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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director 
Legislative Policy Division Staff

DATE: April 28, 2023

RE: RESOLUTION URGING THE MICHIGAN LEGISLATURE TO END THE SALE OF
FLAVORED TOBACCO PRODUCTS

Council Member Scott Benson requested that the Legislative Policy Division (LPD) draft a
RESOLUTION URGING THE MICHIGAN LEGISLATURE TO END THE SALE OF FLAVORED
TOBACCO PRODUCTS

Please contact us if we can be of any further assistance.

**RESOLUTION URGING THE MICHIGAN LEGISLATURE TO END THE SALE OF
FLAVORED TOBACCO PRODUCTS**

WHEREAS, According to the Michigan Department of Health and Human Services (MDHHS), tobacco use is the leading cause of preventable death and disability in Michigan and contributes greatly to heart disease, cancer, and stroke¹; and

WHEREAS, Flavors improve the taste and mask the harshness of tobacco products, most notably, menthol flavor. According to the Centers for Disease Control & Prevention (CDC), adult use of flavored tobacco products is linked with increased tobacco addiction. Menthol is a chemical added to cigarettes and other tobacco products that creates a cooling sensation. These features make tobacco products more appealing to youth and new smokers, more addictive, and more difficult to quit²; and

WHEREAS, Flavored tobacco products play a key role in youth initiation and continued use of tobacco, as most youth and young adults are more likely to try a menthol cigarette as their first cigarette.³ Roughly 80 percent of 12-to-17-year-olds who use a tobacco reported that they used a flavored tobacco product in the last month⁴. Flavored tobacco products, particularly e-cigarettes, are clearly favored by middle and high school students and studies have shown that nicotine exposure during adolescence is more likely to lead to sustained tobacco use⁵; and

WHEREAS, African Americans, Hispanics, youth, and LGBT (lesbian, gay, bisexual, and transsexual) individuals, and individuals with a behavioral health diagnosis are disproportionately impacted by the harms of menthol cigarettes.⁶ Despite African Americans usually smoking fewer cigarettes, they are more likely to die from smoking-related diseases related to

¹ MDHHS Michigan Commercial Tobacco Use Fact Sheet (Revised February 2023) - https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Keeping-Michigan-Healthy/Chronic-Disease/Tobacco/10-Data-and-Statistics/State_of_Michigan_Tobacco_Fact_Sheet.pdf?rev=f016d754bc5b4781bb84941becc7aab4&hash=A722BAD1B29E9511BAADE7BC7A5090E1

² U.S. Food and Drug Administration. [Scientific Review of the Effects of Menthol in Cigarettes on Tobacco Addiction: 1980-2021](#). 2022.

³ Villanti, AC, Johnson AL, Halenar MJ, et al. (2021). [Menthol and Mint Cigarettes and Cigars: Initiation and Progression in Youth, Young Adults and Adults in Waves 1-4 of the PATH Study, 2013-2017](#). *Nicotine Tob Res.* 2021;23(8):1318–1326. doi: 10.1093/ntr/ntaa224.

⁴ Gentzke AS, Wang TW, Cornelius M, et al. Tobacco product use and associated factors among middle and high school students—National Youth Tobacco Survey, United States, 2021. *MMWR Surveill Summ* 2022;71(No. SS-5):1–29. <https://doi.org/10.15585/mmwr.ss7105a1> PMID:35271557

⁵ US Department of Health and Human Services. The health consequences of smoking—50 years of progress. Atlanta, GA: US Department of Health and Human Services, CDC; 2014. Available at http://www.cdc.gov/tobacco/data_statistics/sgr/50th-anniversary/index.htm.

⁶ Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. Substance Abuse & Mental Health Data Archive. [National Survey on Drug Use and Health, 2019](#)

higher menthol use.⁷ There is a long history of the tobacco industry targeting these populations with tobacco marketing⁸; and

WHEREAS, A policy regulating the use of flavored tobacco products should include a comprehensive definition of “tobacco product,” which would prevent tobacco users substituting one product for another. A comprehensive definition would include combustible tobacco products; heated tobacco products; electronic smoking devices; smokeless tobacco products; any component, part, or accessory; products containing nicotine from any source (other than those approved for cessation by the U.S. Food and Drug Administration); and broad language anticipating new and emerging products; and

WHEREAS, Ending the sale of menthol cigarettes would save lives. Studies estimate that prohibiting menthol cigarettes in the U.S. would lead 923,000 smokers to quit, including 230,000 African Americans.⁹ They project that 633,000 deaths would be averted, including 237,000 African American deaths. Ending the sale of all flavored tobacco products would likely significantly reduce the new generation of tobacco users, lower health care costs, and ensure an equitable approach to health in the United States; and

WHEREAS, Many states and over 360 localities have ended the sale of flavored tobacco products to protect kids and reduce health disparities. If Michigan takes this step, it would be a leader in protecting the health of its residents; and

WHEREAS, Section 14 of the Tobacco Products Tax Act (MCL 205.434) prohibits local units of government from imposing “any new requirement or prohibition pertaining to the sale or licensure of tobacco products for distribution purposes.” Despite local interest in passing policies related to tobacco sales and licensure, including local flavored tobacco restrictions, concerns about preemption and uncertainties about legal interpretation have had a chilling effect on local policy efforts for nearly three decades; and

WHEREAS, In the mid-1990s, at least 46 policy resolutions urging the repeal of preemption of local tobacco regulation were passed covering 56 Michigan counties, cities, and townships. Municipalities in all regions of the state were represented; and

WHEREAS, Preemption is a strategy frequently used by the tobacco industry to limit local tobacco regulations; and

WHEREAS, Repealing Section 14 of the Tobacco Products Tax Act would strengthen local control and improve the ability of local units of government to pass tobacco policies that address concerns in the communities they serve; **NOW, THEREFORE BE IT**

RESOLVED, By this body, we urge the Michigan Legislature to end the sale of flavored tobacco products in the State of Michigan, including menthol products; **AND BE IT FURTHER**

⁷ Mendez D, Le TTT. [Consequences of a Match Made in Hell: the Harm Caused by Menthol Smoking to the African American Population Over 1980–2018](#). *Tob Control*. 2021;0:1–3. doi:10.1136/ tobaccocontrol-2021-056748.

⁸ Gardiner PS. The African Americanization of menthol cigarette use in the United States. *Nicotine Tob Res* 2004; 6 Suppl 1:55–65. doi:10.1080/14622200310001649478 pmid:http://www.ncbi.nlm.nih.gov/pubmed/14982709

⁹ Chung-Hall J, Fong GT, Meng G, *et al*. Evaluating the impact of menthol cigarette bans on cessation and smoking behaviours in Canada: longitudinal findings from the Canadian arm of the 2016–2018 ITC Four Country Smoking and Vaping Surveys *Tobacco Control* 2022; 31:556-563.

RESOLVED, The Detroit City Council strongly urges the Michigan Legislature to repeal Section 14 of the Tobacco Products Tax Act (MCL 205.434) restricting local units of government from imposing policies pertaining to the sale or licensure of tobacco products for distribution purposes; **AND BE IT FINALLY**

RESOLVED, That copies of the resolution be transmitted to the Majority Leader of the Michigan Senate, the Speaker of the Michigan House of Representatives, the chair of the Michigan Senate Committee on Local Government, the chair of Michigan Senate Committee on Health Policy, the chair of the Senate Committee on Regulatory Affairs, the chair of the Michigan House of Representatives Committee on Health Policy, the chair of the Michigan House of Representatives Committee on Tax Policy, the chair of the Michigan House of Representatives Committee on Local Government and Municipal Finance.