

A RESOLUTION TO ENCOURAGE BUTTE COUNTY TOBACCO RETAILERS AND ELECTED OFFICIALS TO RESTRICT THE SALE OF FLAVORED TOBACCO PRODUCTS INCLUDING MENTHOL CIGARETTES

WHEREAS, tobacco use is the leading preventable cause of over 480,000 deaths annually in the United States ⁽¹⁾ and 5.6 million of today's Americans who are younger than 18 years of age are projected to die prematurely from a smoking-related illness; ⁽²⁾

WHEREAS, youth are targeted as "replacement smokers;" even as tobacco use kills nearly 1,300 Americans daily; ⁽²⁾

WHEREAS, California is a national leader in reducing tobacco use, nevertheless, tobacco use is the number one cause of preventable death in California, and continues to be an urgent public health issue, as evidenced by the following:

- 40,000 adult Californians die from tobacco-related disease annually, and
- At current rates, about 441,000 Californian children now under 18 years of age will die prematurely from smoking; ⁽³⁾
- Smoking has a negative impact on the economy, costing the state:
 - \$13.3 billion in annual health care expenses
 - \$3.6 billion in Medicaid costs caused by smoking
 - \$10.4 billion in smoking-caused productivity losses,
 - Cost of state and federal tax burden from smoking-caused government expenditures of \$710 per household to state residents; ⁽⁴⁾

WHEREAS, the federal Family Smoking Prevention and Tobacco Control Act, enacted in 2009, prohibited candy- and fruit-flavored cigarettes ⁽⁵⁾ largely because these flavored products are marketed to youth and young adults ^(6, 7, 8) and younger smokers were more likely than older smokers to have tried these products; ⁽⁶⁾

WHEREAS, neither federal nor California state laws restrict the sale of menthol cigarettes or flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, electronic smoking devices (ESDs), and the solutions used in these devices;

WHEREAS, in 2018, more than 86% of tobacco retailers in California sold flavored non-cigarette tobacco products and over 91% of tobacco retailers sold menthol cigarettes; ⁽⁹⁾

WHEREAS, More than four out of five (81%) youth who have ever tried tobacco chose flavored tobacco as their first product ⁽¹⁰⁾, and the use of flavored e-cigarettes, such as vapes, and smokeless tobacco among California high school students increased between 2018 and 2020 (vapes: 85.8% to 96.2%; smokeless tobacco: 67.7% to 75.4%; ⁽¹¹⁾

WHEREAS, mentholated and flavored tobacco products have been shown to be "starter" products for youth who begin using tobacco ^(6; 12; 13) and that these products help establish tobacco habits that can lead to long-term addiction; ^(6; 14; 15)

WHEREAS, studies indicate that laws prohibiting the sale of flavored tobacco products lead to decreases in youth tobacco use, such as the following:

- An evaluation of a law in Providence, Rhode Island, which prohibits the sale of all flavored tobacco, excluding menthol, indicated that as a result of the law, current use of any tobacco product among high school youth declined from 22% to 12% and e-cigarette use declined from 13.3% to 6.6% even as statewide e-cigarette use among high school students increased to more than 20%; (16)

WHEREAS, unlike cigarette use that has steadily declined among youth, the prevalence of non-cigarette tobacco product use has increased among California youth; (11)

WHEREAS, youth who use electronic smoking devices (ESDs; e.g. e-cigarettes and vapes) are more likely to become conventional cigarette smokers: eighth grade students who use ESDs are ten times more likely than their peers to eventually smoke tobacco cigarettes and become the next market for tobacco cigarettes; (17)

WHEREAS, youth e-cigarette use remains a public health crisis, and was declared an epidemic by the US Surgeon General in 2018; (18) and in 2021, during the midst of the Covid-19 pandemic, 2 million youth, including 11.3% of US high school students, were current e-cigarette users; (19)

WHEREAS, Children are not just experimenting with e-cigarettes, but are using them frequently. In 2021, 43.6% of high school e-cigarette users reported vaping on 20 or more days per month, and 500,000 million middle and high school students are vaping every single day; (19)

WHEREAS, flavors in ESDs are the key to youth tobacco use initiation, with about 85 percent of current youth e-cigarette users using a flavored product in 2021 and marketing and flavors play a key role in youth use; The 2016 Surgeon General's report found that *"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;"* (19)

WHEREAS, these flavored tobacco products present significant public health threats to children, adolescents and young adults, who do not fully perceive the health risks of ESDs and flavored tobacco products, threatening the progress California has achieved in tobacco control;

