

From: Lori Bremner [mailto:lori@parentsagainstvaping.org]

Sent: Tuesday, April 6, 2021 3:51 PM

To: CityClerk <CityClerk@longbeach.gov>

Subject: Letter regarding Item 29 for tonight's City Council meeting regarding flavored tobacco

-EXTERNAL-

Dear City Clerk

Please enter the attached letter from Parents Against Vaping e-Cigarettes into the record for tonight's meeting in regards to Item 29.

PAVe supports the passage of a comprehensive flavor ban, without exemptions, and respectfully requests that the exemptions included in the proposed ordinance be removed.

Thank you.

Lori Bremner

CA Grassroots Coordinator

--

Lori Greenstein Bremner

****REGISTER FOR CLEAR THE VAPOR ON APRIL 7!**

<https://www.parentsagainstvaping.org/conference>

Parents Against Vaping E-Cigarettes

707.363.1263

<https://www.parentsagainstvaping.org/>



April 6, 2021

Re: Flavored Tobacco Products and OUR KIDS

Dear Honorable Mayor and Councilmembers of Long Beach,

As two cofounders of Parents Against Vaping E-cigarettes (PAVe), a national organization founded in 2018 by three moms as a grassroots response to the youth vaping crisis, we write today to express our strong support for **ending the sale all flavored tobacco products in Long Beach, with no exemptions.**

PAVe's passionate parent volunteers have been advocating for flavor-ban legislation not only in Long Beach but across California, participating in successful legislative campaigns in San Francisco (Proposition C); in Sacramento and the County of Los Angeles (a ban on all flavored tobacco products); and at the state level where we helped pass SB 793. We are grateful to serve as important partners for California's county, city, and state anti-tobacco coalitions.

According to the 2020 National Youth Tobacco Survey (NYTS), 3.6 million young people are regularly vaping, and the research has proven that flavors are hooking our kids. The latest figures show that 8 out of 10 teens who vape choose flavors. With 40% of high-school users using an e-cigarette on 20 or more days out of the month, we must take action immediately to protect these teens from becoming an entire generation of nicotine addicts. This issue is made even more urgent in light of COVID; a recent Stanford-led study reports that teens who vape are 5-to-7 times more likely to contract the virus.

And that's why it is essential that the City of Long Beach **end the sale of all flavored tobacco, with no exemptions**, to protect all kids from the predatory behavior of Big Tobacco, an industry that has historically used flavors to target young people.

Meanwhile, SB 793 was challenged by a tobacco-industry-funded ballot initiative and is delayed in its implementation by one or two years, if it gets implemented at all. We need cities like Long Beach to take strong action to prevent California's kids not only from dangerous flavored products but from becoming Big Tobacco's next generation of lifetime customers. That's why we urge you to immediately **end the sale of all flavored tobacco products with no exemptions** and eliminate the use of coupons to make tobacco cheaper and easier to access. SB 793 provides a floor, but not a ceiling, for a local ordinance. You can, and should, go further.

The 2020 federal guidance, which banned flavors for POD based systems (like JUUL) but left menthol POD based systems on the market and allowed flavored liquids for refillable systems to stay, created an enormous loophole for flavored **disposable** e-cigarettes. Use of disposable products, the teen favorite, has increased by 1000% among teens who vape. And, among teens who vape, almost 40% use menthol flavor, a figure made more disturbing by the fact that it does **not** include teens who use mentholated "iced" flavors.

For these reasons we are proud to advocate for a **comprehensive flavor ordinance** in the Long Beach. This can be accomplished by strengthening and making permanent the Long Beach City Flavored Tobacco Ban. Should you have any questions about our position, please do not hesitate to contact PAVe Co-Founders Dorian Fuhrman and Meredith Berkman at (646) 838-7718.

