

NEW JERSEY MONITOR

Bill to Ban Menthol Cigarettes Still Alive, Lawmakers Say

By: Nikita Biryukov, July 22, 2022

The men who chair the Legislature's health committees have not given up on their push to enact a statewide ban on menthol cigarettes, despite its failure to advance far before the body's customary summer recess.

"I'm still advocating for it, and I'm hopeful that I can convince the leadership that it's important to pursue," said Sen. Joe Vitale (D-Middlesex), who chairs the Senate's health committee.

The bill in question would end exemptions for menthol and clove-flavored cigarettes present in a 2008 law that banned all other cigarette flavors. The measure would also outlaw flavored hookah tobacco.

Vitale and Assemblyman Herb Conaway (D-Burlington), chair of the Assembly Health Committee, have sought to ban menthol because of its disproportionate use by young and nonwhite smokers, along with negative health impacts the lawmakers say are more severe than those associated with unflavored cigarettes.

Because menthol cigarettes numb the user's throat, smokers who use them can take longer draws with less discomfort, said Conaway, a physician who said he is confident about the measure's chances in his chamber.

"I have not heard a lot of objection to it," he said. "I think people understand that menthol promotes addiction and that cigarette smoking is bad, and anything we can do to retard addictive drive is something we ought to do."

Conaway's committee advanced the bill in an 8-3 vote along party lines on June 2, but the measure did not make it to the Assembly floor last month. It has yet to come before Vitale's committee.

The push to ban menthol cigarettes has drawn few allies and many opponents. Tobacco firms and interest groups representing businesses, wholesalers, and supermarkets have lobbied against the ban, saying they fear its economic impacts.

"For a lot of convenience stores, as much as 50% of your gross sales can be cigarette related. Menthol's 40% of that. You lose that business," said Eric Blomgren, director of government affairs at the New Jersey Gasoline, C-Store, Automotive Association.

Blomgren added a ban could reduce other sales by decreasing foot traffic in stores.

Other opponents warn a ban would bolster black market cigarette sales or drive smokers to other states to purchase menthol cigarettes, which accounted for 37% of all domestic U.S. cigarette sales in 2020, according to the Federal Trade Commission.

The American Civil Liberties Union of New Jersey has cautioned against prohibition over worries it could increase police interactions in Black communities, and the American Heart Association in early June said the measure did not go far enough, urging amendments that would expand the ban to include all flavors and all tobacco products.

There's also the question of taxes. In a fiscal note attached to the bill, the Office of Legislative Services said a menthol ban could cost the state up to \$205 million in cigarette tax revenue and \$38 million in sales tax collections annually, though it noted the impact would likely be diminished by some smokers picking up unflavored cigarettes.

New Jersey's \$2.70 per-pack tax on cigarettes is expected to bring the state \$487.9 million in fiscal year 2023, which began on July 1. Most of that money goes into a health care subsidy fund and 1% is dedicated to state-sponsored anti-smoking programs.

Unused cigarette tax revenue goes into the general fund to support on-budget spending. For fiscal 2023, that's about \$91.6 million.

The potential loss in revenue is not a concern for Conaway.

"While we might lose some tax revenue from it, it will save a lot of lives going forward," he said. "Canada, as I think you know, has done the same and it has been a net positive for them by a lot."

Canada enacted a national ban on menthol cigarettes in late 2017. Studies conducted in subsequent years have found the prohibition made menthol smokers more likely to quit and modestly decreased overall cigarette sales.

A menthol ban in the United States would likely have a larger impact, particularly among Black smokers. The National Survey on Drug Use and Health in 2019 found 85% of Black adult smokers use menthol cigarettes.

The Food and Drug Administration has proposed a rule banning menthol cigarettes, but that measure is likely to be tied up in litigation before being enacted.

"The federal government is moving in this area, and I think that might have some people hesitate. But the federal government has been squawking about this for some time now and hasn't gotten it done, so as far as I'm concerned, if New Jersey can get it done, we should," Conaway said. "We can let the feds catch up with us."

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