



November 12, 2019

The Honorable Robert Garcia  
City of Long Beach  
411 Ocean Boulevard  
Long Beach, CA 90802

**RE: ORD-20**

Dear Mayor Garcia and Council:

**Unfortunately, we are unable to support this ordinance as written.** ACS CAN welcomes the council's attention on the teenage e-cigarette crisis and supports the council's proposal to end the sale of all flavored tobacco products, including menthol cigarettes. However, the penalty structure is unclear and could lead to criminalization of youth, while not holding retailers accountable for illegal sales. We ask the council for the following amendments:

1. ACS CAN opposes penalties for youth who are found to be in possession of tobacco products. These laws have not been proven to be effective, are disproportionately applied to communities of color, and detract resources from proven tobacco control strategies, such as holding retailers responsible for selling to underage purchasers.
2. The penalty structure is not clear. There is a list of possible penalties and it appears that the penalties may be levied against the clerk and/or the retailer, as you define "person," with the possibility of criminal or civil penalties for either. The ordinance should specify that a violation of any existing local, state or federal tobacco regulation violates the license, and should be specific as to what the penalty will be for each violation. Penalties should include meaningful financial deterrents for retailers with escalating fines and/or penalties that include the suspension and revocation of the license for repeat offenders

Prohibiting the sale of all flavored tobacco products, including menthol cigarettes and 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. ACS CAN fully supports these provisions.

We look forward to working with you to improve this policy, so that we can enthusiastically support the ordinance. However, if this proposed ordinance does not clearly define an escalating penalty structure for retailers or if it criminalizes minors, we must urge a NO vote.

**American Cancer Society Cancer Action Network**

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Sincerely,

*Primo J. Castro*

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American Cancer Society Cancer Action Network

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October 12, 2019

In California in 2016, The American Lung Association in California, the American Heart Association and the American Cancer Society Cancer Action Network made a huge impact on the public health of California residents by changing state law to raise the legal age of sale for tobacco products to 21. Included in that victory was the removal of the state's purchase, use, and/or possession (PUP) law which punished minors for possessing tobacco products. Our organizations did this because civil and criminal penalties for youth purchase, use and/or possession have not proven to be effective enforcement measures and detract from more effective tobacco control strategies. We believe that any penalty (if the law is broken) should be levied only on the retailer and not the underage purchaser.

Big Tobacco has a long history of attracting and addicting youth and young adults with highly-targeted marketing. However, PUP laws do not protect children from the misleading messaging and advertising by the tobacco industry. Getting rid of PUP laws shifts the responsibility back to the tobacco industry and retailers, and away from the vulnerable youth themselves.

PUP laws are also expensive and difficult to enforce. Newer tobacco products such as e-cigarettes and JUUL, which are popular among youth, are designed to be used discreetly. Punishment for their possession and/or use has not proven to reduce repeat violations. Studies also suggest that PUP laws are disproportionately applied to communities of color. This diverts law enforcement's time and money away from effective tobacco control measures.

To best protect youth from the harmful effects of tobacco, it is important that local jurisdictions do not pass new local youth possession laws. **The American Lung Association, American Cancer Society, and American Heart Association oppose any efforts by California localities to reinstate youth tobacco possession laws.** Instead, cities and counties should use proven strategies to prevent youth from obtaining tobacco products. Studies show that strong definitions of tobacco product that include electronic cigarettes, tobacco retail licensure requirements with penalties for store owners, increasing minimum price or pack size, and prohibiting the sale of flavored tobacco products including menthol can all effectively reduce youth access and tobacco use rates.

Together we must continue to work to stop Big Tobacco from attacking and addicting our vulnerable youth.

Sincerely,

American Lung Association in California  
American Cancer Society Cancer Action Network  
American Heart Association