Sincerely,

Dorian Fuhrman and Meredith Berkman

Co Founders PAVe 105 West 86th St. NY NY 10024 www.parentsagainstvaping.org



April 4, 2021

The Honorable Robert Garcia
City of Long Beach
411 W. Ocean Blvd.
Long Beach, CA 90802

RE: Agenda Item # 29

Dear Mayor Garcia and City Council:

The American Cancer Society Cancer Action Network (ACS CAN) is committed to protecting the health and well-being of the residents in the City of Long Beach through evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. **As such, we are writing to urge this council to end the sale of flavored tobacco products, including menthol cigarettes.**

Tobacco remains the leading cause of preventable death in our country, and sadly, greater than 90% of adult smokers begin smoking before the age of 21. Of the 9 million youth currently living in our state, nearly 1.4 million of them will become smokers, and approximately 440,000 of those kids will die prematurely as a result of tobacco use. Actions taken now at the local level can help to encourage a generation of tobacco-free kids—potentially saving them from a lifetime of addiction and the deadly consequences of tobacco use.

Both opponents of smoking and purveyors of cigarettes have long recognized the significance of adolescence as the period during which smoking behaviors are typically developed. Adolescents are still going through critical periods of brain growth and development, and they are especially vulnerable to the toxic effects of nicotine. A study published in the journal, *Pediatrics*, found that the earlier youth are exposed to nicotine, the less likely they will be able to quit smoking. Tobacco companies have a long history of marketing to vulnerable populations, and target youth with imagery and by marketing appealing flavors.

Ending the sale of flavored tobacco products, including menthol, is not only a health issue; it is also a social justice issue. Targeted marketing to communities of color, low income communities and LGBTQ communities adds to the health disparities in populations already impacted by social inequities. In African American communities, the tobacco industry has aggressively marketed menthol flavored tobacco products to youth. Approximately 85% of African Americans who smoke use menthol cigarettes, and consequently, African American men have the highest death rates from lung cancer, when compared to other demographic groups. The anesthetizing effect of menthol masks the harshness of tobacco, making menthol cigarettes more appealing to beginning smokers, and people who smoke menthol demonstrate greater dependence, and are less likely to quit.

American Cancer Society Cancer Action Network
100 Corporate Pointe, Suite 350 ▪ Culver City, CA 90230
909.677.0600 ▪ FAX: 626.568.2888 ▪ Primo.Castro@Cancer.org

ACS CAN urges this council to end the sale of flavored tobacco products. Ending the sale of flavored tobacco products, without exemptions, removes much of the allure of these products and is a key component of a comprehensive strategy to effectively help reduce tobacco initiation and subsequent addiction.

Sincerely,

Primo J. Castro

Primo J. Castro
Director, Government Relations
American Cancer Society Cancer Action Network

From: Raj Dhillon [mailto:RDhillon@breathesocal.org]
Sent: Wednesday, March 31, 2021 11:09 PM
To: CityClerk <CityClerk@longbeach.gov>
Subject: Written comments for Tuesday's (4/6/21) meeting

-EXTERNAL-

Good evening,

Please find attached two comment letters regarding the tobacco ordinance on the agenda for Tuesday's council meeting. Please let me know about any questions.

Thanks,

Raj

Raj Dhillon (he/him)
Senior Manager, Advocacy & Public Policy
Breathe Southern California
[5858 Wilshire Blvd., Suite 300](#)
[Los Angeles, CA 90036](#)
work: (323) 935-8050 x233
mobile: (818) 720-4238
email: RDhillon@breathesocal.org

MAKE A GIFT NOW to help us clean the air and assist those suffering from chronic lung disease.



BreatheSoCal.org

5858 Wilshire Blvd., Suite 300
Los Angeles, CA 90036
P: (323) 935-8050
F: (323) 935-1873

April 6, 2021

Long Beach City Hall
411 W Ocean Blvd.
Long Beach, CA 90802

RE: File # 21-0291 – Prohibiting the sale of flavored tobacco products

Dear Long Beach City Council,

Breathe Southern California (Breathe SoCal) urges you to support the recommendation put forward by the City of Long Beach Department of Health and Human Services in prohibiting the sale of flavored tobacco products. Breathe SoCal is a nonprofit organization that promotes clean air and healthy lungs through research, education, advocacy, and technology. For over 50 years, we have been a leader in lung health improvement efforts in California.

Flavored tobacco products contain nicotine, which is a highly addictive chemical that can cause long-term damage to the adolescent brain. Menthol and flavored tobacco products are driving tobacco-related diseases and deaths throughout the country. Moreover, further exemptions would undermine this effort and create opportunities for young people to obtain flavored tobacco products, such as vapes and cigarillos, that make it much more likely they will ultimately become traditional cigarette smokers.

