwin RD, Banning Menthol Cigarettes: A Social Justice Issue Long Overdue. *Nicotine Tob Res*, 2020 Oct 8;22(10):1673-1675. <https://doi.org/10.1093/ntr/ntaa152>.



March 4, 2024

House Health Finance and Policy Committee

RE: HF2177

Dear Chair Leibling and Committee Members:

The Association for Nonsmokers-Minnesota (ANSR) is a nonprofit organization dedicated to reducing the human and economic costs of commercial tobacco, nicotine and other drug use in Minnesota. ANSR has supported strong public policies that protect Minnesotans from tobacco industry targeting and reduce commercial tobacco-related health disparities for over 50 years.

Our organization supports HF2177, which would end the sale of all flavored commercial tobacco products in Minnesota, including menthol cigarettes, flavored cigars, e-cigarettes, hookah and smokeless tobacco. Taking these flavored products off of shelves will improve Minnesotans' health, prevent youth initiation and protect those that the tobacco industry heavily targets, including youth, low-income communities, Black and Indigenous people and 2SLGBTQIA+ folks.

Nicotine is a powerfully addictive drug. Research shows that when addictive drugs hit the brain, in a short time, the brain itself is changed. That is why when someone who is addicted to alcohol quits drinking they don't say, "I am no longer an alcoholic." Typically they say, "I am an alcoholic but right now I am working at not drinking." Their brains have been permanently changed by their use of alcohol. That same kind of change is happening every day as Minnesota youth start using nicotine, whether through cigarettes, cigars or vapes. Schools and the public health community are pressured to provide treatment to young people who are addicted to nicotine. Sadly, so far no treatment has been found to be very effective because the damage is already done to the youth's developing brain. If we are to make a difference, we must prevent the addiction to begin with.

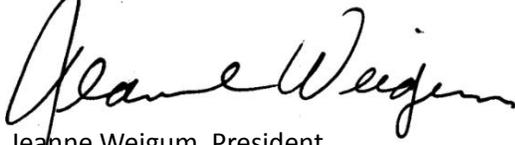
Surveys have shown that fruity, sweet and minty flavors attract Minnesota youth to start using commercial tobacco products, especially vapes. In the 2020 Minnesota Youth Tobacco Survey, 78 percent of middle and high schoolers who experimented with commercial tobacco reported that the first product they ever tried was flavored. The tobacco industry continues to expand their flavor catalog to hook a young customer base—Minnesota's youth—into lifelong addiction.

We cannot leave menthol behind in this discussion about flavors. The cooling effect of menthol makes smoking easier to start and harder to quit. The tobacco industry has a long history of targeting Black communities, youth, 2SLGBTQIA+ folks and women with menthol advertisements, and now we see higher rates of menthol use among those groups compared to the rest of the population. The industry continues to pump millions into marketing menthol to these groups while they bear a disproportionate burden of tobacco-related death and disease.

Smoking costs the state over \$9.4 billion each year, considering excess healthcare costs and lost productivity related to illness, disability and premature death. HF2177 can save Minnesota money and Minnesotan lives.

1 in 4 Minnesotans is already covered by a local flavor restriction or prohibition. It's time we extend this protection to all Minnesotans. The longer we wait, the longer the tobacco industry has to hook new customers. We are counting on you to put Minnesotans' wellbeing above tobacco industry greed by supporting HF2177.

Sincerely,

A handwritten signature in black ink that reads "Jeanne Weigum". The signature is written in a cursive, flowing style.

Jeanne Weigum, President

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Association for Nonsmokers-Minnesota | [www.ansrmn.org](http://www.ansrmn.org) | 651.646.3005



March 5, 2024

**Testimony on Minnesota [HF 2177](#) — “Prohibits the sale or offer for sale of flavored products”**

Dear Chairs and Members of the House Health Finance & Policy Committee,

My name is Elizabeth Hicks and I am the US Affairs Analyst of the consumer advocacy group Consumer Choice Center.

Simply put, HF 2177 will do more harm than good if passed. Enacting a flavor ban on vaping products will push adult consumers to switch back to smoking combustible tobacco. Sadly, 5,900 Minnesotans lose their lives to smoking-related illnesses every year. Considering that [studies have shown vaping to be 95% less harmful than smoking](#) and that adults who use flavored vaping products are [2.3 times more likely](#) to quit smoking cigarettes, ensuring that adult consumers have access to the vaping products they prefer will ultimately lead to fewer cigarette smoking-related deaths in Minnesota.

More than 5% of Minnesota’s adult population uses vaping products, accounting for over 285,000 Minnesotans who have switched to a less risky alternative to combustible tobacco. Banning flavored vaping products will encourage these individuals to switch back to smoking cigarettes, and will ultimately lead to increases in smoking-related healthcare costs, which are already costing Minnesota’s taxpayers \$605.4 million annually through medicaid expenses alone.

Furthermore, while this bill is intended to protect youth from tobacco use, [data from the Journal of the American Medicine Association](#) shows that when flavored vaping products are banned, combustible smoking rates **increase** for youth aged 18 and younger. This unintended consequence would only exacerbate the problem Minnesota is trying to fix, while simultaneously harming adult consumers, making this particular bill unviable in achieving its desired outcomes.

Additionally, if a flavor ban is enacted in Minnesota, then consumers will look towards the illicit market in order to get access to their preferred flavored vaping products. This presents serious concerns for public health in the state as vapers will be purchasing unregulated products that do not necessarily adhere to regulatory standards. Additionally, the illicit market does not abide by age restrictions therefore making it much easier for youth to acquire these products illegally.

Other states have implemented flavor bans and the results weren’t quite what public health officials were hoping for. Massachusetts was one of the first states to enact a ban on flavored vaping products in 2019. Since the ban went into effect in 2020, the state’s [Multi-Agency Illegal Task Force](#) admitted that the ban had created a new market for hundreds of millions of dollars worth of illicit counterfeit tobacco products brought in from states such as New Hampshire. Additionally, the ban [resulted](#) in substantially lower earnings for Massachusetts store owners and employees and over \$114 million in lost tax revenue for the state.





California enacted a state-wide flavor ban for cigarettes and vaping products in 2022. A [recent study](#) looking at the effects of the California ban by analyzing empty discarded packs, found that the ban had little effect on product availability considering 98% of the vaping products found were flavored. Frighteningly, international smuggling from China has helped fill the void with over 9,000 different vaping devices being illegally sold in the US, areas with flavor bans being particularly lucrative places to sell.

In regard to combustible cigarettes, researchers found that after the California ban had taken effect, menthol products and menthol work-around products continue to make up over 21% of the marketplace. Whereas before the ban went into effect, menthol cigarettes made up a little over 24% of the marketplace, meaning the ban had little effect on consumer access. Again, international smuggling through the illicit market has helped fill the void for consumer demand. One of the most-found brands, Sheriff, is known to be trafficked by Mexican cartels. It made up over 5% of the sample examined in the study, which suggests that tens of millions of packs have illegally entered California since the ban went into effect.

Our goal should be to expand adult's choices to quit combustible tobacco, not to limit them severely. Sweden is a great example as to how tobacco harm reduction policies reduce smoking related deaths and illnesses. Perhaps Minnesota could follow in the footsteps of Sweden, which the World Health Organization has [announced](#) will likely become the first smoke-free country. Instead of implementing prohibitionist policies like bans, the Swedish government made sure to keep taxes low on nicotine alternatives like vaping, snus, and nicotine pouches while allowing a **full range of flavors** for adult consumers. These policies have [resulted](#) in smoking rates declining by 55 percent in the last decade, smoking-related death average dropped to 22 percent lower than the European Union average, cancer incidence is 41 percent lower and total deaths from cancer is 38 percent lower than the rest of Europe. As a recent cancer survivor myself, I sincerely encourage legislators to embrace similar policies to Sweden's to ensure we are taking tangible steps to reduce cancer incidence for your constituents.

The fear I have if HF 2177I is adopted, is that the state will move quickly to deprive adult consumers of these less risky options, unaware of the severe repercussions and harm that it would cause to both adult consumers and youth.

Our policies must be fair, just, and based on scientific evidence. I believe this body, composed of diverse legislators from the entire state, can help make that determination for the residents who depend on you to protect their consumer choice, especially when it comes to less harmful products. **We respectfully urge you to vote against HF 2177.**

Thank you for your attention to this matter.

Sincerely,

Elizabeth Hicks  
US Affairs Analyst  
Consumer Choice Center  
[elizabeth@consumerchoicecenter.org](mailto:elizabeth@consumerchoicecenter.org)



March 4, 2024

Dear Chair Liebling and members of the House Health Finance & Policy Committee,

I am writing to oppose HF 2177, which proposes to ban the sale of flavored tobacco products in Minnesota. As an independently owned business, this proposed ban would have a devastating impact on my business and the livelihood of my employees.

One thing I want to emphasize is this ban will not stop Minnesotans from buying flavored tobacco products. Instead, people will still be able drive to any of our neighboring states to buy the product or they will resort to buying them online. Worse yet, criminals will take advantage of this prohibition and you'll soon find flavored tobacco being sold on street corners or out of car trunks where they do not check IDs to verify age. This will undermine the intent of the ban and also unfairly penalize responsible retailers, like me, who always verify the age of an individual before selling any tobacco product in our stores.

This ban will also result in a significant loss of revenue for my store. Flavored tobacco products make up a substantial portion of my sales, and losing these customers will have a serious negative impact on my business. If my adult customers stop coming into my store to buy tobacco, that is not the only sale that I stand to lose since they usually buy other items like snacks, or beverages at the same time.

I urge you to please reconsider HF 2177.

Thank you for considering my perspective on this important issue.

Sincerely,

Patrick Awad

Premier Tobacco

March 4, 2024

To: Health, Finance, and Policy Committee  
From: Americans for Tax Reform

Dear Committee Members,

On behalf of Americans for Tax Reform (ATR), a non-profit organization which advocates in the interests of taxpayers and consumers throughout the United States, I urge you to reject HF2177, misguided legislation which seeks to restrict access to lifesaving reduced risk tobacco alternatives such as flavored electronic, menthol cigarettes, and nicotine pouches proven critical to the process of helping adults quit smoking. **The evidence clearly demonstrates that if enacted, this bill would have a disastrous impact upon not only businesses, but public health throughout Minnesota, and lead to a clear increase in tobacco-related mortality.**

Studies have repeatedly shown that flavors in vapor products, which HF2177 would prohibit, are critical to helping adult smokers make the switch to vaping. Adults who use flavored vapor products are 43% more likely to quit smoking than an adult who uses unflavored products, according to a recent [study](#) from ten of the world's top experts in cancer prevention and public health.

**Further, bans on flavored vaping products are shown to cause increased youth cigarette smoking.** A [study](#) from Dr. Abigail Friedman at the Yale School of Public Health found that when San Francisco imposed a flavor ban in 2018, youth smoking doubled. Before San Francisco's flavor ban, the city had lower youth smoking rates than comparable counties like New York and Los Angeles. After the flavor ban, San Francisco's youth smoking rate rose to 6.2% while comparable districts had an average rate of 2.8%. National Youth Tobacco Survey results have shown [no increase in nicotine dependency](#) among youths since flavored products entered the market.

The bill would also ban menthol cigarettes. Menthol cigarettes are no more harmful than non-menthol cigarettes as there is no [difference](#) in chemical composition, quit rates, or likelihood of developing lung cancer. Additionally, cigarette bans promote a black market for the products. People will just cross lines to buy what they want. Multi-million-dollar crime syndicates, that **also engage in human trafficking and money laundering, flood the black market with unsafe products that produce revenue used to fund terrorism. For this reason, the US State Department has explicitly called tobacco smuggling a “[threat to national security](#)”.**

HF2177 also seeks to ban nicotine pouches. These pouches are one of the safest ways to consume nicotine. Approximately a million adults in American already use nicotine pouches to quit smoking deadly cigarettes. The FDA has already [authorized](#) the similar product, snus, which are a valuable aid to quit smoking. They put users at a lower risk of mouth cancer, heart disease, lung

cancer, stroke, emphysema, and chronic bronchitis. Snus are used mostly in Sweden where they have the [lowest rate](#) of lung cancer in the developed world due to the popularity of Swedish snus.

For the reasons outlined above, in the interests of improving public health, protecting the Minnesota economy, and preventing the spread of smuggling cartels, we urge you to **vote against HF2177**.

Sincerely,

Grover Norquist

*President*

Americans for Tax Reform



March 4, 2024

Dear Legislative Leaders:

**We, the undersigned current and former mayors, city council members, and county commissioners across Minnesota, are writing to kindly urge you to support the bill to end the sale of all commercial flavored tobacco products, including menthol cigarettes, flavored cigars, e-cigarettes, hookah, and smokeless tobacco in Minnesota (SF2123/ HF2177).**

We believe that broader policy coverage leads to a more significant impact to prevent youth addiction, advance racial and health equity, and create a healthier future for everyone in our state.

The following bullet points highlight some key reasons this policy is needed:

**Preventing youth addiction:**

- In Minnesota, one in seven 11th graders uses e-cigarettes, and 88 percent of those students use flavored e-cigarettes.<sup>1</sup> Nationally, 85% of youth e-cigarette users report using flavored products.<sup>2</sup>
- The tobacco industry deliberately uses flavors to attract the next generation of tobacco users.<sup>3</sup>
- E-cigarettes are available in a wide variety of kid-friendly flavors like cotton candy, gummy bear, mint, menthol, and cookie dough.
- E-cigarettes contain high levels of nicotine which harms adolescent brain development and primes youth for addiction.<sup>4</sup> More than 70 percent of youth e-cigarette users in Minnesota are showing signs of nicotine dependence.<sup>5</sup>
- Cigars come in hundreds of kid-friendly flavors, like Banana Smash and Chocolate Brownie. Cigars are the second most popular tobacco product among youth and are especially popular among Black youth.<sup>6</sup>
- Nearly half of youth who have tried smoking started with menthol cigarettes.<sup>7</sup> Menthol cools and numbs the throat and reduces irritation, making it easier for kids to start smoking.<sup>8</sup>

**Advancing racial and health equity:**

- The commercial tobacco industry targets youth, Black, LGBTIQ+, Indigenous communities, and other historically under-resourced communities with menthol tobacco.<sup>9,10</sup>
- As a result of years of targeted marketing, 85% of Black people who smoke use menthol cigarettes compared to 29 percent of white smokers.<sup>11</sup>
- Smoking continues to contribute to racial disparities in mortality and life expectancy.<sup>12</sup>

**Creating a healthier future:**

- Ending the sale of all flavored tobacco products will reduce tobacco use and improve the health of groups targeted by the commercial tobacco industry.<sup>13</sup>
- Fewer people smoking and using nicotine means a decrease in related health issues, reducing the burden on local healthcare resources.
- Reduced healthcare costs and increased productivity can have positive economic effects on local businesses and the community at large.
- There are currently five states and more than 360 localities with flavor bans. At least 170 of those localities restrict the sale of menthol cigarettes. As of early 2023, at least 10 states (Connecticut, Hawaii, Indiana, Maryland, New Mexico, New York, Oregon, Texas, Vermont, and Washington) introduced legislation that would limit the sale of flavored tobacco and nicotine products.<sup>14</sup>
- More than twenty-five percent of Minnesotans are covered by a local ordinance that restricts or prohibits the sale of flavored and/or menthol tobacco products.<sup>15</sup>
- Minnesota's proposal to end flavored commercial tobacco sales has strong bipartisan support.



- In a 2023 statewide poll, 62 percent of Minnesotans expressed support for the proposal to end the sale of all flavored tobacco products, with high levels of support across various demographics and regions.<sup>16</sup>
- The federal government (FDA) has proposed rules that would remove flavored menthol cigarettes and flavored cigars from the marketplace but excludes flavored e-cigarettes and other flavored tobacco products.<sup>17</sup> Although the proposed rule is under final review, a final rule would likely face years of delays from the tobacco industry.<sup>18</sup> Minnesota should act now to improve health.

We sincerely encourage your support for this bill, as its passage promises to enhance health outcomes, diminish disparities, and decrease healthcare costs—ultimately fostering a healthier and more equitable Minnesota for all.

Sincerely,

Graeme Allen, New Brighton City Council Member  
Thomas Andries, Lyon County Commissioner  
Paul Bakken, Eagan City Council Member  
Paul Baudhuin, St. Louis Park City Council Member  
Amy Brendmoen, St. Paul City Council Member (former)  
Sue Budd, St. Louis Park City Council Member  
Jason Chavez, Minneapolis City Council Member  
Charlene Christenson, Hubbard County Commissioner  
Brenda Dietrich, Inver Grove Heights Mayor  
Tim Elness, Sartell City Council Member  
Jeanne Ennen, Stevens County Commissioner  
Larry P. Fonnest, Golden Valley City Council Member (former)  
Debbie Goettel, Hennepin County Commissioner  
Marion Greene, Hennepin County Commissioner  
Laurie Halverson, Dakota County Commissioner  
Gary Hansen, Eagan City Council Member  
Shep Harris, Golden Valley Mayor (former)  
Chris Hollingsworth, Pipestone County Commissioner  
Candice Jaenisch, Chippewa County Commissioner  
Rachel James, Columbia Heights City Council Member  
Sharon Kelly, Lauderdale City Council Member  
Emily Koski, Minneapolis City Council Member  
Denise La Mere-Anderson, Golden Valley City Council Member

Mitch Lentz, Fillmore County Commissioner  
Stephanie Levine, Mendota Heights Mayor  
Scott Lund, Fridley Mayor  
DeAnne Malterer, Waseca County Commissioner  
Tamara McGehee, Roseville City Council Member (former)  
Teresa Miller, Little Canada City Council Member  
Susan Morris, Isanti County Commissioner  
Rebecca Noecker, Saint Paul City Council Member  
Joel Paper, Mendota Heights City Council Member  
Gary Peterson, Carlton County Commissioner  
Mark Piepho, Blue Earth County Commissioner  
Roger Pohlman, Jackson County Commissioner  
Sarah Pratt, Aitkin County Commissioner  
Duane Pulford, Lauderdale City Council Member  
Jerry Rapp, Douglas County Commissioner  
Margaret Rog, St. Louis Park City Council Member  
Beth Schlangen, Benton County Commissioner  
Justice Spriggs, MD, Columbia Heights City Council Member  
Julie Strahan, Roseville City Council Member  
Vance Stuehbenberg, Blue Earth County Commissioner  
Mike Supina, Eagan City Council Member  
Kara Terry, Brainerd City Council Member  
LaTrisha Vetaw, Minneapolis City Council Member

[1] Minnesota Department of Health. 2022 Minnesota Student Survey.

[2] Park-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>

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[4] Jackler RK et al. Nicotine arms race: JUUL and the high-nicotine product market. *Tob Control*. 2019.

[5] Minnesota Department of Health. 2022 Minnesota Student Survey.

[6] Park-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>.

[7] Cohn AM, Rose SW, D'Silva J, Villanti AC. Menthol Smoking Patterns and Smoking Perceptions Among Youth: Findings From the Population Assessment of Tobacco and Health Study. *Am J Prev Med*. 2019 Apr;56(4):e107–e116. doi: 10.1016/j.amepre.2018.11.027. PMID: 30898227; PMCID: PMC7453836.

[8] Ahijevych K, Garrett BE. The role of menthol in cigarettes as a reinforcer of smoking behavior. *Nicotine Tob Res*. 2010;12(suppl 2):S110–S116. 10.1093/ntr/ntq203.

[9] Gardiner PS. The African Americanization of menthol cigarette use in the United States. *Nicotine Tob Res*. 2004.

[10] Stevens P et al. An analysis of tobacco industry marketing to lesbian, gay, bisexual, and transgender (LGBT) populations: Strategies for mainstream tobacco control and prevention. *Health Promot Pract*. 2004.

[11] Delnevo CD et al. Banning menthol cigarettes: A social justice issue long overdue. *Nicotine Tob Res*. 2020.

[12] Rostron BL, Lynn BCD, Chang CM, Ren C, Salazar E, Ambrose BK. The contribution of smoking-attributable mortality to differences in mortality and life expectancy among US African-American and white adults, 2000–2019. *Demogr Res*. 2022 May 12;46:905–918. doi: 10.4054/demres.2022.46.31. PMID: 35645610; PMCID: PMC9134211.

[13] Delnevo et al. (2020)

[14] <https://www.astho.org/communications/blog/recent-federal-state-actions-limit-flavored-tobacco-products/#:~:text=State%20Bans%20on%20Tobacco%20Flavors,360%20localities%20with%20flavor%20bans>.

[15] <https://www.ansrmn.org/issues-resources/flavored-tobacco/>, updated January 2023.

[16] The Morris Leatherman Company: Statewide Tobacco Survey, January 18-February 2, 2023.

[17] FDA news release. FDA Proposes Rules Prohibiting Menthol Cigarettes and Flavored Cigars to Prevent Youth Initiation, Significantly Reduce Tobacco-Related Disease and Death, April 28, 2022.

[18] <https://www.reginfo.gov/public/do/eoDetails?rid=341268>



March 4, 2024

Dear Legislative Leaders:

**We, the undersigned principals, superintendents, and school leaders from across Minnesota, are writing to kindly urge you to support the bill to end the sale of all commercial flavored tobacco products, including menthol cigarettes, flavored cigars, e-cigarettes, hookah, and smokeless tobacco in Minnesota (SF2123/HF2177).** This bill addresses critical issues that are of paramount importance to our school districts and countless others across Minnesota. We've seen a dramatic increase in the number of youth vaping nicotine over the last several years.

While we work hard to equip students with knowledge about tobacco harms, education and information about the damaging health effects are only one piece of the puzzle. Public policy is a key aspect of preventing young people from starting down the path of addiction and subsequent tobacco-related disease. The best chance we have to decrease the burden that tobacco-related diseases place on Minnesotans is to pass laws that will help stop kids from getting hooked on nicotine in the first place.

#### **Preventing youth addiction:**

- In Minnesota, one in seven 11th graders uses e-cigarettes, and 88 percent of those students use flavored e-cigarettes.<sup>1</sup> Nationally, 85% of youth e-cigarette users report using flavored products.<sup>2</sup>
- The tobacco industry deliberately uses flavors to attract the next generation of tobacco users.<sup>3</sup>
- E-cigarettes are available in a wide variety of kid-friendly flavors like cotton candy, gummy bear, mint, menthol, and cookie dough.
- E-cigarettes contain high levels of nicotine which harms adolescent brain development and primes youth for addiction.<sup>4</sup> More than 70 percent of youth e-cigarette users in Minnesota are showing signs of nicotine dependence.<sup>5</sup>
- Cigars come in hundreds of kid-friendly flavors, like Banana Smash and Chocolate Brownie. Cigars are the second most popular tobacco product among youth and are especially popular among Black youth.<sup>6</sup>
- Nearly half of youth who have tried smoking started with menthol cigarettes.<sup>7</sup> Menthol cools and numbs the throat and reduces irritation, making it easier for kids to start smoking.<sup>8</sup>

#### **Advancing racial and health equity:**

- The commercial tobacco industry targets youth, Black, LGBTIQ+, Indigenous communities, and other historically under-resourced communities with menthol tobacco.<sup>9,10</sup>
- As a result of years of targeted marketing, 85% of Black people who smoke use menthol cigarettes compared to 29 percent of white smokers.<sup>11</sup>
- Smoking continues to contribute to racial disparities in mortality and life expectancy.<sup>12</sup>

#### **Creating a healthier future:**

- Ending the sale of all flavored tobacco products will reduce tobacco use and improve the health of groups targeted by the commercial tobacco industry.<sup>13</sup>
- Fewer people smoking and using nicotine means a decrease in related health issues, reducing the burden on local healthcare resources.
- Reduced healthcare costs and increased productivity can have positive economic effects on local businesses and the community at large.
- There are currently five states and more than 360 localities with flavor bans. At least 170 of those localities restrict the sale of menthol cigarettes. As of early 2023, at least 10 states (Connecticut, Hawaii, Indiana, Maryland, New Mexico, New York, Oregon, Texas, Vermont, and Washington) introduced legislation that would limit the sale of flavored tobacco and nicotine products.<sup>14</sup>
- More than twenty-five percent of Minnesotans are covered by a local ordinance that restricts or prohibits the sale of flavored and/or menthol tobacco products.<sup>15</sup>
- Minnesota's proposal to end flavored commercial tobacco sales has strong bipartisan support.



- In a 2023 statewide poll, 62 percent of Minnesotans expressed support for the proposal to end the sale of all flavored tobacco products, with high levels of support across various demographics and regions.<sup>16</sup>
- The federal government (FDA) has proposed rules that would remove flavored menthol cigarettes and flavored cigars from the marketplace but excludes flavored e-cigarettes and other flavored tobacco products.<sup>17</sup> Although the proposed rule is under final review, a final rule would likely face years of delays from the tobacco industry.<sup>18</sup> Minnesota should act now to improve health.

We sincerely encourage your support for this bill, as its passage promises to enhance health outcomes, diminish disparities, and decrease healthcare costs—ultimately fostering a healthier and more equitable Minnesota for all.

Sincerely,

Suleiman Ahmed, Minnesota Math and Science Academy  
Claud Allaire, FIT Academy  
Lisa Anderson, District 2170  
Scott A. Arcand, White Bear Lake Area Schools  
Jessica Arens, Wabasha Kellogg School District  
Mymique Baxter, Kato Public Charter School - 4066  
Jose Becerra-Cardenas, Roseville Area Schools  
Beth Beebe, Bloomington Public Schools  
Beth Behnke, Roseville Area Schools  
Aidan Beisang, Mounds View School District  
Heather Berge, Anoka Hennepin School District  
Eric Bjurman, Foley Public Schools  
Don Bosch, White Bear Lake Area Schools  
Jason Carver, Community of Peace Academy  
Alexander Miguel Cervantes, SPPS  
Lisa DeMars, Aitkin School District  
Christopher Dennis, Mounds View School District  
Nicole Desjarlait, Red Lake Schools  
Theresa Diekmann, Big Stone County  
Julie Domogalla, East Central Schools  
Cooper Donovan, Mounds View School District  
Julee Ellefsen, White Bear Lake Area Schools  
Brittney Ender, Wabasha-Kellogg ISD 811  
Greta Evans-Becker, Robbinsdale Area Schools  
Gregory Ewing, Red Rock Central Schools  
Alan R. Fitterer, Tri-City United School District ISD 2905  
Cindy Flicek, Tri-City United School District ISD 2905  
Laura Freer, Roseville Area Schools  
Jennifer Funk, White Bear Lake Area Schools  
Sarah Gabardi, Hibbing School District  
Karen Gabler, Edina Public School  
James M. Gillach, Chisago Lakes ISD 2144  
Kelsey Gronhovd, White Bear Lake Area Schools  
Deb Hallin, Mora ISD 322  
Mike Hamernick, Northern Lights Community School  
Erica Harmsen, TrekNorth Jr. and Sr. High School  
Kristin Heinz, Mounds View School District  
Dakota Helmbrecht, Mora Public Schools  
Jim Henrickson, Aitkin High School ISD 1  
Hannah Hensley, White Bear Lake Area Schools

Rachel Hilyar, Elk River Area ISD 728  
Mary Hobday, St. Paul Public Schools  
Kelly Hoeft, ISD 2071  
Jerome Huselid, Clinton Graceville Beardsley  
Bradley Jensen, Hinckley-Finlayson ISD  
David Jenson, Rochester Catholic Schools  
Nicholas Johnson, Sauk Rapids-Rice Public Schools  
Tanya Johnson, Floodwood School District  
Bill Kehoe, Morris Area Public Schools  
Jake Klingner, Inver Grove Heights Schools  
Carr S. Kpanyor Jr., Friendship Academy of the Arts  
Shayne Kusler, Sartell-St. Stephen  
Thomas R. Lee, Sartell-St. Stephen  
Jenny Loeck, Roseville Area Schools  
Monica Ann Mann, Lionsgate Academy  
Jill Martens, Nicollet Public School  
Sarah Mittelstadt, Southern Plains  
David Nathanson, White Bear Lake Area Schools  
Colleen O'Neil, Mounds View School District  
Anne Oelke, Ely Public Schools  
Michelle Okeson, Detroit Lakes Public School  
Colin Peters, Washington Technology Magnet School  
Cathryn Peterson, White Bear Lake Area Schools  
Benjamin Joseph Samuelson, Roseville Area Schools  
Michael Schroeder, Roseville Area Schools  
Melissa Sonnek, Roseville Area Schools  
Billie Jo Steen, Moose Lake  
Rebecca Suttin, Roseville Area School District  
Joanna Trudgeon, White Bear Lake Area Schools  
Crystal Tucker, Northeast Metro 916  
Steve Wagner, Sauk Rapids-Rice Public Schools  
Jessica Wales, Brainerd Public Schools  
Joe Ward, Proctor Public School  
Jennifer Westlund, Ely Public Schools  
Maura Weyandt, Roseville Area Schools  
Melissa Wickert, White Bear Lake Area Schools  
Dr. Jennifer Wilson, Roseville Area Schools  
Mark Winter, Rock Ridge Public Schools  
Sam Woitalewicz, Westbrook Walnut Grove



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American  
Heart  
Association.

March 4, 2024

Rep. Tina Liebling  
Chair  
House Health Finance and Policy Committee  
Minnesota House of Representatives

Chair Liebling and Members of the House Finance and Policy Committee:

As the state government relations director for the American Heart Association (AHA), I am writing to express the AHA's support for House File 2177, legislation that would prohibit the sale or offer for sale of flavored tobacco products.

The AHA supports legislation to end the sale of all flavored e-cigarettes and tobacco products, including menthol cigarettes and fruit and candy flavored cigars. For decades, flavored tobacco products have been attracting and addicting children and causing preventable death and disease – especially in communities of color.

The rapid rise of e-cigarette use by teens and young adults is undoing years of work. E-cigarette use soared by 135 percent among high school students nationwide from 2017 to 2019. In 2021, most youth who reported using e-cigarettes, nearly 85%, used flavored varieties with the most commonly used flavors being fruit (71.6%), candy, desserts, or other sweets (34.1%) and menthol (28.8%).

