

June 29, 2021

House Committee on Health & Human Services  
Rhode Island House of Representatives  
82 Smith Street  
Providence, RI 02903

**Testimony of RAI Services Company  
Opposition to H.6396 – An Act Relating to Health and Safety – Tobacco Product Sales’  
Restrictions**

Dear Chair Casey and Members of the House Committee on Health & Human Services:

RAI Services Company is writing on behalf of Reynolds American Inc. operating companies that are leading manufacturers of cigarettes, smokeless tobacco products, e-cigarettes and oral nicotine products, in opposition to House Bill 6396.

Reynolds is firmly committed to supporting appropriate legislation and policy that reduces the health burdens of tobacco. However, there is now significant experience with tobacco flavor bans and that experience demonstrates such laws are unnecessary and counter-productive. For example:

- Adult and youth smoking rates are at historic lows, and continuing to decline. Based on government data only 1.1% of youth smoke menthol cigarettes (any use, even a puff in the past 30 days; most of the 1.1% smoked on five or fewer days in that time period), and only 4.4% of adults smoke menthol cigarettes. Indeed, youth are much more likely to smoke marijuana or consume alcohol according to government data sources.
- The science regarding menthol cigarettes demonstrates, as FDA has concluded, “...menthol in cigarettes is not associated with an increase in disease risk to the user compared to non-menthol cigarette smokers.”<sup>1</sup> Moreover, there is abundant literature supporting the conclusion that menthol cigarettes are not more addictive or harder to quit than non-menthol cigarettes. Another common, but inaccurate claim, is that menthol facilitates ingestion of the smoke. But again, the science demonstrates no differences in smoke inhalation comparing menthol and non-menthol.<sup>2</sup> In fact, many studies document that menthol smokers smoke fewer cigarettes per day,<sup>3</sup> and thus ironically, a ban on menthol risks increasing smoking.

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<sup>1</sup> FDA, “Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol Versus Nonmenthol Cigarettes,” p. 6 (2013).

<sup>2</sup> E.g., Gunawan & Juliano (2020) (“Menthol was not associated with greater smoke exposure.”).

<sup>3</sup> E.g., Cohen et al. (2018).

- The impact of banning flavored tobacco products can be seen from the experience of the few places that have done so to date. For example, the Massachusetts ban did not reduce use of the products – consumers simply obtained them from adjacent states or illicit sources. San Francisco’s flavor ban had the same outcome, and worse, according to new research resulted in a 30% increase in youth smoking.<sup>4</sup> The unintended consequences of tobacco flavor bans are widely documented and would be repeated in Rhode Island if this legislation is adopted: significant lost tax revenue, harm to local retailers and lost jobs, increased crime and social justice concerns stemming from a disparate impact of such a law on communities of color, among others, are likely and difficult problems to address in their own right.
- The science not to ban flavors in vapor (e-cigarettes) and oral nicotine products is also compelling. The Director of the FDA’s Center for Tobacco Products, and other leading public health researchers have noted that there “is a very pronounced continuum of risk depending upon how toxicants and nicotine, the major addictive in tobacco, are delivered.”<sup>5</sup> More specifically, “[t]he advent of e-cigarettes presents a significant opportunity for addicted adult smokers to transition from conventional cigarettes to potentially less dangerous nicotine delivery products.”<sup>6</sup> Similarly, in a recent review of the evidence by the National Academies of Science and Medicine, it concluded that “[t]here is conclusive evidence that completely substituting e-cigarettes for combustible tobacco cigarettes reduces users’ exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes.”<sup>7</sup> Population modeling projects the opportunity to save millions of lives in the U.S. with such products.<sup>8</sup>
- But for adult smokers to switch to these alternatives that may present less risk -- such as vapor, oral nicotine, or other smokeless tobacco products – they must be acceptable to adult smokers. Substantial evidence exists to date that flavors are critical to adult smoker acceptability, and thus this proposed legislation disserves public health by making those products less acceptable to adult smokers. This bill would harm that effort, by making these alternatives less acceptable by removing flavors, and thus this legislation will in fact harm public health.
- The better approach is straight-forward: support regulation and availability of alternatives to traditional combustible cigarettes for adult smokers who are not prepared to quit and encourage them to switch to these products.<sup>9</sup> We are at a watershed moment in this country as the U.S. Food & Drug Administration is considering these precise issues

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<sup>4</sup> Friedman (2021).

<sup>5</sup> Zeller et al. (2009).

<sup>6</sup> Zeller (2019).

<sup>7</sup> NASEM, Public Health Consequences of E-Cigarettes (2018).

<sup>8</sup> E.g., Levy (2021).

<sup>9</sup> E.g., Abrams et al. (2018).

through the pending Premarket Tobacco Application Process. FDA’s science-driven, exhaustive review process will only permit products that are “appropriate for the protection of public health.” This process would be completely undermined by the proposed legislation that in one fell swoop removes such potentially important products from the market for adults in Rhode Island.

Your consideration of these comments is sincerely appreciated.



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