At least 99 jurisdictions in California, including Burbank, Beverly Hills, and unincorporated areas of Los Angeles County, have restricted the sale of flavored tobacco products. A tough law prohibiting the sale of flavored tobacco products in the City of Long Beach can protect young people and our vulnerable populations by cutting off access to the key products that is leading many to cigarettes, and potentially a lifetime of tobacco addiction. We urge you to act.

Should you have any questions or comments regarding this letter, please feel free to contact me at RDhillon@breathesocal.org or at (323) 935-8050 x233. Thank you for your consideration.

Sincerely,

Raj Dhillon

Raj Dhillon
Senior Manager, Advocacy & Public Policy



April 6, 2021

Long Beach City Hall
411 W Ocean Blvd.
Long Beach, CA 90802

RE: File # 21-0291 – Prohibiting the sale of flavored tobacco products

Dear Long Beach City Council:

The Emphysema Foundation of America (EFA) urges you to take bold action and restrict the sale of all flavored tobacco products without any further exemptions, as recommended by the City of Long Beach Department of Health and Human Services. EFA is dedicated to fighting for every breath of the over 15 million Americans suffering with emphysema and Chronic Obstructive Pulmonary Disease (COPD). Our mission is to increase awareness of emphysema and COPD and to conduct and support activities and research to prevent and treat those diseases.

Smoking cigarettes is the leading cause of preventable death nationally. Cigarette smoking is responsible for more than 480,000 deaths per year in the United States, including more than 41,000 deaths resulting from secondhand smoke exposure. This is about one in five deaths annually, or 1,300 deaths every day. And evidence suggests that young people who vape are more likely to go on to use illicit drugs and tobacco products such as cigarettes, which will lead to a lifetime of lung health issues.

Flavored tobacco products contain nicotine, which is a highly addictive chemical that can cause long-term damage to the adolescent brain. Menthol and flavored tobacco products are driving tobacco-related diseases and deaths throughout the country. For far too long, Big Tobacco has preyed upon our most vulnerable populations. The time is now to take a stand for public health and to protect all residents in the City of Long Beach from these harmful products.

Should you have any questions or comments regarding this letter, please contact me at (310) 424-3535 x250 or at MCarrel@emphysema.org. Thank you for your consideration.

Respectfully,

A handwritten signature in blue ink that reads "Marc Carrel".

Marc Carrel
President & CEO

emphysema.org

5858 Wilshire Blvd.
Suite 302
Los Angeles, CA
90036
O: 310.424.3535
F: 323.935.1873

From: Rima Khoury [mailto:rima@fumari.com]

Sent: Monday, April 5, 2021 3:54 PM

To: CityClerk <CityClerk@longbeach.gov>; Mayor <Mayor@longbeach.gov>; Council District 1 <District1@longbeach.gov>; Council District 2 <District2@longbeach.gov>; Council District 3 <District3@longbeach.gov>; Council District 4 <District4@longbeach.gov>; Council District 5 <District5@longbeach.gov>; Council District 6 <District6@longbeach.gov>; Council District 7 <District7@longbeach.gov>; Council District 8 <District8@longbeach.gov>; Council District 9 <District9@longbeach.gov>