The evidence is clear that flavored e-cigarettes have fueled this epidemic – 97 percent of youth e-cigarette users report using a flavored product in the past month and 70 percent cite flavors as the reason for their use.

All these flavored products are undermining efforts to reduce youth tobacco use and putting a new generation of kids at risk of nicotine addiction and the serious health harms that result from tobacco use. Passage of this important legislation will be a tremendous victory for Minnesota kids and protect them from nicotine addiction and other health risks associated with the use of e-cigarettes and other tobacco products.

I urge your support for this important legislation.

Sincerely,

A handwritten signature in black ink that reads "Paul Weirtz".

Paul Weirtz  
State Government Relations Director  
**American Heart Association**

March 4<sup>th</sup>, 2024

Minnesota House of Representatives Health Finance and Policy Committee  
100 Rev Dr Martin Luther King Jr Boulevard  
St Paul, MN 55155

Chair Liebling, Vice Chair Bierman, and Members of the House Health Finance and Policy Committee,

My name is Justice Spriggs, and I am a resident physician at the University of Minnesota training in Internal Medicine and Pediatrics, and additionally a Council Member in Columbia Heights, Minnesota. Today I am urging you to support SF2123/HF2177, bills to end the sale of flavored commercial tobacco statewide in Minnesota. As a city, Columbia Heights has already restricted the sale of flavored tobacco and have already seen health benefits of less vaping and tobacco use in our schools. Currently this is not the case for every city, as only about 25% of municipalities in our state currently have a similar ordinance that restricts or outlaws the sale of any flavored tobacco - leaving many Minnesotans at risk for being influenced by flavored tobacco, becoming addicted, and face the negative health, financial, and social consequences of addiction. As a fellow policy maker, we know that keeping our communities safe and healthy is our top priority.

From my physician side, I have already seen the damage that tobacco is doing to our state. One patient of mine was a teenager who now has permanent lung damage after using a hookah. I have also seen pediatric patients who have suffered severe asthma exacerbations due to smoke exposure, requiring multiple days of being in the Intensive Care Unit with a breathing tube and numerous intravenous medications to keep them alive. In addition to these acute conditions, we are well aware that chronic tobacco use is associated with lung conditions like chronic obstructive pulmonary disorder (COPD) and emphysema, heart disease, stroke, eye conditions, diabetes, and of course many types of cancer. Flavored tobacco products, including menthol, make it easier for our youngest Minnesotans to start using and harder for them to quit as adults.

Banning flavored commercial tobacco would not only prevent our youngest generation from becoming addicted, but it would also drop overall rates of tobacco use in the state. This is not even to mention the financial burden that tobacco dependence causes families, or the severe disparities that are prevalent in the state with our BIPOC residents. Passing this bill will help so many across the state stop using tobacco and would also end a major entrance into tobacco use for our children. I strongly support this legislation that will positively benefit Minnesotan's health for generations to come.

Thank you for your time and consideration,

A handwritten signature in black ink, reading "Justice Spriggs MD". The signature is fluid and cursive, with the letters "J", "S", and "M" being particularly prominent and stylized.

Justice Spriggs, MD



## LAW ENFORCEMENT ACTION PARTNERSHIP

ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS

March 4, 2024

RE: HF2177 (CHA) Sale or offer for sale of flavored tobacco, nicotine or lobelia products

Position:

Members of the Health Finance and Policy Committee,

I am a retired police lieutenant and the executive director of the Law Enforcement Action Partnership (LEAP), a nonprofit group of police, prosecutors, judges, and other criminal justice professionals who speak out about best law enforcement practices. LEAP's mission is to unite and mobilize the voice of law enforcement in support of drug policy and criminal justice reforms that will make communities safer by focusing law enforcement resources on the greatest threats to public safety, promoting alternatives to arrest and incarceration, addressing the root causes of crime, and working toward healing police-community relations.

I am writing to you today because of the proposed flavored tobacco ban now being considered in Minnesota. I know the toll on policing that menthol and tobacco flavored bans have taken elsewhere, and I want to urge you not to go down the same path. I suspect that, like I do, all members of the committee want to reduce the prevalence of smoking, a deadly habit that takes the lives of nearly a million Americans each year. This is a worthy cause deserving our attention, but prohibiting menthol and other flavors does not end their sale; it creates an underground market.

Bans on flavored tobacco put police in the position of dealing with yet another public health problem we cannot fix at the expense of our ability to fight crime. Prohibition impacts a safe and legal supply but does not end the demand for a product. Even if law enforcement focuses on businesses that violate tobacco laws — and not individual sellers — we know that police still end up interacting with individuals over tobacco violations. These interactions destroy police-community trust and make our difficult jobs that much harder. People who do not trust us do not report crimes, even when they themselves are the victim. People are more than mistrusting; they are afraid. What this says about our laws is that we have to think deliberately about what we ask the police to enforce. Police should only be sent to enforce laws that make our neighborhoods safer places to live, and tobacco bans do not make us safer.

Incidents of violence between the police and citizens that are related to illegal cigarettes or tobacco have already occurred in the United States in communities of color. A menthol tobacco flavored ban in Minnesota will disproportionately affect communities of color, just as the rest of the drug war already has. The Centers for Disease Control and Prevention (CDC) states that 1 in 7 (around 14%) of non-Hispanic Black adults smoke cigarettes and, as of 2019, approximately 85% of non-Hispanic Black adults who smoked used menthol cigarettes.

The evidence for this everywhere: Eric Garner was allegedly selling loose cigarettes when he was choked and killed by a police officer. In 2020, there was an incident in Rancho Cordova where a police officer used excessive force on a 14 year old during a tobacco product investigation. And in June 2021, police officers tackled, kicked, and tasered teens when enforcing a [vaping ban](#) on a boardwalk in Maryland. LEAP understands that these are not isolated incidents but rather examples of the further challenges facing policing in America. Prohibiting — and consequently criminalizing — the sale of flavored tobacco products will only make it worse. Instead of a ban, Minnesota should prioritize public education on the health risks of tobacco use. Much of the coverage of tobacco control has centered on the problem of youth use and the impact on their health. However, vaping rates among middle-schoolers and high-schoolers significantly declined in 2021, as they have been over the past few years.

Additionally, the flavor bans that have been instituted in countless towns, cities, and states throughout the country are poor policy: A study published in [JAMA Pediatrics](#), for example, has suggested that a flavor ban in San Francisco actually increased smoking rates among high-schoolers when compared to other school districts throughout the country. Another study, published in *Nicotine & Tobacco Research* in July 2021, showed that if “vape product sales were restricted to tobacco flavors,” one-third of US vapers aged 18 to 34 said that they would switch to smoking. And perhaps even more elucidating, a study that also appeared in *Nicotine & Tobacco Research* suggested that teens who vape would probably be smoking cigarettes instead if vapes had never become available. These three peer-reviewed articles support the thesis that bans, at the very least, do not achieve their politically desired outcomes. Furthermore, the [surgeon general](#) in 2020 stated there is not enough evidence to claim a ban on menthol cigarettes is an effective way to encourage cessation.

**LawEnforcementActionPartnership.org**

*Formerly known as Law Enforcement Against Prohibition*

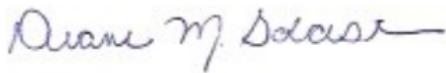
Other states have enacted bans and not seen the hoped for results. [Massachusetts](#) passed a statewide ban on flavored tobacco products in 2020, and cigarette purchases subsequently declined in-state while increasing substantially in bordering states. There's no evidence that banning flavored tobacco has reduced smoking in Massachusetts, but there is plenty of evidence showing that people still found a way to get flavored tobacco products regardless of the law, shuttling millions in tax revenue out of the area. Recently Massachusetts lawmakers announced that they are considering a repeal of the ban on menthol cigarettes and flavored tobacco.

This ban would keep us on the wrong side of history as we once again put reactionary, unscientific policies ahead of reason, strategy, and community safety. Reducing smoking requires a public health approach: honest educational campaigns about the risks; access to harm reduction resources; access to smoking cessation tools; and curbing predatory advertising that targets youth, Black smokers, low-income communities, and other vulnerable populations.

As one of many stakeholders, the police have a crucial role in designing policy that mitigates harmful criminal justice interventions on their constituencies. To that end, we strongly encourage the Health Finance and Policy committee to reject **HF2177**, a prohibition of flavored tobacco products as such a prohibition will foster the establishment of illegal cigarette markets, contribute to already elevated levels of violence in our communities, further exacerbate the division and distrust that exists between our communities—especially our communities of color—and policing in America, and have little to no effect on the health of residents.

Please reject this bill and instead focus on expanding anti-smoking education, and prevention and cessation resources for those who need it most. Thank you for your time.

Respectfully,



Diane Goldstein  
Lieutenant Diane M. Goldstein (Ret.)  
Executive Director  
(725) 724-1037 c

Chair Liebling and Health Finance and Policy Committee Members,

My name is Naheed Murad. I am a retired pathologist and currently manage two non profits—ZACAH (Zakat, Aid, and Charity Assisting Humanity), providing housing security through rental and financial assistance programs and Rahma Heart Care, offering free cardiovascular care for uninsured and underinsured Minnesotans. I write to you today to urge you to support [HF2177](#), a bill to end the sale of flavored commercial tobacco from the state marketplace.

As a physician and a public health professional, I have seen the damage the tobacco industry is doing to our state especially to our BIPOC communities who continue to be targets of the tobacco industry. In my practice as a pathologist I have seen the devastating consequences of COPD, heart disease, and lung cancer on our body at a microscopic level. At Rahma Heart Care, I continue to see hard working Minnesotans struggling with significant morbidity from smoking and unable to quit. Smoking cessation requires considerable effort with a combination of counseling and medications which are frequently unaffordable for the uninsured and underinsured patients. This leads to greater addiction and less opportunity for cessation, causing increased and often debilitating morbidity with heart disease, stroke, COPD, and cancer. With heart disease being the second leading cause of death in Minnesota, efforts should be directed towards complete cessation, not on making nicotine consumption more flavored.

Candy and fruit flavored tobacco products mask the harsh taste of tobacco and are often incorrectly perceived to be “less harmful”<sup>1,2,3,4</sup>. However, the unfortunate reality of such products, including menthol cigarettes, is that they can still lead to cancer, heart disease, and chronic pulmonary disease<sup>1,2,3,4</sup>. Moreover, the appeal of these products to children is demonstrable and extremely troubling, as over 80% of youth who have ever tried tobacco reported starting with a flavored tobacco product.<sup>5,6</sup> Lastly, today’s popular e-cigarettes are flavored and contain high levels of nicotine which harms the adolescent brain development and primes the next generation for addiction.<sup>7,8,9</sup>

Removing all flavored tobacco products – including menthol cigarettes, flavored cigars, e-cigarettes, hookah, and smokeless tobacco – from the marketplace will prevent youth addiction and improve health for all Minnesotans. This legislation will especially benefit communities targeted by the tobacco industry – including young people, Black Americans, American Indians, LGBTQIA2S+ people and women.

Currently, 25% of Minnesotans are covered by a local ordinance that restrict or prohibit the sale of flavored tobacco products.<sup>10</sup> While this is progress, local ordinances do not go far enough in protecting all Minnesota youth and communities targeted by this predatory industry. The time to act is now.

Thank you for your attention to this important health equity issue.

Sincerely,

Naheed Murad, MD, MPH  
ZACAH: Co-Founder & Treasurer, Board of Directors  
Rahma Heart Care: Co-Founder & Chief Operating Officer

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March 5, 2024



House Health Finance and Policy Committee  
RE: HF2177

Dear Chair Liebling and Committee Members:

Minnesotans for a Smoke-Free Generation is a coalition of more than 50 organizations that share a common goal of advancing justice by striving toward a future where every person is free from commercial tobacco's harms and can reach their full health potential.

Our coalition supports HF2177, which would end the sale of menthol cigarettes and all other flavored commercial tobacco products in Minnesota. Removing flavored tobacco products – including menthol cigarettes, flavored cigars, e-cigarettes, hookah, and smokeless tobacco – from the marketplace will prevent youth addiction and improve health for all Minnesotans. The policy will especially benefit communities targeted by the tobacco industry – including young people, Black Americans, LGBTQIA2S+ people, and American Indians.

Flavors mask the taste of tobacco, making it easier to start and harder to quit. The 2022 Minnesota Student Survey found that over **75 percent of Minnesota's 8th and 11th graders who use tobacco report using flavored products**. According to doctors and health experts, tobacco use sets kids up for a lifetime of nicotine addiction and serious health conditions like heart disease and cancer. A recent statewide scientific poll found 70 percent of Minnesota residents are concerned about vaping, smoking and other product tobacco use among Minnesota youth.

Removing menthol and flavored tobacco from the marketplace will address racial and health inequities caused by Big Tobacco's lethal tactics. **Menthol tobacco products are aggressively marketed not only toward youth, but also to Black Americans, women, and LGBTQIA2S+ communities, so higher use rates in those groups is no coincidence.** For decades, tobacco companies have channeled menthol tobacco products into Black communities, causing premature death and disease. In Minnesota, smoking rates among American Indians are at epidemic levels (59 percent), and 42 percent of urban American Indian people who smoke use menthol cigarettes.

This policy isn't new to our state. Minnesota has been a leader in tobacco prevention policies and a quarter of the state's population is already covered by 29 local policies restricting sales of flavored and/or menthol tobacco products. In those communities, we have seen a positive impact to public health. This is also a popular policy. **62 percent of Minnesota residents support the proposal** to end the sale of all flavored tobacco products. Support is strong across political, geographic, and demographic lines.

Every time Big Tobacco addicts another generation of kids to smoking, they put all taxpayers on the hook for billions of dollars in healthcare costs to treat tobacco-related diseases. A new report commissioned by Blue Cross and Blue Shield of Minnesota shows that **smoking is responsible for 6,530 deaths annually**. The economic burden associated with smoking is staggering, **costing our state over \$4.7 billion in excess medical costs**. HF2177 can save our state money, and most importantly, help prevent tobacco-related diseases and deaths.

Minnesota can take steps to reverse the youth tobacco epidemic, address racial and health inequities and reduce health care costs by ending the sale of flavored tobacco products. On behalf of Minnesotans for a Smoke-Free Generation, we urge your support of this bill.

**We can't wait another year. Every year we do nothing, 10,000 kids try tobacco for the first time, lured in by fruity flavors; thousands of people die preventable, premature deaths, and the Minnesotans most likely to be impacted by this are those from our Black, American Indian and LGBTQIA2S+ communities, because that's who the tobacco industry is targeting.**

Sincerely,

Emily Myatt

*Tri-Chair, Minnesotans for a Smoke-Free Generation*

*Regional Government Relations Director, American Cancer Society Cancer Action Network*

LaTrisha Vetaw

*Tri-Chair, Minnesotans for a Smoke-Free Generation*

Janelle Waldock

*Tri-Chair, Minnesotans for a Smoke-Free Generation*

*Senior Director of Policy, Blue Cross and Blue Shield of Minnesota*

About Minnesotans for a Smoke-Free Generation

*Minnesotans for a Smoke-Free Generation is a coalition of more than 50 organizations that share a common goal of advancing justice by striving toward a future where every person is free from commercial tobacco's harms and can reach their full health potential.*

*A Breath of Hope Lung Foundation, Advocates for Better Health, Allina Health, American Cancer Society Cancer Action Network, American Heart Association, American Lung Association in Minnesota, Asian Media Access, Association for Nonsmokers – Minnesota, Blue Cross and Blue Shield of Minnesota, Cancer Legal Care, CentraCare, Children's Minnesota, Comunidades Latinas Unidas En Servicio – CLUES, Dodge County Public Health, Essentia Health, Eugene Nichols, Faribault Martin & Watonwan Co SHIP, Gillette Children's Specialty Healthcare, Greater Friendship Missionary Baptist Church, HealthPartners, Health Plan Partnership of Minnesota, Hennepin County Public Health, Hennepin Healthcare, Horizon Public Health, Indigenous Peoples Task Force, Lao Center of Minnesota, Lincoln Park Children and Families Collaborative, Local Public Health Association of Minnesota, March of Dimes, Masonic Cancer Center, University of Minnesota, Mayo Clinic, Medica, Meeker McLeod Sibley Community Health Services, MHA – Minnesota Hospital Association, Minnesota Academy of Family Physicians, Minnesota Alliance With Youth, Minnesota Association of Community Health Centers, Minnesota Cancer Alliance, Minnesota Council of Health Plans, Minnesota Dental Association, Minnesota Medical Association, Minnesota Prevention Alliance (MPA), Minnesota Public Health Association, Minnesota Society for Public Health Education, MNAAP – Minnesota Chapter of the American Academy of Pediatrics, Mowery Communications, LLC, NAMI Minnesota, Native Sun Community Power Development, NorthPoint Health & Wellness, Olmsted Medical Center, Parents Against Vaping e-cigarettes, PartnerSHIP 4 Health, Perham Health, Preventing Tobacco Addiction Foundation/Tobacco 21, Public Health Law Center, Rainbow Health, SEIU Healthcare Minnesota, Steele County Public Health, Team EPIC (Encouraging Positive Impact Through Change), Tobacco-Free Alliance, Twin Cities Recovery Project, UCare, Vision in Living Life "Change is Possible", WellShare International, Winona County Alliance for Substance Abuse Prevention*

*Find out more at: [smokefreegenmn.org](http://smokefreegenmn.org).*

March 4, 2024

Dear Chair Lieblich and members of the House Health Finance & Policy Committee,

I am writing to oppose HF 2177, which proposes to ban the sale of flavored tobacco products in Minnesota. As an independently owned business, this proposed ban would have a devastating impact on my business and the livelihood of my employees.

One thing I want to emphasize is this ban will not stop Minnesotans from buying flavored tobacco products. Instead, people will still be able drive to any of our neighboring states to buy the product or they will resort to buying them online. Worse yet, criminals will take advantage of this prohibition and you'll soon find flavored tobacco being sold on street corners or out of car trunks where they do not check IDs to verify age. This will undermine the intent of the ban and also unfairly penalize responsible retailers, like me, who always verify the age of an individual before selling any tobacco product in our stores.

This ban will also result in a significant loss of revenue for my store. Flavored tobacco products make up a substantial portion of my sales, and losing these customers will have a serious negative impact on my business. If my adult customers stop coming into my store to buy tobacco, that is not the only sale that I stand to lose since they usually buy other items like gas, snacks, or beverages at the same time.

I urge you to please reconsider HF 2177.

Thank you for considering my perspective on this important issue.

Sincerely,

Carmen Huber/Owner

Pete's Place South

179 Convenience Lane SW

Bemidji, MN 56601



March 4, 2024

Dear Chair Liebling and Members of the Committee,

The Menthol Coalition is a group of public health groups, faith communities, health care organizations and others that serve the Black community. Since 2017, we have been working to address the harm menthol tobacco has on Black Minnesotans, as well as young, Indigenous, and LGBTQIA+ Minnesotans.

We are writing to kindly urge you to support and help advance the bill to end the sale of all commercial flavored tobacco products, including menthol cigarettes, flavored cigars, e-cigarettes, hookah, and smokeless tobacco in Minnesota this session ( SF2123/HF2177 ).

As we have been meeting with members of the Minnesota House and Senate about this bill, two main concerns have been raised:

- 1) There is concern that there will be backlash from the Black community if menthol cigarettes are no longer available for sale in Minnesota.
- 2) There is concern that prohibiting the sale of menthol cigarettes will lead to police harassment of Black Minnesotans who smoke menthols.

We would like to dispel these concerns once and for all.

First, while it is true that 85% of Black Minnesotans who smoke use menthol cigarettes versus 29 percent of white Minnesotans who smoke, the staggering disparity is not happenstance or the result of “personal choice”. It is the inevitable consequence of a powerful industry’s relentless efforts to profit off the health and lives of people.

Next, action of menthol is supported by a wide range of Black organizations, scientists and elected officials. Supporters include members of the Congressional Black Caucus, the NAACP, other Black civil rights and health organizations, 100 Black Men of America Inc., the U.S. Conference of Mayors and over 300 faith leaders from across the country. A new poll shows that voters, too, support ending the sale of menthol cigarettes by a substantial 29-point margin (58% to 29%). Black voters support it by an even larger 37-point margin (62% to 25%). Contrary to claims made by the tobacco industry, Black voters overwhelmingly support the proposed rule.

Next, while targeting the Black community with their deadly and addictive product, the tobacco industry has the audacity to claim that ending the sale of menthol tobacco would actually hurt African Americans, by increasing incidence of police harassment. The tobacco industry is exploiting the real issues of police

# BEAUTIFUL LIE UGLY TRUTH

ABOUT **FLAVORED** TOBACCO

brutality and mass incarceration to protect their own bottom line. Excessive force and systemic racism are problems that must be addressed independently of public health measures. The real crime is how the African American community has been targeted by tobacco-industry marketing for decades. To quote the NAACP, “the tobacco industry is on a narrow quest for profit, and they have been killing us along the way.”

We cannot continue to be swayed by the tobacco industry’s fear mongering. The time to act is now.

We sincerely encourage your support for this bill, as its passage promises to enhance health outcomes, diminish disparities, and decrease healthcare costs—ultimately fostering a healthier and more equitable Minnesota for all.

Sincerely,



Natalie Johnson Lee  
Menthol Coalition Co-Chair  
NorthPoint Health & Wellness Center



Emily M. Anderson  
Menthol Coalition Co-Chair  
Director of Policy, Association for Nonsmokers-MN

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# MINNESOTA WHOLESALE MARKETERS ASSOCIATION

March 4, 2024

TO: Chairperson Tina Liebling; House Health Finance and Policy Committee Members

FROM: Thomas Briant, MWMA Executive Director

The Minnesota Wholesale Marketers Association, a wholesale trade association, is providing the following testimony on H.F. 2177, which would prohibit the sale of flavored tobacco products.

**FDA Authority to Regulate Tobacco Products:** In 2009, the federal Family Smoking Prevention and Tobacco Control Act was enacted and authorized the Food and Drug Administration to regulate the manufacture, distribution, and sale of tobacco products. The vast majority of tobacco products introduced into the market after February 15, 2007 were required to submit a pre-market tobacco application to the FDA. The agency then accepted or rejected applications and, if accepted, the FDA conducted an extensive scientific review of the application and determined whether to authorize the marketing of the product or decline the marketing of the product. To find that a product can be marketed, the FDA has to determine that the product is “appropriate for the protection of the public health.”

To date, the FDA has issued 45 marketing orders authorizing the sale of tobacco products because the products were found to be appropriate for the protection of the public health (see accompanying list). Some of these products are menthol, mint, or wintergreen flavored products. Although these products met this public health standard, H.F. 2177 would prohibit the sale of these federally authorized products. Banning the sale of these authorized products would be detrimental to the public health.

**FDA Regulations to Ban Menthol in Cigarettes and Flavors in Cigars:** In April of 2022, the FDA published a proposed regulation that would ban the sale of menthol cigarettes, menthol roll-your-own cigarette tobacco, and all flavored cigars. The FDA has completed its work on these proposed regulations and the final decision on these regulations is expected to be announced by the Biden Administration this month. The Minnesota legislature should allow the Biden Administration and the FDA to finalize action on these proposed regulations before taking any state legislative action.

**Minnesota Youth Tobacco Non-Use Rates Support the Status Quo:** The 2022 Minnesota Student Survey of 8<sup>th</sup>, 9<sup>th</sup>, and 10<sup>th</sup> graders found that 97% did not smoke a cigarette, 99% did not smoke a cigar, 99% did not use smokeless tobacco such as chewing tobacco, 99% did not use waterpipe tobacco, and 91% did not use an electronic cigarette. These historically high non-use rates among Minnesota’s youth do not justify banning the sale of all flavored tobacco products used by legal age adults.

**Demand for Flavored Tobacco Products Will Continue:** Prohibiting the sale of flavored tobacco products will not reduce the demand for such products. If flavored tobacco is banned in Minnesota, state residents could patronize the Native American reservations where the products will continue to be sold, cross the border into any of the four adjacent states where flavored tobacco remains legal to sell, purchase flavored tobacco products on the Internet, or turn to unregulated and unlicensed illicit sellers who will sell products to anyone of any age who has cash. As an empirical example of continued demand for flavored tobacco products, the Massachusetts Illegal Tobacco Task Force reports significant cross border and illicit sales activity after the state enacted a flavored tobacco ban in 2020.

## FDA Premarket Tobacco Product Marketing Granted Orders

(Source: [www.fda.gov](http://www.fda.gov) as of February 2024)

<b>Year</b>	<b>Manufacturer</b>	<b>Product</b>
2023	Philip Morris Products	Marlboro Sienna Heatsticks
2023	Philip Morris Products	Marlboro Bronze Heatsticks
2023	Philip Morris Products	Marlboro Amber Heatsticks
2022	NJOY, LLC	NJOY Daily Rich Tobacco 4.5%
2022	NJOY, LLC	NJOY Daily Extra Rich Tobacco 6%
2022	NJOY, LLC	NJOY ACE Device
2022	NJOY, LLC	NJOY ACE Pod Classic Tobacco 2.4%
2022	NJOY, LLC	NJOY ACE Pod Classic Tobacco 5%
2022	NJOY, LLC	NJOY ACE Pod Rich Tobacco 5%
2022	R.J. Reynolds Vapor Co.	Vuse Vibe Power Unit
2022	R.J. Reynolds Vapor Co.	Vuse Vibe Tank Original 3.0%
2022	R.J. Reynolds Vapor Co.	Vuse Vibe Power Unit
2022	R.J. Reynolds Vapor Co.	Vuse Ciro Power Unit
2022	R.J. Reynolds Vapor Co.	Vuse Ciro Cartridge Original 1.5%
2022	R.J. Reynolds Vapor Co.	Vuse Ciro Power Unit
2022	Logic Technology	Logic Regular Cartridge/Capsule Package
2022	Logic Technology	Logic Vapeleaf Cartridge/Capsule Package
2022	Logic Technology	Logic Vapeleaf Tobacco Vapor System
2022	Logic Technology	Logic Pro Tobacco e-Liquid Package
2022	Logic Technology	Logic Pro Capsule Tank System
2022	Logic Technology	Logic Pro Capsule Tank System
2022	Logic Technology	Logic Power Tobacco e-Liquid Package
2022	Logic Technology	Logic Power Rechargeable Kit
2021	U.S. Smokeless Tobacco	VERVE Discs Blue Mint
2021	U.S. Smokeless Tobacco	VERVE Chews Blue Mint
2021	U.S. Smokeless Tobacco	VERVE Discs Green Mint
2021	U.S. Smokeless Tobacco	VERVE Chews Green Mint
2021	R.J. Reynolds Vapor Co.	Vuse Solo Power Unit
2021	R.J. Reynolds Vapor Co.	Vuse Replacement Cartridge Original 4.8% G1
2021	R.J. Reynolds Vapor Co.	Vuse Replacement Cartridge Original 4.8% G2
2020	Philip Morris Products	IQOS System Holder and Charger
2019	22 <sup>nd</sup> Century Group	Moonlight Menthol Cigarette
2019	22 <sup>nd</sup> Century Group	Moonlight Cigarette
2019	Philip Morris Products	Marlboro Heatsticks
2019	Philip Morris Products	Marlboro Smooth Menthol Heatsticks
2019	Philip Morris Products	Marlboro Fresh Menthol Heatsticks
2019	Philip Morris Products	IQOS System Holder and Charger
2015	Swedish Match N.A.	General Loose
2015	Swedish Match N.A.	General Dry Mint Portion Original Mini
2015	Swedish Match N.A.	General Portion Original Large
2015	Swedish Match N.A.	General Classic Blend Portion White Large
2015	Swedish Match N.A.	General Mint Portion White Large
2015	Swedish Match N.A.	General Nordic Mint Portion White Large
2015	Swedish Match N.A.	General Portion White Large
2015	Swedish Match N.A.	General Wintergreen Portion White Large

March 4, 2024

Dear Chair Liebling and members of the House Health Finance & Policy Committee,

I am writing to oppose HF 2177, which proposes to ban the sale of flavored tobacco products in Minnesota. As an independently owned business, this proposed ban would have a devastating impact on my business and the livelihood of my employees.

One thing I want to emphasize is this ban will not stop Minnesotans from buying flavored tobacco products. Instead, people will still be able drive to any of our neighboring states to buy the product or they will resort to buying them online. Worse yet, criminals will take advantage of this prohibition and you'll soon find flavored tobacco being sold on street corners or out of car trunks where they do not check IDs to verify age. This will undermine the intent of the ban and also unfairly penalize responsible retailers, like me, who always verify the age of an individual before selling any tobacco product in our stores.

This ban will also result in a significant loss of revenue for my store. Flavored tobacco products make up a substantial portion of my sales, and losing these customers will have a serious negative impact on my business. If my adult customers stop coming into my store to buy tobacco, that is not the only sale that I stand to lose since they usually buy other items like gas, snacks, or beverages at the same time.

I urge you to please reconsider HF 2177.

Thank you for considering my perspective on this important issue.

Sincerely,

**Owner Name** Bhaveshkumar Patel  
**Store Name** Lesington Avenue LLC  
**Address** 3592 Lesington Ave N  
Shoreview MN - 55126

March 4, 2024

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I urge you to please reconsider HF 2177.

Thank you for considering my perspective on this important issue.

Sincerely,

**Owner Name**

Bhaveshkumar Patel

**Store Name**

France Avenue LLC

**Address**

4419 France Ave S  
Minneapolis MN-55410



CAPITOL OFFICE BUILDING  
525 PARK STREET  
SUITE 140  
ST. PAUL, MINNESOTA 55103  
651-645-0099 FAX 651-645-0098

March 5, 2024

Health Finance and Policy Committee  
477 State Office Building  
St. Paul, MN 55155

Chair Liebling and Members of the Committee:

The Minnesota Council of Health Plans, the trade association for Minnesota's nonprofit health plans (Blue Cross and Blue Shield of Minnesota, HealthPartners, Medica, Sanford Health Plan of Minnesota, and UCare), is appreciative of the opportunity to express our support for HF 2177, which would end the sale of all flavored tobacco products in Minnesota.