WHEREAS, existing laws and age restrictions do not keep tobacco products away from youth:

- among cigarette users under the age of 18, only 14.1% usually bought their own cigarettes in a store; (20), and
- Butte County rates of sales to minors were 59% and 33% in Unincorporated Butte County (in 2021 and 2022, respectively);

WHEREAS, many retailers sell inexpensive little cigars and cigarillos individually, making them more affordable and appealing to youth;

WHEREAS, 78.3% of California tobacco retailers sell cheap small cigars in youth-friendly flavors, for less than \$1.00;

WHEREAS, the California Office of the Attorney General has concluded that state and local governments have "police power" to protect health, safety, and welfare of their citizens, and that includes restricting the sale or distribution of flavored tobacco products, including menthol; (21)

WHEREAS, More than 200 Californian city and county jurisdictions have passed tobacco retailer licensing ordinances (22) and 127 city and county jurisdictions in California have passed flavored tobacco bans, in an effort to prevent youth from using tobacco; (23)

WHEREAS, a ban on flavored tobacco products can yield a drastic reduction in flavored tobacco sales, and more importantly, one study modeled a 37 percent reduction in teens having tried flavored tobacco and a 28 percent lower chance of teens using any type of tobacco product, even when surrounding jurisdictions fail to ban flavored tobacco products; (24)

WHEREAS, flavored tobacco products make it easier for the tobacco industry to attract children, addict individuals and retain adult users, and these products have been used at disproportionately higher rates by minority groups; (25)

NOW, THEREFORE BE IT RESOLVED THAT THE FIRST 5 BUTTE COUNTY CHILDREN AND FAMILIES COMMISSION:

- 1) Encourages the State of California to exercise its authority to ban the sale of all flavored tobacco products.
- 2) Encourages retailers, as leaders in their communities in the health and well-being of local populations, to voluntarily cease the promotion and sale of flavored tobacco products to increase the health of the community as well as prevent a new generation of smokers and tobacco users from being created.
- 3) Encourages retailers to refrain from allowing anyone under 21 years of age to handle or sell tobacco products, including electronic smoking devices (ESDs).
- 4) Encourages the County of Butte to enact an ordinance prohibiting the sale of flavored tobacco products, including menthol.
- 5) Encourages the County of Butte to adopt and enforce a strong tobacco retailer licensing ordinance, including annual compliance checks and suspension for violations of any federal, state, or local tobacco law, along with sufficient annual fees to ensure robust compliance and to reduce illegal tobacco sales to minors.
- 6) Encourages the County of Butte to enact an ordinance prohibiting the sale of inexpensive cigarillos in pack sizes smaller than 20, and inexpensive cigars in pack sizes smaller than 6.
- 7) Encourages the County of Butte to continue to work collaboratively and in partnership with the minority populations that are disproportionately affected by tobacco use.

PASSED AND ADOPTED by _____,

this _____ day of _____ 2022.

Citations

1 U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. *Tobacco Related Mortality*. available at:

https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/tobacco_related_mortality/index.htm

2 U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA. 2014. https://www.ncbi.nlm.nih.gov/books/NBK179276/pdf/Bookshelf_NBK179276.pdf

3 Campaign for Tobacco-Free Kids. *The Toll of Tobacco in California Factsheet*. Jan. 21, 2022, available at:

<https://www.tobaccofreekids.org/problem/toll-us/california>

4 Campaign for Tobacco-Free Kids. *The Toll of Tobacco in California*. <https://www.tobaccofreekids.org/problem/toll-us/california>. Accessed May 12, 2020.

5 21 U.S.C. § 387g(a)(1)(A).

6 U.S. Department of Health and Human Services. *Preventing Tobacco 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. 2012. Available at: https://www.ncbi.nlm.nih.gov/books/NBK99237/pdf/Bookshelf_NBK99237.pdf.

7 Villanti AC, Collins LK, Niaura RS, Gagosian SY, Abrams DB. *Menthol cigarettes and the public health standard: a systematic review*. BMC Public Health. 2017; 17 (1):983. doi: 10.1186/s12889-017-4987-z.