Subject: Long Beach City Proposed Flavored Tobacco Ban

-EXTERNAL-

Dear Mayor and Councilmembers,

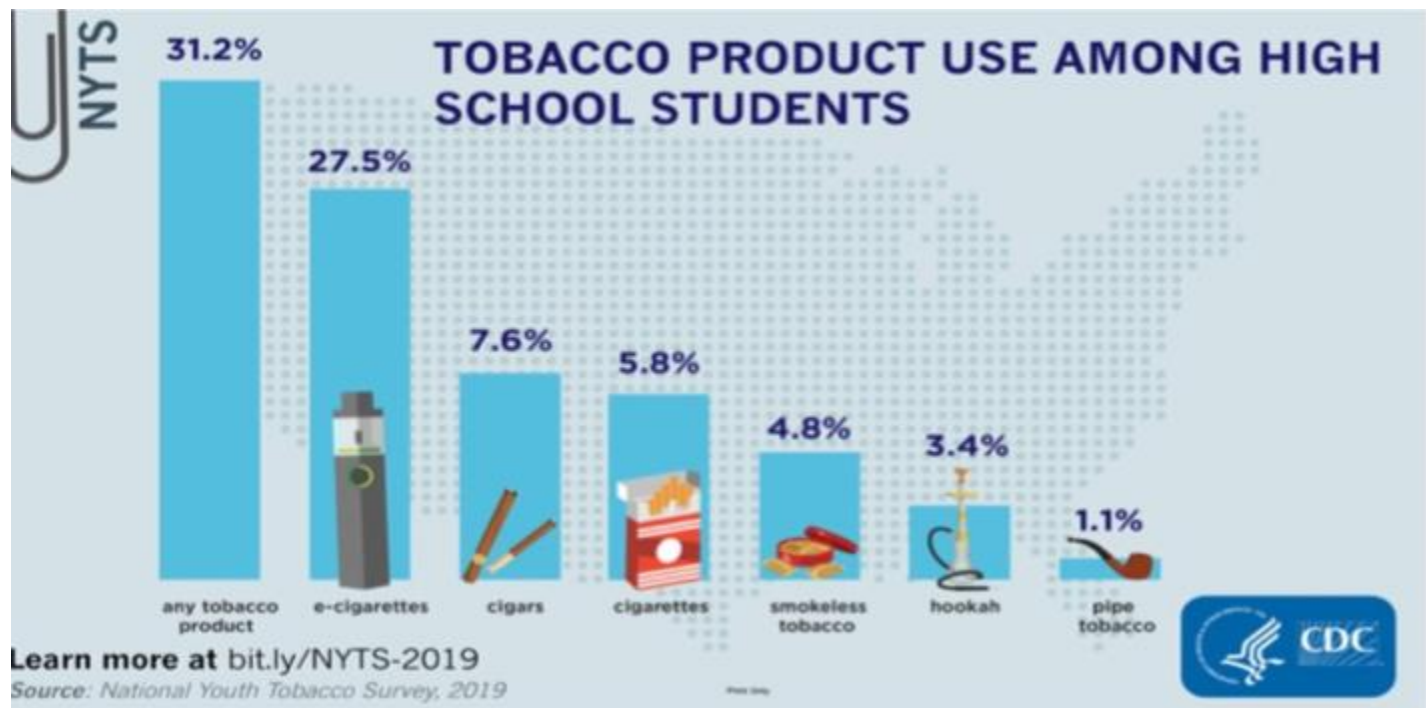
My name is Rima S. Khoury and I am one of the founding members of the National Hookah Community Association. <https://www.nationalhookah.com/>

Thank you for your consideration in preserving the thousand year cultural tradition of hookah by mirroring the hookah exemption in SB793.

Please see presentation link below for your consideration.

<https://docs.google.com/presentation/d/1bhG0nG19FKNrodTwON2jz9LbtwiSD9pdkTCxFRutY8I/present?usp=sharing>

There is no teen hookah epidemic. The FDA and CDC reports have made it clear that hookah is not the problem with youth. There are no facts that support a ban on hookah.



All hookah is flavored yet is used far less by high schoolers than cigarettes, smokeless tobacco, cigars and e-cigarettes, at 3.4 % nationally and 2 % in the state of California compared to 27.5% who vape.

Hookahs are not being confiscated in schools. Hookahs are 3 feet tall and cannot be easily concealed in your pocket or backpack like vape. Hookahs take 25 – 30 minutes to set up and need hot coals, therefore it cannot be smoked during recess in the bathroom at school. Hookah's cost over \$200 for all the parts and accessories, making it out of reach for most kids.

California Gov. Gavin Newsom stated in his executive order address on September 16, 2019 that "hookah is not the problem in classrooms".

Furthermore, FDA recently stated in their Guidance for the Industry dated January 2020 that although data shows that flavored tobacco entice youth, that such data does NOT appear to raise comparably urgent public health concerns with youth usage of hookah products because the lower prevalence of youth use of these products suggests that they do NOT appear to be as appealing to youth at this time. Emphasis added.

Hookah is not the problem.

Yet hookah is becoming collateral damage in the war against vape. Hookah is not vape. Hookah has been practiced for over a thousand years by Persians, Arabs, Armenians, Turks and Indians, many of which have immigrated to America and still practice their cultural traditions. Hookah is the center piece of social gatherings and is often offered to guests as a sign of hospitality and respect.

