Testimony – Senate Standing Committees on Consumer Protection, Health, and Education

The American Heart Association supports prohibiting the sale of flavored e-cigarettes, as well as menthol cigarettes and flavored Other Tobacco Products in order to end tobacco use and nicotine addiction.

Tobacco use is the leading preventable cause of heart disease and stroke, the nation's number one and number five cause of death. In New York alone, smoking kills an estimated 28,000 adults, and leaves 750,000 people with serious diseases directly attributable to smoking. Nearly 40% of New York high school seniors and 7.2% of middle school students use e-cigarettes.

The Family Smoking Prevention and Tobacco Control Act of 2009 banned characterizing flavors in cigarettes, except for menthol, but did not address flavors in other tobacco products. This exception has allowed the tobacco industry to create new tobacco products intentionally aimed at hooking replacement smokers. Flavored e-cigarettes, cigarillos, cigars, and hookah serve only to entice young adults and downplay the chemicals and nicotine included in these devices. Simply put, maintaining flavors to attract adult smokers increases the risk of these products becoming available for youth and young adults.

E-cigarettes Are Not Harmless:

E-cigarettes have now become the most popular tobacco product for youth and adolescents in the United States and are attracting youth to different avenues for nicotine addiction. Emerging evidence has shown that flavors in tobacco products play a role in increasing the appeal of the products among youth and hasten their addiction to nicotine. And why wouldn't they? Tobacco products that come in flavors copying cereal brands, candy, mint, alcoholic beverages, and even Twinkies remove the harsh taste and smell associated with cigarettes. All together, these appealing flavors, the estimated $192.1 million spent annually on tobacco marketing in New York, and Big Tobacco's false messaging promoting these products as a safe alternative to traditional cigarettes has created a public health epidemic. This unprecedented spike in use, especially among youth led to the US Surgeon General issuing an advisory on the negative health consequences of e-cigarettes.

Thanks to predatory marketing tactics including celebrity endorsement and promotion on social media, and the misinformation spread by the industry, these products are particularly appealing to youth. So much so that tobacco use has become cool once again. The same kids who would never go near a traditional combustible cigarette are now no longer concerned about what they smoke or vape. The fact that 80% of youth who have ever used a tobacco product report starting with a flavored product is telling enough. When asked about what's in their e-cigarette, 66% said just flavoring, not even realizing that these products contain nicotine, often times more so than a pack of cigarettes. The normalization of e-cigarette use has led to the removal of the social stigma associated with tobacco use that had been prevalent in younger generations for the past few decades. Smoking rates had been steadily decreasing, that is, until Big Tobacco figured out how to hook a new generation of replacement smokers.

Not only are teens developing nicotine addictions from these products, but they are putting their health into the hands of a product that has not been deemed safe by the FDA. Alarmingly, the long-term health impacts of e-cigarettes remain unknown. What is known is that, contrary to popular belief, they do not produce water vapor, but an aerosol which contains fine particles. Many of these particles have varying amounts of toxic chemicals, which have been linked to heart disease, respiratory diseases and cancer. A new study from Stanford found that using flavored e-cigarettes damages the cells in blood vessels and can lead to an increased risk of cardiovascular disease. The study also found that menthol flavored e-cigarette liquids were particularly damaging to the cells.

Prohibiting All Flavored Tobacco Products:

In order to have the best chance of ending nicotine addiction and tobacco use once and for all, a comprehensive approach to tobacco control must be utilized. Prohibiting the sale of all flavored tobacco products including flavored e-cigarettes and menthol cigarettes is the most effective way to end their appeal to youth. The growing evidence indicating that e-cigarette users are likely to transition from e-cigarettes to traditional cigarettes makes a complete flavor ban increasingly necessary. Youth who have become addicted to nicotine are less concerned with the health impacts of cigarettes and are therefore more comfortable with making that switch. New York is now seeing the decades- long progress in tobacco control slowing slipping away.

