

The Board of Supervisors of Contra Costa County, California

In the matter of urging the Food and Drug Administration (FDA) to ban menthol in cigarettes and in other tobacco products

RESOLUTION NO. 2010/543

WHEREAS, 44% of children ages 12-17 years who smoke and 51% of Asian American and Hispanic, 79% of African American, and 37% of White high school-aged smokers use menthol cigarettes; ¹

WHEREAS, Tobacco Industry documents reveal clear patterns of the Tobacco Industry's designing of flavored tobacco products to target youth; ²

WHEREAS, mentholated [and flavored] products are shown to be "starter" products for youth who begin smoking; ^{3,4,5}

WHEREAS, the Tobacco Industry has been manipulating the dose of menthol in cigarettes to ensure the uptake and continued use, especially by young people and other vulnerable populations for many years; ⁶

WHEREAS, 71% of Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) smokers, particularly youth, smoke Menthol cigarettes; ⁷

WHEREAS, the Tobacco Industry has targeted African Americans with mentholated products and as a result nearly 83% of African American smokers smoke menthol cigarettes, compared with 24% of White smokers; ^{8,9,10}

WHEREAS, the Food and Drug Administration (FDA) has the authority to issue product standards to promote public health, which can include eliminating or reducing certain ingredients in the products it regulates;

WHEREAS, the FDA prohibits cigarettes from having candy, fruit and spice as their characterizing flavors because these flavors make tobacco products especially appealing to kids, and can lead to a lifetime of tobacco addiction; ¹¹

WHEREAS, menthol was exempted from this ban on candy, fruit and spice as characterizing flavors in cigarettes;

WHEREAS, other tobacco products (smokeless, little cigars, hookah tobacco, dissolvable tobacco products) are exempted from this ban on candy, fruit and spice as characterizing flavors;

WHEREAS, the tobacco industry has a well-documented history of developing and marketing mentholated brands to racial and ethnic minorities and youth; ^{12,13}

WHEREAS, in cigarettes, menthol is the only cigarette additive that is actively marketed to consumers and virtually all cigarettes contain menthol to make cigarettes more palatable; ¹⁴

WHEREAS, Contra Costa County has a long history of protecting its residents from tobacco related influences, including reducing tobacco sales to minors and limiting secondhand smoke exposure;

WHEREAS, The Board of Supervisors is committed to the health and well being of its residents and is particularly concerned about preventing tobacco use among youth and in reducing health disparities in the County;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Contra Costa hereby urges the U.S. Food and Drug Administration's exercise of its authority to ban the use of menthol in cigarettes and other tobacco products in the United States.

BE IT FURTHER RESOLVED that the Contra Costa County Board of Supervisors shall send this resolution to the following individuals:

FDA Staff and Advisory Committee:

Dr. Lawrence Deyton, MSPH, MD
Director
Center for Tobacco Products
Food and Drug Administration
9200 Corporate Boulevard
Rockville, MD 20850-3229

Cristi Stark, MS
Center for Tobacco Products
Food and Drug Administration
9200 Corporate Boulevard, Room 110H
Rockville, MD 20850-3229

Dr. Jonathan Samet, MD, MS Chair
Tobacco Products Scientific Advisory Committee
Food and Drug Administration
9200 Corporate Boulevard
Rockville, MD 20850-3229

Note: chair of advisory committee that is making report on menthol in cigarettes

Margaret Hamburg, MD
Commissioner
Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993-0002

Kathleen Sebelius
Secretary
Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Federal Elected Officials

Senator Barbara Boxer
United States Senate
112 Hart Senate Office Building
Washington, D.C. 20510

Congressman George Miller
United States Congress
2205 Rayburn HOB
Washington, D.C. 20515

Senator Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Congressman John Garamendi
United States Congress
2459 Rayburn HOB
Washington, D.C. 20515

PASSED by a unanimous vote of the Board of Supervisors members present this 26th day of October, 2010.