Many immigrant small business owners have built their business doing what they know from their home country. Often times they work 20 hour days, seven days a week to support multiple generations of their family. Rather than banning hookah and crippling these immigrant small business owners who are already struggling due to COVID-19, consider passing reasonable regulations that address youth usage and access. Many of these business owners that have been operating legally for years would be happy to work with law makers to address youth access issues. These hookah lounge and retailer owners often have several years remaining on their leases and have personally guaranteed their leases. They will not only lose their business, but their homes and no longer be able to support their family and extended family.

A tobacco flavor ban is a ban on hookah because it only comes in flavors. Even hundreds of years ago hookah was made with molasses and honey.

The federal government has recently passed a 21 and over minimum for tobacco products across all fifty states. In addition, the FDA has passed an e-cigg ban on flavored cartridges. September 9, 2020 is the FDA deadline for all vape and hookah products to be accepted for FDA review, after which any products without FDA authorization will be unlawfully on the market and their products seized and injunctions restricting sales will be issued along with fines and penalties.

Hookah has been exempted from the California State flavored tobacco ban, SB793, because of its cultural significance and that it is fundamentally different from vape. Please see attached video of Senator Hill, author of the bill, explaining why hookah was exempted from SB793 at the Senate Appropriations hearing on June 25th, 2020. Senator Hill learned the difference between vape and

hookah and understood that hookah was not the problem and took steps to exempt it due to its cultural significance. We thank the City of Long Beach for understanding these differences.

SB793, which, as amended and revised, prohibits the sale of all flavored tobacco products and flavored tobacco product enhancers, exempting hookah tobacco, cigars with a wholesale price of \$12.00 or more, loose leaf pipe tobacco was signed by Governor Gavin Newsom on August 28, 2020.

Please see the hookah exemption language from SB793 below:

(c) Subdivision (b) does not apply to the sale of flavored shisha tobacco products by a hookah tobacco retailer if all of the following conditions are met:

(1) The hookah tobacco retailer has a valid license to sell tobacco products issued pursuant to Chapter 2 (commencing with Section 22971.7) of Division 8.6 of the Business and Professions Code.

(2) The hookah tobacco retailer does not permit any person under 21 years of age to be present or enter the premises at any time.

(3) The hookah tobacco retailer shall operate in accordance with all relevant state and local laws relating to the sale of tobacco products.

(4) If consumption of tobacco products is allowed on the premises of the hookah tobacco retailer, the hookah tobacco retailer shall operate in accordance with all state and local laws relating to the consumption of tobacco products on the premises of a tobacco retailer, including, but not limited to, Section 6404.5 of the Labor Code.

Thank you for considering the rich cultural tradition of hookah and understanding what the real issues are. Please feel free to contact me with any questions or to discuss further. Thank you.

<https://www.youtube.com/watch?v=9qIUH3hmvUc>

The Culture of Hookah | An Exploration of History and Tradition



RIMA KHOURY, ESQ.
GENERAL COUNSEL
(619) 331-3535 EXT. 723
FUMARI INC.

The information in this email is confidential. It is intended only for the use of the individuals or entities named above. You are hereby notified that if you are not the intended recipient, or employee or agent responsible for delivering it to the intended recipient, any use, dissemination, distribution or copying of the information in this email is strictly prohibited. If you receive this email in error, please notify us immediately by telephone and delete the original. Th

From: OUT Tobacco [mailto:outagainstbigtobacco@gmail.com]
Sent: Monday, April 5, 2021 6:18 PM
To: CityClerk <CityClerk@longbeach.gov>
Cc: shannon.kozlovich@gmail.com; director@latinoequalityalliance.com;
mreataza@appealforhealth.org; ryanoda10@gmail.com
Subject: Letter from OUT Against Big Tobacco Coalition

-EXTERNAL-

Dear Monique De La Garza, CMC,

OUT Against Big Tobacco Los Angeles would like to send a letter of support for a comprehensive tobacco retail license.

