



Washtenaw County Board of Health

Resolution Ending the Sale of Flavored Tobacco Products, including Menthol Products, and Repealing Local Preemption of Tobacco Licensure and Sales Policies in the State of Michigan

Washtenaw County Board of Health

April 28, 2023

A resolution to urge the Michigan Legislature to end the sale of flavored tobacco products, including menthol products, in the State of Michigan and repeal Section 14 of the Tobacco Products Tax Act (MCL 205.434) restricting local units of government from imposing policies pertaining to the sale or licensure of tobacco products for distribution purposes.

WHEREAS, tobacco use is the leading cause of preventable death and disability in Michigan and contributes greatly to heart disease, cancer, and stroke; and

WHEREAS, flavors improve the taste and mask the harshness of tobacco products, most notably, menthol flavor. Adult use of flavored tobacco products is linked with increased tobacco addiction. Menthol is a chemical added to cigarettes and other tobacco products that creates a cooling sensation. These features make menthol more appealing to youth and new smokers, more addictive, and more difficult to quit; and

WHEREAS, flavored tobacco products play a key role in youth initiation and continued use of tobacco. More than 80 percent of 12-17-year-olds who have ever used a tobacco product start with a flavored product. Two-thirds of youth have reported using these products “because they come in flavors [they] like.” More than 72 percent of current tobacco users surveyed have reported using a flavored tobacco product in the past month; and

WHEREAS, 79% of Washtenaw County residents are concerned about young people using tobacco products; and

WHEREAS, African Americans, Hispanics, youth, and LGBT (lesbian, gay, bisexual, and transsexual) individuals, and individuals with a behavioral health diagnosis are disproportionately impacted by the harms of menthol cigarettes. Despite African Americans usually smoking fewer cigarettes, they are more likely to die from smoking-related diseases related to higher menthol use. There is a long history of the tobacco industry targeting these populations with tobacco marketing; and

WHEREAS, including a comprehensive “tobacco product” definition in a flavored tobacco policy would prevent tobacco users substituting one product for another. A comprehensive definition would include combustible tobacco products; heated tobacco products; electronic smoking devices; smokeless tobacco products; any component, part, or accessory; products containing nicotine from any source (other than those approved for cessation by the U.S. Food and Drug Administration); and broad language anticipating new and emerging products; and

WHEREAS, ending the sale of menthol cigarettes would save lives. Studies estimate that prohibiting menthol cigarettes in the U.S. would lead 923,000 smokers to quit, including 230,000 African Americans. They project that 633,000 deaths would be averted, including 237,000 African American deaths. Ending



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the sale of all flavored tobacco products would prevent a new generation of tobacco users, lower health care costs, and ensure an equitable approach to health in the United States; and

WHEREAS, many states and over 360 localities have ended the sale of flavored tobacco products to protect kids and reduce health disparities. If Michigan takes this step, it would be a leader in protecting the health of its residents; and

WHEREAS, 77% of Washtenaw County residents support ending the sale of flavored tobacco products, including menthol cigarettes; and

WHEREAS, Section 14 of the Tobacco Products Tax Act (MCL 205.434) prohibits local units of government from imposing "any new requirement or prohibition pertaining to the sale or licensure of tobacco products for distribution purposes." Despite local interest in passing policies related to tobacco sales and licensure, including local flavored tobacco restrictions, concerns about preemption and uncertainties about legal interpretation have had a chilling effect on local policy efforts for nearly three decades; and

WHEREAS, in the mid-1990s, at least 46 policy resolutions urging the repeal of preemption of local tobacco regulation were passed covering 56 Michigan counties, cities, and townships. Municipalities in all regions of the state were represented; and

WHEREAS, preemption is a strategy frequently used by the tobacco industry to limit local tobacco regulations; and

WHEREAS, repealing Section 14 of the Tobacco Products Tax Act would strengthen local control and improve the ability of local units of government to pass tobacco policies that address concerns in the communities they serve; now, therefore, be it

NOW THEREFORE BE IT RESOLVED, that the Washtenaw County Board of Health urges the Michigan Legislature to end the sale of flavored tobacco products in the State of Michigan, including menthol products; and

BE IT FURTHER RESOLVED, that the Board of Health urges the Michigan Legislature to repeal Section 14 of the Tobacco Products Tax Act (MCL 205.434) restricting local units of government from imposing policies pertaining to the sale or licensure of tobacco products for distribution purposes; and

BE IT FURTHER RESOLVED, that copies of the resolution be transmitted to the Washtenaw County Board of Commissioners, Majority Leader of the Michigan Senate, the Speaker of the Michigan House of Representatives, the chair of the Michigan Senate Committee on Local Government, the chair of Michigan Senate Committee on Health Policy, the chair of the Senate Committee on Regulatory Affairs, the chair of the Michigan House of Representatives Committee on Health Policy, the chair of the Michigan House of Representatives Committee on Tax Policy, the chair of the Michigan House of Representatives Committee on Local Government and Municipal Finance.