The Council is proud to stand alongside the multitude of other members of the Minnesotans for a Smoke-Free Generation coalition in supporting this important step forward in protecting Minnesotans, especially children and adolescents, against the harmful impacts of nicotine and other chemicals associated with smoking or vaping.

The Council is grateful to Representative Cha, as well as the many bill co-authors, for championing this effort and to the committee for your careful consideration of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Lucas Nesse".

Lucas Nesse  
President and CEO



March 5, 2024

Dear Members of the House Health Finance and Policy Committee,

On behalf of over 10,000 physicians and physicians-in-training throughout Minnesota, I am writing in strong support of HF 2177.

Minnesota has seen a growing market for flavored tobacco products in recent years, and tobacco companies have increased their marketing of other flavored tobacco products such as electronic cigarettes, cigars, smokeless tobacco, and hookah. Colorful packaging and sweet flavors have enticed new users, particularly kids, and this new market for flavored tobacco products is hindering efforts to reduce youth tobacco use.

According to Minnesotans for a Smoke-Free Generation, two thirds of current high-school tobacco users in Minnesota reported using a flavored product. Furthermore, according to the American Lung Association, 75% of youth choose flavored tobacco (35% smoke menthol and 40% smoke other flavors). Recent reports issued by five leading public health organizations found that flavoring increases experimentation among youth, and young people who initiate using are more likely to become addicted and become long-term daily smokers. We all must do what is needed to put an end to the tobacco industry's lure on vulnerable communities.

Smoking remains a leading preventable cause of death in the United States, and while there are many strategies already in place to reduce the use of tobacco, strategies are still needed to ensure that adolescents and young adults do not start to smoke. Prohibiting the sale of all flavored tobacco products will play a key role in delaying initiation rates of tobacco use by adolescents – and will help ensure that our progress in reducing youth tobacco use continues.

On behalf of the MMA, I urge you to acknowledge the long-term effects of tobacco use and support HF 2177.

Sincerely,

Laurel Ries, MD  
President, Minnesota Medical Association



**March 5, 2024**

**RE: HF 2177**

Members of the House Committee on Health Finance and Policy,

Thank you for the opportunity to write on behalf of our 6000 members in Minnesota expressing our concerns and extreme opposition to HF 2177, which would prohibit sales of low-risk nicotine or tobacco products in flavors other than tobacco--even if they receive a marketing granted order from the US Food and Drug Administration. Proposals such as this are hasty reactions to an emotionally fueled issue that is only being made worse by well-meaning, but misguided attempts to eradicate nicotine use.

The Consumer Advocates for Smoke-free Alternatives Association (CASAA) is a 501(c)(4) nonprofit public health and education NGO and is the leading representative of consumers who use or might in the future use smoke-free tobacco and nicotine products. It is a U.S. membership organization with more than 280,000 members. CASAA advocates on behalf of consumers, and does not represent the interests of industry.

The proposal to ban the sale of vapor products sold in flavors other than tobacco will deny people who smoke access to the most popular low-risk smoking replacement product in decades. We think it is a mistake to focus on the issue of flavors to the exclusion of underlying factors affecting youth use. Socioeconomic status, trauma, peer pressure, stress, depression, and a natural inclination toward taking risks all motivate young people to experiment with potentially harmful behaviors and coping strategies. None of these factors are addressed by laws banning flavored nicotine products or any other measures that deal strictly with limiting access to substances like nicotine and other drugs. Arguably, prohibitions such as what's proposed in HF 2177 are more likely to make things worse for the same people it is intended to protect.

The leading indicator of whether or not a young person will smoke is if they live with a parent who smokes. Minnesota can do more to promote healthy behaviors among young people by encouraging parents who smoke to switch completely to a low-risk, smoke-free alternative like a flavored vaping product. In order to achieve a rapid and enduring transition to safer nicotine products, people who smoke must have access to affordable products they enjoy. This necessitates the availability of a diverse range of flavored smoke-free products. For these and the following reasons CASAA is urging the committee to reject any proposal to ban flavored smoke-free products in Minnesota.

## **A flavor ban will deprive people who smoke access to life saving products**

- **The availability of enjoyable smoke-free nicotine products is helping millions of people quit smoking.**

It is very disappointing that some of the comments the committee will hear on this proposal callously dismiss the experiences of millions of people who quit smoking<sup>1</sup>, or are on their way to living smoke-free by switching to a safer nicotine product like vaping. You are being asked to disbelieve the experiences of surgical patients who will have better outcomes after switching to vaping,<sup>2</sup> parents and grandparents who will be around longer for their children, and young adults who are quitting before lasting damage is done, or who will never take up smoking because vaping is a better, safer alternative to combustible cigarettes.<sup>3</sup>

You are right to be skeptical of claims that vaping is unhelpful because just as we all know someone who has died early due to smoking, we are also increasingly more likely to know someone who quit by switching. Enjoyable, flavored products are being linked to positive outcomes in both people *trying* to quit<sup>4 5</sup> and those who quit by accident.<sup>6</sup>

- **A ban on flavored vapor products will force independent vape shops to close.**

We defer to data being presented by trade representatives from the vapor industry with regard to sales data, but it is our understanding that a majority of purchases involve e-liquid in flavors other than tobacco by people older than the federal minimum legal sales age of 21. To date, we are unaware of any retailer or manufacturer that sells a popular line of unflavored e-liquid.

It is unlikely that specialty vapor retailers will be able to remain open if they are restricted to selling just vapor devices and tobacco flavored e-liquid. It is the diversity of vapor products that both supports independent businesses and provides a customizable experience to people who are attempting to transition to a smoke-free lifestyle.

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<sup>1</sup> Clive Bates, The Counterfactual, E-cigarette risk perceptions – an American crime scene, February 3, 2022. Accessed from <https://clivebates.com/e-cigarette-risk-perceptions-an-american-crime-scene/>, February 8, 2023.

<sup>2</sup> Nolan M, Leischow S, Croghan I, et al. Feasibility of Electronic Nicotine Delivery Systems in Surgical Patients. *Nicotine Tob Res.* 2016;18(8):1757-1762. doi:10.1093/ntr/ntw003

<sup>3</sup> Zhu S, Zhuang Y, Wong S, Cummins S E, Tedeschi G J. E-cigarette use and associated changes in population smoking cessation: evidence from US current population surveys *BMJ* 2017; 358 :j3262 doi:10.1136/bmj.j3262

<sup>4</sup> Friedman AS, Xu S. Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation. *JAMA Netw Open.* 2020;3(6):e203826. doi:10.1001/jamanetworkopen.2020.3826

<sup>5</sup> Eva C. Rest, Kristin N. Brikmanis, Robin J. Mermelstein, Preferred flavors and tobacco use patterns in adult dual users of cigarettes and ENDS, *Addictive Behaviors*, Volume 125, 2022, 107168, ISSN 0306-4603, <https://doi.org/10.1016/j.addbeh.2021.107168>.  
(<https://www.sciencedirect.com/science/article/pii/S0306460321003531>)

<sup>6</sup> Kasza KA, Edwards KC, Kimmel HL, et al. Association of e-Cigarette Use With Discontinuation of Cigarette Smoking Among Adult Smokers Who Were Initially Never Planning to Quit. *JAMA Netw Open.* 2021;4(12):e2140880. doi:10.1001/jamanetworkopen.2021.40880

- **Vapor product specialty shops (vape shops) play a vital role in helping people who smoke switch to a low-risk alternative**

Vape shops are a source of peer-to-peer support that is not effectively replicated by current tobacco control interventions. Vape shops provide knowledgeable staff who offer individualized attention to help customers find devices and e-liquid flavors that will help them successfully make the switch. Just as important, vape shops provide a space for peer-to-peer support for people who used to smoke and people who are transitioning to a smoke-free product.

By way of background, vapor retailers and manufacturers in the United States are prohibited by federal law from marketing e-cigarettes as smoking cessation products or even less harmful than cigarettes.<sup>7</sup> Customers, however, are bound by no such law. It is not uncommon to hear customers exchange successful quit smoking stories between one another in a vape shop. To the casual observer, sharing such a story might not seem like much, but between people who are recovering from a multiyear or multi-decade cigarette addiction, it can mean the difference between living a smoke-free life or returning to the devil they know.

By comparison, vapor retailers in the United Kingdom are not subject to the same limitations on marketing communication in face-to-face transactions. Research conducted in the UK demonstrates that people who shop for vapor products in specialty vapor shops have a remarkable quit rate of >40% after 12 months.<sup>8</sup> Other than quitting “cold turkey,” no other smoking cessation intervention comes close to the success rate found in the UK. And while the retail environment studied in the UK is not a 1:1 match with vapor shops in the United States, when we consider customer-to-customer interactions within the retail environment, which are not regulated by federal law, it stands to reason that the results found in the UK may be generalizable to consumers in the United States.

For the foregoing reasons we respectfully urge the committee to reject HB 551, the proposal to ban flavored vapor products prior to scientific review. This legislation will place unnecessary barriers in front of people who would otherwise be improving their health.

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<sup>7</sup> 21 USC 387k: Modified risk tobacco products, accessed from <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title21-section387k&num=0&edition=prelim>

<sup>8</sup> Polosa, Riccardo et al. “Quit and smoking reduction rates in vape shop consumers: a prospective 12-month survey” *International journal of environmental research and public health* vol. 12,4 3428-38. 24 Mar. 2015, doi:10.3390/ijerph120403428

## Recommendations

- We urge committee members to refocus their attention on the most pressing concern of reducing the early death and disease attributed to smoking by seeking ways the state can help promote safer alternatives to people who smoke, especially among people from historically underserved communities.
- Effective substance use prevention starts by empowering young people with strong social skills, critical thinking, and healthy coping strategies. People are generally resourceful and, historically, find ways to circumvent prohibitions on tobacco, drugs, and alcohol. Strong life skills training during adolescence has a greater potential to positively shape a young person's life well into adulthood.<sup>9</sup>

Thank you for considering our comments.

Sincerely,



Alex Clark

CEO

The Consumer Advocates for Smoke-free Alternatives Association

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<sup>9</sup> Society of Addiction Psychology, "The Life Process Program," Stanton Peele, July 10, 2020. Accessed from <https://addictionpsychology.org/conference-calls/life-process-program>, Feb. 7, 2023.

Testimony before the Minnesota House Finance Committee  
Banning Flavored Tobacco and Vapor Products - Opposition to HF 2177  
Kim Murray, Tobacco Treatment Specialist  
March 5, 2024

Chairman Howard, Vice Chairwoman Agbaje, and Members of the Committee:

Thank you for the opportunity to submit testimony to you today in opposition to HF2177. My name is Kim Murray. I live in Brainerd, MN. I am a Tobacco Treatment Specialist and received my training from Rutgers University. I specialize in guiding and counseling people who smoke and have been unable to stop smoking using traditional smoking cessation methods.

Combustible tobacco is the most lethal legal consumer product in the United States. Today, like every day, 1300 of our fellow Americans will die from smoking-related causes. That adds up to almost half a million Americans who die prematurely per year.<sup>1</sup>

The people I help on their quit-smoking journey have usually tried and failed to quit smoking many times. They went the medicinal route and tried nicotine replacement therapies like patches, gums, and lozenges. Many have also tried prescription medications that help some people stop smoking. That fact is an essential part of today's discussion. Quitting smoking is hard, and we have yet to discover the one-size-fits-all solution to helping people stop smoking. While these products do help some people stop smoking, they don't help all of them.

We can tell people to try these FDA-approved methods to quit smoking over and over, but what are we saying to those who can not quit this way? It feels like we are saying to them, "Quit our way or die." Our fellow Minnesotans and all Americans deserve better than that. They deserve our best efforts to make various options available to them so they can find the tool that helps them become smoke-free.

Some people who support bills like HF 2177 will push back against the discussion in favor of vapor products being available to help people stop smoking. They will point out that these are not FDA-approved smoking cessation devices. While that is true, because they are a consumer product, not a medically authorized product, it doesn't take away from their effectiveness to help people who smoke switch to this much safer alternative. Studies have shown that vapor products are more effective at helping people stop smoking than FDA-approved nicotine replacement products.<sup>2</sup>

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<sup>1</sup> *Current cigarette smoking among adults in the United States*. Centers for Disease Control and Prevention. (2023, May 4).  
[https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/adult\\_data/cig\\_smoking/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/adult_data/cig_smoking/index.htm)

<sup>2</sup> *Latest Cochrane review finds high certainty evidence that nicotine e-cigarettes are more effective than traditional nicotine-replacement therapy (NRT) in helping people quit smoking*. Latest Cochrane Review finds high certainty evidence that nicotine e-cigarettes are more effective than traditional nicotine-replacement therapy (NRT) in helping people quit smoking. (2022, November 17).  
<https://www.cochrane.org/news/latest-cochrane-review-finds-high-certainty-evidence-nicotine-e-cigarettes-are-more-effective>

We have many organizations on the national, state, and local levels offering advice to people on how to quit smoking. Many of them, like the Mayo Clinic<sup>3</sup>, offer suggestions that are not FDA-approved for smoking cessation. Those suggestions include eating candy or carrots, chewing gum, calling a quit line, or sucking through a straw to help them quit smoking. The Centers for Disease Control has recommended bird watching<sup>4</sup> to help people beat their cravings as part of their quit-smoking strategy.

The critical question still remains: do flavored nicotine products help adults stop smoking? If we look at the oft-suggested FDA-approved products<sup>5</sup>, the resounding answer is YES! None of those products come in a tobacco flavor because it was found that people who smoke prefer the flavors and don't want to be tempted by a flavor that reminds them of smoking.



There is substantial evidence<sup>6</sup> that flavored vapor products help more people stop smoking than tobacco-flavored products. There is also evidence showing that the banning of flavors drives some people back to smoking.

It is a public health gain to have these products available to Minnesotans who want to quit smoking.

Thank you  
Kim Murray  
[mnsnsmokefree@gmail.com](mailto:mnsnsmokefree@gmail.com)

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<sup>3</sup> Mayo Foundation for Medical Education and Research. (2022, May 28). *10 Ways to Resist Tobacco Cravings*. Mayo Clinic. <https://www.mayoclinic.org/healthy-lifestyle/quit-smoking/in-depth/nicotine-craving/art-20045454>

<sup>4</sup> Kleykamp, Dr. A. (2022, January 15). *Tobacco harm reduction is for the birds, according to the CDC*. Filter. <https://filtermag.org/tobacco-harm-reduction-birds-cdc/>

<sup>5</sup> *Stanford University - Ad collections*. SRITA. (n.d.). <https://tobacco.stanford.edu/antismoking/cessation-products/nicorette/>

<sup>6</sup> *Ends flavors*. ENDS Flavors - Safer nicotine wiki. (n.d.). [https://safernicotine.wiki/mediawiki/index.php/ENDS\\_Flavors](https://safernicotine.wiki/mediawiki/index.php/ENDS_Flavors)

March 5, 2024



House Health Finance and Policy Committee  
RE: HF2177

Dear Chair Liebling and Committee Members:

Minnesotans for a Smoke-Free Generation is a coalition of more than 50 organizations that share a common goal of advancing justice by striving toward a future where every person is free from commercial tobacco's harms and can reach their full health potential.

Our coalition supports HF2177, which would end the sale of menthol cigarettes and all other flavored commercial tobacco products in Minnesota. Removing flavored tobacco products – including menthol cigarettes, flavored cigars, e-cigarettes, hookah, and smokeless tobacco – from the marketplace will prevent youth addiction and improve health for all Minnesotans. The policy will especially benefit communities targeted by the tobacco industry – including young people, Black Americans, LGBTQIA2S+ people, and American Indians.

Flavors mask the taste of tobacco, making it easier to start and harder to quit. The 2022 Minnesota Student Survey found that over **75 percent of Minnesota's 8th and 11th graders who use tobacco report using flavored products**. According to doctors and health experts, tobacco use sets kids up for a lifetime of nicotine addiction and serious health conditions like heart disease and cancer. A recent statewide scientific poll found 70 percent of Minnesota residents are concerned about vaping, smoking and other product tobacco use among Minnesota youth.

Removing menthol and flavored tobacco from the marketplace will address racial and health inequities caused by Big Tobacco's lethal tactics. **Menthol tobacco products are aggressively marketed not only toward youth, but also to Black Americans, women, and LGBTQIA2S+ communities, so higher use rates in those groups is no coincidence.** For decades, tobacco companies have channeled menthol tobacco products into Black communities, causing premature death and disease. In Minnesota, smoking rates among American Indians are at epidemic levels (59 percent), and 42 percent of urban American Indian people who smoke use menthol cigarettes.

This policy isn't new to our state. Minnesota has been a leader in tobacco prevention policies and a quarter of the state's population is already covered by 29 local policies restricting sales of flavored and/or menthol tobacco products. In those communities, we have seen a positive impact to public health. This is also a popular policy. **62 percent of Minnesota residents support the proposal** to end the sale of all flavored tobacco products. Support is strong across political, geographic, and demographic lines.

Every time Big Tobacco addicts another generation of kids to smoking, they put all taxpayers on the hook for billions of dollars in healthcare costs to treat tobacco-related diseases. A new report commissioned by Blue Cross and Blue Shield of Minnesota shows that **smoking is responsible for 6,530 deaths annually**. The economic burden associated with smoking is staggering, **costing our state over \$4.7 billion in excess medical costs**. HF2177 can save our state money, and most importantly, help prevent tobacco-related diseases and deaths.

Minnesota can take steps to reverse the youth tobacco epidemic, address racial and health inequities and reduce health care costs by ending the sale of flavored tobacco products. On behalf of Minnesotans for a Smoke-Free Generation, we urge your support of this bill.

**We can't wait another year. Every year we do nothing, 10,000 kids try tobacco for the first time, lured in by fruity flavors; thousands of people die preventable, premature deaths, and the Minnesotans most likely to be impacted by this are those from our Black, American Indian and LGBTQIA2S+ communities, because that's who the tobacco industry is targeting.**

Sincerely,

Emily Myatt

*Tri-Chair, Minnesotans for a Smoke-Free Generation*

*Regional Government Relations Director, American Cancer Society Cancer Action Network*

LaTrisha Vetaw

*Tri-Chair, Minnesotans for a Smoke-Free Generation*

Janelle Waldock

*Tri-Chair, Minnesotans for a Smoke-Free Generation*

*Senior Director of Policy, Blue Cross and Blue Shield of Minnesota*

About Minnesotans for a Smoke-Free Generation

*Minnesotans for a Smoke-Free Generation is a coalition of more than 50 organizations that share a common goal of advancing justice by striving toward a future where every person is free from commercial tobacco's harms and can reach their full health potential.*

*A Breath of Hope Lung Foundation, Advocates for Better Health, Allina Health, American Cancer Society Cancer Action Network, American Heart Association, American Lung Association in Minnesota, Asian Media Access, Association for Nonsmokers – Minnesota, Blue Cross and Blue Shield of Minnesota, Cancer Legal Care, CentraCare, Children's Minnesota, Comunidades Latinas Unidas En Servicio – CLUES, Dodge County Public Health, Essentia Health, Eugene Nichols, Faribault Martin & Watonwan Co SHIP, Gillette Children's Specialty Healthcare, Greater Friendship Missionary Baptist Church, HealthPartners, Health Plan Partnership of Minnesota, Hennepin County Public Health, Hennepin Healthcare, Horizon Public Health, Indigenous Peoples Task Force, Lao Center of Minnesota, Lincoln Park Children and Families Collaborative, Local Public Health Association of Minnesota, March of Dimes, Masonic Cancer Center, University of Minnesota, Mayo Clinic, Medica, Meeker McLeod Sibley Community Health Services, MHA – Minnesota Hospital Association, Minnesota Academy of Family Physicians, Minnesota Alliance With Youth, Minnesota Association of Community Health Centers, Minnesota Cancer Alliance, Minnesota Council of Health Plans, Minnesota Dental Association, Minnesota Medical Association, Minnesota Prevention Alliance (MPA), Minnesota Public Health Association, Minnesota Society for Public Health Education, MNAAP – Minnesota Chapter of the American Academy of Pediatrics, Mowery Communications, LLC, NAMI Minnesota, Native Sun Community Power Development, NorthPoint Health & Wellness, Olmsted Medical Center, Parents Against Vaping e-cigarettes, PartnerSHIP 4 Health, Perham Health, Preventing Tobacco Addiction Foundation/Tobacco 21, Public Health Law Center, Rainbow Health, SEIU Healthcare Minnesota, Steele County Public Health, Team EPIC (Encouraging Positive Impact Through Change), Tobacco-Free Alliance, Twin Cities Recovery Project, UCare, Vision in Living Life "Change is Possible", WellShare International, Winona County Alliance for Substance Abuse Prevention*

*Find out more at: [smokefreegenmn.org](http://smokefreegenmn.org).*

March 4, 2024

House Health Finance and Policy Committee  
RE: HF2177

Dear Chair Liebling and Committee Members:

I am part of the Minnesotans for a Smoke-Free Generation coalition that makes up more than 50 organizations. I, and many others, share a common goal of advancing justice by striving toward a future where every person is free from commercial tobacco's harms and can reach their full health potential.

Our coalition supports HF2177, which would **end the sale of menthol cigarettes and all other flavored commercial tobacco products in Minnesota**. Removing flavored tobacco products – including menthol cigarettes, flavored cigars, e-cigarettes, hookah, and smokeless tobacco – from the marketplace will prevent youth addiction and improve health for all Minnesotans. The policy will especially benefit communities targeted by the tobacco industry – including **ALL young people**, Black Americans, LGBTQIA2S+ people, and American Indians.

Flavors mask the taste of tobacco, making it easier to start and harder to quit. The 2022 Minnesota Student Survey found that over **75 percent of Minnesota's 8th and 11th graders who use tobacco report using flavored products**. According to doctors and health experts, tobacco use sets kids up for a lifetime of nicotine addiction and serious health conditions like heart disease and cancer. A recent statewide scientific poll found 70 percent of Minnesota residents are concerned about vaping, smoking and other product tobacco use among Minnesota youth.

Removing menthol and flavored tobacco from the marketplace will address racial and health inequities caused by Big Tobacco's lethal tactics. Menthol tobacco products are aggressively marketed not only toward youth, but also to Black Americans, women, and LGBTQIA2S+ communities, so higher use rates in those groups is no coincidence. For decades, tobacco companies have channeled menthol tobacco products into Black communities, causing premature death and disease. In Minnesota, smoking rates among American Indians are at epidemic levels (59 percent), and 42 percent of urban American Indian people who smoke use menthol cigarettes.

This policy isn't new to our state. Minnesota has been a leader in tobacco prevention policies and a quarter of the state's population is already covered by 29 local policies restricting sales of flavored and/or menthol tobacco products. In those communities, we have seen a **positive impact to public health. 62 percent of Minnesota residents support the proposal** to end the sale of all flavored tobacco products. Support is strong across political, geographic, and demographic lines.

**Every time Big Tobacco addicts another generation of kids to smoking, they put all taxpayers on the hook for billions of dollars in healthcare costs to treat tobacco-related diseases.** A new report commissioned by Blue Cross and Blue Shield of Minnesota shows that smoking is responsible for 6,530 deaths annually. The economic burden associated with smoking is staggering, costing our state over \$4.7 billion in excess medical costs. HF2177 can save our state money, and most importantly, help prevent tobacco-related diseases and deaths.

Minnesota can take steps to reverse the youth tobacco epidemic, address racial and health inequities and reduce health care costs by ending the sale of flavored tobacco products. On behalf of Minnesotans for a Smoke-Free Generation, we urge your support of this bill.

**We can't wait another year. Every year we do nothing, 10,000 kids try tobacco for the first time, lured in by fruity flavors; thousands of people die preventable, premature deaths, and the Minnesotans most likely to be impacted by this are those from our Black, American Indian and LGBTQIA2S+ communities, because that's who the tobacco industry is targeting.**

Sincerely,

Patti Miller

Minnesota Resident

Coalition Member of Smoke Free Generation

## NATIONAL ASSOCIATION OF TOBACCO OUTLETS, INC.

March 3, 2024

**To:** Chair Tina Liebling  
Members of the House Health Finance and Policy Committee

**From:** David Spross, NATO Executive Director

The National Association of Tobacco Outlets (NATO) is a national trade association that represents numerous retail store members across Minnesota. NATO and its Minnesota member stores urge you to oppose HF2177, which would ban the sale of all flavored tobacco products, including menthol cigarettes, mint and wintergreen smokeless tobacco, flavored cigars, pipe tobacco, flavored oral nicotine products, and flavored electronic cigarettes. There are many reasons to oppose this bill:

- **Minnesota should allow sales of products with marketing approval orders from the FDA.** The FDA allows marketing of certain products, including e-cigarettes, if it determines, after a rigorous, scientific process, the product reduces harm and the risk of disease to individual users and benefits the health of the entire population, that is, the product is “appropriate for the protection of the public health.” Although the FDA has rejected applications for millions of products to date, it has also given marketing approval to 45 products, some of which are menthol, mint, or wintergreen flavored. Applications for over 50,000 products are pending, and the FDA anticipates completing its review for those products by June 30, 2024. The FDA may find more flavored products “appropriate for the protection of the public health.” HF2177 would ban these products that benefit public health. Products granted FDA marketing approval should be allowed.
- **Flavored product bans move products from the regulated retail environment into the illicit market.** An illicit market already exists; its participants do not care if they sell to minors. The CDC has found that about 90% of youth obtain tobacco products, including vapor products, outside legitimate retail channels. Indeed, there are reported instances of illicit vapor products being laced with fentanyl, endangering those who used them. Banning flavored products from legitimate, responsible Minnesota retailers will drive sales of these products to this illicit market, hurting Minnesota retailers and exposing consumers, including youth and young adults, to the criminal market.
- **Historically low underage tobacco use does not justify banning flavored tobacco.** According to the 2022 Minnesota Student Survey of 11th graders, 96% had not smoked even one cigarette in the past 30 days; of those who had smoked, only 1% said they had smoked as often as 9 days in the month, and 0% reported smoking 10 or more days in the month. Of the same group of 11th graders, 98% did not use any cigars, cigarillos, or little cigars, and 99% did not use smokeless tobacco. With this historically low youth use of traditional tobacco products, there is no justification for an across-the-board prohibition on the sale of every kind of flavored tobacco product that adults who are 21 and older choose to purchase.
- **Minnesota could learn from Massachusetts’s and California’s experiences with flavor bans.** Minnesota can learn from the experiences of the two states that have already adopted broad bans on flavored tobacco products. Massachusetts did so in 2020. During the first 12-months after the ban took effect, the Commonwealth reported a reduction of \$127 million in cigarette and tobacco excise taxes. Minnesota could expect similar reductions in cigarette tax revenue. Massachusetts also established a tobacco task force to address smuggling issues. Its February 28, 2024, report states:

[T]he smuggling of untaxed tobacco and ENDS products remains a challenge. Field personnel are *routinely encountering or seizing untaxed menthol cigarettes, originally purchased in other states, and flavored ENDS products and cigars purchased from unlicensed distributors operating both within and outside the Commonwealth*. Without providing too much detail about the processes and methods of Task Force enforcement strategies, *smugglers are developing more sophisticated smuggling operations to counter the Task Force's targeted investigations*.

[Emphasis added.]

Similarly, when California banned flavored products, the state experienced a decline in tobacco tax collections of 13% year-over-year in the first quarter the ban went into effect. A study of discarded packs of cigarettes from public trash cans in cities around the state in the first six months of the ban found that over one-fourth of menthol cigarettes were from outside the U.S., including from Mexico and China. Another quarter were from domestic products of unknown origin, a tactic known to be used by smugglers. Another 6.5% of packs, mostly for menthol cigarettes, were from other states. Some of these products are trafficked by Mexican cartels, putting adult consumers and underage users into contact with criminal enterprises.

- **Economic Impact on Retailers Would Force Layoffs and Stores to Close.** Minnesota retailers selling tobacco and vapor products include tobacco-only stores, with virtually all revenue from tobacco sales, and convenience stores, with approximately 36% of in-store revenue from tobacco. Losing hundreds of flavored products may force tobacco-only stores to close and make the convenience store business model untenable, causing layoffs or closures, and cause non-tobacco product prices to rise to compensate for lost revenue in those stores that do not close.



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## Preserving Hookah Culture & Protecting Hookah Tradition across the USA

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March 2024

The National Hookah Community Association (NHCA) brings together, and serves as the voice of, hookah producers, distributors, sellers, hookah lounge owners, consumers, and community members who support the preservation of hookah's cultural traditions. We are writing to request that as you consider a ban on flavored tobacco products, you acknowledge the cultural significance of hookah to minority and immigrant populations as well as the lack of youth access to, and use of, the product. California took a historic step in December 2022 by enacting a statewide ban on flavored tobacco products, which exempted hookah, for these reasons. NHCA has worked with California, and with many other state and local governments including Colorado, Columbus, Denver, San Diego, San Jose, Los Angeles, and others, to include exemptions for hookah in recent flavor ban legislation.

Hookah is a small category in the tobacco space, making up only roughly 0.005% of nicotine product sales. However, hookah is an important cultural practice to many and one that has existed for centuries, originating in the Middle East and India. Today, a broad cross-section of immigrants in the U.S. from around the world enjoy hookah at home and in lounges as a centerpiece for cultural, business, and social gatherings. Hookah is widely used by Middle Eastern, Armenian, Turkish, East African, Indian, Persian, Indonesian, and other minority immigrant citizens. Hookah lounges across the country have come to serve as safe gathering places for many diverse ethnic and religious communities. Despite the importance of this social practice and tradition, NHCA members continue to find that many policymakers are often unfamiliar with hookah, its practice, and its community.

NHCA fully supports efforts to eliminate youth access and usage of tobacco products, including hookah. Hookah is a unique product in the tobacco space and is unlikely to be obtained or consumed by youth. Annual research by the Centers for Disease Control and Prevention (CDC) shows that just 1% of middle and high school students used hookah in the past 30 days, eight times less than the number of teens who vape. Hookah water pipes are expensive, several feet tall, not easily concealed, and the setup for use is a lengthy process involving the lighting of hot, slow burning coals. Lounges that offer hookah are restricted to those 21 or older, preventing teens from accessing the product. Hookah is also not sold in convenience stores. You can only purchase it at specialty tobacco shops or lounges. These factors make hookah unappealing to youths.