Best,
Eddie Martinez



April 5, 2021

Long Beach City Council
City Hall
411 W Ocean Blvd
Long Beach, CA 90802

Re: Flavored Tobacco Sales

Dear Long Beach City Council members:

The OUT Against Big Tobacco Coalition supports restricting the sale of all flavored tobacco products without exception to protect our communities. We are an alliance of LGBTQ individuals, allies, and community organizations collectively working to address tobacco control and health inequity issues within Los Angeles County's LGBTQ+ community.

Our coalition strongly supports a restriction on the sale of all flavored tobacco products with no exemptions in the City of Long Beach. You have the opportunity to go further than the state legislature did with SB793 and include ALL flavored tobacco products in this ordinance, including hookah and premium cigars. We urge the Council to advance this ordinance to a second reading without the addition of exemptions.

When Congress passed the 2009 Tobacco Control Act, they restricted the sale of all flavored cigarettes except for menthol. Menthol being the flavor that is used most heavily within communities of color and by 70% of LGBTQ+ young people. This flavor is known to increase addiction to tobacco and increase the harms from the use of tobacco products. Yet, the federal government didn't think our community deserved equal protection from the tobacco industry.

In 2020, California attempted to correct this federal oversight and passed a bill to restrict the sale of flavored tobacco products. But Big Tobacco stepped in to protect their profits over the health of the people. This 2-year delay will make them a billion dollars in Menthol cigarette sales alone! We deserve better. Our lives should not be traded for a profit margin.

Restricting the sale of flavored tobacco ensures that tobacco users who want to quit are set up for success. Flavors not only mask the harsh taste and feel of a tobacco product, but they also increase tobacco addiction. Removing them from the shelves adds an additional barrier to non-tobacco users by no longer allowing Big Tobacco to hide their dangerous products behind pleasant tastes and smells.

Nearly 24% of California's LGBTQ+ population uses tobacco products, compared to just 17% of adults who don't identify as LGBTQ+. Estimates of smoking rates among LGBTQ youth range from 38% to 59%, compared to just 28% to 35% of youth generally. Our own research from Los Angeles County indicates that up to 38% of the local LGBT community are tobacco users, including up to 80% of transgender women.

OUT Against Big Tobacco Coalition

Eddie Martinez
Coalition Chair

Member Organizations:

AMAAD Institute
American Lung Association
APAIT
Gender Justice LA
Health Access
Invisible Men
Latino Equality Alliance
Los Angeles LGBT Center
LA Gay & Lesbian Chamber of Commerce
NAPAFASA
Pueblo Y Salud
Rescue Agency
San Fernando Valley Partnership
San Gabriel Valley LGBTQ Center
Thirdhand Smoke Resource Center
Trans Can Work
VMA Enterprises, Inc.

Members at Large:

Zul Surani
Cedars-Sinai Cancer Institute
Ian Holloway, PhD
UCLA Luskin School of Public Affairs
Michael Browning
Community Member

Staff:

Shannon Kozlovich, PhD
Marisa London
Ryan Oda
Equality California

Tobacco advertisements leverage LGBTQ+ values (e.g. pride, freedom, acceptance) and cultural elements (e.g., rainbow flag, same sex couples, drag queens, etc.) in order to appeal to LGBTQ people and make us feel like using tobacco is a key part of our LGBTQ+ identity. Big Tobacco funds AIDS and LGBTQ+ nonprofit organizations and sponsors pride celebrations and events at gay bars to portray themselves as “friends” of our community — even as they harm our health and undermine our progress.

These messages, in combination with tactics that appeal to younger members of the LGBTQ+ community like promotions in bars and clubs, have placed LGBTQ+ youth and young adults at higher risk than their non-LGBTQ+ counterparts. In fact, understanding this trend led the FDA to develop *This Free Life*, the first national LGBTQ+ tobacco prevention campaign to educate LGBTQ+ young adults about living a tobacco-free life. Restricting the sale of all flavors in all tobacco products will protect upcoming generations of LGBTQ+ people by removing the products from the market that hook them in the first place.

In our local area Beverly Hills, El Monte, and the County of Los Angeles have already passed city/countywide bans on the sale of all flavored tobacco products, including Menthol and Hookah. The OUT Against Big Tobacco Coalition encourages Long Beach to protect the local community in ways that the FDA has refused to, and California was unable to by restricting the sale of all flavors in all tobacco products. Policies that prohibit the sale of flavored tobacco products, without exemption, offer the strongest protection for our youth and our communities from a lifetime of addiction and a preventable premature death.

