

Dear Chair Nosse, Vice Chairs Nelson and Goodwin, and members of the House Behavioral Health and Healthcare Committee,

The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit non-partisan advocacy affiliate of the American Cancer Society, advocates for public policies that reduce death and suffering from cancer which include policies targeted at reducing tobacco use. **ACS CAN encourages you to vote yes on HB 3090 and end the sale of menthol cigarettes and all other flavored tobacco products, including e-cigarettes, cigars, hookah, and smokeless tobacco.**

Ending the sale of all flavored tobacco products can be a critical component to a comprehensive strategy to reduce tobacco use and prevent initiation and lifelong addiction. Tobacco use remains the leading preventable cause of death nationwide. In Oregon, it is estimated that over 8000 adults die from their own smoking every year.<sup>i</sup> There are 68,000 children in Oregon who are alive now that will die prematurely due to smoking-related disease.<sup>ii</sup> It is the single largest preventable cause of death. The annual health care costs in Oregon directly caused by smoking are \$1.79 billion<sup>iii</sup>

Flavors are a marketing weapon used by tobacco manufacturers to target youth and young people to a lifetime of addiction. Altering tobacco product ingredients and design, like adding flavors, can improve the ease of use of a product by masking harsh effects, facilitating nicotine uptake, and increasing a product's overall appeal.<sup>iv</sup> Candy, fruit, mint and menthol flavorings in tobacco products are a promotional tool to lure new, young users, and are aggressively marketed with creative campaigns by tobacco companies.<sup>v</sup> Products with flavors like cherry, grape, cotton candy, and gummy bear are clearly not aimed at established, adult tobacco users and years of tobacco industry documents confirm the intended use of flavors to target youth.<sup>vi</sup> Furthermore, youth report flavors a leading reason they use tobacco products and perceive flavored products as less harmful.<sup>vii,viii</sup>

In 2021, 80.2% of high school students and 74.6% of middle school students who used tobacco products in the past 30 days reported using a flavored tobacco product during that time.<sup>ix</sup>

Among youth who currently used e-cigarettes, 84.7% used flavored e-cigarettes including 85.8% of high school and 79.2% of middle school users. Overall, the most used flavor types were fruit; candy, desserts, or other sweets; mint; and menthol.<sup>x</sup>

So-called "little cigars" have the look and feel of a cigarette, and are smoked like a cigarette, yet are often sold individually and are available in a variety of flavors. Flavored cigars make up a substantial portion of the cigar market. In 2020, cigarillos constituted the largest market share (94.2%) of cigars sold in the U.S., followed by little cigars (3.1%), and large cigars (2.7%).<sup>xi</sup> The 2009 prohibition on characterizing flavors in cigarettes (excluding menthol), without a prohibition on characterizing flavors in cigars, opened the door for cigar manufacturers to recruit new users to its products.

In 2021, more than 70% of middle and high school students who used smokeless tobacco used a flavored smokeless tobacco product.<sup>xii</sup> Chewing tobacco, snuff, dip, snus, and dissolvables are types of non-combustible tobacco products that are sold in a variety of flavors. Many dissolvables look like regular candy, cough drops, or toothpicks – however these products contain flavored nicotine. Smokeless tobacco companies have a long history of using flavorings, such as mint, cherry, apple, and





honey, and other product manipulation to gradually get new, young users addicted to “starter” products, keep them using, and shift them on to more potent smokeless tobacco products. In 2019, 48 percent of middle and high school students who used smokeless tobacco had used a flavored product in the last month.<sup>xiii</sup>

In 2021, almost 62% of middle and high school students who used a nicotine pouch, used a flavored nicotine pouch.<sup>xiv</sup> Nicotine pouches are an emerging type of non-combustible tobacco products that contain flavored nicotine powder, that tends to include nicotine salts. Users place the flavored pouches, that typically contain high concentrations of nicotine, in their mouth and the pouch dissolves. Since entering the marketplace in 2016, flavored nicotine pouch sales have steadily increased.<sup>xv</sup> The National Tobacco Youth Survey first reported on youth use of nicotine pouches in 2021 and 61.6% of students who use flavored tobacco products reported using flavored nicotine pouches.<sup>xvi</sup>

Hookah, or waterpipe, smoking involves burning tobacco, passing it through a bowl filled with water or other liquids and inhaling the smoke through a long hose. Among middle and high school students that used a flavored product, 46.6% reported using a waterpipe or hookah in 2021.<sup>xvii</sup> What’s troubling, is that the flavorings used in waterpipe tobacco, the sweet aromas and use of water make users misperceive this practice as safer than cigarette smoking.<sup>xviii</sup> In fact, hookah tobacco and smoke are as dangerous as cigarettes, and contain carcinogens and other substances that can cause cancer and other diseases.<sup>xix</sup> An hour-long waterpipe or hookah session typically involves 200 puffs of smoke, whereas smoking a single cigarette typically involves 20 puffs of smoke.<sup>xx,xxi</sup>

Long before cigarette companies started adding fruit, candy, and alcohol flavorings to cigarettes, they were manipulating levels of menthol to addict new, young customers. Menthol acts to mask the harsh taste of tobacco with a minty flavor and by reducing irritation at the back of the throat with a cooling sensation. Additionally, menthol may enhance the delivery of nicotine. Knowing that youth who experience less negative physiological effects of smoking are more likely to continue smoking regularly, the tobacco industry has spent decades manipulating its menthol brand-specific product line to appeal to youth.