Shisha, the product used in hookah, is a combination of tobacco and a sugar substance such as honey or molasses, and the total product is only comprised of approximately 15% tobacco. As has been the practice for hundreds of years, hookah is, by nature, a flavored product. Unfortunately, noble efforts to address the teen vaping epidemic by **banning flavored tobacco also would result in the ban of ALL hookah.**

A ban on hookah would not only eliminate this important cultural practice for many U.S. citizens, but could also shutter many small, independent, and minority owned businesses. Many of these businesses serve as community gathering places for immigrant populations in cities across the country. Many hookah users are part of religious or ethnic populations that already face discrimination. Eliminating this cultural practice would make many feel as though they are misunderstood and targeted as an outsider by lawmakers and regulators.

We ask that you do not target this important cultural practice and shutter minority and immigrant owned businesses. Please include an exemption for hookah from any flavored tobacco ban.

National Hookah Community Association

**Minnesota**  
**House Health Finance & Policy Committee**  
**Testimony: H.F. 2177**  
**Guy Bentley, Director of Consumer Freedom, Reason Foundation**  
**March 5, 2024**

Chair Liebling and members of the committee,

Thank you for the opportunity to submit testimony on the proposed ban of flavored tobacco products.

My name is Guy Bentley, and I am the director of consumer freedom at the Reason Foundation, a 501(c)3 nonprofit think tank. The consumer freedom project analyzes and promotes policy solutions that improve public health while avoiding unintended consequences and protecting consumer choice.

The intention behind this measure to limit tobacco use, especially among youth, is to be applauded. However, the track record of such prohibitions should raise significant concern that the proposed ban would promote further inequalities in the criminal justice system, simply push sales and tax revenue to other jurisdictions, and increase the illicit tobacco trade while failing to improve public health.

**Case Studies: Massachusetts, Canadian Provinces, and the European Union**

Massachusetts' ban on flavored tobacco products went into effect in June 2020. My colleague Jacob Rich, based out of the Center for Evidence-Based Care Research at the Cleveland Clinic, analyzed the ban's impact by comparing cigarette sales in Massachusetts before and after the ban was implemented. He found a net increase in cigarette sales of 7.2 million packs within Massachusetts and its bordering states in the twelve months to June 2021 compared to sales in the twelve months to June 2020.<sup>1</sup>

Massachusetts also saw a 15.6 million pack increase in non-menthol cigarette sales in 2021, likely due to consumers switching products after the flavored tobacco ban's implementation.

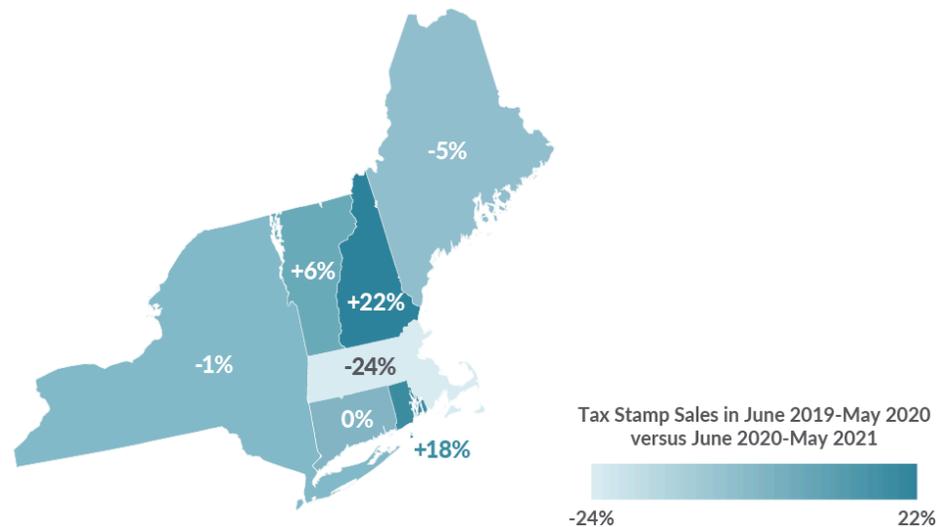
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<sup>1</sup> Jacob Rich. "Estimates of Cross-Border Menthol Cigarette Sales Following the Comprehensive Tobacco Flavor Ban in Massachusetts." MedRxiv. April 27, 2022.  
<https://www.medrxiv.org/content/10.1101/2022.04.24.22274236v1>

Additionally, with consumers turning to neighboring states and black markets, according to the Tax Foundation, Massachusetts lost \$125 million in tobacco tax revenue in its 2021 fiscal year.<sup>2</sup>

## Tobacco Flavor Bans Move Sales to Neighboring States

Tax Stamp Sales in June 2019-May 2020 versus June 2020-May 2021



Source: Orzechowski & Walker Survey of State Departments of Revenue; Author's calculations.

TAX FOUNDATION

@TaxFoundation

Flavored tobacco bans in other countries have yielded similar unintended results. According to a study published by the *Journal of Law and Economics*, Canadian provinces' menthol prohibition implemented from 2015-17 significantly increased non-menthol cigarette smoking among youths, resulting in no overall net change in youth smoking as they substituted products rather than quit.<sup>3</sup> "Difference-in-differences models using national survey data return no evidence that provincial menthol cigarette bans affected overall smoking rates for youths or adults," wrote the study's authors.

The world's largest experiment in menthol prohibition is the European Union, which includes 27 countries and had a population of 447 million people as of 2020. The EU menthol ban became effective in May 2020. Before the ban, Poland had the largest menthol cigarette market in the

<sup>2</sup> Ulrik Boesen. "Massachusetts Flavored Tobacco Ban: No Impact on New England Sales." Tax Foundation. February 3, 2022.

<https://taxfoundation.org/massachusetts-flavored-tobacco-ban-sales-jama-study/>

<sup>3</sup> Christopher Carpenter, Hai V. Nguyen. "Intended and Unintended Effects of Banning Menthol Cigarettes." *The Journal of Law and Economics*. August 2021.

<https://www.journals.uchicago.edu/doi/abs/10.1086/713978>

EU, with 28 percent of total cigarette sales being menthol. An analysis of Poland funded by the Norwegian Cancer Society in partnership with the Polish Ministry of Health found no statistically significant decline in cigarette sales in Poland after the ban.<sup>4</sup> “We find that menthol cigarette sales fell at least 97% after the menthol cigarette ban across Poland and standard cigarette sales replaced them,” write the study’s authors.

### **Food and Drug Administration Review and Tobacco Harm Reduction**

The Food and Drug Administration (FDA) recognizes there is a “continuum of risk” when it comes to tobacco products, with cigarettes being the most dangerous and alternatives such as e-cigarettes, smokeless tobacco, nicotine pouches, and heated tobacco products being less dangerous.<sup>5</sup> As such, when FDA authorizes a new tobacco product for sale, it must be evaluated as to whether it is “appropriate for the protection of public health,” meaning the product must provide a net benefit to public health.

H.F. 2177 would ban the sale of several products that the FDA has deemed to be net beneficial to public health and authorized for sale. For example, Swedish Match’s General Snus Wintergreen Portion White Large, General Nordic Mint Portion White Large - 12ct, General Mint Portion White Large, and General Dry Mint Portion Original Mini have also obtained Modified Risk Grant Orders from FDA. These orders allow Swedish Match to inform the public about the benefits of switching from cigarettes to these reduced-risk products. According to the FDA, the claim “Using General Snus instead of cigarettes puts you at a lower risk of mouth cancer, heart disease, lung cancer, stroke, emphysema, and chronic bronchitis” is scientifically accurate.<sup>6</sup>

If Minnesota chooses to ban these products, it will ban products that reduce the harm and risk of tobacco-related diseases.

In 2021, the U.S. Food and Drug Administration authorized an e-cigarette as “appropriate for the protection of public health” for the first time. The FDA is also currently reviewing e-cigarette product applications that contain reams of data on safety, efficacy, and potential threats to youth. If the FDA finds that any product is a net harm to public health, it will be removed from the market. But if the product is deemed net beneficial, it will be authorized for sale as appropriate for the protection of public health.

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<sup>4</sup> Liber, Alex C. and Stoklosa, Michal J. and Levy, David and Sánchez-Romero, Luz María and Cadham, Christopher J. and Pesko, Michael. “A Bite-Style Model to Evaluate Poland’s Menthol Cigarette Ban.” Available at SSRN: <https://ssrn.com/abstract=3946277>

<sup>5</sup> U.S. Food and Drug Administration. “FDA Authorizes Modified Risk Tobacco Products.” May 2020.

<sup>6</sup> U.S. Food and Drug Administration. “Scientific Review of Modified Risk Tobacco Application (MRTPA) Under Section 911 (d) of the FD&C Act - Technical Project Lead.” <https://www.fda.gov/media/131923/download>

If Minnesota passes H.F. 2177 into law and bans these products prior to the FDA concluding its review, it would limit consumer access to products the FDA may deem as positive for public health. According to a survey conducted by the International Tobacco Control Policy Evaluation Project, 57 percent of vapers said they would continue vaping if flavors were banned while half said they would find a way to get their preferred flavor. Of most concern to public health officials and lawmakers should be the finding that close to one in five vapers said if their preferred flavor was banned, they would stop vaping and smoke traditional cigarettes instead.<sup>7</sup>

While prohibiting e-cigarette flavors other than tobacco may seem an attractive solution to reduce youth vaping, policymakers should recognize that, according to the 2022 National Youth Tobacco Survey (NYTS) by the Centers for Disease Control and Prevention (CDC), 86 percent of high schoolers are not using e-cigarettes at all and 98 percent are not smoking combustible cigarettes. Data released by the CDC also shows flavors are not the leading reason why youth initiate vaping. According to the CDC, the primary reason why young people say they start vaping is curiosity, followed by peer influence or family members. Availability in flavors, such as mint, candy, fruit, or chocolate, comes as a very distant third in the survey.<sup>8</sup>

Research suggests banning flavored tobacco products may also induce perverse outcomes contrary to the promotion of public health among adolescents. In 2018, San Francisco banned the sale of all flavored tobacco products, including e-cigarettes with flavors other than tobacco. Yale University's Abigail Friedman found that after the flavored tobacco ban was enacted, San Francisco area youth were twice as likely to smoke compared to young people in similar jurisdictions that had not enacted tobacco flavor bans.<sup>9</sup> "While neither smoking cigarettes nor vaping nicotine are safe per se, the bulk of current evidence indicates substantially greater harms from smoking, which is responsible for nearly one in five adult deaths annually. Even if it is well-intentioned, a law that increases youth smoking could pose a threat to public health," found Friedman.

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<sup>7</sup> Gravely, Shannon et al. "Responses to potential nicotine vaping product flavor restrictions among regular vapers using non-tobacco flavors: Findings from the 2020 ITC Smoking and Vaping Survey in Canada, England and the United States." *Addictive Behaviors*. Volume 125. February 2022.

<https://www.sciencedirect.com/science/article/pii/S0306460321003373?via%3Dihub>

<sup>8</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. [https://www.cdc.gov/mmwr/volumes/68/ss/ss6812a1.htm#T6\\_down](https://www.cdc.gov/mmwr/volumes/68/ss/ss6812a1.htm#T6_down)

<sup>9</sup> Friedman AS. "A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California." *JAMA Pediatr*. Published online May 24, 2021. doi:10.1001/jamapediatrics.2021.0922

<https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248>

According to a 2020 study by Yale School of Public Health researchers, e-cigarette flavors are positively associated with smoking cessation outcomes for adults but not associated with increased youth smoking.<sup>10</sup> The prestigious Cochrane Review concluded e-cigarettes are more effective than traditional nicotine replacement therapies in helping smokers quit smoking cigarettes.<sup>11</sup> Prohibition of flavored alternatives to traditional cigarettes, especially those already authorized by the FDA, risks worsening public health by driving consumers to smoke while also fueling illicit markets and hurting local economies by forcing the closure of Minnesota vape shops.

The proposed ban on all flavored alternatives to cigarettes carries potential negative consequences for the health of Minnesota’s citizens. It would also hurt the state’s economy.

Thank you for your time.

Guy Bentley, Director of Consumer Freedom, Reason Foundation  
[guy.bentley@reason.org](mailto:guy.bentley@reason.org)

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<sup>10</sup> Abigail S. Friedman, PhD; SiQing Xu, BS. “Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation.” *JAMA*. June 5, 2020.

<https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2766787>

<sup>11</sup> Cochrane Review. “Updated Cochrane Review shows electronic cigarettes can help people quit smoking.” November 17, 2022.

<https://www.cochrane.org/news/latest-cochrane-review-finds-high-certainty-evidence-nicotine-e-cigarettes-are-more-effective>

BANNING ALL FLAVORED TOBACCO PRODUCTS IN LIEU OF EDUCATION AND  
SOUND HEALTH POLICY CREATES UNINTENDED CONSEQUENCES

Re: HB2177

Sonia Y.W. Pruitt  
Email: spruitt@therealbpx.com  
Telephone: 240-876-7358

March 4, 2024

Concerned Citizen  
Retired Police Captain, Maryland  
Past-National Chairwoman, National Black Police Association  
Founder, The Black Police Experience  
Professor of Criminal Justice, Montgomery College, MD &  
Howard University, Washington, DC  
Loved One of Smokers

I am a former police captain, a social justice advocate, a professor of criminal justice, and the mother, sister, and aunt of young Black men. As a police consultant, I have many conversations with former colleagues about trending law enforcement matters in the country. One that has gotten a fair amount of attention in the last few years is the trend toward banning flavored tobacco products and menthol cigarettes, and even hard reduction products. As a consultant, it is my responsibility to research matters of interest to the public and to our most underserved communities, especially those issues involving law enforcement. Through these lens, I register my objection to Bill HF2177.

In the last few years, we have seen reports of police officers retiring in record numbers due to discontent, feeling overworked, and having low morale. They do not need another well-meaning but ineffective law on the books to add to the list of tasks police officers must handle each day. In addition, dealing with minor cases concerning illegal cigarettes lends itself to a slow-down in courts due to bureaucracy, and adds to already monumental prison overcrowding of those convicted. Attempting to address public health issues in the Black community, by banning one of many types of cigarettes, is doomed for failure, especially as it will exacerbate an illegal market that is already difficult to manage by law enforcement.

Massachusetts passed a flavored tobacco product and menthol cigarette ban in 2019. It has not yielded the results desired. Data and evidence showed that menthol cigarettes are being illegally trafficked from out of state instead of being sold by licensed retailers in-state—retailers are thus losing revenue. There has been minimal reduction of adult smoking because of the Massachusetts ban. In fact, the primary challenge of tobacco enforcement in Massachusetts is the smuggling of untaxed flavored tobacco. An unintended consequence is a proposal for harsher criminalization of individuals who possess illegal tobacco products with intent to sell, which will place an even greater burden on law enforcement.

Evidence shows that these bans don't work. This proposal will do nothing more than place a stigma and unfair social burden on those who prefer menthol-flavored tobacco products and increase their chances of running afoul of the law, something that the Black community needs less of, not more. People could find other sources to buy a product that has been deemed illegal to sell, while other subsets of tobacco will continue to be legally sold, resulting in a disparate impact by an unjust criminal justice system, under the guise of public health advocacy.

Finally, we know from history that prohibition in this country has never worked. It did not work with the proscription of alcohol in the 1920's, and the gradual legalization of marijuana across the country holds that prohibition has not worked with marijuana either. Outlawing a subset of a product that is used by choice by adults is unlikely to work with flavored and menthol tobacco products, and as the California ban has proven, it does not necessarily stop menthol cigarette smokers from finding a menthol product to smoke.

I ask that HF2177 be abandoned, and that the approach to the problem of smoking in all communities—particularly the Black community—be backed by sound public health policy, community education, access to harm reduction products, and sufficient resources, and that law enforcement and community groups that represent affected communities be allowed to weigh in on this crucial decision. Tobacco use concerns should be addressed in a humane, responsible, and educated way, designed to empower communities, not to criminalize them for making a choice that others take for granted.

March 2, 2024

Joshua Sande  
Committee Administrator - DFL Caucus  
422 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, Minnesota 55155

*via email: Josh.Sande@house.mn.gov*

Re: HF 2177

Dear Mr. Sande,

I stopped smoking after 40 years by switching to vaping. I smoked four (4) packs per day. Vaping saved my lungs and my life.

I make my own e-liquid and use flavors. I have been cigarette-free for just under nine (9) years (I quit on April 13, 2015).

I was a menthol smoker and first adjusted to using cigarettes with a menthol-bubblegum mix. I started making my e-liquid in 2016 and use a three-flavor combination (Venetian Cream, Classic Vanilla, and Blenderizer). I have been at a 3 mg nicotine level since that time.

I have not had bronchitis or pneumonia since I switched to vaping, and my lungs are clear.

I cannot imagine not having flavors with which to make my e-liquid. Regular tobacco flavor is terrible. I never even vaped tobacco flavors when I began vaping.

Please don't approve this. It would be a terrible mistake.

I am a Minnesota voter and a taxpayer writing in opposition to HF 2177, which would ban the sale of flavored nicotine and tobacco products -- including those that are demonstrably safer than smoking, according to the FDA. It should now be clear that such drastic action would cause irreparable harm to the same people it is intended to protect. Moreover, forcing legitimate specialty retailers to close will expose consumers to unnecessary risks, including shopping on an unregulated underground market and even returning to smoking. Data from other states and municipalities where flavor bans have been imposed confirm that this policy is creating new problems while failing to address the issue of youth substance use.

Recent research reveals that young people aren't benefiting from heavy regulation of vapor products. Instead, policies like what HF 2177 is proposing are more likely to send teenagers to smoke rather than prevent them from experimenting with nicotine. According to research published in the journal *Nicotine and Tobacco Research* (Posner H., et. al., 2021), 33% of respondents were likely to switch to smoking cigarettes in response to a flavor ban on vaping. Outcomes like this are counter to achieving genuine public health goals like reducing smoking prevalence in Minnesota and the rest of the country.

Legal, regulated businesses play a vital role in ensuring that consumers have access to well-made products and keeping adult products out of the hands of young people. If these products are pushed into

an underground market where there is no oversight and no motivation to comply with regulations, purchasing and consuming nicotine will be unnecessarily riskier.

My fellow Consumer Advocates for Smoke-free Alternatives Association (CASAA) members and I thank you for considering my comments on this issue. Please know that the vaping community is your ally in addressing concerns about youth use, and we are open to working toward a positive way forward. I look forward to your response and am available for any questions.

Regards,  
Suzanne M Grundy  
509-595-4901  
370 Liberty Heights Dr.  
Chaska, MN 55318

March 4, 2024

TO: Chair Tina Liebling and Members of the House Finance and Policy Committee

FROM: Dr. Brian E. Erkkila, Director of Regulatory Science, Swedish Match North America

I would like to thank the Chair and committee members for the opportunity to share important information regarding H.F. 2177 and urge this committee to oppose the measure.

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. 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. I have been studying nicotine and tobacco for over 20 years.

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 age for purchase to 21 years old<sup>1</sup>. The highest rates of youth tobacco product use occurred decades ago, when unflavored combusted products had a vast majority of the market.

However, there are still more than 700,000 adult Minnesotans who smoke cigarettes<sup>2</sup>, putting themselves at greatly elevated risk for disease and even death, a fate which takes more than 6,000 lives in the state each year. 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 also drive many of the more than 300,000 adults in Minnesota who use reduced risk products, back to smoking<sup>3</sup>.

Numerous regulatory agencies recognize 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, heated tobacco) being much less harmful. H.F. 2177 ignores countless peer-reviewed scientific articles demonstrating this continuum, paints them all with a broad brush and removes far less harmful choices from Minnesotans who smoke.

For example, the FDA has determined after a lengthy scientific review process 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 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 cancer, cardiovascular disease and respiratory disease. H.F. 2177 would ban these federally vetted products from the market, and they would no longer be available to the hundreds of thousands of adults who smoke in Minnesota. This is despite the fact that rates of youth use of smokeless tobacco in Minnesota (1%) are a fraction of the rates of youth use of alcohol (17%) and cannabis (12%)<sup>4</sup>.

There is an urgent need to aid Minnesota's hundreds of thousands of smokers in moving down the continuum of risk. As a state which has embraced the philosophy of harm reduction, it is evident that

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<sup>1</sup> 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(44):1173–1182.

<sup>2</sup> Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division of Population Health. BRFSS Prevalence & Trends Data [online]. 2015. [accessed Mar 04, 2024]. URL: <https://www.cdc.gov/brfss/brfssprevalence/>.

<sup>3</sup> Ibid

<sup>4</sup> [2022 Minnesota Student Survey Statewide Tables \(December 2022\)](#) Minnesota Student Survey Interagency Team.

## \*\*\* Swedish Match.

tobacco harm reduction could have a public health benefit in Minnesota. However, H.F. 2177 would make smoke-free products a less compelling option for adults who smoke, keeping Minnesotans who smoke at higher risk of smoking related illness and death. This has been illustrated in other states where similar bans have had unintended consequences, including increases in youth combusted cigarette use and a flourishing black market of unregulated products.

H.F. 2177 will ban many of the smoke-free options Minnesota's adults who smoke can use to reduce their risks; it will tell them that they can "quit or die". With youth use of tobacco products in precipitous decline, I urge you to show compassion to the more than 700,000 Minnesotans who smoke and oppose H.F. 2177, avoiding the unintended consequences it may cause.

Dear Chair Liebling and Members of the Committee,

We are East African and Muslim Minnesotans, community leaders, and organizations and we urge you to support HF 2177/SF 2123. This bill aims to end the sale of all flavored commercial tobacco products in Minnesota, including flavored shisha, or hookah tobacco. We fully support ending the sale of all flavored products, including shisha, and we reject efforts by the tobacco industry to exempt flavored shisha in the name of “cultural sensitivity.”

In attempts to fend off regulation and expand their customer base, the hookah industry often argues that hookah is a “cultural” practice unique to Somali, East African, Indian and Middle Eastern communities. They claim that hookah should be treated differently than other tobacco products because of these cultural considerations. In fact, the opposite is true. Exempting flavored hookah tobacco unfairly subjects our communities to dangerous products that we do not want our young people to use. As leaders dedicated to improving the lives of everyone in our community, we call on our state elected officials to make public policy based on facts, not on fear mongering around cultural insensitivity perpetuated by the tobacco industry.

The negative health consequences of using hookah tobacco are well documented but not well known by the public or decision makers.

- According to the CDC, using a hookah to smoke tobacco poses serious health risks to smokers and others exposed to the smoke from the hookah.
- Hookah smoke contains high levels of toxins including carbon monoxide, heavy metals, nicotine, and other cancer-causing chemicals.
- Hookah users may inhale as much smoke in one session as a cigarette smoker would inhale in 100 cigarettes.
- Hookah is also highly addictive. Users often take in high doses of nicotine during long hookah smoking sessions.
- A hookah user is two times more likely to become a cigarette smoker than someone who does not smoke hookah.

The hookah industry targets youth and young adults with marketing that associates smoking hookah with a fun, social and sophisticated lifestyle. Just like flavored cigars and vapes, hookah tobacco is sold in a wide variety of kid-friendly flavors like cherry, cotton candy and bubble gum.

Defending a deadly product that causes addiction and is harmful to health can never be considered “cultural protection.” Exempting hookah from flavored tobacco regulations perpetuates health disparities by allowing the tobacco industry a clear path to market and sell a deadly product. Comprehensive flavor restrictions that include hookah protect everyone from the harms of tobacco. Please vote yes on this bill.

Sincerely,

Sub-Saharan African Youth &  
Family Services in MN  
Islamic Civic Society of America  
Awood Center Organization  
WellShare International

Hope and Development  
Organization  
Masjid Shaafici Cultural Center  
Said Ahmed, Association for  
Nonsmokers-MN

Mohamed Mohamud  
Abdirasbiid Abdille  
Ahmed Nasir  
Faysal Yusuf  
Nasir Said

March 5, 2024, House Health Finance and Policy Committee RE: HF2177

Dear Chair Liebling and Committee Members:

Please support HF2177, which would end the sale of menthol cigarettes and all other flavored commercial tobacco products in Minnesota.

In Minnesota, one in seven 11th graders uses e-cigarettes, and 88% of those students use flavored e-cigarettes. 75 percent of Minnesota's 8th and 11th graders who use tobacco report using flavored products. The tobacco industry deliberately uses flavors to attract the next generation of tobacco users.

E-cigarettes are available in a wide variety of kid-friendly flavors like cotton candy, gummy bear, mint, menthol and cookie dough. E-cigarettes contain high levels of nicotine which harms adolescent brain development and primes youth for addiction. More than 70% of youth e-cigarette users in Minnesota are showing signs of nicotine dependence. Nearly half of youth who have tried smoking started with menthol cigarettes.

In a 2023 statewide poll, 62% of Minnesotans expressed support for the proposal to end the sale of all flavored tobacco products, with high levels of support across various demographics and regions. The federal government (FDA) has proposed rules that would remove flavored menthol cigarettes and flavored cigars from the marketplace but excludes flavored e-cigarettes and other flavored tobacco products. Although the proposed rule is under final review, a final rule would likely face years of delays from the tobacco industry.

HF2177 can save our state money, and most importantly, help prevent tobacco-related diseases and deaths. Minnesota can take steps to reverse the youth tobacco epidemic, address racial and health inequities and reduce health care costs by ending the sale of flavored tobacco products.

As a parent, grandparent, concerned Winona and Minnesota Citizen, I urge your support of this bill. We can't wait another year. Every year we do nothing, 10,000 kids try tobacco for the first time, lured in by fruity flavors; thousands of people die preventable, premature deaths, and the Minnesotans most likely to be impacted by this are those from our Black, American Indian and LBGTQIA2S+ communities, because that's who the tobacco industry is targeting.

Helen Bagshaw  
243 Valley Oaks Drive  
Winona MN 55987

Removing flavored tobacco products – including menthol cigarettes, flavored cigars, e-cigarettes, hookah, and smokeless tobacco – from the marketplace will prevent youth addiction and improve health for all Minnesotans. The policy will especially benefit communities targeted by the tobacco industry – including young people, Black Americans, LGBTQIA2S+ people, and American Indians. Flavors mask the taste of tobacco, making it easier to start and harder to quit. The 2022 Minnesota Student Survey found that over 75 percent of Minnesota’s 8th and 11th graders who use tobacco report using flavored products. According to doctors and health experts, tobacco use sets kids up for a lifetime of nicotine addiction and serious health conditions like heart disease and cancer. A recent statewide scientific poll found 70 percent of Minnesota residents are concerned about vaping, smoking and other product tobacco use among Minnesota youth. Removing menthol and flavored tobacco from the marketplace will address racial and health inequities caused by Big Tobacco’s lethal tactics. Menthol tobacco products are aggressively marketed not only toward youth, but also to Black Americans, women, and LGBTQIA2S+ communities, so higher use rates in those groups is no coincidence. For decades, tobacco companies have channeled menthol tobacco products into Black communities, causing premature death and disease. In Minnesota, smoking rates among American Indians are at epidemic levels (59 percent), and 42 percent of urban American Indian people who smoke use menthol cigarettes. This policy isn’t new to our state. Minnesota has been a leader in tobacco prevention policies and a quarter of the state’s population is already covered by 29 local policies restricting sales of flavored and/or menthol tobacco products. In those communities, we have seen a positive impact to public health. This is also a popular policy. 62 percent of Minnesota residents support the proposal to end the sale of all

flavored tobacco products. Support is strong across political, geographic, and demographic lines. Every time Big Tobacco addicts another generation of kids to smoking, they put all taxpayers on the hook for billions of dollars in healthcare costs to treat tobacco-related diseases. A new report commissioned by Blue Cross and Blue Shield of Minnesota shows that smoking is responsible for 6,530 deaths annually. The economic burden associated with smoking is staggering, costing our state over \$4.7 billion in excess medical costs. HF2177 can save our state money, and most importantly, help prevent tobacco-related diseases and deaths. Minnesota can take steps to reverse the youth tobacco epidemic, address racial and health inequities and reduce health care costs by ending the sale of flavored tobacco products. On behalf of Minnesotans for a Smoke-Free Generation, we urge your support of this bill. We can't wait another year. Every year we do nothing, 10,000 kids try tobacco for the first time, lured in by fruity flavors; thousands of people die preventable, premature deaths, and the Minnesotans most likely to be impacted by this are those from our Black, American Indian and LGBTQIA2S+ communities, because that's who the tobacco industry is targeting. Sincerely, Emily Myatt Tri-Chair, Minnesotans for a Smoke-Free Generation Regional Government Relations Director, American Cancer Society Cancer Action Network LaTrisha Vetaw Tri-Chair, Minnesotans for a Smoke-Free Generation Janelle Waldock Tri-Chair, Minnesotans for a Smoke-Free Generation Senior Director of Policy, Blue Cross and Blue Shield of Minnesota About Minnesotans for a Smoke-Free Generation Minnesotans for a Smoke-Free Generation is a coalition of more than 50 organizations that share a common goal of advancing justice by striving toward a future where every person is free from commercial tobacco's harms and can reach their full health potential. A Breath of Hope Lung Foundation, Advocates for Better Health, Allina Health, American Cancer Society Cancer Action Network, American Heart Association, American Lung Association in Minnesota, Asian Media Access, Association for Nonsmokers – Minnesota, Blue Cross and Blue Shield of Minnesota, Cancer Legal Care, CentraCare, Children's Minnesota, Comunidades Latinas Unidas En Servicio – CLUES, Dodge County Public Health, Essentia Health, Eugene Nichols, Faribault Martin & Watonwan Co SHIP, Gillette Children's Specialty Healthcare, Greater Friendship Missionary Baptist Church, HealthPartners, Health Plan Partnership of Minnesota, Hennepin County Public Health, Hennepin Healthcare, Horizon Public Health, Indigenous Peoples Task Force, Lao Center of Minnesota, Lincoln Park Children and Families Collaborative, Local Public Health Association of Minnesota, March of Dimes, Masonic Cancer Center, University of Minnesota, Mayo Clinic, Medica, Meeker McLeod Sibley Community Health Services, MHA – Minnesota Hospital Association, Minnesota Academy of Family Physicians, Minnesota Alliance With Youth, Minnesota Association of Community Health Centers, Minnesota Cancer Alliance, Minnesota Council of Health Plans, Minnesota Dental Association, Minnesota Medical Association, Minnesota Prevention Alliance (MPA), Minnesota Public Health Association, Minnesota Society for Public Health Education, MNAAP – Minnesota Chapter of the American Academy of Pediatrics, Mowery Communications, LLC, NAMI Minnesota, Native Sun Community Power Development, NorthPoint Health & Wellness, Olmsted Medical Center, Parents Against Vaping e-cigarettes, PartnerSHIP 4 Health, Perham Health, Preventing Tobacco Addiction Foundation/Tobacco 21, Public Health Law Center, Rainbow Health, SEIU Healthcare Minnesota, Steele County Public Health, Team EPIC (Encouraging Positive Impact Through Change), Tobacco-Free Alliance, Twin Cities Recovery Project, UCare, Vision in Living Life "Change is Possible", WellShare International, Winona County Alliance for Substance Abuse Prevention Find out more at: [smokefreegenmn.org](http://smokefreegenmn.org).