Sincerely,

A handwritten signature in black ink that reads "Eddie Martinez" with a long, sweeping underline.

Eddie Martinez
Coalition Chair
OUT Against Big Tobacco Los Angeles

OUT Against Big Tobacco Coalition

The OUT Against Big Tobacco Coalition, staffed by Equality California Institute, is an alliance of LGBTQ+ individuals, allies and community organizations collectively working to address tobacco control and health inequity issues within Los Angeles County’s LGBTQ+ community. We advocate for common sense policies that protect LGBTQ+ people — especially the most vulnerable members of our community — from Big Tobacco’s predatory marketing tactics.

From: Jaime Rojas Jr [mailto:jaime@rojascommunications.com]
Sent: Monday, April 5, 2021 3:39 PM
To: CityClerk <CityClerk@longbeach.gov>
Subject: Letter for Public Record - City Council Meeting for April 6 - Agenda Item #29

-EXTERNAL-

Good Afternoon Long Beach City Clerk,

Please find attached a letter to be submitted to the City Council and for public record for tomorrow's City Council meeting regarding agenda item #29. Should you have any questions, please feel free to contact me.

Thank you.

Jaime Rojas

--

National Association of Tobacco Outlets
Legislative Consultant

18653 Ventura Blvd., Suite 115
Tarzana, CA 91356
Tel: 213.400.8664
www.RCGcommunications.com



April 5, 2021

Mayor Robert Garcia
Members of the Long Beach City Council

RE: Proposed Flavored Tobacco Products Ban

Dear Mayor Garcia and Councilmembers:

As the Executive Director of the National Association of Tobacco Outlets (NATO), a national retail trade association that represents more than 60,000 retail stores throughout the country including many Long Beach retail store members, I am writing to submit our comments and concerns regarding the proposed ban all flavored tobacco products, including menthol cigarettes, all flavors of smokeless tobacco, flavored cigars, pipe tobacco, flavored electronic cigarette and nicotine vapor products, and other new alternative nicotine products (except for those products sold at hookah lounges and premium cigars under certain conditions.) We would ask that the city council not adopt this ban for the reasons explained below.

Prohibition Would Be Detrimental to Public Health: A local flavored product ban would move all flavored traditional tobacco products and flavored electronic nicotine vapor products out of the city's current regulated retail environment and into an illicit market that would grow exponentially. Why? Because prohibition has been enacted in this country before and it has proven to be a failed policy. Legal age adults who currently buy these products will simply find other sources. One such source will be the unregulated, illicit market which will expand to respond to the increased demand for flavored products. In addition, Long Beach residents will purchase products in a neighboring city and, at the same time, purchase gasoline and other products to the detriment of Long Beach's retailers.

The end result is that the health-related purposes of the ordinance will be undermined because adults will continue to use these products. In short, the adoption of a citywide flavor ban would be detrimental from a public policy standpoint because the outcome would be directly contrary to overall health-related goals.

Flavored Tobacco Product Bans Increase Cigarette Smoking: A study published June 2020 in *Science Direct-Addictive Behavior Reports* regarding the City of San Francisco flavor ban ordinance found that after the ban was in force for nearly a year, flavored tobacco product use was reduced, but *cigarette smoking among 18-24-year-olds increased by over 35%*. The study also found that most consumers of flavored tobacco products find alternative sources for these products. A link to the study is below:

<https://www.sciencedirect.com/science/article/pii/S2352853220300134?via%3Dihub>

Low and Declining Use Rates of Traditional Tobacco Products Require Analysis of Product Appeal:

According to the 2020 National Youth Tobacco Survey published by the Centers for Disease Control (CDC), current tobacco product use rates among high school students nationwide are:

Cigarettes:	4.6%	Pipe Tobacco:	0.7%
Cigars:	5.0%	Electronic Cigarettes:	19.6%
Smokeless Tobacco:	3.1%		

A discussion about banning all flavored tobacco products needs to differentiate between the appeal of flavored electronic nicotine vapor products versus traditional tobacco products (i.e., cigarettes, cigars, smokeless tobacco and pipe tobacco). As the CDC data demonstrates, youth appeal to and use of these traditional tobacco products is at historic lows and decreasing. This means that the empirical data showing very low and declining underage use rates does not support the wholesale banning of all traditional flavored tobacco products that legal age adults prefer to purchase and use.

