



TOBACCO FREE KANSAS COALITION

Our Mission:

To eliminate tobacco use among Kansans through advocacy, education & collaboration

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February 13, 2020

Rep. John Barker, Chairman
Kansas House Federal and State Affairs Committee
RE: Testimony in opposition to HB 2563

Dear Representative Barker:

Thank you for this opportunity to address this committee. I am Tara Nolen, Past-President of the Tobacco Free Kansas Coalition. I am here today representing the TFKC Board of Directors, policy committee and TFKCs nearly 300 members to oppose HB 2563 because it includes an inadequate flavor ban – the bill bans only e-cigarette flavors with an exemption for menthol.

Tobacco control and public health advocates recognize that the best way to protect youth from getting started using e-cigarettes, cigarettes or other tobacco products is to ban all flavors for all products. TFKC specifically and strongly opposes the exemption for menthol flavor in HB 2563.

A menthol exemption will not adequately protect Kansas children and youth from initiating use of e-cigarettes because youth smokers are more likely to use menthol cigarettes than any other age group. Over half (54 percent) of youth smokers ages 12-17 use menthol cigarettes, compared to less than one-third of smokers ages 35 and older.¹

Menthol is a chemical compound that numbs the throat, reducing the harshness of smoking, thereby making menthol, both cigarettes and e-cigarettes more appealing to youth who are initiating tobacco use.² By masking the harshness with cooling menthol flavor, the tobacco industry makes it easier for beginners – primarily children – to try these products and then become addicted to them.

Data from the government's Population Assessment of Tobacco and Health (PATH) study confirms that youth menthol smokers are more likely to perceive menthol cigarettes as easier to smoke than regular cigarettes.³

Despite TFKCs strong opposition to an e-cigarette only flavor ban with a menthol exemption, there are aspects of HB2563 that are very important to a robust T21 policy for Kansas that will complement the federal Tobacco 21 legislation passed at the end of 2019.

TFKC supports the increase in the tobacco retail license fee from \$25 every two years to \$100 every two years. This increase is important since the \$25 fee has not changed since 1972 and no longer functionally funds enforcement.



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However, the Kansas Department of Revenue estimates that full enforcement of T21 would take an increase to \$150 every two years. We encourage the Committee to consider increasing the tobacco retail license fee to \$150 every two years to ensure enforcement agencies have the resources they need to enforce this law.

TFKC supports that HB 2563 removes penalties for youth purchase, use and possession. The current Kansas statute now in effect includes penalties for youth purchase, use and possession of cigarettes and tobacco products (PUP). Rather than treat children as the wrongdoers, youth access laws should focus on limiting access to tobacco products. Sanctions against retailers are more easily and systematically enforced. It also makes more sense and it's more effective to conduct compliance checks for retailers, who are fewer in number compared to youth and whose locations are both known and constant.

In the areas of enforcement and decreased access of youth to tobacco products, HB 2563 includes an increase in compliance checks from one controlled buy per year to two buys annually. With this increase in efforts to secure compliance among retailers, it is important to consider increasing the tobacco retail license fee to \$150 every two years as mentioned earlier.

HB 2563 – Kansas' Tobacco 21 legislation - includes provisions that will reduce the number of youth and young adults who start smoking; reduce smoking-caused deaths; and immediately improve the health of adolescents, young adults and young mothers who would be deterred from smoking. It will increase funding for enforcement and increase controlled buys to compel compliance among retailers.

It does not however, address the most significant issue – the need for a comprehensive flavor prohibition. The evidence is clear – children and youth use menthol flavored e-cigarettes, cigarettes and other tobacco products more than any other group. The exemption of menthol flavor included in HB 2563 is not a small compromise - it is a significant and harmful concession that puts children and youth at risk for a lifetime addiction. By including a ban on flavoring only on e-cigarettes and exempting menthol flavor from that prohibition, Kansas is missing the opportunity to do its very best to protect children and youth from the harmful impacts of tobacco use.

Thank you for this opportunity.

¹ U.S. Federal Trade Commission (FTC), Cigarette Report for 2018, 2019, <https://www.ftc.gov/system/files/documents/reports/federal-tradecommission-cigarette-report-2018-smokeless-tobacco-report-2018/p114508cigaretterreport2018.pdf> [data for top 5 manufacturers only].;

² FDA. Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes (2013)

³ Cohn, AM, et al., "Menthol Smoking Patterns and Smoking Perceptions Among Youth: Findings from the Population Assessment of Tobacco and Health Study," American Journal of Preventive Medicine, 56(4): e107-e116, 2019.