Prohibiting the sale of select flavored tobacco products like e-cigarettes while allowing menthol cigarettes and flavored other tobacco products to remain on store shelves will serve only to push those addicted from one dangerous product to another. The obvious substitute for users who were drawn in with flavors will be menthol cigarettes. Menthol is, after all, the ultimate flavor. Menthol flavoring in cigarettes mellows the harsh taste and allows the user to inhale deeper, thus making it easier to start this addiction, but much harder to quit. Seen as a good "starter product" for youth and other inexperienced tobacco users, replacing their flavored e-cigarette with menthol cigarettes will be quick and easy. No longer will chocolate be a favorite flavor of youth, but chocolate menthol certainly will be. As it stands now, 63.9% of high school e-cigarette users report using mint and menthol. Younger populations have the highest rate of smoking menthol cigarettes and this number is likely to increase without action from the state. According to the FDA, because menthol cigarettes are less harsh, it is likely that menthol cigarettes pose a public health risk above that seen with nonmenthol cigarettes.

Prohibiting the sale of all flavored tobacco products will also help with health disparities among minority populations. For decades the tobacco industry has been targeting youth and the African American community with marketing of menthol products through sponsorship of community and music events, magazine advertising, and increased retail density. In the mid-1960s, fewer than 20% of African American smokers used menthol cigarettes. Today, that rate is well above 85%. This is almost four times higher than white smokers. Such blatant targeting of the African American community has led to significant health inequalities. African Americans suffer the greatest burden of tobacco-related mortality of any racial or ethnic group in the United States. Among the other communities impacted at higher rates are Latinx communities, 45% of which use menthol tobacco products, and LGBTQ New Yorkers.

The Truth About the Opposition:

With extensive support from the healthcare industry, community groups, principals, parents, and even youth themselves, the opposition is made up of those who will benefit from the continued use of tobacco and

addiction to nicotine. Much of the dangerous misinformation shared with the public stems from industry's hopes of continuing to be able to make money from the sale of these products. Perhaps the most alarming clam is that flavored e-cigarettes will help smokers quit. There is no experimental evidence to support the claim that flavors help adults switch from combustible to non-combustible tobacco products or to quit tobacco altogether. While there are anecdotal reports suggesting that for some adults, e-cigarettes have helped them quit, it is important to remember that the FDA has deemed e-cigarettes as tobacco products, so it is imperative that they be treated as such. More evidence is needed to show if their effectiveness for quitting cigarettes and nicotine dependence is greater than FDA-approved medications and therapies, such a nicotine patches or gum. Furthermore, the risk of dual use of tobacco products is very real. When both cigarettes and e-cigarettes are being utilized, the amount of harmful chemicals and nicotine the user is exposed to increases. The bottom line when it comes to using e-cigarettes is if an adult is not using these products with an end goal of quitting nicotine all together then they have simply substituted the chemicals and nicotine in combustible cigarettes, for those in e-cigarettes.

The other contention by the industry that banning flavors in tobacco products will be detrimental for the economy is just wrong. We've faced these arguments before, each time we raised the tax on combustible cigarettes, banned flavors in combustible cigarettes, passed Tobacco 21, and when the Clean Indoor Air Act was passed. Stores and restaurants in our state continue to thrive. Not to mention, with a comprehensive ban on flavored tobacco products, New York State will save lives and money. Annually, in New York, $10.4 billion is spent on tobacco-related healthcare costs, with more than one third of this, $6.6 billion, falling under Medicaid.

NYS Can Lead:

The longer we wait to regulate these products, the more harm they do. The unfortunate truth is that for the past few years the tobacco industry has successfully marketed a product that has avoided regulations and thrown us into a massive health epidemic. New York has a chance to be a leader and keep future generations of kids from ever becoming addicted. We know that if our state acts to protect public health, we will set a strong precedent throughout the country.

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