



**LAW ENFORCEMENT  
ACTION PARTNERSHIP**  
ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS

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October 11, 2019

The Honorable Frank Pallone  
United States House of Representatives/United State Senate  
2107 Rayburn HOB  
Washington, DC 20515

Re: HR 2339: Reversing the Youth Tobacco Epidemic of 2019  
Bill introduced by: US Congressman Frank Pallone

Dear Representative Pallone:

I am writing on behalf of Law Enforcement Action Partnership, a group of police, prosecutors, judges, corrections officers and other law enforcement officials who, after years of enforcing controlled substance laws such as the one proposed banning the sale of menthol cigarettes, have learned that such prohibitions simply do not work.

I was a police officer with the Maryland State Police for 34 years, personally supervising several narcotics taskforces. During that time, I saw a lot of drug seizures and a lot of people sent to jail. The one thing I didn't see was use decreasing because of our herculean efforts.

What's worse, in addition to being ineffective, this ban would contribute to racial inequities in the justice system, create room for potential conflict and further alienate police officers from their core job of preventing and solving violent and property crimes.

I urge you to remove menthol from the proposed ban on flavored tobacco products.

On the face of it, this policy seems race-neutral, but because people of color constitute a disproportionate share of the menthol cigarette market, its effects will be anything but. Already, people of color are overrepresented in the criminal justice system; this will only get worse if we criminalize the sale of their preferred cigarette type but not that of whites.

A ban on these types of cigarettes would surely create incentives for criminals to sell illicit products. Any time there is a large demand for a product, which there certainly is for menthol cigarettes in the African American community, people with few options will be willing to risk their freedom to supply it at great profit. This isn't a choice between having menthol cigarettes or not having menthol

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*Formerly known as Law Enforcement Against Prohibition*

cigarettes: it's a choice between having those menthol cigarettes regulated and taxed by the government or of relinquishing that control to an illicit marketplace that tries to sell to children and creates a new reason for police to target and arrest people of color.

Even if menthol cigarettes were proven slightly more dangerous than regular cigarettes, both have serious health consequences. Why do we feel justified criminalizing the sale of the cigarettes preferred by people of color for the same dangerous habit white people engage in every day without legal consequence or infringement of personal choice?

Furthermore, when we give police a reason to detain someone for a consensual offense like this, we divert police from the serious, violent crimes they should be solving and create the potential for the encounter to escalate with horrendous results. We have seen one such episode in the case of Eric Garner, the father of six accused of illegally selling cigarettes who was killed in New York after being put in a chokehold by police. If police hadn't initiated contact with him after he broke up a fight, he would still be alive. His is but one of a few well-publicized cases amid hundreds of less dramatic examples that happen every day in this country. Each one increases the hostility between police and the communities they serve and makes them less able to do their jobs, for which community trust is absolutely essential.

We have had tremendous success in reducing the use of cigarettes over the past several decades – not by banning them, but by educating the public on the harms of smoking. This is a much better way to deal with influencing adult choice than by banning a substance altogether.

That is why I ask you today please do not include menthol in this discriminatory policy that adds to the workload of police, expands the criminal marketplace, and further criminalizes communities of color.

Sincerely,

A handwritten signature in black ink, appearing to read "Neill Franklin". The signature is fluid and cursive, with a large initial "N" and a stylized "F".

Major Neill Franklin (Ret.), Maryland State Police  
Executive Director  
Law Enforcement Action Partnership

cc: Congressional Black Caucus, Energy & Commerce Committee, Madame Speaker Pelosi, The Honorable James E. Clyburn, The Honorable Steny Hoyer