The FDA’s preliminary scientific investigation on menthol cigarettes concluded that that menthol cigarette smoking increases initiation and progression to smoking, increases dependency, and reduces cessation success, particularly among African Americans who smoke.<sup>xxii</sup> African Americans who smoke are more than 2.5 times more likely to smoke menthol than non-Hispanic White Americans.

Adding insult to injury, tobacco manufacturers have aggressively targeted certain communities with their menthol products, leading to an unequal burden of death and disease. Internal tobacco industry documents show that the tobacco companies were intentionally targeting African Americans and other communities of color and the LGBTQ+ community through advertising in magazines with high readership by these populations, including youth, and by targeting specific neighborhoods with higher Hispanic and African American populations with more advertising and promotions.<sup>xxiii</sup> Ending the sale of menthol cigarettes will reduce long-entrenched health disparities and lead to greater equity in health outcomes.





Recognizing the danger that flavors in cigarettes has in attracting and addicting new people to smoke, especially youth, the Family Smoking Prevention and Tobacco Control Act (TCA) of 2009 prohibited the use of characterizing flavors, except for menthol and tobacco, in cigarettes. To understand a consequence to limiting the flavor prohibition to only cigarettes and exempting menthol flavoring, an analysis evaluated youth tobacco use before and after the prohibition.<sup>xxiv</sup> The analysis found a decrease in the likelihood of being a person who smokes (17.1 percent) and fewer cigarettes smoked (59 percent) associated with the flavor prohibition, but also a 45 percent increase in the probability that the youth who smoke used menthol cigarettes. Furthermore, the flavor prohibition was associated with increases in both cigar use (34.4 percent) and pipe use (54.6 percent). This suggests that youth who smoke, in the absence of comprehensive sales restriction on all flavors and all products, are substituting with menthol cigarettes or cigars and pipe tobacco, for which the federal flavor prohibition does not apply.

The aggressive use of flavors and marketing tactics by the tobacco industry, rapid increased use of flavored products by youth and young adults, and under regulation of these products requires the Oregon Legislature to protect youth and young adults, and the public health at-large.

As of December 27, 2022, at least 360 localities have passed restrictions on the sale of menthol and other flavored tobacco products, including Multnomah and Washington Counties here in Oregon, although laws differ in their application to specific products and store types. At least 150 of these communities restrict the sale of menthol cigarettes, in addition to other flavored tobacco products. It's time for Oregon to join them.

Ending the sale of menthol cigarettes and all other flavored tobacco products will make it harder for the tobacco industry to target youth and young adults with their addictive and deadly products and make it easier for adults to quit. This legislation is one part of a comprehensive tobacco control strategy that includes raising the age of sale for tobacco products to 21, implementing a statewide tobacco retail license, implementing comprehensive smoke-free laws, and the passage of Measure 108, which significantly increased Oregon's tobacco tax, dedicating significant funding toward best practice tobacco prevention and cessation programs to reduce youth initiation and help people who use tobacco quit.

We urge your support in ending the sale of menthol cigarettes and all other flavored tobacco products in Oregon.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Dunphy". The signature is fluid and cursive, with a large loop at the end.

Jamie Dunphy  
Oregon Government Relations Director  
American Cancer Society Cancer Action Network





- <sup>i</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in Oregon. Updated February 17, 2023. [The Toll of Tobacco in Oregon - Campaign for Tobacco-Free Kids \(tobaccofreekids.org\)](#)
- <sup>ii</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in Oregon. Updated February 17, 2023. [The Toll of Tobacco in Oregon - Campaign for Tobacco-Free Kids \(tobaccofreekids.org\)](#)
- <sup>iii</sup> Oregon Health Authority. 2020 Oregon Tobacco Facts. <https://www.oregon.gov/oha/ph/preventionwellness/tobaccoprevention/pages/oregon-tobacco-facts.aspx>
- <sup>iv</sup> FDA Guidance for Industry and FDA Staff, “General Questions and Answers on the Ban of Cigarettes that Contain Certain Characterizing Flavors (Edition 2) (“FDA Guidance on Characterizing Flavors”).
- <sup>v</sup> Delnevo, C, et al., “Preference for flavoured cigar brands among youth, young adults and adults in the USA,” Tobacco Control, epub ahead of print, April 10, 2014. King, BA, et al., “Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students,” Journal of Adolescent Health 54(1):40-6, January 2014
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- <sup>viii</sup> Huang L-L, Baker HM, Meernik C, Ranney LM, Richardson A, Goldstein AO. Impact of non-menthol flavours in tobacco products on perceptions and use among youth, young adults and adults: a systematic review. Tobacco Control 2016.
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- <sup>xi</sup> Xu Wang, PhD, Yoonsang Kim, PhD, Mateusz Borowiecki, BA, Michael A Tynan, BA, Sherry Emery, PhD, Brian A King, PhD, Trends in Cigar Sales and Prices, by Product and Flavor Type—the United States, 2016–2020, Nicotine & Tobacco Research, Volume 24, Issue 4, April 2022, Pages 606–611, <https://doi.org/10.1093/ntr/ntab238>
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- <sup>xiii</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. DOI: <http://dx.doi.org/10.15585/mmwr.ss6812a1>
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