

Submitter: William Huffman

On Behalf Of:

Committee: House Committee On Behavioral Health and Health Care

Measure: HB3090

#### OPPOSE HB 3090 – TOBACCO FLAVOR BAN

HB 3090 would ban all flavored tobacco products, including menthol cigarettes, flavored chewing tobacco or snus, cigars, hookah, and other products derived from nicotine. CDC and OHA data demonstrate that these products are not favored or used by minors. (Less than 2% of youth use the products mentioned)

These products are sold behind the counter, with age verification checks at retail stores across the state.

#### Oregon's Existing Laws Are Working

- Oregon passed legislation raising the legal age to purchase tobacco from 18-21 (2017). This is consistent with federal legislation.
- Oregon voters increased the tobacco tax by \$2.00 and enacted a new vape tax (2020). The intent of this was to make it more expensive for youth to purchase the products.
- The Oregon legislature joined other counties and created a statewide retail tobacco licensure program (2021). Retailers could lose their license for selling products to minors.

#### Regulating Retailers vs. Black Market

- Other states have recently passed flavor bans. These bans have created numerous problems ranging from organized crime, increased black market, and a significant loss of revenue from tobacco tax revenue.
- A regulated approach that enforces existing Oregon laws is the best approach to regulating tobacco products in Oregon – not a product specific ban, as proposed with HB 3090.
- A recent article from the Boston Herald demonstrates what is happening in Massachusetts following the adoption of a flavor ban.
- Illegal tobacco seizures have skyrocketed according to the 202 ban on menthol cigarettes and other flavored forms of tobacco according to state reports.
- Don't hurt small retailers in Oregon – who are complying with the law in favor of a product ban that will create the loss of small business revenue, job loss, and additional burdens on local law enforcement.

## Smuggled Smokes: Seizure Of Illegal Tobacco Jumps In Massachusetts, According To Report

Boston Herald | Matthew Medsger | March 7, 2023

Illegal tobacco seizures have skyrocketed in the Massachusetts following a 2020 ban on menthol cigarettes and other flavored forms of tobacco, according to a state task force report.

“Inspectors and investigators are routinely encountering or seizing menthol cigarettes, originally purchased in surrounding states, and flavored (Electronic Nicotine Delivery System) products and cigars purchased from unlicensed distributors operating both within and outside the Commonwealth,” the Illegal Tobacco Task Force Annual Report for 2023 reads, in part.

In June of 2020 Massachusetts became the first state to implement a full ban on the sale of menthol and flavored tobacco products and vaping devices. The goal, according to lawmakers, was to reduce the number of people addicted to nicotine by removing products from the market which researchers say have historically been targeted at low income communities and teens.

The result has been a jump in tobacco product seizures, up from 5,377 in 2021 to 18,483 in 2022, according to the annual report.

Part of the problem, according to the New England Convenience Store and Energy Marketers Association, is that none of the states surrounding the commonwealth followed suit in banning flavored tobacco. NECSEMA executive director Peter Brennan says illicit sellers are buying banned products in bulk elsewhere and selling them in the commonwealth.

“Massachusetts’ failed tobacco policies have robbed the state of millions in vital tax dollars for prevention and education while having little to no impact on smoking trends,” he said in a statement following the annual report. “Both organized criminals and petty smugglers are reaping millions from this newly-created illicit market while the state is being forced to spend more and more on enforcement, with no long-term plan in place.”

Just last week, Attorney General Andrea Campbell’s office reported it had levied charges against a pair of men allegedl