1325 G Street, NW, Suite 950 • Washington, D.C. 20005 • 202.464.6200 • [taxfoundation.org](https://taxfoundation.org)

## Memorandum

**Date:** March 4, 2024

**To:** Members of the House Health Finance & Policy Committee

**From:** Adam Hoffer, PhD, Director of Excise Taxation, Tax Foundation

**Subject:** Comments on House Bill 2177 Regarding a Ban on the Sale of Flavored Tobacco

Several U.S. states and localities have banned the sale of flavored tobacco products, including Massachusetts, California, and the District of Columbia. Nationwide, non-tobacco flavored cigarettes make up about a third of the total market. In Minnesota, flavored cigarettes comprise roughly 27 percent of all cigarette sales.

A ban on flavored tobacco would disrupt Minnesota's tobacco market and significantly decrease the state's tax revenue. We estimate that a menthol ban would reduce revenue by \$91.5 million per year through a combination of decreased excise and sales tax collections and Master Settlement Agreement payments.<sup>1</sup>

The flavor bans in Massachusetts and California have been costly. Massachusetts saw a \$125 million decline in revenue the first year of its flavor ban. And in the first month after California's flavor ban, cigarette tax revenue decline by roughly 17.3 percent. The annualized revenue decline will likely exceed \$300 million, surpassing the state's revenue loss estimates by more than 37 percent.<sup>2</sup>

Identifying the cause of the decline in legal purchases following the flavor ban is paramount to determining the effects of the policy. Menthol smokers may have quit smoking after no longer being able to purchase their preferred products or they may be continuing to smoke by buying products across state borders or products that have been smuggled into the state.

In the year following the Massachusetts flavored cigarette ban, roughly 90 percent of the decline in state cigarette sales simply shifted to neighboring states. The 24 percent decline

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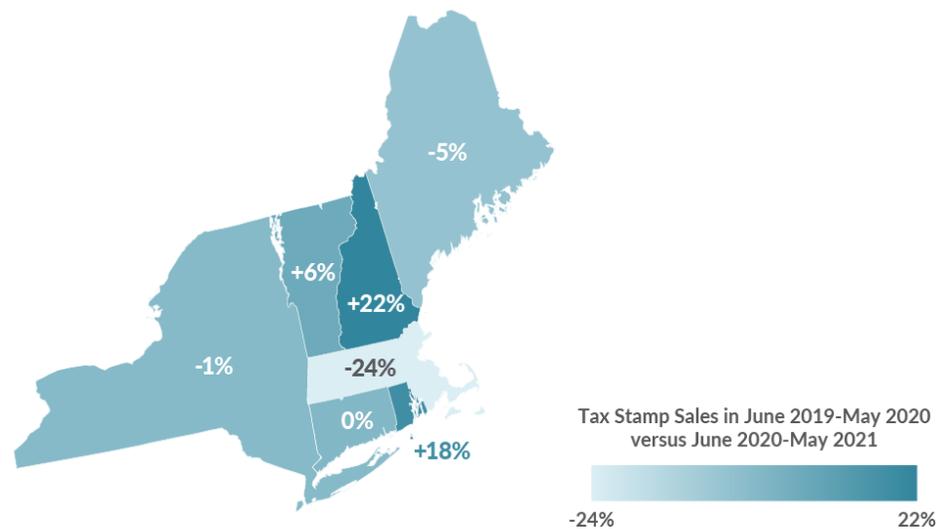
<sup>1</sup> Ulrik Boesen, "Federal Menthol Cigarette Ban May Cost Governments \$6.6 Billion," Tax Foundation, Mar. 2, 2022, <https://taxfoundation.org/federal-menthol-cigarette-ban/>.

<sup>2</sup> Adam Hoffer, "California Flavored Tobacco Ban May Cost More than \$300 Million in First Year," Tax Foundation, Feb. 24, 2023, <https://taxfoundation.org/california-flavored-tobacco-ban-revenue/>.

in Massachusetts sales was offset almost entirely by a 22 percent increase in sales in New Hampshire and an 18 percent increase in sales in Rhode Island.

## Tobacco Flavor Bans Move Sales to Neighboring States

*Tax Stamp Sales in June 2019-May 2020 versus June 2020-May 2021*



Source: Orzechowski & Walker Survey of State Departments of Revenue; Author's calculations.

TAX FOUNDATION

@TaxFoundation

Minnesota already has the fifth highest smuggling rate in the country, with roughly a third of cigarettes consumed in Minnesota purchased in other states.<sup>3</sup> It is also surrounded by low-tax states, meaning a ban on the sale of flavored tobacco products would likely skyrocket the state's smuggling rate and illicit cigarette market to all-time highs.

Legislatures are charged with the difficult task of striking the right balance among reducing the harm caused by smoking, raising enough revenue to fund smoking cessation and other public health programs, and maintaining a legal, well-regulated marketplace where participants can safely transact. As you consider these matters, we are happy to be a resource and would be delighted to provide you with more research on this topic.

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<sup>3</sup> Adam Hoffer, "Cigarette Taxes and Cigarette Smuggling by State, 2021." December 5, 2023. <https://taxfoundation.org/data/all/state/cigarette-taxes-cigarette-smuggling-2023/>.



Date: March 3, 2024

To: Rep. Tina Liebling, Chair  
Rep. Robert Bierman, Vice Chair  
Members of the House Health Finance and Policy Committee

From: Carrie Arblaster, Midwest Regional Advocacy Director, Campaign for Tobacco-Free Kids

Re: **SUPPORT for HF2177, Sale or offer for sale of flavored tobacco, nicotine, or lobelia products prohibited; and penalties authorized**

Hrg: March 5, 2024

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Dear Chair Liebling, Vice Chair Bierman, and Members of the Committee:

The Campaign for Tobacco-Free Kids & the Tobacco-Free Kids Action Fund are pleased to **SUPPORT HF2177** which would prohibit the sale of all flavored tobacco products, including menthol, in the state of Minnesota. The Campaign for Tobacco-Free Kids is the nation's largest non-profit, non-governmental advocacy organization solely devoted to reducing tobacco use and its deadly toll by advocating for public policies that prevent kids from using tobacco and help smokers quit. It is encouraging to see state legislatures take thoughtful, evidence-based steps to reduce the number of kids who start using tobacco and help tobacco users quit.

This bill, which would prohibit the sale of all flavored tobacco products in Minnesota, would have a dramatic impact on reducing tobacco use among youth, and would help curb the long-term illness, disease and death caused by tobacco addiction across the state. Minnesota has long been a national leader in its commitment to reducing the death and disease from tobacco use, so it is heartening to see that you continue to be at the forefront on tobacco policy. Even though Minnesota has made great strides in reducing tobacco use, tobacco use remains the

number one preventable cause of premature death and disease in Minnesota and the nation, killing 480,000 Americans annually, including 5,900 in Minnesota.<sup>1</sup>

**Prohibiting the sale of flavored tobacco products in retailers is a critical step that will help protect Minnesota’s youth from the unrelenting efforts by the tobacco industry to hook them to a deadly addiction.** Flavored tobacco products are designed to alter the taste and reduce the harshness of tobacco so they are more appealing and easy for beginners, who are almost always kids. These products are pervasive and are marketed and sold in a variety of kid-friendly flavors. With their colorful packaging and sweet flavors, flavored tobacco products are often hard to distinguish from the candy displays near which they are frequently placed in retail outlets. In Minnesota, 78.4% of middle and high school students who have ever used tobacco reported that the first tobacco product they ever tried was flavored and 81.8% of current Minnesota youth tobacco users reported using a flavored product during the past 30 days.<sup>2</sup>

### **Flavored Tobacco Products Are Pervasive**

A 2009 federal law, the Family Smoking Prevention and Tobacco Control Act, prohibited the sale of cigarettes with characterizing flavors other than menthol or tobacco, including candy and fruit flavors. While overall cigarette sales have been declining since the 2009 law, the proportion of smokers using *menthol* cigarettes (the only remaining flavored cigarette) has been increasing.<sup>3</sup> Menthol cigarettes comprised 36 percent of the market in 2022.<sup>4</sup>

The Tobacco Control Act’s prohibition on characterizing flavors did not apply to other tobacco products, and as a result, tobacco companies have significantly stepped up the introduction and marketing of flavored non-cigarette tobacco products. In fact, the overall market for flavored tobacco products is actually growing. In recent years, there has been an explosion of sweet-flavored tobacco products, especially e-cigarettes and cigars. These products are available in a wide assortment of flavors – like mango, cotton candy, and mint for e-cigarettes and chocolate, watermelon, and cherry dynamite for cigars. Tobacco companies are making and marketing deadly and addictive products that look and taste like a new line of flavors from a shave ice truck.

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<sup>1</sup> National: U.S. Department of Health and Human Services (HHS), “The Health Consequences of Smoking – 50 Years of Progress A Report of the Surgeon General 2014. State: Centers for Disease Control and Prevention (CDC), *Best Practices for Comprehensive Tobacco Control Programs—2014*, [http://www.cdc.gov/tobacco/stateandcommunity/best\\_practices/](http://www.cdc.gov/tobacco/stateandcommunity/best_practices/).

<sup>2</sup> Helgertz SR. Teens and Tobacco in Minnesota: Highlights from the 2020 Minnesota Youth Tobacco Survey: Minnesota Center for Health Statistics, Minnesota Department of Health, February 2021. <https://www.health.state.mn.us/communities/tobacco/data/docs/2020mytsreport.pdf>.

<sup>3</sup> Villanti, A., et al., “Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014,” *Tobacco Control*, 25(Suppl 2):ii14-ii20, 2016.

<sup>4</sup> U.S. Federal Trade Commission (FTC), *Cigarette Report for 2022, 2023*, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2022-Cigarette-Report.pdf?utm\\_source=govdelivery](https://www.ftc.gov/system/files/ftc_gov/pdf/2022-Cigarette-Report.pdf?utm_source=govdelivery) data for top 4 manufacturers only].

Flavors are not just a critical part of the product design, but are a key marketing ploy for the industry. The 2016 Surgeon General Report on e-cigarettes concluded, “E-cigarettes are marketed by promoting flavors and using a wide variety of media channels and approaches that have been used in the past for marketing conventional tobacco products to youth and young adults.”<sup>5</sup> The 2021 the National Youth Tobacco Survey found that 70.3% of middle and high school students—17.77 million youth—had been exposed to e-cigarette advertisements from at least one source.<sup>6</sup>

Sales of cigars (i.e., large cigars, cigarillos, and small cigars) have more than doubled between 2000 and 2022, and much of the growth is attributable to smaller types of cigars, many of which are flavored and inexpensive.<sup>7</sup> Nielsen convenience store market scanner data showed that over half (53.3%) of cigar sales in 2020 were for flavored cigars. Among flavored cigars sold in these stores in 2020, the most popular flavors were sweet or candy (30.6%) and fruit (29.5%).<sup>8</sup> Earlier data show the number of unique cigar flavor names more than doubling from 108 to 250 from 2008 to 2015.<sup>9</sup> The top five most popular cigar brands among 12- to 17-year olds who have used cigars – Backwoods, White Owl, Swisher Sweets, Black & Mild, and Dutch Masters – all come in flavor varieties.<sup>10</sup> These products are often sold in small pouches containing 2-3 cigars<sup>11</sup> that are priced as low 99 cents or \$1.99 per pack, making them even more appealing to price-sensitive youth. Cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke.<sup>12</sup>

Although tobacco companies claim to be responding to adult tobacco users’ demand for variety, it’s clear that flavored tobacco products play a key role in enticing new users, particularly kids, to a lifetime of addiction. This growing market of flavored tobacco products is undermining progress in reducing youth tobacco use. HF2177, which would prohibit the sale of all flavored tobacco products in Minnesota, will protect Minnesota’s youth from the unrelenting efforts by the tobacco industry to hook them to a deadly addiction.

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<sup>5</sup> HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

<sup>6</sup> Gentzke, A, et al., “Tobacco Product Use and Associated Factors Among Middle and High School Students—National Youth Tobacco Survey, United States, 2021,” *MMWR* 71(5): 1-29, March 10, 2022, <https://www.cdc.gov/mmwr/volumes/71/ss/pdfs/ss7105a1-H.pdf>.

<sup>7</sup> U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB), Tobacco Statistics.

<sup>8</sup> Delnevo, CD, et al. “Cigar Sales in Convenience Stores in the US, 2009-2020,” *JAMA* 326(23):2429-2432.

<sup>9</sup> Delnevo, CD, Giovenco, DP, & Miller, EJ, “Changes in the Mass-merchandise Cigar Market since the Tobacco Control Act,” *Tobacco Regulatory Science*, 3(2 Suppl 1):S8-S16, 2017.

<sup>10</sup> SAMHSA’s public online data analysis system (PDAS). National Survey on Drug Use and Health, 2021, analysis run May 9, 2023.

<sup>11</sup> Delnevo, CD, et al. “Cigar Sales in Convenience Stores in the US, 2009-2020,” *JAMA* 326(23):2429-2432.

<sup>12</sup> National Cancer Institute (NCI), *Cigars: Health Effects and Trends. Smoking and Tobacco Control Monograph No. 9*, 1998, [http://cancercontrol.cancer.gov/Brp/tcrb/monographs/9/m9\\_complete.pdf](http://cancercontrol.cancer.gov/Brp/tcrb/monographs/9/m9_complete.pdf). Chang, CM, et al., “Systematic review of cigar smoking and all cause and smoking related mortality,” *BMC Public Health*, 2015.

## Flavored Tobacco Products Are Popular Among Youth

These sweet products have fueled the popularity of e-cigarettes and cigars among youth. A government study found that ***eight out of ten of kids who have ever used tobacco products started with a flavored product.***<sup>13</sup> Across all tobacco products, the data is clear: flavored tobacco products are overwhelmingly used by youth as a starter product, and preference for flavors declines with age.

Nationally, e-cigarettes have been the most commonly used tobacco product among youth since 2014. Today, youth e-cigarette use remains a serious public health concern, with over 2.1 million youth, including 10.0% of US high schoolers and 4.6% of middle schoolers, reporting current e-cigarette use in 2023, according to the National Youth Tobacco Survey (NYTS).<sup>14</sup> In Minnesota, e-cigarettes are also the most popular tobacco product among young people. According to Minnesota's 2020 Youth Tobacco Survey, 35.4% of high school students have tried e-cigarettes and 19.3% are current (past month) users. Additionally, 7.9% of middle school students have tried e-cigarettes and 3.3% are current users.<sup>15</sup>

Kids are not just experimenting with e-cigarettes, but are using them frequently, leading to an addiction that is difficult to break. According to the 2023 NYTS, 39.7% of high school e-cigarette users reported vaping on 20 or more days/month, and 29.9% reported daily use.<sup>16</sup> According to Minnesota's 2020 Youth Tobacco Survey, 33.6% of students who currently use e-cigarettes frequently used the product, an 80% increase from 2017 (18.7%). Additionally, 70.4% of Minnesota students who used e-cigarettes in the past 30 days reported one or more signs of e-cigarette dependence.<sup>17</sup> This youth addiction crisis has been fueled by the growth of high nicotine e-cigarettes—many contain as much or more nicotine as a pack of twenty cigarettes. Nicotine is a highly addictive drug that can have lasting damaging effects on adolescent brain development—the brain keeps developing until about age 25. In particular, nicotine use can harm the parts of the adolescent brain responsible for attention, learning, mood and impulse

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<sup>13</sup> Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.

<sup>14</sup> Birdsey J., et al. "Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023," *MMWR*, 72(44): 1173–1182, November 3, 2023, <https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm>.

<sup>15</sup> Helgertz SR. Teens and Tobacco in Minnesota: Highlights from the 2020 Minnesota Youth Tobacco Survey: Minnesota Center for Health Statistics, Minnesota Department of Health, February 2021. <https://www.health.state.mn.us/communities/tobacco/data/docs/2020mytsreport.pdf>.

<sup>16</sup> Birdsey J., et al. "Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023," *MMWR*, 72(44): 1173–1182, November 3, 2023, <https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm>.

<sup>17</sup> Helgertz SR. Teens and Tobacco in Minnesota: Highlights from the 2020 Minnesota Youth Tobacco Survey: Minnesota Center for Health Statistics, Minnesota Department of Health, February 2021. <https://www.health.state.mn.us/communities/tobacco/data/docs/2020mytsreport.pdf>.

control.<sup>18</sup> The Surgeon General concluded that, “The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe.”<sup>19</sup>

In February 2020, the FDA restricted some flavors in cartridge-based e-cigarettes, but exempted all menthol-flavored e-cigarettes and left flavored e-liquids and disposable e-cigarettes widely available in every imaginable flavor, from mango and mint to cotton candy and watermelon bubblegum. New data show that the market share of these products has grown substantially and that youth quickly migrated to the flavored products that were exempt from the FDA’s policy. In 2023, 60.7% of US youth e-cigarette users reported using disposable e-cigarettes and 20.1% of users of flavored e-cigarettes reported using menthol e-cigarettes.<sup>20</sup>

While the FDA has denied marketing applications for certain flavored e-cigarettes, flavored e-cigarettes remain widely available because the FDA has taken only limited enforcement action to remove products that are illegally on the market and has underutilized its enforcement authority. Every day these products remain on the market, our kids remain in jeopardy. Because of the delays and gaps in the FDA’s actions, it is critical that states and cities step up their efforts to eliminate ALL flavored e-cigarettes, as well as other flavored tobacco products. The evidence is also clear that as long as any flavored e-cigarettes – including menthol-flavored products – are on the market, kids will shift to them and we will not end this public health crisis. Minnesota must close the gaps left by the FDA and protect our kids from these dangerous and addictive products.

### **Menthol Cigarettes and Flavored Cigars Increase Youth Smoking and Exacerbate Health Disparities**

No other flavored product contributes more to the death and disease caused by tobacco use than menthol cigarettes. Menthol cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating smoking. As the only flavored cigarette left on the market, it’s also no surprise that menthol cigarettes are popular among youth. While smoking rates have declined considerably, each year, over 9,800 Minnesota kids under 18 will try their first cigarette.<sup>21</sup>

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<sup>18</sup> HHS, *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*, CDC, Office of Smoking and Health (OSH), 2014, <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/index.html>. See also: CDC Office on Smoking and Health, “Quick Facts on the Risks of E-cigarettes for Kids, Teens, and Young Adults,” March 2019. Accessed August 9, 2019.

<sup>19</sup> HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

<sup>20</sup> Birdsey J., et al. “Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023,” *MMWR*, 72(44): 1173–1182, November 3, 2023, <https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm>.

<sup>21</sup> Estimate based on U.S. Dept of Health & Human Services (HHS), “*Results from the 2022 National Survey of Drug Use and Health: Summary of National Findings and Detailed Tables*,” with the state share of the national number estimated proportionally based on the projected number of youth smokers ages 0-17 reported in U.S. Department of Health and Human

About half of youth who have ever tried smoking started with menthol-flavored cigarettes.<sup>22</sup> The FDA's Tobacco Product Scientific Advisory Committee (TPSAC) has reported that:

- 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.

In addition, cheap, flavored cigars – sold in hundreds of flavors like cherry dynamite, tropical twist and chocolate – have flooded the market in recent years and fueled the popularity of these products with kids. The 2023 NYTS shows that 70.7% of high school cigar smokers use flavored cigars, and cigars are especially popular among Black and Hispanic teens.<sup>23</sup>

### **Tobacco companies have a long history of targeting communities with menthol marketing.**

Tobacco industry marketing, often targeted at minority communities, has been instrumental in increasing the use of menthol products and in the disproportionate use of menthol products by minority groups and youth. TPSAC concluded that menthol cigarettes are marketed disproportionately to younger smokers and Black Americans.<sup>24</sup> Dating back to the 1950s, the tobacco industry has targeted these communities with marketing for menthol cigarettes through sponsorship of community and music events, targeted magazine advertising, youthful imagery, and marketing in the retail environment. Nationwide, as a result of this targeting, 85% of Black smokers smoke menthol cigarettes, compared to 29% of White smokers.<sup>25</sup> Nationally, preference for menthol cigarettes is also disproportionately high among Asian and Hispanic smokers, LGBTQ+ smokers, smokers with mental health problems, socioeconomically disadvantaged populations, and pregnant women.<sup>26</sup>

### **Prohibiting menthol cigarettes will help smokers quit and reduce health disparities**

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Services (HHS), *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*, 2014, <https://www.cdc.gov/tobacco/sgr/50th-anniversary/index.htm>.

<sup>22</sup> Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.

<sup>23</sup> Birdsey J., et al. "Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023," *MMWR*, 72(44): 1173–1182, November 3, 2023, <https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm>.

<sup>24</sup> TPSAC, *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, July 21, 2011.

<sup>25</sup> Delnevo, CD, et al., "Banning Menthol Cigarettes: A Social Justice Issue Long Overdue," *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.

<sup>26</sup> Delnevo, CD, et al., "Banning Menthol Cigarettes: A Social Justice Issue Long Overdue," *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.

In addition to being easier to start smoking, menthol cigarettes are more addictive and harder to quit.<sup>27</sup> HF2177, which would prohibit menthol cigarettes and all other flavored tobacco products, will make it easier for smokers to quit. ***The CDC estimates that prohibiting the sale of menthol cigarettes will lead 8,100 Minnesotans to quit smoking.***<sup>28</sup>

Prohibiting menthol cigarettes will disproportionately benefit Black smokers, who are more likely to smoke menthol cigarettes. Black smokers are less likely than White smokers to successfully quit smoking and die at higher rates from smoking-caused illnesses than other Americans.<sup>29</sup> Smoking-related illnesses are the number one cause of death in the African-American community, surpassing all other causes of death, including AIDS, homicide, and accidents.<sup>30</sup> Nationally, research estimates that prohibiting menthol cigarettes would prevent over 650,000 deaths by 2060,<sup>31</sup> including over 255,000 deaths in the Black community (over one-third of deaths averted).<sup>32</sup>

### **Action to prohibit menthol cigarettes has strong support in the Black community**

The tobacco industry and its allies have raised concerns that prohibiting the sale of menthol cigarettes unfairly targets Black smokers and could increase policing in Black communities. This could not be further from the truth. HF2177 does not make it illegal to purchase, possess or use menthol cigarettes; it would enforce this law against retailers, *not* individual consumers. This cynical fearmongering cannot hide the fact that it is the industry itself that has caused so much harm to Black Americans through the targeted marketing of menthol cigarettes. This is not a question of criminalizing Black smokers; it is a question of saving Black lives. For these reasons, prohibiting menthol cigarettes has strong support among the Black community. ***A recent nationwide poll found that Black voters support prohibiting menthol cigarettes by a 37-point margin (62% to 25%).<sup>33</sup> Last year, a poll of Minnesota residents found that 68% of African American residents support a statewide policy to end flavored tobacco sales, including***

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<sup>27</sup> TPSAC, 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>

<sup>28</sup> CDC, State Menthol Fact Sheet, [https://www.cdc.gov/tobacco/basic\\_information/menthol/state-menthol-fact-sheets.html](https://www.cdc.gov/tobacco/basic_information/menthol/state-menthol-fact-sheets.html).

<sup>29</sup> CDC, "Current Cigarette Smoking Among Adults—United States, 2005-2015," *Morbidity & Mortality Weekly Report*, 65(44): 1205-1211, November 11, 2016, [http://www.cdc.gov/mmwr/volumes/65/wr/mm6544a2.htm?s\\_cid=mm6544a2\\_w](http://www.cdc.gov/mmwr/volumes/65/wr/mm6544a2.htm?s_cid=mm6544a2_w).

<sup>30</sup> Kochanek KD, et al. Deaths: Final data for 2020. National Vital Statistics Reports; vol 72 no 10. Hyattsville, MD: National Center for Health Statistics. 2023. DOI: <https://dx.doi.org/10.15620/cdc:131355>. See Table 8. Number of deaths from selected causes, by Hispanic origin and race and sex: United States, 2020.

<sup>31</sup> Levy, DT, et al., "Public health impact of a US ban on menthol in cigarettes and cigars: a simulation study," *Tobacco Control*, published online September 2, 2021.

<sup>32</sup> Issabakhsh, M, et al., "Public health impact of a US menthol cigarette ban on the non-Hispanic black population: a simulation study," *Tobacco Control*, published online June 14, 2022.

<sup>33</sup> The Mellman Group, *Public Support For And Electoral Impact Of The Menthol Rule*, [https://assets.tobaccofreekids.org/content/press\\_office/2024/2024\\_02\\_menthol\\_poll\\_memo.pdf](https://assets.tobaccofreekids.org/content/press_office/2024/2024_02_menthol_poll_memo.pdf).

**menthol cigarettes.**<sup>34</sup> Prohibiting the sale of menthol cigarettes also has strong support from [leading Black medical, public health and civil rights organizations](#), including the NAACP, the National Medical Association, the Black Women’s Health Imperative, the National Black Nurses Association, the African American Tobacco Control Leadership Council and the Center for Black Health and Equity.

**Action to prohibit menthol cigarettes is long overdue.** In 2011, TPSAC concluded that “Removal of menthol cigarettes from the marketplace would benefit public health in the United States.”<sup>35</sup> Over a decade after TPSAC issues its report—in April 2022—the FDA issued proposed rulemaking to prohibit menthol cigarettes and flavored cigars. However, until any FDA action is finalized, states and cities should continue their growing efforts to end the sale of menthol cigarettes and other flavored tobacco products. States and cities have an obligation to protect the health of their citizens and must act now to stop tobacco companies from targeting kids and other groups with menthol cigarettes and other flavored products. We applaud you for continuing your work despite the delay by the FDA.

**The scientific evidence leaves no doubt that menthol cigarettes and other flavored tobacco products increase the number of people, particularly kids, who try the product, become addicted and die a premature death as a result.** Prohibiting the sale of menthol cigarettes and other flavored tobacco products is an important step toward protecting our children from the tobacco industry’s aggressive efforts to hook children to a deadly, addictive product. This issue is about protecting our kids, saving lives, and advancing health equity.

**Thank you for your consideration on HF2177. This policy will save lives in Minnesota.**

Sincerely,



Carrie Arblaster  
Regional Advocacy Director, Midwest  
Campaign for Tobacco-Free Kids  
[carblaster@TobaccoFreeKids.org](mailto:carblaster@TobaccoFreeKids.org)

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<sup>34</sup> Minnesotans for a Smoke-Free Generation, *Coalition Launches Campaign to End Flavored Tobacco Sales in Minnesota: New Poll Finds 62 Percent of Minnesotans Support Ending Flavored Tobacco Sales to Protect Kids*, February 28, 2023, <https://www.smokefreegenmn.org/pr/coalition-launches-campaign-to-end-flavored-tobacco-sales-in-minnesota/>.

<sup>35</sup> Tobacco Products Scientific Advisory Committee (TPSAC), *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>.

## Appendix

### A1: Examples of Flavored Tobacco Products



### A2: Examples of Menthol Marketing



Source: TrinketsandTrash.org, CounterTobacco.Org

**Testimony before the Minnesota House Finance Committee  
Regarding Banning Flavored Tobacco and Vapor Products  
Lindsey Stroud, Director, Senior Fellow  
Taxpayers Protection Alliance  
March 5, 2024**

Chairman Howard, Vice Chairwoman Agbaje, and Members of the Committee:

Thank you for your time today to discuss taxing and regulating vapor products in Minnesota. My name is Lindsey Stroud and I'm a Senior Fellow at the Taxpayers Protection Alliance (TPA). TPA is a non-profit, non-partisan organization dedicated to educating the public through the research, analysis and dissemination of information on the government's effects on the economy.

While efforts to reduce youth use of age-restricted products is laudable, flawed policies including banning flavors in tobacco and vapor products ignores record lows in youth tobacco use and recent (and continued declines) in youth vapor use. Moreover, it unfairly punishes adults who rely on e-cigarettes to both quit smoking and remain smoke-free.

**Key Points:**

- In 2022, 59,618 Minnesota adults (6.7 percent) were currently using e-cigarettes. This is an 8.1 percent increase from 2021 and represents 4,638 additional adults vaping.
- In 2022, of adults currently using e-cigarettes, nearly half (47.2 percent) were between 25 and 44 years old.
- Among Minnesota adults aged 25 years or older who were using e-cigarettes in 2022, nearly half (47 percent) were formerly smoking while 34 percent were currently smoking.
- Youth tobacco and vapor product use has decreased significantly in recent years.
- Between 2017 and 2020, the percent of Minnesota high schoolers who were currently smoking decreased by 32 percent.
- Between 2017 and 2020, the percent of Minnesota high schoolers who were currently vaping decreased by 12.1 percent
- Between 2015 and 2021, the percent of Minnesota middle schoolers who reported ever and current use of e-cigarettes decrease by 26.3 percent.
- Nationally, youth use of both traditional tobacco products and vapor products, continues to decline.
- In 2023, 1.9 percent of U.S. high school students reported current combustible cigarette use, while 1.1 percent of middle schoolers reported currently smoking.
- In 2023, 10 percent of U.S. high school students reported current e-cigarette use, while 5.6 percent of U.S. middle schoolers were currently vaping.
- Since at least 2017, Minnesota students are not citing flavors as a main reason for e-cigarette use.

