218th New JErsey Legislature

senate health, human services and senior citizens Committee

HoN. joseph vitale—Chair

Testimony

Sal Risalvato

Executive Director

New Jersey Gasoline-Convenience-Automotive Association

S-1947

OPPOSE

November 14, 2019

Committee room 4

Trenton, NJ 08625

**Testimony of Sal Risalvato**

**S-1947: Oppose**

Chairman Vitale, members of the Committee, my name is Sal Risalvato, Executive Director of the New Jersey Gasoline, Convenience Store, Automotive Association (NJGCA), here representing nearly a thousand independent small businesses in this state, including several hundred convenience stores who will be harmed by this legislation—and with little benefit to the public health.

Menthol cigarettes are not a tiny portion of the cigarette market, in New Jersey estimates show they range represent 40% of all cigarettes sold. No state in the nation has banned menthol cigarettes. In 2013, the federal Food and Drug Administration (FDA) considered banning menthol cigarettes, but backed down in part because they received about 220,000 comments regarding the ban, almost all of them opposed.

If the FDA were to ban menthol on a nationwide basis, then at the very least it would significantly cut down on the availability of them. But the fact that New Jersey would be the only state in the nation to have a menthol ban means there would be little effect on actual smoking rates. New Jersey’s small geography makes us uniquely unqualified to be at the forefront of banning products legal in other states. Most of our residents live within about an hour’s drive of another state, making it easy for them to head to border area c-stores and purchase a few cartons of their preferred brand of menthol cigarettes.

Others will not have to travel at all as there will no doubt be a huge spike in black market availability, as professional criminals haul up loads of menthol cigarettes to sell on the street, likely at a discount given the fact that the tax on a pack of cigarettes in Virginia is only 30¢ a pack, a deep reduction of the $2.70 owed in New Jersey. Black marketers also do not care about checking their customers for age, and stores in Delaware and Pennsylvania will sell to the 18, 19, and 20 year old adults who are now prohibited from purchasing any tobacco product here in New Jersey. Black market cigarettes do not just come from other states, but also counterfeit cigarettes are shipped in from overseas, particularly China, and may be even more dangerous than the traditional cigarette. Cigarette smuggling has also been used over the years as a source of revenue for serious criminal elements including organized crime and terrorist organizations.

Menthol smokers switching to packs which were purchased out-of-state represents the worst possible outcome for both the State and business owners. For c-store owners, there is virtually no profit to be made from the sale of the pack of cigarettes itself due to the slim margins they are forced to work on because of competition from big chains, the profit comes from the ancillary purchases often made by tobacco customers. If those consumers instead purchase their cigarettes from illegal or out-of-state sellers, then that employer loses all of that business. A study conducted by Management Science Associates in 2018 estimated that NJ retailers would collectively lose between $850 and $950 million in sales, including ancillary sales, equating to an average of $12,000-$15,000 in gross margins per year.

The State is also looking at substantial financial losses as well. In the last fiscal year the cigarette tax brought in over $800 million. If all menthol cigarette purchasers either stopped smoking or started purchasing out-of-state packs, then the State would lose about $200-$250 million per year in cigarette taxes, as well as about $55-$60 million in sales tax collections. Cigarette Tax revenues have regularly been a contributor to the state’s General Fund, but this bill not only eliminate that General Fund revenue it will require money from the General Fund to start flowing into the state’s hospital fund to make up the shortfall it will face with such a significant and immediate decline in revenue.

These tradeoffs may be worth it to the State as a whole if the smoking rate actually fell 40%, but clearly this will not be the case.

It would be a strange irony if just as we are discussing legalizing marijuana because of its failed prohibition, we also created a similar and far less effective prohibition on cigarettes. While there may be value in passing a bill to “send a message”, this particular proposal will come at a big cost to New Jersey small business owners.

I ask that you oppose it.

Thank you.