JOHN GIOIA
Chair

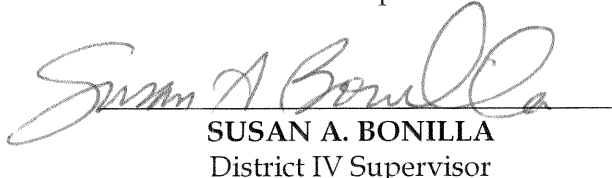
District I Supervisor

Absent

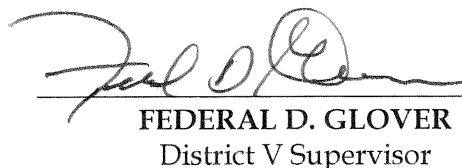


GAYLE B. UILKEMA
District II Supervisor

MARY N. PIEPHO
District III Supervisor



SUSAN A. BONILLA
District IV Supervisor



FEDERAL D. GLOVER
District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown:

ATTESTED: October 26, 2010

DAVID TWA, Clerk of the Board of Supervisors and County Administrator

By  Deputy

Introduced by Supervisor John Gioia

¹Kreslake JM, Wayne GF, Alpert HR, Koh HK, Connolly GN. Tobacco Industry Control of Menthol in Cigarettes and Targeting of Adolescents and Young Adults. *Am J Pub Health* 2008;98(9):1685-1692.

² <http://www.fda.gov/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/ucm183196.htm>

³ Substance Abuse and Mental Health Services Administration, Office of Applied Studies. November 19, 2009: *The NSDUH Report: Use of Menthol Cigarettes*. Rockville, MD.

⁴ Hersey JC, Ng SW, Nonnemaker JM, et al. Are Menthol Cigarettes a Starter Product for Youth? *Nicotine & Tobacco Research* Advance Access published on June 1, 2006, DOI 10.1080/14622200600670389. *Nicotine Tob Res* 8: 403-413.

⁵ Wackowski O, Delnevo CD. Menthol cigarettes and indicators of tobacco dependence among adolescents. *Addict Behav.* 2007 Sep;32(9):1964-9. Epub 2006 Dec 22.

⁶ Kreslake J M., Wayne F, Alpert G, et al. Tobacco Industry Control of Menthol in Cigarettes and Targeting of Adolescents and Young Adults *Am J Public Health* 2008 0: [AJPH.2007.125542](http://ajph.2007.125542)

⁷ Coming Out About Smoking. (2010, August 25). *NYAC Wiki*. Retrieved 20:34, August 30, 2010 from http://wiki.nyacyouth.org/index.php?title=Coming_Out_About_Smoking&oldid=1674.

⁸ Brown & Williamson (2003). Brown & Williamson Tobacco announces major marketing initiative for premium Kool. Accessed May 15, 2003, from www.bw.com.

⁹ <http://naatpn.org/resources/Blacks%20&%20Menthol.pdf>

¹⁰ Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *The NSDUH Report: Use of Menthol Cigarettes*. Rockville, MD. November 19, 2009.

¹¹ <http://www.fda.gov/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/ucm183196.htm>

¹² *United States v. Philip Morris*, 449 F. Supp. 2d 1, 483 (D.D.C. 2006) aff'd, 566 F.3d 1095 (D.C. Cir. 2009); see also id. at 496, 509, 517, 537, 543, 554, 583, 595-96, 598-605, 623, 626-30.]

¹³ Yergler, Valerie B. and Przewoznik, Jennifer. and Malone, Ruth E. "Racialized Geography, Corporate Activity, and Health Disparities: Tobacco Industry Targeting of Inner Cities." *Journal of Health Care for the Poor and Underserved* 18.4 (2007): 10-38. Project MUSE.

¹⁴ Summary of the Second Conference on Menthol Cigarettes: *Menthol in Cigarettes: It helps the poison go down easier* A Report to the Food and Drug Administration (FDA) Prepared as Public Comment by Phillip Gardiner, Dr. P.H., University of California Office of the President, Tobacco Related Disease Research Program Pamela Clark, Ph.D., University of Maryland College Park, School of Public Health. December 21st, 2009.