- 8 Institute of Medicine. *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*. Washington, DC: The National Academies Press. 2015. Available at: <https://www.nap.edu/catalog/18997/public-health-implications-of-raising-the-minimum-age-of-legal-access-to-tobacco-products>.
- 9 Schleicher NC, Johnson T, Vishwakarma M, et al. *California Tobacco Retail Surveillance Study*. 2018. Available at: <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/Reports/CaliforniaTobaccoRetailSurveillanceStudyReport-2018.pdf>.
- 10 Truth Initiative. *Flavored Tobacco Use among Youth and Young Adults*. [Fact sheet]. 2021. https://truthinitiative.org/sites/default/files/media/files/2021/06/Truth_FlavoredTobacco_FactSheet2021_FINAL.pdf
- 11 California Tobacco Control Program. *California Tobacco Facts and Figures 2021*. Sacramento, CA: California Department of Public Health. 2021. Available at: <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/FactsandFigures/CaliforniaTobaccoFactsAndFigures2021-V3A.pdf>
- 12 Hersey JC, Ng SW, Nonnemaker JM, et al. *Are menthol cigarettes a starter product for youth?* *Nicotine Tob. Res.* 2006; 8 (3): 403-413. doi: 10.1080/14622200600670389.
- 13 Wackowski O, Delnevo CD. *Menthol cigarettes and indicators of tobacco dependence among adolescents*. *Addict Behav.* 2007;32(9):1964-1969. doi: 10.1016/j.addbeh.2006.12.023.
- 14 Oliver AJ, Jensen JA, Vogel RI, Anderson AJ, Hatsukami DK. *Flavored and nonflavored smokeless tobacco products: rate, pattern of use, and effects*. *Nicotine Tob. Res.* 2013; 15 (1): 88-92. doi: 10.1093/ntr/nts093.
- 15 Villanti AC, Johnson AL, Glasser AM, et al. *Association of Flavored Tobacco Use With Tobacco Initiation and Subsequent Use Among US Youth and Adults, 2013-2015*. *JAMA Netw Open.* 2019; 2 (10): e1913804. doi: 10.1001/jamanetworkopen.2019.13804.
- 16 Pearlman DN, Arnold JA, Guardino GA, Boles Welsh E. *Advancing Tobacco Control Through Point of Sale Policies, Providence, Rhode Island*. *Prev Chronic Dis.* 2019;16:E129. doi: 10.5888/pcd16.180614.
- 17 Miech et al. *E-cigarettes and the drug use patterns of adolescents*. *Nicotine & Tobacco Research*, 2015, 18 (5): 654-659, available at: <https://pubmed.ncbi.nlm.nih.gov/26416823/>; also, the U.S. Surgeon General has noted that “while some of the flavorings used in e-cigarettes are generally recognized as safe for ingestion as food, the health effects of their inhalation are generally unknown” and some of the flavorings found in e-cigarettes have been shown to cause serious lung disease when inhaled. U.S. Department of Health and Human Services, *E-Cigarette Use among Youth and Young Adults: A Report of the Surgeon General*, 2016, available at: https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_Full_Report_non-508.pdf.
- 18 U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. *Surgeon General’s Advisory on E-cigarette Use Among Youth*. 2018. https://www.cdc.gov/tobacco/basic_information/e-cigarettes/surgeon-general-advisory/index.html
- 19 Campaign for Tobacco-Free Kids. *Electronic Cigarettes: Brief Overview of Key Issues*. [Fact sheet]. 2022. <https://www.tobaccofreekids.org/assets/factsheets/0396.pdf>
- 20 Jones, S. E., and Caraballo, R. S., *Usual Source of Cigarettes and Alcohol among U.S. High School Students*. *Journal of School Health*. 2014. 84 (8): 493-501, available at: <https://www.ncbi.nlm.nih.gov/pubmed/25040117>
- 21 Wellington, Office of the Attorney General of California. *Focus on Flavors: The authority of a state or local government to restrict or prohibit the sale or distribution of flavored tobacco products*. 2016, available at: <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/Policy/FlavoredTobaccoAndMenthol/FinalWellingtonFocusOnFlavors.pdf>

22 Americans for Nonsmokers' Rights Foundation. *Lists and Maps*. 2022. Retrieved from: <https://no-smoke.org/materials-services/lists-maps/>

23 California Tobacco Control Program: Undo.org. *Locations of flavored tobacco policies in California*. 2022. https://43xomh2apgzav5gh32k8zb4j-wpengine.netdna-ssl.com/wp-content/uploads/2022/05/Flavored-Tobacco-Bans-and-Menthol-Exemptions-List_5.23.22.pdf

24 Farley, S. M., and Johns, M., *New York City flavoured tobacco product sales ban evaluation*. Tobacco Control. 2017. 26:78-84, abstract available at: <http://tobaccocontrol.bmj.com/content/26/1/78>.

25 Public Health Law Center. *Regulating Flavored Tobacco Products*. May 2019.