- In 2020, only 26.1 percent of Minnesota high school students reported using e-cigarettes because of flavors. Conversely, the most cited reason (by 50.2 percent of students) was being “curious about them,” followed by 46.7 percent who cited using them to get a high and/or buzz, 38.7 percent who cited friends and/or family member, and 36.3 percent who had used them to “manage stress or anxiety.”
- In 2020, only 22.3 percent of Minnesota middle school students reported using e-cigarettes because of flavors. Alternatively, the most cited reason (by 49.6 percent of students) was being “curious about them,” followed by 38.9 percent who cited using them because a friend and/or family member, 37.1 percent who cited using them to “manage stress or anxiety,” and 24 percent who had used them to get a high and/or buzz.
- Nationally, only 13.2 percent of U.S. middle and high school students who were currently vaping in 2021 cited flavors as a reason for using e-cigarettes. Comparatively, 43.5 percent cited using e-cigarettes to get a buzz, 43.2 percent had used them because they were feeling anxious, depressed, and/or stressed, and 27.6 percent had used them because a friend and/or family member had.
- Minnesota youth are facing a mental health crisis, which is reflected in why youth are using e-cigarettes.
- In 2022, among Minnesota students, nearly two-thirds (61.3 percent) reported feeling little interest and/or pleasure in doing things the two weeks prior. Nearly half (48.7 percent) reported feeling down, depressed, or hopeless over the two weeks prior.
- Nearly one-fourth (24.7 percent) reported having considered attempting suicide in the year prior, while 23 percent had reported harming themselves in the previous year.
- Flavors play an important role in adult use of e-cigarettes. A 2018 survey of nearly 70,000 U.S. adult vapers found that 83.2 percent and 72.3 percent of participants reported vaping fruit and dessert flavors, respectively.
- A 2019 user survey found that tobacco flavor was used by less than five percent of adults.
- Minnesota retailers do a good job in not selling e-cigarette products to youth and minors.
- Between 2018 and 2023, sales of e-cigarette products to minors made up only 3.1 percent of compliance check inspections, and 28.9 percent of products cited for violations.
- The small vapor industry is already in decline and flavor bans and exorbitant taxes will shutter small businesses in the Gopher State.
- Between 2018 and 2023, the economic impact of small vapor in Minnesota decreased by 9.1 percent and represents an economic loss of more than \$32.4 million.
- In 2023, small vapor’s total economic impact was estimated to be nearly \$321.9 million.
- Minnesota should allocate more of existing tobacco monies towards tobacco control programs including cessation, education, and prevention efforts.
- Minnesota collected an estimated \$621.9 million in tobacco-related monies in 2022, yet the state allocated only \$11.7 million in state funding towards tobacco control programs, which was a 5.6 percent decrease in funding from 2021’s levels.
- In 2022, for every \$1 the Gopher State received in tobacco monies, it spent only \$0.02 on tobacco control efforts.

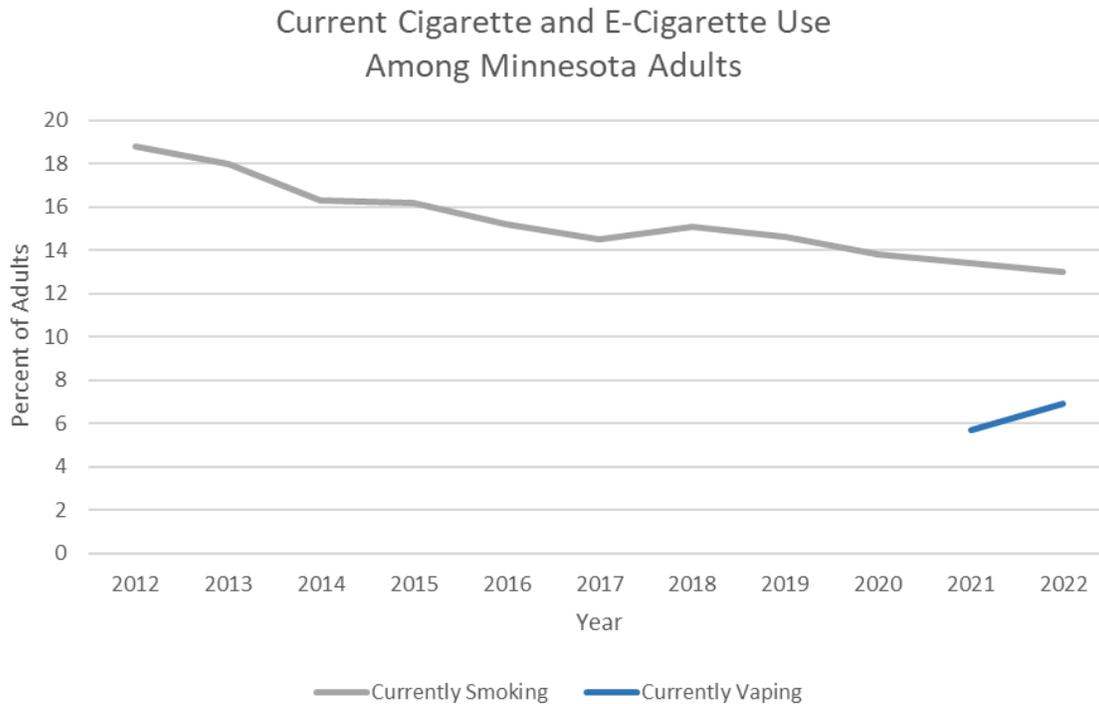
**Minnesota Adults Need Access To Safer Alternatives to Cigarettes**

In 2022, according to the Centers for Disease Control and Prevention (CDC), an estimated 574,993 adults (or 13 percent of Minnesotans) were currently smoking.<sup>1</sup> This is a three percent decrease from 2021 when 13.4 percent reported current cigarette use. There were 13,243 fewer adults smoking in 2022 compared to 2021.

In 2022, an estimated 305,189 Minnesota adults (or 6.9 percent) were currently using e-cigarettes. This is a 21.1 percent increase from 2021 when 5.7 percent reported current e-cigarette use. There were an estimated 54,969 additional adults vaping in 2022 compared to 2021.

In a CDC analysis of 1,767 Minnesota adults who were currently smoking in 2022, the average number of years smoked was 33.3 years, with a total of 56,168 years smoked among all adults, and totaling more than 410 million cigarettes smoked. Further, 13.8 percent of Minnesota adults who were smoking in 2022 were also currently using e-cigarettes.

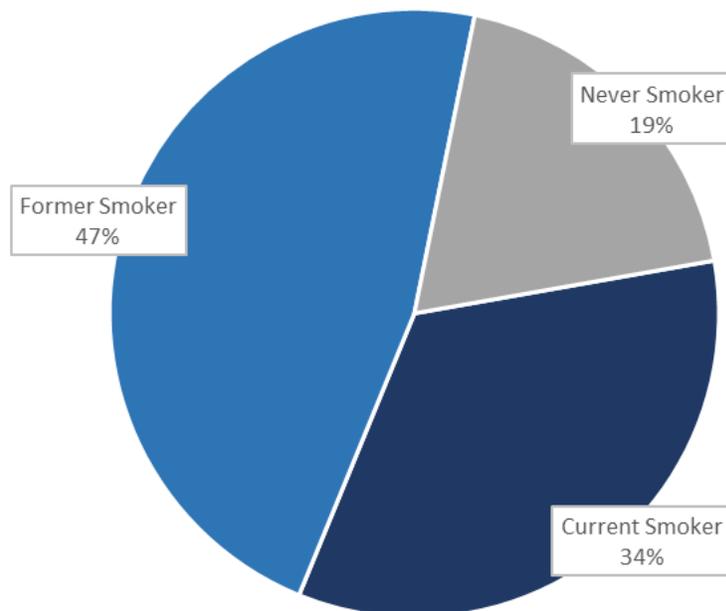
In 2022, an estimated 305,189 Minnesota adults (or 6.9 percent) were currently using e-cigarettes. This is a 21.1 percent increase from 2021 when 5.7 percent reported current e-cigarette use. There were an estimated 54,969 additional adults vaping in 2022 compared to 2021.



In an analysis of 583 Minnesota adults aged 25 years or older who were currently vaping in 2022:

- 47 percent were formerly smoking
- 34 percent were currently smoking
- 19 percent had never smoked

Smoking Status Among Adult E-Cigarette Users  
Minnesota 2022



In an analysis of 454 Minnesota adults aged 25 years or older who were currently using e-cigarettes in 2022, the average number of years smoked was 22.2 years. While the total was alarming – 10,017 years of smoking, which would amount to more than 73.1 million cigarettes smoked (figuring for a pack-per-day habit).

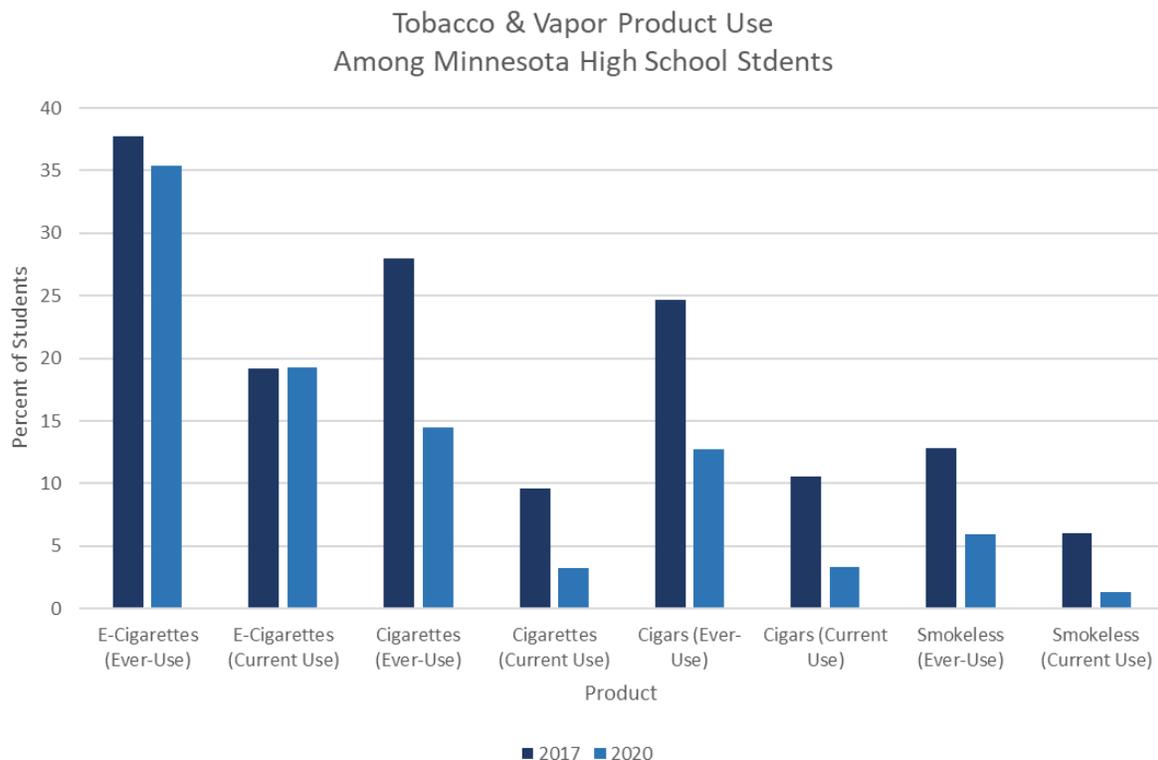
Further, restricting the sale of flavored e-cigarette products could lead adults back to smoking. In an analysis of 274 Minnesota adults who were currently using e-cigarettes in 2022 and had formerly smoked, the average number of years smoke-free was 2.6 years.

### **Youth Tobacco and Vapor Product Use at Record Lows in Minnesota**

While lawmakers can be lauded for working to prevent youth use of age-restricted products, they should be aware that existing policies have helped to decrease youth use of vapor products in recent years. Further, use of traditional tobacco products is at record lows – and should be celebrated.

In 2020 (according to the Minnesota Youth Tobacco Survey), among high school students in the Gopher State:<sup>2</sup>

- 35.4 percent had ever tried an e-cigarette
- 19.3 percent were currently using e-cigarettes (defined as having the product on at least one occasion in the 30 days prior)
- 14.5 percent had ever tried a combustible cigarette
- 12.7 percent had ever tried a cigar
- 5.9 percent had ever tried smokeless tobacco products
- 3.3 percent were currently using cigars
- 3.2 percent were currently smoking combustible cigarettes
- 1.3 percent were currently using smokeless tobacco products.



Youth use of tobacco and vapor products has decreased. Between 2017 and 2020, among Minnesota high school students:

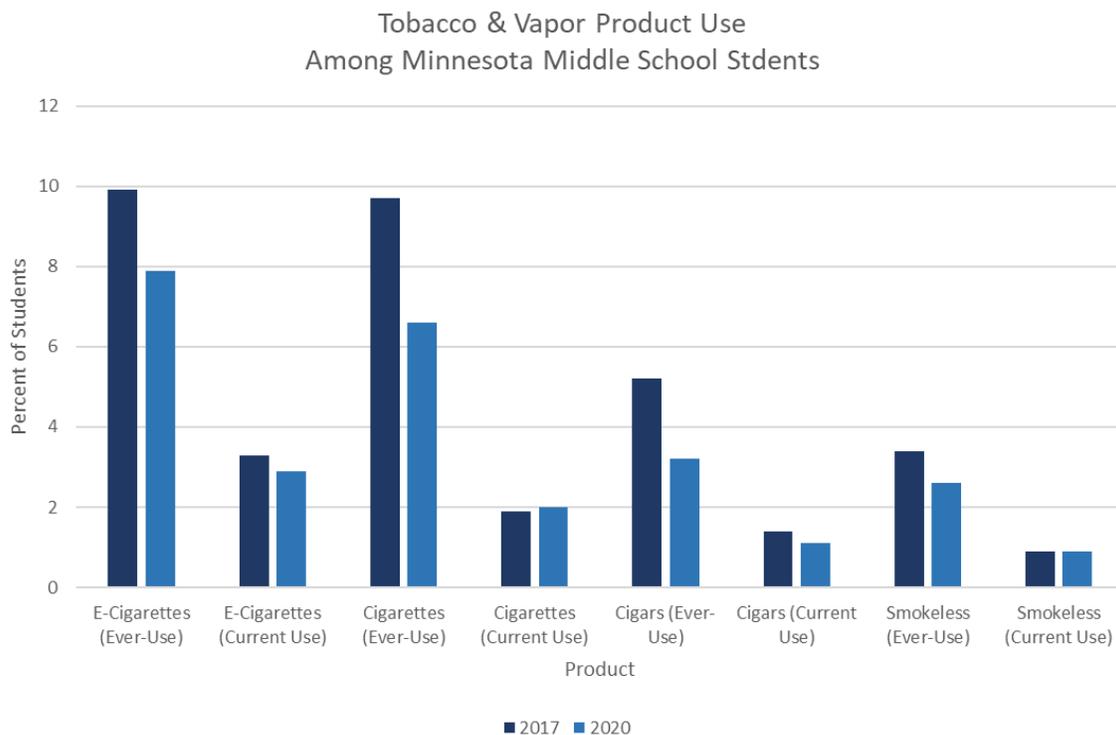
- Current use of smokeless tobacco products decreased by 78.3 percent
- Current use of cigars decreased by 68.9 percent
- Current use of combustible cigarette decreased by 66.7 percent
- Ever use of smokeless tobacco products decreased by 53.9 percent

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- Ever use of cigars decreased by 48.5 percent
- Ever use of combustible cigarettes decreased by 48.2 percent
- Ever use of e-cigarettes decreased by 6.1 percent
- Current use of e-cigarettes increased slightly by only 0.5 percent

Among middle school students in the Gopher State in 2020:

- 9.9 percent had ever tried an e-cigarette
- 9.3 percent had ever tried a combustible cigarette
- 5.2 percent had ever tried a cigar
- 3.4 percent had ever tried a smokeless tobacco product
- 3.3 percent were currently using e-cigarettes
- 1.9 percent were currently smoking combustible cigarettes
- 1.4 percent were currently using cigars
- 0.9 percent were currently using smokeless tobacco products



Youth use of tobacco and vapor products has decreased. Between 2017 and 2020, among Minnesota middle school students:

- Ever use of cigars decreased by 38.5 percent
- Ever use of combustible cigarettes decreased by 32 percent

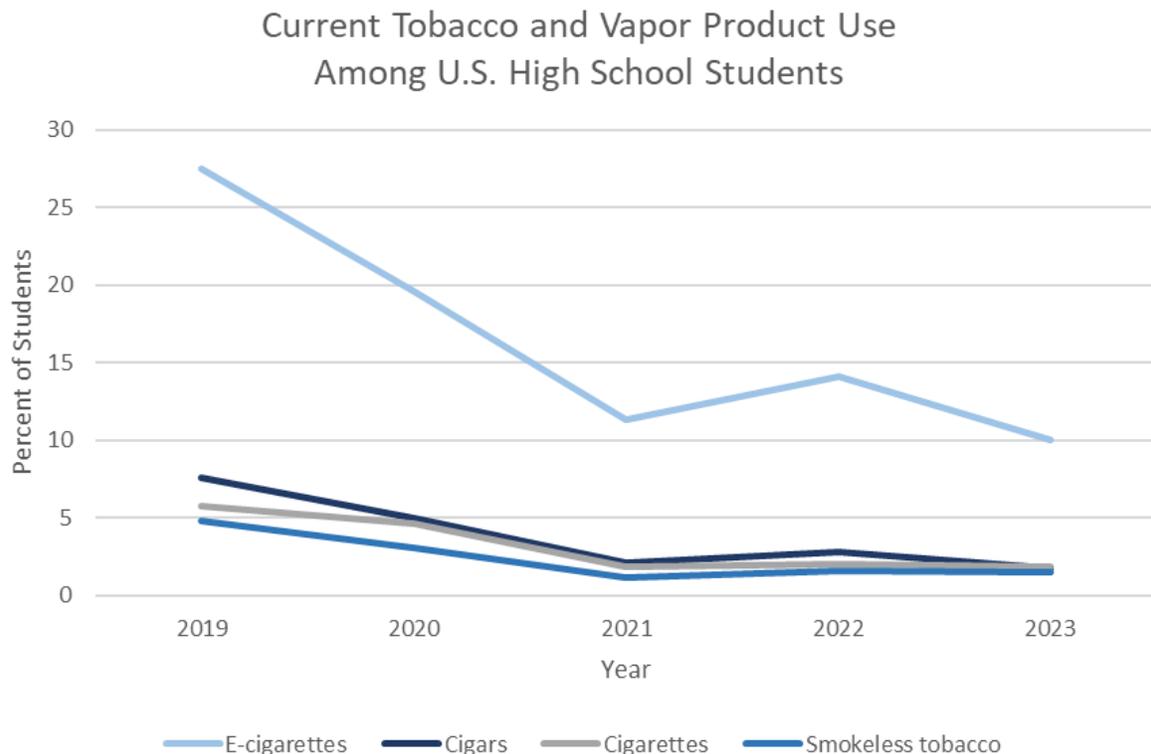
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- Ever use of smokeless tobacco products decreased by 23.5 percent
- Current use of cigars decreased by 21.4 percent
- Ever use of e-cigarettes decreased by 6.1 percent
- Current use of e-cigarettes decreased by 12.1 percent
- Current use of smokeless tobacco products remained unchanged
- Current use of combustible cigarettes increased slightly by 5.3 percent

### **Nationally, Youth Tobacco and Vapor Product Use Continues to Decline**

In 2023, according to the CDC's National Youth Tobacco Survey, among U.S. high school students:<sup>3</sup>

- 10 percent were currently using e-cigarettes
- 1.9 percent were currently using combustible cigarettes
- 1.8 percent were currently using cigars
- 1.5 percent were currently using smokeless tobacco products

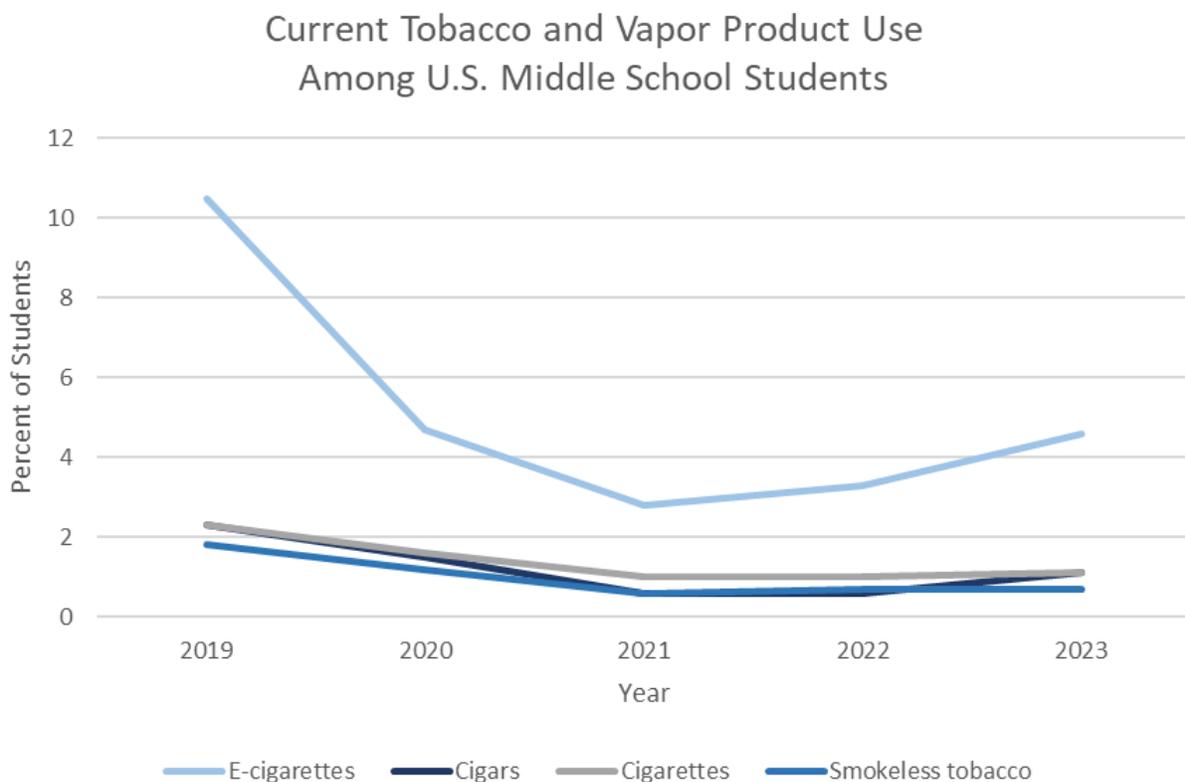


Vaping peaked among U.S. high school students in 2019 when 27.5 percent were currently vaping. Between 2019 and 2023, current e-cigarette use among U.S. high schoolers decreased by

63.6 percent. Further, these decreases have continued. Between 2022 and 2023, current e-cigarette use among U.S. high school students decreased by 29.1 percent.

Among U.S. middle school students:

- 5.6 percent were currently using e-cigarettes
- 1.1 percent were currently using combustible cigarettes
- 1.1 percent were currently using cigars
- 0.7 percent were currently using smokeless tobacco products



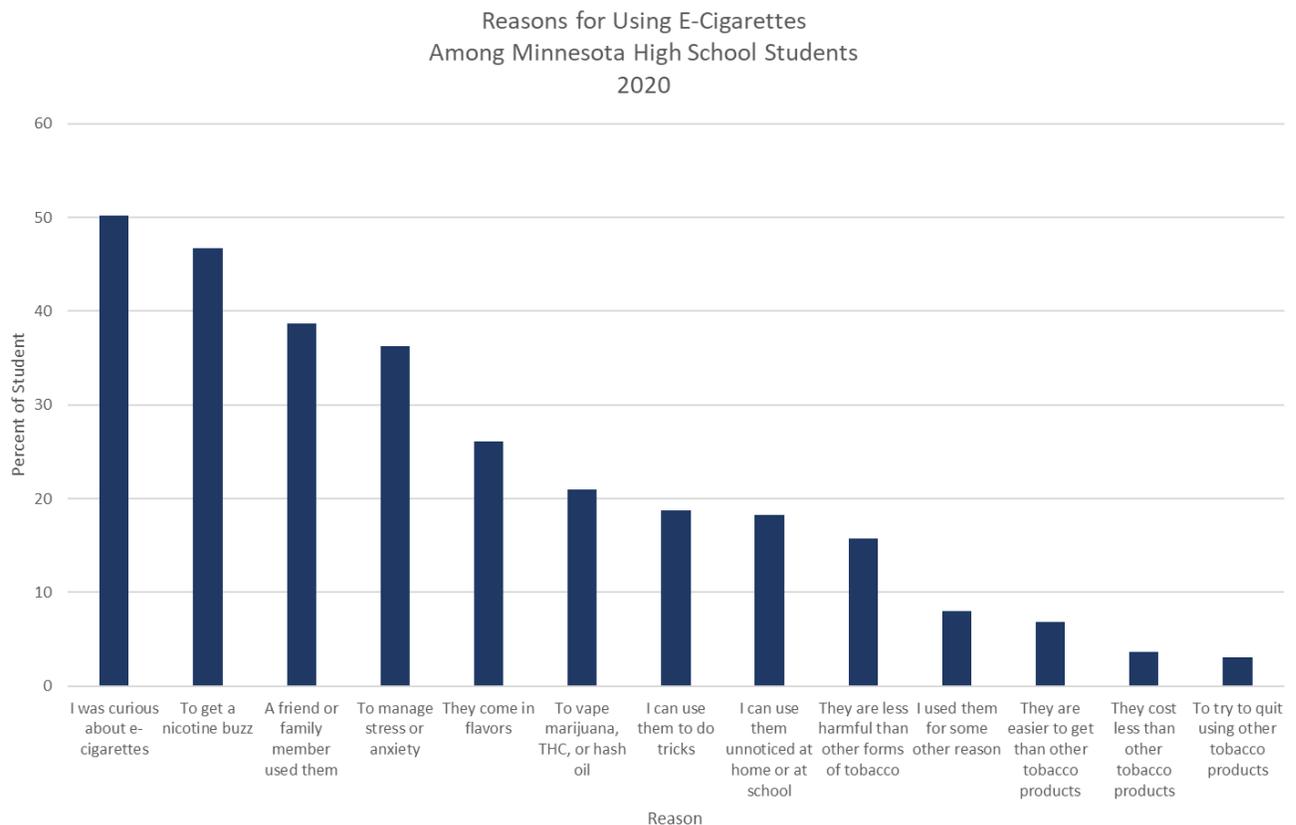
Vaping peaked among U.S. middle school students in 2019 when 10.5 percent were currently vaping. Between 2019 and 2023, current e-cigarette use among U.S. middle schoolers decreased by 56.2 percent.

### **Minnesota (and U.S.) Youth Are Not Citing Flavors As Reason For E-Cigarette Use**

Despite alarmism, flavors are not the main driver of youth e-cigarette use, and are in fact, essential in both assisting adults to transition away from combustible cigarettes, as well as remain smoke-free.

