

MINNESOTA WHOLESALE MARKETERS ASSOCIATION

February 28, 2023

TO: Senate Health and Human Services Chairperson Melissa Wiklund and Members of the Committee

FROM: Thomas Briant, MWMA Executive Director

On behalf of its member wholesale companies, the Minnesota Wholesale Marketers Association (MWMA) is providing the following testimony on S.F. 2123 with regards to a total category flavor ban on all tobacco and vapor products.

FDA Authority to Regulate Tobacco Products: In 2009, Congress passed, and President Obama signed into law, the Family Smoking Prevention and Tobacco Control Act. This federal law authorized the FDA to regulate the manufacture, distribution, and sale of tobacco products. Under this authority, the agency regulates all tobacco products, including cigarettes, cigars, smokeless tobacco, pipe tobacco, electronic cigarettes and vapor products, oral nicotine products, and hookah tobacco.

FDA Regulations to Ban Menthol in Cigarettes and Flavors in Cigars: In April of 2022, the FDA published a proposed regulation that would ban the sale of menthol cigarettes, menthol roll-your-own cigarette tobacco, and all flavored cigars. On January 4, 2023, the agency announced that it plans to finalize these new regulations banning menthol cigarettes and flavored cigars by August of 2023, just six months from now.

FDA Occupying the Field of Flavored Tobacco Regulation: From all these actions being taken, it is clear that the FDA is occupying the field of flavored tobacco product regulation and utilizing a scientific approach through an application and review process to determine whether flavored tobacco products remain on the market or are unlawful to sell.

Business and Employee Health and Welfare is of Concern: Many of the state's wholesale businesses are family-owned and there are approximately 4,570 licenses businesses that lawfully sell tobacco products to legal age adults. A total ban on flavored tobacco products will mean a significant reduction in sales for most wholesale and retail businesses, placing businesses and jobs at a high risk. The health and welfare of these family-owned businesses and all the respective employees needs to be taken into consideration given the negative impact of SF 2123.

Excise Tax and Sales Taxes Will Decline Significantly: In Fiscal Year 2021, Minnesota collected \$685.1 million in tobacco taxes. Of this amount, an estimated \$243 million was collected from the sale of flavored tobacco products. A complete ban on all flavored tobacco products will result in a large impact on state excise tax and sales tax collections. Moreover, this legislation would lead to cross-border purchasing of flavored tobacco products in neighboring states and an illicit market where sellers will sell flavored tobacco products to anyone of any age with cash.

Given these facts, I urge the Senate Health and Welfare Committee to not proceed with SF 2123.
Thank you for your consideration.

Sincerely,

Thomas A. Briant

MWMA Executive Director