FDA and Congressional Actions on Electronic Cigarettes and Nicotine Vapor Products: If the genesis of the ordinance was the underage use of electronic cigarettes and nicotine vaping products, council members need to be aware that, according to the CDC, youth usage of electronic cigarettes has also decreased by 33% from 2019 to 2020. Moreover, the U.S. Food and Drug Administration and Congress have taken significant actions that have resulted in the removal of a substantial number of flavored electronic nicotine vapor products from the market and curbed youth accessibility via the Internet. These strong measures should be allowed to work to further reduce youth access to and use of electronic nicotine vapor products.

Specifically, in February 2020, the FDA adopted a ban on the sale of all flavored cartridge-based and pod-based electronic cigarettes, except for tobacco and menthol flavored products. This action removed hundreds of electronic nicotine products from the market. The agency took this action because these kinds of electronic cigarettes were appealing to underage youth. At the same time, the FDA permitted tobacco and menthol flavored electronic cigarettes to remain on the market because youth usage of these two flavors was very low and because menthol electronic cigarettes may assist adults in transitioning away from smoking.

In addition, the FDA required that manufacturers of all electronic cigarette products file what is known as a pre-market tobacco product application with the agency by September 9, 2020 in order to keep their products on the market. Since some manufacturers did not file these applications, even more electronic nicotine products were removed from the market. Also, the FDA has one year to review each application and must decide whether an electronic nicotine vapor product is “appropriate for the protection of the public health” in order to authorize the continued marketing of the product.

Then, as a part of the economic stimulus bill that Congress passed and which was signed into law in December, a federal law known as the Prevent All Cigarette Trafficking Act was expanded to place new restrictions on the sale of electronic cigarettes and nicotine vapor products over the Internet. These restrictions include age verification at the time of purchase, a signature of an adult 21 or older when the products are delivered, and collection and remittance of state excise and sales taxes on the products. This new law will further restrict access by anyone to electronic nicotine vapor products.

Prohibition of Flavored Modified Risk Tobacco Products: The FDA regulations also allow a manufacturer to file what is known as a “modified risk tobacco product” application to seek a determination that a tobacco product has a reduced risk or reduced level of exposure when an individual

uses the product. Two sets of products have received this special modified risk designation by the FDA, including Swedish Match General Snus (a moist, powered tobacco in a pouch) and Philip Morris IQOS (a heat, not burn, tobacco product). Both of these products come in flavored versions and their modified risk designation is very important from a health perspective to those individuals who use these products. A flavor ban ordinance would prohibit the sale of all flavored versions of these modified risk products to the detriment of the public health.

Voters Want to Decide Whether Flavor Bans Make Sense: As you are no doubt aware, SB793, which would have banned most flavors statewide, has been referred to the voters as well over the required 600,000 plus voters signed a referendum petition. Voters want their say on flavor bans. We respectfully suggest that deferring action until the voters have spoken is in the best interest of Long Beach and its retailers.

Pandemic Impact and Economic Crisis Will Be Magnified by a Flavored Tobacco Product Ban: During the ongoing COVID-19 pandemic is not the time for the city council to consider prohibiting the sale of legal tobacco products. Our convenience store members have experienced losses of up to 45% in gasoline sales and 20% or more in grocery, snack, beverage, and tobacco product sales, significant numbers because convenience stores usually rely on tobacco product sales for approximately 36% of in-store sales. In addition, tobacco specialty stores that rely on tobacco product sales for up to 90% of total sales will be devastated by the loss of hundreds of products.

Retailers have done everything possible to survive the pandemic, but if Long Beach retailers must remove hundreds of flavored products from their shelves, it will be very difficult to compete with retailers in neighboring localities and employee layoffs and even store closures are real possibilities.

NATO and its Long Beach retail members share everyone's interest in keeping tobacco and electronic nicotine vapor products out of the hands of persons under 21 years old, but banning all of these flavored products makes no sense from a health standpoint or economic point of view.

We urge the Long Beach City Council not to move forward with the proposed ordinance. Thank you for your consideration.

Sincerely,

Thomas A. Briant

NATO Executive Director