According to the Minnesota Youth Tobacco Survey, among Minnesota high schoolers who had ever tried an e-cigarette, in 2020:<sup>4</sup>

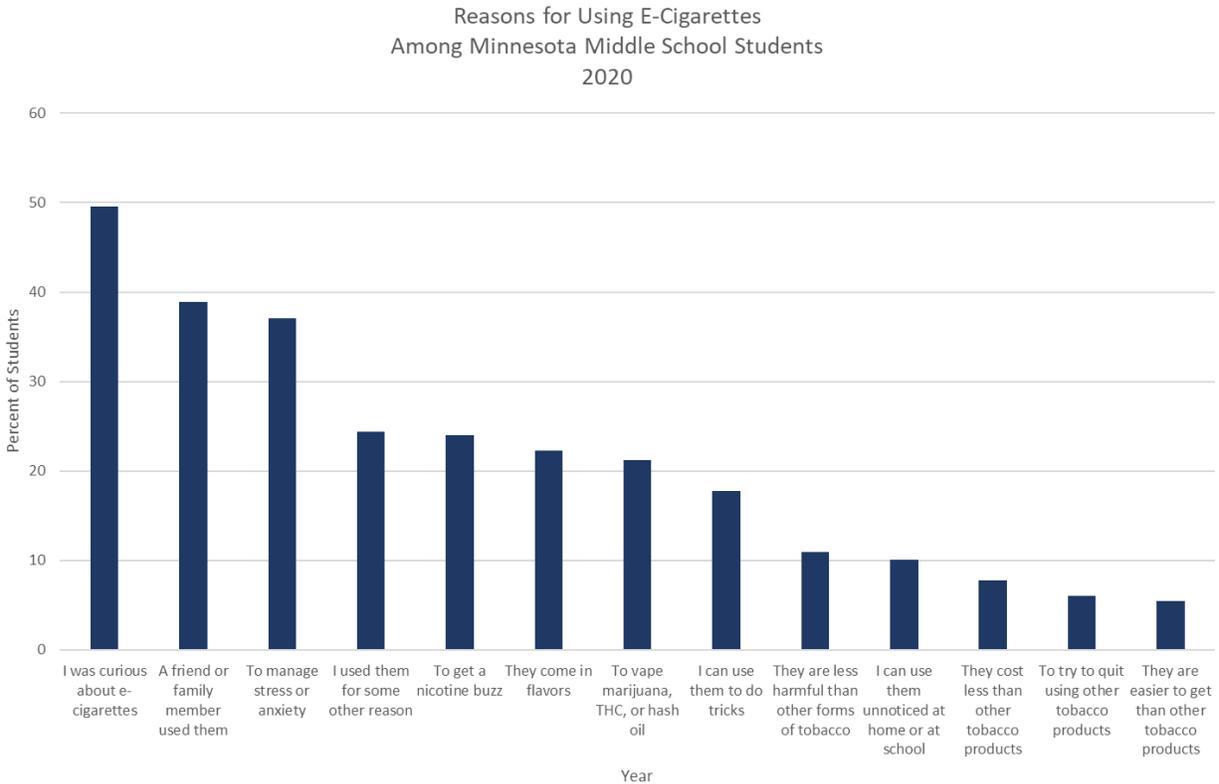
- 50.2 percent had used e-cigarettes because they were “curious about them”
- 46.7 percent reported using them to get a high and/or buzz
- 38.7 percent had used e-cigarettes because a friend and/or family member had used them
- 36.3 percent had used them to “manage stress or anxiety”
- 26.1 percent had used them because of flavors
- 21 percent had used them to vape other substances, including THC



Among Minnesota middle schoolers who had ever tried an e-cigarette, in 2020:

- 49.6 percent had used e-cigarettes because they were “curious about them”
- 38.9 percent had used e-cigarettes because a friend and/or family member had used them
- 37.1 percent had used them to “manage stress or anxiety”
- 24.4 percent cited “other”
- 24 percent reported using them to get a high and/or buzz
- 22.3 percent cited using them because of flavors

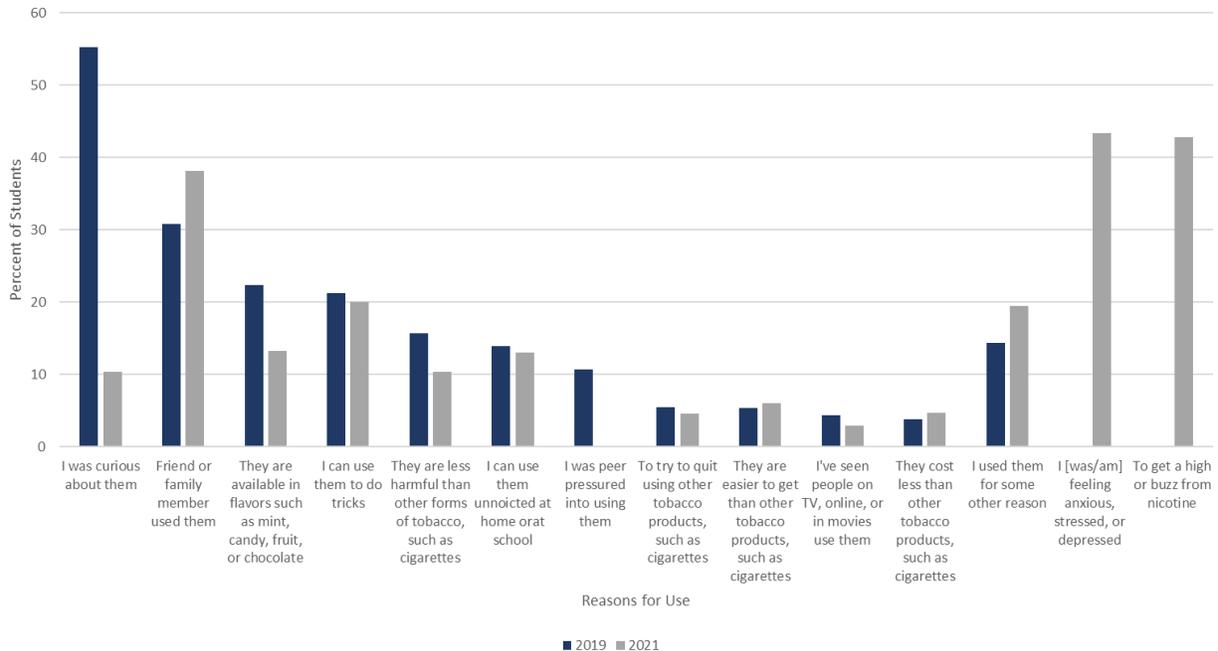
- 21 percent had used them to vape other substances, including THC



Nationally, youth are not using e-cigarettes because of flavors. In 2021, according to the National Youth Tobacco Survey, among U.S. middle and high school students who were currently using e-cigarettes in 2021:<sup>5</sup>

- 43.5 percent reported using them to get a high and/or buzz
- 43.2 percent had used them because they were feeling anxious, stressed and/or depressed
- 27.6 percent reported using them because a friend and/or family member had used them
- 19 percent reported “other”
- 13.2 percent reported using them because of flavors
- 10.3 percent reported using them because they were less harmful than other tobacco products

Reasons for Using E-Cigarettes  
Among U.S. Middle & High School Students



## Lawmakers Should Focus on Youth Mental Health Crisis

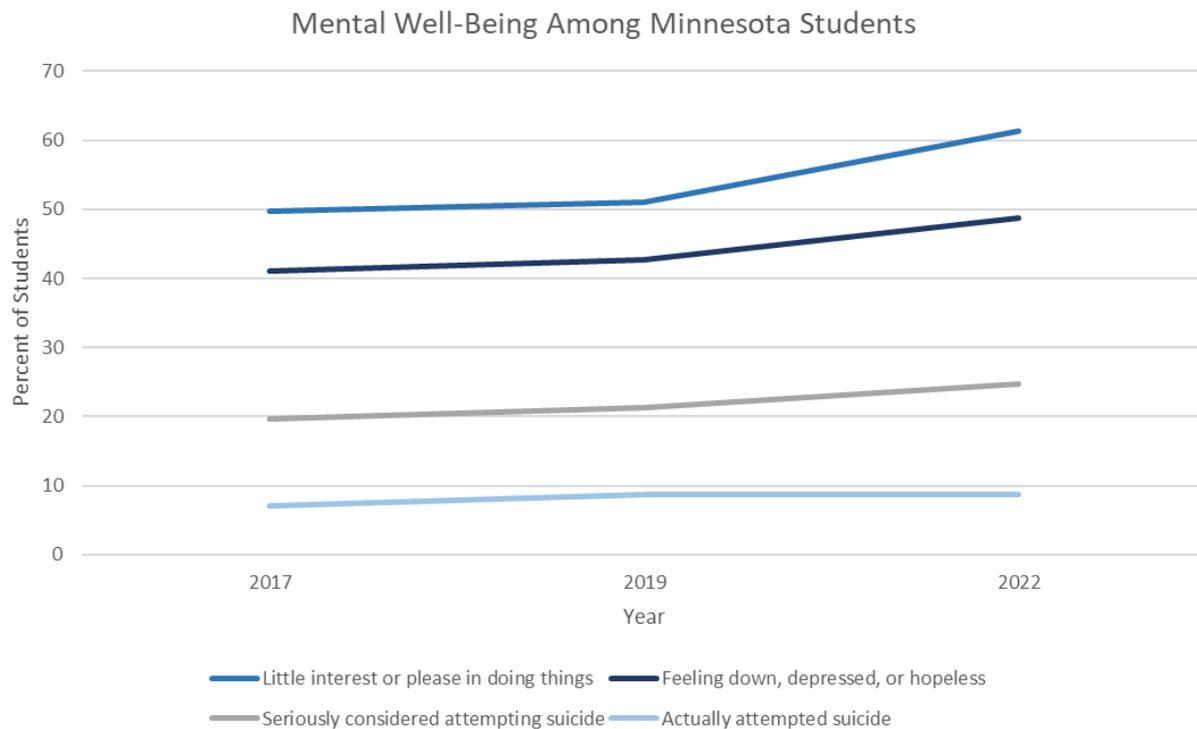
If lawmakers truly want to reduce youth e-cigarette use, they should focus on ways to improve mental health among youth. According to the Minnesota Student Survey, in 2022, among Minnesota students in the 8th, 9th, and 11th grades:<sup>6</sup>

- 61.3 percent reported feeling little interest and/or pleasure in doing things over the past two weeks
- 48.7 percent reported feeling down, depressed, or hopeless over the two weeks prior
- 24.7 percent reported having considered attempting suicide in the year prior
- 23 percent reported purposefully self-harming themselves in the year prior
- 8.7 percent reported having attempted suicide in the year prior

Unfortunately, these behaviors are increasing among Minnesota students. Between 2019 and 2022, among Minnesota students in the 8th, 9th, and 11th grades:

- The percentage of youth who reported self-harm increased by 32.7 percent
- The percentage of youth who reported feeling little interests and/or pleasure in doing things over the past two weeks in increased by 20.3 percent
- The percentage of youth reporting feeling down, depressed, or hopeless increased by 14.1 percent
- The percentage of youth reporting suicide attempts remained unchanged

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**Flavors Play Important Role in Adult E-Cigarette Use**

But for adults, flavors provide a unique benefit, and are used in traditional tobacco cessation products including gums. And numerous surveys and studies of adults using e-cigarettes find flavors play an essential role in tobacco harm reduction.

A 2018 survey of nearly 70,000 American adult vapers “found flavors play a vital role in the use of electronic cigarettes and vaping devices.”<sup>7</sup> In fact, 83.2 percent and 72.3 percent of survey respondents reported vaping fruit and dessert flavors, respectively. Most respondents indicated restricting flavors would make vaping “less enjoyable.”

Analysis of EcigIntelligence’s 2019 user survey found that fruits, sweets and candy, and desserts and bakery flavors “are among the most preferred flavors across all age groups.”<sup>8</sup> Use of tobacco flavor was preferred by less than 5 percent of those who vape. If legal sales were restricted to tobacco flavor only, 69 percent of respondents said they would try to acquire their flavors from alternative methods and 25 percent stated that they would be willing to drive over 100 miles to obtain supply. This illustrates that flavors are important to the appeal of vaping over smoking and that proposals to ban flavored vaping products are more an attempt at prohibition by stealth than a serious public health measure.

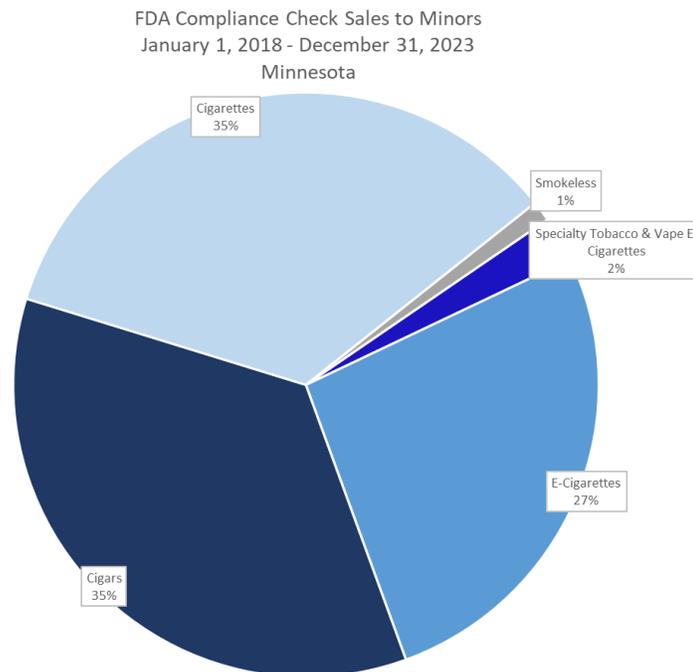
A 2020 study found an association between flavors and smoking cessation. In a cohort study of more than 17,900 participants, the authors found that “adults who began vaping nontobacco-flavored e-cigarettes were more likely to quit smoking than those who vaped tobacco flavors.”<sup>9</sup>

### **Retailers and Specialty Tobacco and Vape Shops Already Do Good Job In Preventing Underage Sales**

The U.S. Food and Drug Administration (FDA) routinely sends underaged persons into tobacco and vapor product retailers in attempts to purchase tobacco and vape products. Between January 1, 2018 and December 31, 2023, the FDA conducted 18,999 inspections for Minnesota retailers, which resulted in 2,054 violations (i.e., sales to minors), or a 10.8 percent failure rate. These violations included the following sales to minors:

- 722 cigar purchases
- 706 cigarette purchases
- 593 e-cigarette purchase
- 23 smokeless tobacco product purchases
- Four oral nicotine product purchases
- Three cigarette tobacco purchases
- Three hookah purchases

E-cigarette violations made up only 3.1 percent of all inspections, and 28.9 percent of all violations.



Of the inspections, FDA conducted approximately 510 inspections on retailers in the state which had “vap” or “smok” in the retail establishment’s name. Of those, 90 resulted in violations, which was a 0.5 percent failure rate to total inspections and a 4.4 percent failure rate among all violations.

Of the specialty tobacco and vape shops who were inspected by the FDA, 51 were cited with violations for selling e-cigarettes to minors. Vape and smoke shops made up only 8.6 percent of retailers who were cited for selling e-cigarettes to minors in Minnesota between January 2018 and December 2023.

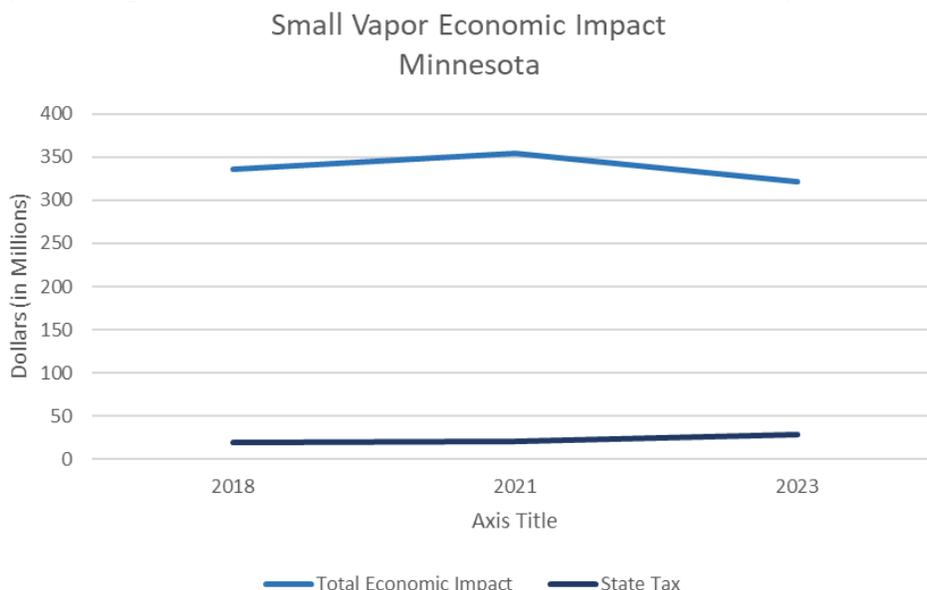
Retailers in the Gopher State are doing a good job in not selling e-cigarette products to youth and minors. This legislation ignores this and unfairly punishes responsible business owners.

### **Legislation Will Shutter Small Business in the Gopher State**

Moreover, this bill will shutter small vapor in Minnesota – and wipe out the economic benefits vaping provides to the state.

In 2023, according to the Vapor Technology Association (VTA), the vapor industry provided more than \$105.3 million in wages related to vaping jobs.<sup>10</sup> In 2023, the vape industry provided more than \$28.4 million in state taxes to Minnesota. In fact, VTA estimates vapes total economic impact to the state in 2023 to be nearly \$321.9 million. Should this legislation pass, all of that would be eliminated.

It should be noted that small vapor is already suffering in the Gopher State. In fact, the total economic impact of Minnesota’s small vaping industry decreased by 9.1 percent between 2021 and 2023, representing a loss of more than \$32.4 million in economic output.



## **Proposal Will Stunt Tobacco Harm Reduction Options for Adults**

In the United Kingdom, public health agencies including the UK Royal College of Physicians (RCP) and Public Health England (PHE) promote the use of e-cigarettes for adults who smoke and are unable to simply quit cigarettes. RCP states that e-cigarettes are unlikely to exceed 5 percent of the risks from smoking.<sup>11</sup> PHE has found that “vaping poses a small fraction of the risks of smoking.”<sup>12</sup> Last year, the UK government gave away 1 million free e-cigarette products in a campaign to reduce smoking rates.

The New Zealand Ministry of Health has declared that “vaping products are much less harmful than smoking ... [and that people who smoke] switching to vaping products are highly likely to reduce the risks to their health and those around them.”<sup>13</sup>

Backwards proposals such as vapor product directories which restrict and limit access to safer nicotine products disregards the developments made in reducing the tobacco burden.

## **Minnesota Should Dedicate More Of Existing Tobacco Monies on Tobacco Control Programs**

Each year, states receive billions of dollars borne out of the lungs of persons who smoke. This revenue includes excise cigarette taxes and settlement payments. Yet, each year, states spend miniscule amounts of tobacco-related monies on programs to help adults quit smoking and prevent youth use.

In 2022, the Gopher State collected \$429.3 million in state excise tax revenue from combustible cigarettes.<sup>14</sup> This was an 18.2 percent decrease from 2021’s \$525.1 million, or \$95.8 million less. Between 2002 and 2022, Minnesota collected more than \$8.4 billion in cigarette taxes.

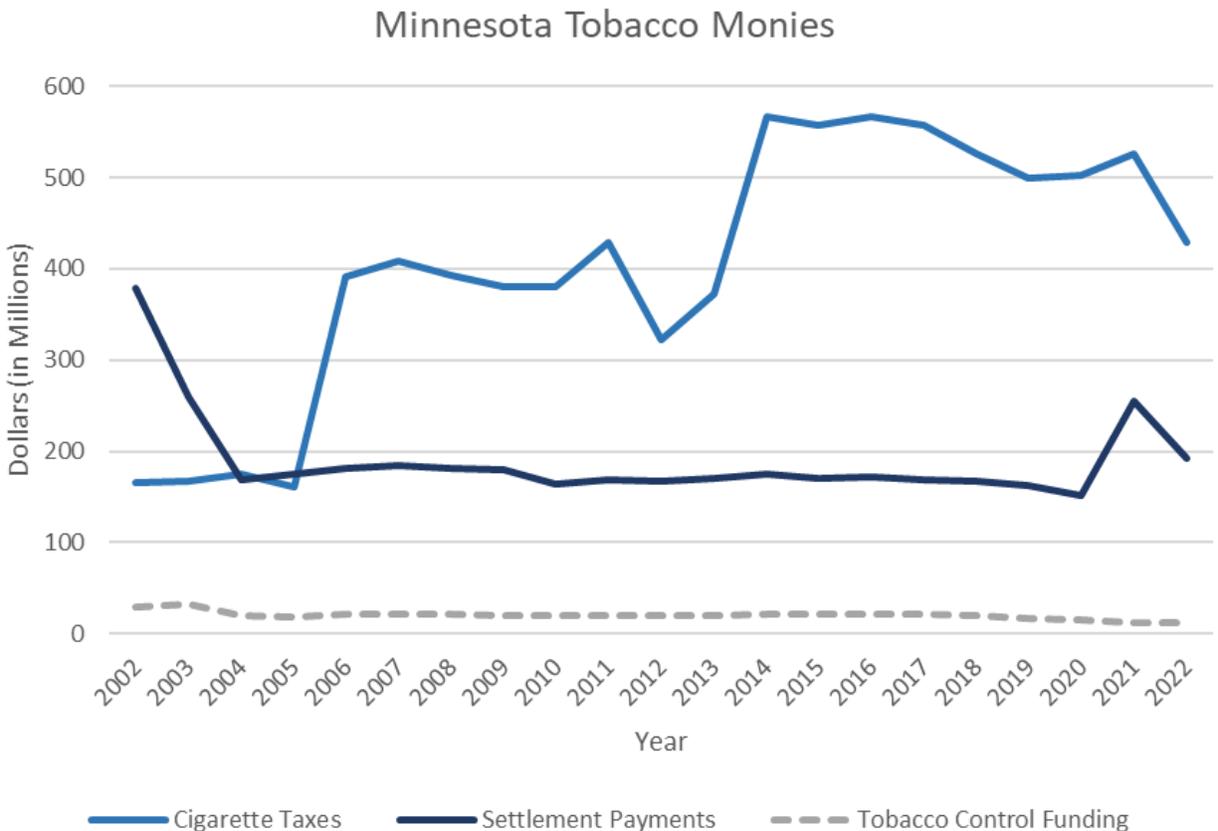
Since 2000, Minnesota has collected annual payments from tobacco manufacturers based on the percentage of cigarettes and tobacco products sold in the state in that year. Minnesota collected \$192.6 million in settlement payments in 2022, a 24.2 percent decrease from 2021’s \$254.2 million, or \$61.6 million less. Since 2002, the Gopher State collected more than \$3.9 billion in tobacco settlement payments.

While Minnesota collected an estimated \$621.9 million in tobacco-related monies in 2022, the state allocated only \$11.7 million in state funding towards tobacco control programs, including cessation, education, and youth prevention efforts, which was a 5.6 percent decrease in funding from 2021’s \$12.4 million, or \$700,000 less. This amounts to 2.7 percent of taxes and 6.1 percent of settlement payments. In 2022, for every \$1 the state received in tobacco monies, it spent only \$0.02 on tobacco control efforts.

To put it in further perspective, in 2022, an estimated 574,992 Minnesotan adults were smoking. The same year, the state collected \$429.3 million in state cigarette excise taxes, yet only spent

\$11.7 million on tobacco control programs. Essentially, Minnesota received at least \$747 from each adult smoking in 2022, yet spent only \$20.35 on tobacco control programs for each adult who was smoking that year.

Simply, if lawmakers want to help further reduce youth and adult tobacco and vapor product use, they ought to invest more into existing programs including education and prevention efforts.



**Conclusion**

With youth vaping having consistently declined in recent years, and youth use of traditional tobacco products at record lows, it is not necessary for Minnesota policymakers to prohibit flavors in tobacco and vapor products. Not only do flavor bans ignore dramatic declines, they fail to impact the real reasons why youth use e-cigarettes. Moreover, such legislation ignores the hundreds of thousands of Minnesota adults who rely on flavored tobacco harm reduction products to remain smoke-free.

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- <sup>2</sup> Minnesota Department of Health, “Youth Tobacco Survey frequency table, 2020,” *Minnesota Youth Tobacco Survey*, May 25, 2023, <https://www.health.state.mn.us/data/mchs/surveys/tobacco/docs/2020MYTSfreqs.xlsx>. Accessed Mar. 2, 2024.
- <sup>3</sup> Jan Birdsey MPH, *et al.*, “Tobacco Product Use Among U.S. Middle and High School Students — National Youth Tobacco Survey, 2023,” *Morbidity and Mortality Weekly Report*, Centers for Disease Control and Prevention, Nov. 3, 2023, <https://www.cdc.gov/mmwr/volumes/72/wr/mm7244a1.htm>.
- <sup>4</sup> Minnesota Department of Health, *supra* note 2.
- <sup>5</sup> Andrea S. Gentzke, PhD *et al.*, “Tobacco Product Use and Associated Factors Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021,” Mar. 11, 2022, <https://www.cdc.gov/mmwr/volumes/71/ss/ss7105a1.htm>.
- <sup>6</sup> Minnesota Department of Education, “Minnesota Student Survey,” 2022, <https://education.mn.gov/mde/dse/health/mss/>. Accessed Mar. 2, 2024.
- <sup>7</sup> Konstantinos Farsalinos, “Submitting to the FDA the findings of the largest ever survey on e-cigarette flavors use by US vapers,” E-Cigarette Research, August 11, 2008, <http://www.ecigarette-research.org/research/index.php/whats-new/2018-2/266-us-flav>.
- <sup>8</sup> Consumer Advocates for Smoke-free Alternatives Association, “ECigintelligence User Survey 2019,” August 25, 2020, <https://casaa.org/ecigintelligence-user-survey-2019/>.
- <sup>9</sup> Abigail S. Friedman and SiQing Xu, “Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation,” *JAMA*, June 5, 2020, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7275248/>.
- <sup>10</sup> Vapor Technology Association, “The Economic Impact of the Vapor Industry 2021 – Minnesota,” 2023, <https://vta.guerrillaeconomics.net/reports/871983df-11f2-47c5-8d07-608c2c8964c7?>.
- <sup>11</sup> Royal College of Physicians, “E-cigarettes and non-combustible inhaled tobacco products,” Sept. 2017, <https://www.rcgp.org.uk/representing-you/policy-areas/e-cigarettes#:~:text=Public%20Health%20England%20and%20the,from%20conventional%20smoking13%2C14..>
- <sup>12</sup> Public Health England, “Nicotine vaping in England: 2022 evidence update main findings,” Sept. 29, 2022, <https://www.gov.uk/government/publications/nicotine-vaping-in-england-2022-evidence-update/nicotine-vaping-in-england-2022-evidence-update-main-findings>.
- <sup>13</sup> New Zealand Ministry of Health, “Position statement on vaping,” Sept. 3, 2020, <https://web.archive.org/web/20230214002612/https://www.health.govt.nz/our-work/preventative-health-wellness/tobacco-control/vaping-smokefree-environments-and-regulated-products/position-statement-vaping>.
- <sup>14</sup> Lindsey Stroud, *supra* note 1.

# Tobacco & Vaping 101:

## Minnesota 2024

Lawmakers are often bombarded with misinformation on the products used by adults in their state. This annual analysis provides up-to-date data on the adults who use cigarettes and e-cigarette products in the Gopher State. This information also includes data on youth use, impacts of e-cigarettes and analyses of existing tobacco monies.

### Key Points:

- Among all adults earning \$25,000 or less in 2022, 28.5 percent were currently smoking compared to only 8.7 percent of adults earning \$50,000 or more.
- Among all smoking adults in Minnesota in 2022, 73.7 percent were White, 9.8 percent were Black, 6.1 percent were Multiracial (non-Hispanic), 4.4 percent were Hispanic, 3. Percent were American Indian/Alaska Native, and 2.9 percent were Asian.
- In 2022, 305,189 Minnesota adults (6.9 percent) were currently using e-cigarettes. This a 21.1 percent increase from 2021 and represents 54,969 additional adults vaping.
- Among all vaping adults in Minnesota in 2022, 36.7 percent were 18 to 24 years old, 47.2 percent were 25 to 44 years old, 13.4 percent were 45 to 64 years old and 2.7 percent were 65 years or older.
- In 2021, for every one U.S. high school student who was smoking, more than 63 adults were currently using cigarettes.
- In 2021, for every one U.S. high school student who was vaping, more than six adults were currently using e-cigarettes.
- The introduction of e-cigarettes has not led to increases in cigarette smoking, but rather, correlates with significant declines in smoking rates among young adults.
- Between 2018 and 2022, smoking rates among Minnesota adults aged 18 to 24 years old decreased by 42.1 percent.
- Cigarette excise taxes in Minnesota disproportionately impact low income and low educated persons, while failing to significantly reduce smoking rates among that class.
- The percentage of Minnesota adults earning \$25,000 or less that were smoking increased by five percent between 2017 and 2022, while the percent of adults earning \$50,000 or more that were smoking decreased by 11.8 percent during the same period.
- Among Minnesota adults who did not graduate high school, smoking rates increased by seven percent, and rates among adults with a college degree decreased by 13.6 percent.
- Minnesota woefully underfunds programs to prevent youth use of tobacco and/or vapor products and help adults quit smoking, while simultaneously receiving millions of dollars from the pockets of the adults who smoke. In 2022, for every \$1 the state received in tobacco monies, it spent \$0.02 on tobacco control efforts.

# Tobacco & Vaping 101: Minnesota 2024

## Adult Combustible Cigarette and E-Cigarette Use

In 2022, according to data from the annual Behavioral Risk Factor Surveillance System survey, conducted by the Centers for Disease Control and Prevention, an estimated 574,993 adults (or 13 percent of Minnesotans) were currently smoking. This is a three percent decrease from 2021 when 13.4 percent reported current cigarette use. There were 13,243 fewer adults smoking in 2022 compared to 2021.

In 2022 (among all Minnesota adults), 8.1 percent of 18- to 24-year-olds, 15.9 percent of 25–44-year-olds, 15.1 percent of 45–64-year-olds, and 8.5 percent of adults aged 65 years or older were currently smoking combustible cigarettes.

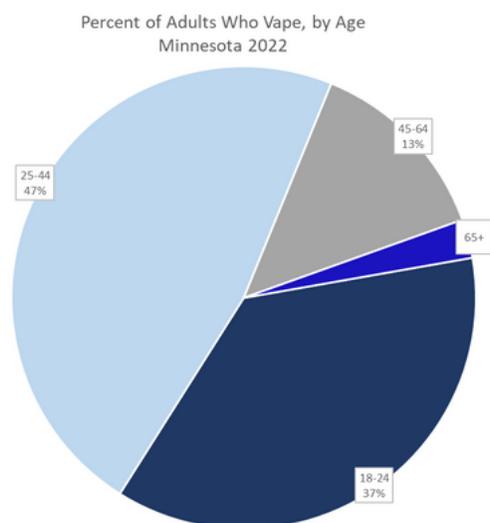
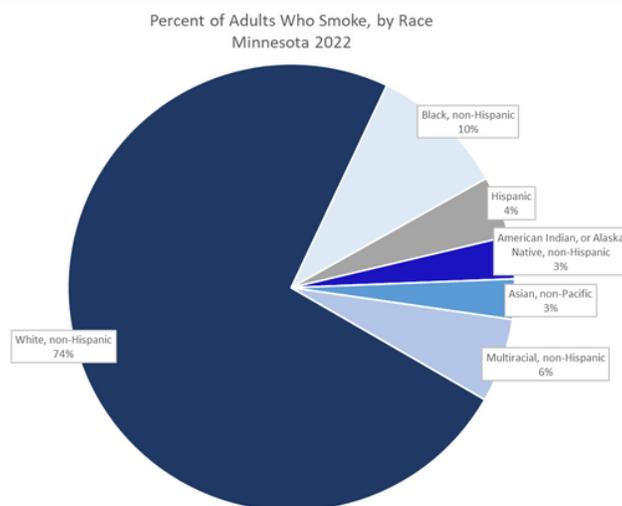
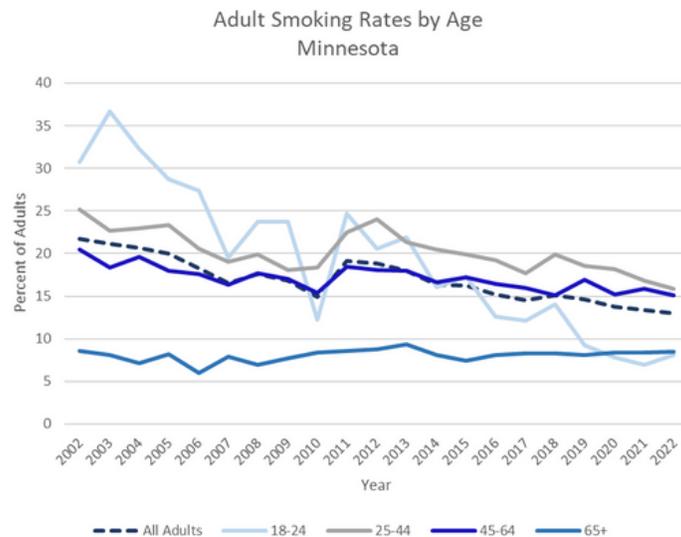
Among all adults earning \$25,000 annually or less in 2022, more than one-fourth (28.5 percent) reported currently smoking, compared to only 8.7 percent of adults who earned \$50,000 or more per year.

In Minnesota, American Indian/Alaska Native adults reported smoking at a greater percentage of their identified race at 44.1 percent. This is compared to 27 percent of Multiracial (non-Hispanic) adults, 18.7 percent of Black adults, 12.1 percent of White adults, 11 percent of Hispanic adults, and 7.2 percent of Asian adults.

Yet, White adults made up a significantly larger percentage of Minnesota’s total adult smoking population. In 2022, White adults accounted for 73.7 percent of Minnesota’s current smoking population, compared to American Indian/Alaska Native adults, who made up only 3.1 percent. Black adults made up 9.8 percent, Multiracial (non-Hispanic) adults made up 6.1 percent, Hispanic adults made up 4.4 percent and Asian adults accounted for 2.9 percent of Minnesota’s adult smoking population in 2022.

In 2022, an estimated 305,189 Minnesota adults (or 6.9 percent) were currently using e-cigarettes. This is a 21.1 percent increase from 2021 when 5.7 percent reported current e-cigarette use. There were an estimated 54,969 additional adults vaping in 2022 compared to 2021.

Among Minnesota adults currently using e-cigarettes in 2022, 36.7 percent were 18 to 24 years old, 47.2 percent were 25 to 44 years old, 13.4 percent were 45 to 64 years old and 2.7 percent of current e-cigarette users in Minnesota in 2022 were 65 years or older. Among adult e-cigarette users in Minnesota in 2022, 63.3 percent were 25 years or older.



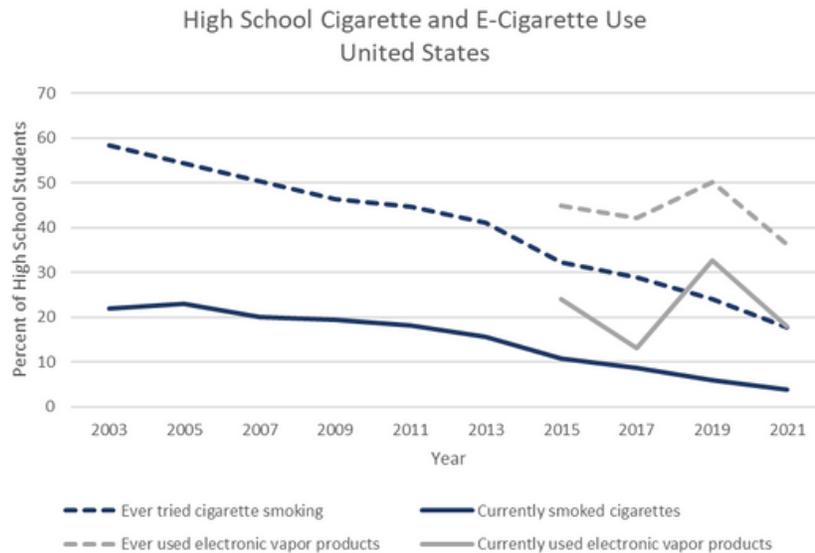
# Tobacco & Vaping 101:

## Minnesota 2024

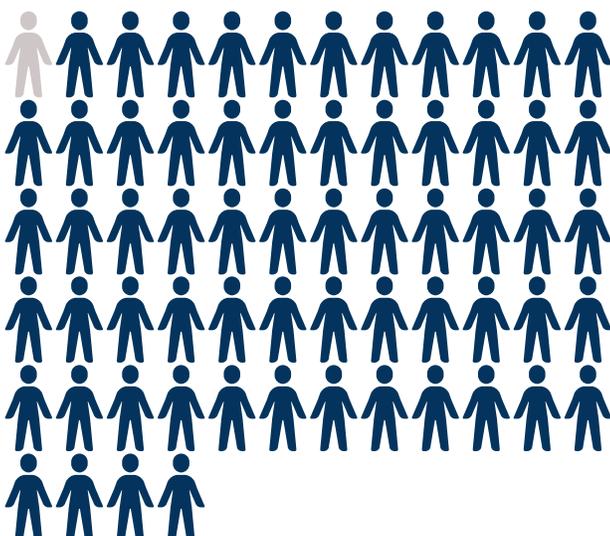
### Youth Combustible Cigarette and E-Cigarette Use

Minnesota did not participate in the CDC's 2021 Youth Risk Behavior Survey. But youth smoking rates are at historic lows in the United States. In 2021, 17.8 percent of U.S. high school students reported ever trying combustible cigarettes, while 3.9 percent reported currently smoking, or having used the product on at least one occasion in the 30 days prior. In 2021, approximately 586,474 U.S. high school students were smoking, compared to an estimated 37.3 million U.S. adults aged 18 and over who were currently smoking. For every one high schooler smoking in 2021 in the United States, more than 63 adults were currently smoking.

Youth vaping peaked in the U.S. in 2019 when more than half (50.1 percent) of U.S. high school students reported having ever used an e-cigarette and nearly one-third (32.7 percent) reported current use. Between 2019 and 2021, lifetime e-cigarette use among U.S. high schoolers declined by 27.7 percent to 36.2 percent of students. Current use decreased by 45 percent to 18 percent of U.S. high school students. In 2021, approximately 2.8 million U.S. high school students were vaping, compared to 17.4 million U.S. adults aged 18 and over who were currently vaping. For every one high schooler vaping in 2021 in the United States, more than six adults were using e-cigarettes.



### Youth to Adult Smoking Ratio United States 2021



### Youth to Adult Vaping Ratio United States 2021



**Key**

= 1 High School Student

= 1 Adult 18 years or older

# Tobacco & Vaping 101: Minnesota 2024

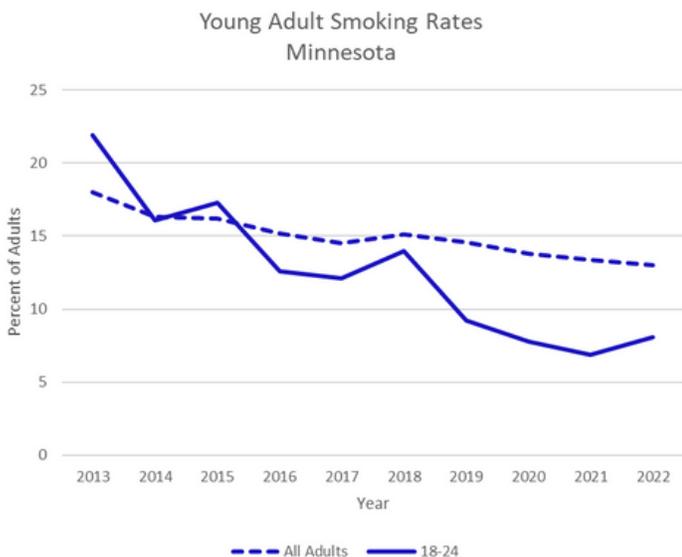
## Young Adult Cigarette Use

The introduction of e-cigarettes has not led to increases in young adult cigarette smoking, but rather, correlates with significant declines.

In 2012, e-cigarettes were available in every major U.S. market. That same year, 20.6 percent of Minnesotans aged 18 to 24 years old were currently smoking. In 2018, public health purported a so-called “youth vaping epidemic,” and 14 percent of young adults in the Gopher State were smoking. Between 2012 and 2018, young adult smoking rates declined by 32 percent. Further, since 2018, young adult smoking rates have decreased another 42.1 percent, with average annual declines of 10.9 percent.

In 2016 (among 18- to 24-year-olds), 12.6 percent and 9.5 percent were currently using combustible cigarettes and e-cigarettes, respectively. Between 2016 and 2022, current cigarette use among young adults decreased by 35.7 percent while vapor product use increased by 126.3 percent.

Given the epic lows in young adult smoking rates, lawmakers must refrain from policies that restrict access to alternatives to smoking.

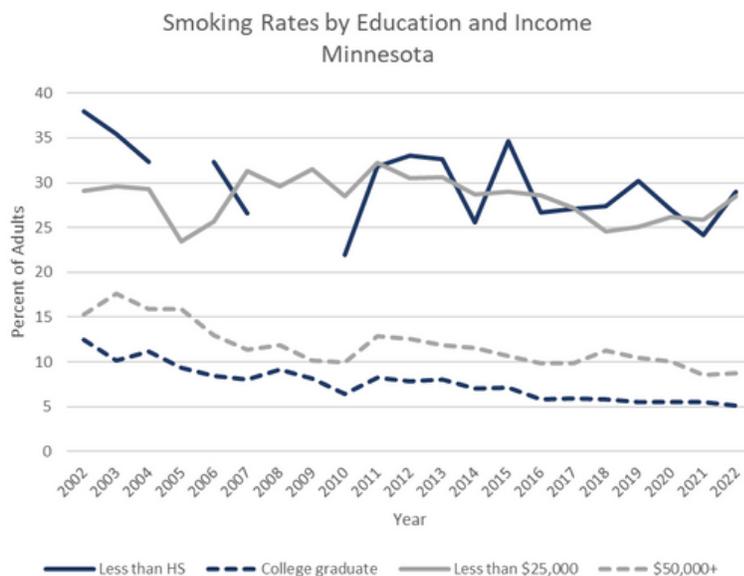


## Effects of Cigarette Excise Taxes

Minnesota last increased its state cigarette excise tax in 2017 from \$3.00 to \$3.04-per-pack. Lawmakers often justify excise taxes on cigarettes to deter persons from using combustible cigarettes. These taxes not only disproportionately harm lower income and lower educated adults, the taxes also fail to significantly reduce smoking rates among those persons.

The percent of Minnesota adults earning \$25,000 or less that were smoking increased by five percent between 2017 and 2022, while the percent of adults earning \$50,000 or more that were smoking decreased by 11.8 percent during the same period. Among Minnesotans who did not graduate high school, smoking rates increased by seven percent, and rates among adults with a college degree decreased by 13.6 percent.

Lawmakers should refrain from enacting further increases in cigarette taxes given their disproportionate effect on low-income and low-educated persons, while failing to reduce smoking rates.



# Tobacco & Vaping 101: Minnesota 2024

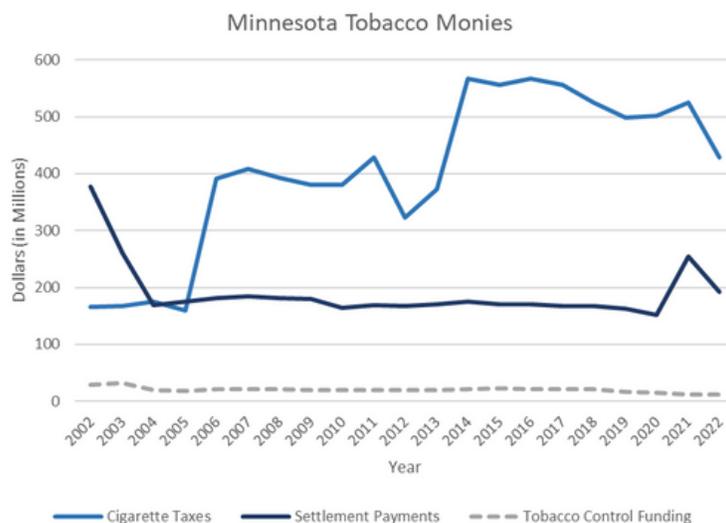
## Tobacco Monies

Each year, states receive billions of dollars borne out of the lungs of persons who smoke. This revenue includes excise cigarette taxes and settlement payments. Yet, each year, states spend miniscule amounts of tobacco-related monies on programs to help adults quit smoking and prevent youth use.

In 2022, the Gopher State collected \$429.3 million in state excise tax revenue from combustible cigarettes. This was an 18.2 percent decrease from 2021's \$525.1 million, or \$95.8 million less. Between 2002 and 2022, Minnesota collected more than \$8.4 billion in cigarette taxes.

Since 2000, Minnesota has collected annual payments from tobacco manufacturers based on the percentage of cigarettes and tobacco products sold in the state in that year. Minnesota collected \$192.6 million in settlement payments in 2022, a 24.2 percent decrease from 2021's \$254.2 million, or \$61.6 million less. Since 2002, the Gopher State collected more than \$3.9 billion in tobacco settlement payments.

While Minnesota collected an estimated \$621.9 million in tobacco-related monies in 2022, the state allocated only \$11.7 million in state funding towards tobacco control programs, including cessation, education, and youth prevention efforts, which was a 5.6 percent decrease in funding from 2021's \$12.4 million, or \$700,000 less. This amounts to 2.7 percent of taxes and 6.1 percent of settlement payments. In 2022, for every \$1 the state received in tobacco monies, it spent only \$0.02 on tobacco control efforts.



## References

1. Data on adult smoking rates comes from the Centers for Disease Control's Behavioral Risk Factor Surveillance Survey including sections on "Demographics - Race," Tobacco Use - All Categories," and "E-Cigarette Use." Accessed November, 2023. <https://www.cdc.gov/brfss/brfssprevalence/>.
2. Data on race and age was compiled using population data from the Annie E. Casey Foundation (<https://datacenter.kidscount.org/>) and Demographic data from the CDC to cross reference the racial population. Then, data from Smoking and Race, and E-Cigaretts and Age, was used to determine the percent of adults who were smoking in 2022.
3. Data on youth tobacco and vapor product use comes from the CDC's Youth Risk Behavior Survey, accessed in November, 2023. [https://www.cdc.gov/tobacco/data\\_statistics/surveys/nyts/index.htm](https://www.cdc.gov/tobacco/data_statistics/surveys/nyts/index.htm).
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5. Data on tobacco settlement payments is from Campaign for Tobacco-Free Kids, "Actual Annual Tobacco Settlement Payments Received by the States, 1998-2022." Accessed November, 2023. <https://www.tobaccofreekids.org/assets/factsheets/0365.pdf>.
6. Data on tobacco control funding is from Campaign for Tobacco-Free Kids, "Appendix A: A History of Spending for State Tobacco Prevention Programs," Accessed November, 2023. <https://www.tobaccofreekids.org/assets/factsheets/0209.pdf>.

# Tobacco Harm Reduction 101

## The Role of Flavors

A vitally important aspect of vaping is that, in addition to having a fraction of the risk of smoking combustible tobacco, the act of vaping is more pleasing for adults. Flavors are essential to help transition adults away from smoking and help them remain smoke-free.

Flavors are appealing to adults in a wide variety of consumer goods, and it is no different with vaping. Importantly, flavored vapes create a disassociation between smoking and vaping which is instrumental in preventing relapse for former smokers who found it difficult to quit by other means. While some vapers stick to a tobacco flavor, the vast majority do not.

A wide choice of devices, nicotine strengths, and flavored liquids are integral to the success of vaping as an alternative to smoking because it enables individuals to tailor the vaping experience to suit their particular needs.

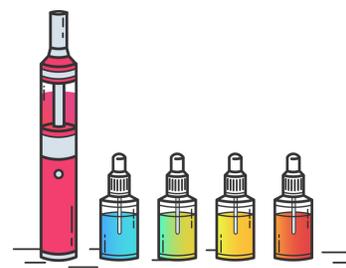
Flavors are also important in distinguishing combustible tobacco from vaping. There is no comparison between an attractive fruit flavor and the flavor of burned tobacco. Vaping is effectively a means of denormalizing tobacco and normalizing the use of a far safer alternative.

## Research

A 2018 survey of nearly 70,000 American adult vapers “found flavors play a vital role in the use of electronic cigarettes and vaping devices.”[i] In fact, 83.2 percent and 72.3 percent of survey respondents reported vaping fruit and dessert flavors, respectively. Most respondents indicated restricting flavors would make vaping “less enjoyable.”

Analysis of EcigIntelligence’s 2019 user survey found that fruits, sweets and candy, and desserts and bakery flavors “are among the most preferred flavors across all age groups.”[ii] Use of tobacco flavor was preferred by less than 5 percent of those who vape. In the event that legal sales were restricted to tobacco flavor only, 69 percent of respondents said they would try to acquire their flavors from alternative methods and 25 percent stated that they would be willing to drive over 100 miles to obtain supply. This illustrates that flavors are important to the appeal of vaping over smoking and that proposals to ban flavored vaping products are more an attempt at prohibition by stealth than a serious public health measure.

A 2020 study found an association between flavors and smoking cessation. In a cohort study of more than 17,900 participants, the authors found that “adults who began vaping nontobacco-flavored e-cigarettes were more likely to quit smoking than those who vaped tobacco flavors.”[iii]



**TAXPAYERS  
PROTECTION  
ALLIANCE**

# Tobacco Harm Reduction 101

## Restricting Vape Flavors Perpetuates Smoking

Many lawmakers are being convinced into proposing a ban on vape flavors in the mistaken belief that they are the only driver of youth vaping. It seems to have been forgotten that youth experimentation with much more harmful combustible tobacco was at very high levels in the past when there was only tobacco flavor to offer.

Since vaping is a substitute for smoking in those who want to use nicotine, restricting vaping increases the appeal of combustible tobacco.

A July, 2021 survey in *Nicotine & Tobacco Research* found that one-third (33.2 percent) of survey respondents would “likely switch to [combustible] cigarettes” if flavors were banned in e-cigarettes. [i]

More alarmingly, a 2021 Yale University study found that “San Francisco’s ban on flavored tobacco product sales was associated with increased smoking among minor high school students” and that “reducing access to flavored electronic nicotine delivery systems may motivate youths who would otherwise vape to substitute smoking.”[ii] Further, there is a correlation between state flavored e-cigarette bans and increases in young adult smoking rates.[iii]

This should not come as a surprise because of the substitution effect of competing nicotine delivery products. Nicotine use has been prevalent for many hundreds of years, restricting less harmful nicotine-containing products effectively protects sales of harmful, combustible cigarettes.

### **A variety of vape flavors are beneficial to public health for several reasons:**

- They provide intense competition for the cigarette trade by presenting an attraction that combustible tobacco cannot match.
- Flavors provide a more appealing alternative to smoking and lead to population level reduced harm from nicotine use if uptake and initiation of vaping instead of smoking is widespread.
- Most people who smoke do so as a result of peer pressure, whether as adolescents or adults.
- Flavors help more people to enjoy vaping instead of smoking and therefore optimize the chance that future nicotine users will be more likely to initiate with a vape than with a combustible cigarette.

Lawmakers should recognize the crucial role that flavors play in reducing combustible tobacco use and put forth policies that inform consumers of the wide variety of less harmful products on the market.

## References

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- [1] Konstantinos Farsalinos, “Submitting to the FDA the findings of the largest ever survey on e-cigarette flavors use by US vapers,” *E-Cigarette Research*, August 11, 2008, <http://www.ecigarette-research.org/research/index.php/whats-new/2018-2/266-us-flav>.
- [2] Consumer Advocates for Smoke-free Alternatives Association, “ECigintelligence User Survey 2019,” August 25, 2020, <https://casaa.org/ecigintelligence-user-survey-2019/>.
- [3] Abigail S. Friedman and SiQing Xu, “Associations of Flavored e-Cigarette Uptake With Subsequent Smoking Initiation and Cessation,” *JAMA*, June 5, 2020, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7275248/>.
- [4] Heather Posner et al., “Reactions to Sales Restrictions on Flavored Vape Products or All Vape Products Among Young Adults in the United States,” *Nicotine & Tobacco Research*, March 2022, <https://academic.oup.com/ntr/advance-article-abstract/doi/10.1093/ntr/ntab154/6332852?redirectedFrom=fulltext>.
- [5] Abigail S. Friedman, “A Difference-in-Differences Analysis of Youth Smoking and a Ban on Sales of Flavored Tobacco Products in San Francisco, California,” *JAMA Pediatrics*, May 24, 2021, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8145156/>.
- [6] Lindsey Stroud, “Statewide Flavored E-Cigarette Bans Have Led to Increases in Young Adult Smoking,” *Townhall*, October 21, 2022, <https://townhall.com/columnists/lindseystroud/2022/10/20/statewide-flavored-e-cigarette-bans-have-led-to-increases-in-young-adult-smoking-n2614807>

# Tobacco Harm Reduction 101

## Flavors Are Not Main Reason for Youth E-Cigarette Use

In 2019, many lawmakers sought to address the increase in youth e-cigarette use by enacting various policy proposals, including banning non-tobacco flavors in e-cigarette products. According to e-cigarette opponents, flavors are designed to only attract youth and have no value in tobacco harm reduction.

While addressing youth use of any age-restricted product is laudable, numerous state and national surveys indicate that flavors are not the most commonly cited reason for e-cigarette use among youth. Rather than enacting draconian bans, lawmakers should focus on the underlying reasons for youth e-cigarette use.

### State Survey Data

The Centers for Disease Control and Prevention (CDC) conducts the Youth Risk Behavior Survey (YRBS) which examines various youth data points, including tobacco and vaping use. While data is limited, some states have sought to examine why youth are using e-cigarettes.

In 2019 in aggregate analysis of four state surveys (Connecticut[i], Montana[ii], Rhode Island[iii], and Virginia[iv]), among all high school students, 59.6 percent reported having never used an e-cigarette. Of the remaining students, 18 percent cited using e-cigarettes for “some other reason,” 12.1 percent reported using them because a family member and/or friend had, and only 5.2 percent reported using e-cigarettes because they were “available in flavors.”

In one 2019 state survey (Vermont) of high school students that were current e-cigarette users, 51 percent reported using e-cigarettes for some “other reason,” 17 percent had used them because family and/or friends, and only 10 percent reported current e-cigarette use because of flavors.[v]

### National Survey Data

The Centers for Disease Control and Prevention annually conducts the National Youth Tobacco Survey (NYTS), which measures “tobacco-related behaviors, attitudes, beliefs, and exposure to pro- and anti-tobacco influences.”[vi] Since 2016, the NYTS has examined why youth have tried and/or are using e-cigarettes.

In 2016, among middle and high school students that had ever used an e-cigarette, 39 percent reported using them because a “friend or family member used them,” 31 percent cited “other,” and 31 percent reported using them because they “are available in flavors such as mint, candy, fruit, or chocolate.”[vii]

In 2019, among middle school and high school students that were current e-cigarette users, 55.3 percent reported vaping because they were “curious about them,” 30.8 percent cited using them because a “friend or family member used them,” and only 22.4 percent cited using e-cigarettes because of flavors.[viii]

The NYTS went further in 2021 and offered additional reasons for e-cigarette use than prior surveys. [ix] The results are interesting and indicative of a different trend in youth substance youth, including issues of anxiety and/or depression.

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For example, in 2021, among middle and high school students that were current e-cigarette users, 43.4 percent reported using them because they were “feeling anxious, stressed, or depressed,” 42.8 percent had used e-cigarettes to get a “buzz from nicotine,” 28.3 percent had used them because a friend had used them, and only 13.2 percent reported using e-cigarettes because of flavors.

Among middle and high school students that had ever used e-cigarettes, 57.8 percent reported trying them because of a friend, 47.6 percent cited curiosity as a reason for use, 25.1 percent reported trying them because they were “feeling anxious, stressed, or depressed,” 23.3 percent had tried them to get a “buzz from nicotine,” and only 13.5 percent had reported trying e-cigarettes because they are available in “flavors, such as menthol, candy, fruit, or chocolate.”

As policymakers seek to reduce youth use of age-restricted products, it is imperative that they understand the reasons why youth are using such products, including e-cigarettes. State and national data indicate that flavors is often cited as the third reason for youth e-cigarette use, and other factors are contributing to their use that will not be impacted by misguided policies such as flavor bans.

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An estimated 30.8 million American adults smoked in 2020, or approximately 12.5 percent of the U.S. population.[1] Smoking-related disease and deaths cost the United States more than \$300 billion each year, including \$225 billion attributed to medical costs and more than \$156 billion due to lost productivity.[2]

For many years, policymakers have staunchly pushed forward with only one approach: quit or die. This failed method of smoking prevention and cessation has negligibly reduced smoking rates over the years. Yet, there is another approach: tobacco harm reduction for those who are unwilling or unable to quit smoking. In 1976, famed tobacco research Michael Russell remarked “people smoke for the nicotine, but die from the tar.”[3] Today, cigarettes contain nearly 600 ingredients and when ignited release more than 7,000 chemicals in the tobacco smoke, including 69 which are known to cause cancer.[4]

Nicotine, while not benign, is not responsible for causing cancer or the other ill effects caused by combustible cigarette smoke. In fact, the U.S. Food and Drug Administration,[5] the Centers for Disease Control and Prevention,[6] and the American Cancer Society[7] all acknowledge that nicotine has addictive properties but is not responsible for the harms caused by various tobacco products.

Given that nicotine itself is not the harm-causing property of tobacco, consumers and manufacturers have moved forward with giving adults the options to try and switch to less harmful tobacco products, otherwise known as tobacco harm reduction.

Tobacco harm reduction takes into account the science and the individual, all the while reducing the harms related to cigarette smoking. Rather than shaming persons addicted to nicotine, tobacco harm reduction offers them an opportunity to use a less harmful product, while delivering nicotine in a manner that is effective at reducing their cravings.

Reduced harm tobacco products include: electronic cigarettes/vaping devices, heated tobacco products, nicotine replacement therapy, and smokeless and snus products. These products deliver nicotine to adult consumers in a manner that is significantly less harmful than combustible cigarettes. Moreover, there is a plethora of evidence to their reduced risks.

- **E-Cigarettes:** Despite media alarmism, e-cigarettes are significantly less harmful than combustible cigarettes, as noted by numerous public health agencies. In 2015, Public Health England found e-cigarettes to be 95 percent less harmful than combustible cigarettes.[8] In 2021, the agency noted that “vaping is positively associated with quitting smoking successfully.”[9] In 2016, the UK Royal College of Physicians declared that e-cigarettes were unlikely to exceed five percent of the harms that are caused by smoking.[10] Not only does the UK government subsidize e-cigarettes as a cessation tool for people who smoke, vape shops can be found in hospitals in the country. In the United States, in 2018, of the estimated 10 million vapers, approximately 3 million had previously used combustible cigarettes.[11] In 2021, the FDA, through a new regulatory pathway, authorized the first e-cigarette product, finding that the product is “significantly less toxic than combusted cigarettes” and “could benefit addicted adult smokers who switch ... by reducing their exposure to harmful chemicals.”[12]
- **Heated Tobacco:** The US FDA has not only allowed for the marketing of a heated tobacco product, the manufacturer has been permitted to market it with a reduced risk claim, including that due to the product heating tobacco and not burning it, the process “significantly reduces the production of harmful and potentially harmful chemicals.”[13] While the rollout in America has been limited (and currently hindered by a patent dispute), in other countries, heated tobacco products have been linked to significant reductions in adult smoking rates. A 2020 study by the American Cancer Society remarked that heated tobacco products “likely reduced cigarette sales in Japan.”[14]

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- **Nicotine pouches:** Nicotine pouches are used the same way as snus but deliver nicotine via infused fillers like plant-based fibers instead of pasteurized tobacco. They are the newest innovation on the nicotine market and they are as or less harmful than snus. As a result, they have been rising in popularity across the world. For example, a May 2022 study assessed the potential effect of nicotine pouches if introduced in the U.S. in 2000. The study estimated there would have been about 700,000 fewer deaths by 2050.
- **Nicotine Replacement Therapy (NRT):** NRT is the most endorsed form of tobacco harm reduction and is subsidized by federal and state health care quit-smoking programs. NRT includes gums, patches, lozenges, and prescription medication. Studies have found that similar rates of cessation success among users of various NRT products and smokeless and snus products.[15] Other tobacco harm reduction products have been found to be more effective. For example, a 2019 randomized controlled trial found that e-cigarettes were almost twice as effective as NRT in aiding in smoking cessation.[16]
- **Smokeless:** Smokeless tobacco poses much lower risks than smoking, all while containing nicotine. A 2009 Biomed Central study analyzed 89 studies of smokeless tobacco use and cancer finding “very little evidence” of smokeless tobacco producing elevated cancer risks.[17] A 2011 review of epidemiologic studies found that snus and smokeless tobacco use to be “99% less hazardous than smoking.”[18]
- **Snus:** Snus is an oral moist tobacco often used in pouches. It originated in Sweden and has been part of the country’s “tobacco culture” for more than a century. Snus has been directly linked to reducing smoking rates in the country. Swedish men, who have the highest rate of smokeless tobacco use in Europe and the lowest smoking rate, “also have the lowest rates of lung cancer and other smoking-related diseases in Europe.”[19] Further, a 2020 long-term study of Swedish snus users that were former smokers concluded that over “80% found snus of great importance to succeed with smoking cessation.”[20]

As cigarettes remain available, it is imperative that policymakers offer the consumers access to less harmful tobacco products. Policymakers should avoid excessive regulations, unfair taxation, and outright prohibition when enacting policies regarding novel tobacco harm reduction innovations. Lawmakers should put forth policies that both inform consumers of the wide variety of less harmful products, as well as allow the market to introduce products that are effective at both delivering nicotine in a less harmful manner and reducing smoking rates.

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