



TO: Catherine Borgia, Chairwoman of the Board of Legislators  
Sunday Vanderberg, Clerk of the Board of Legislators

FROM: Jewel Williams Johnson, Legislator, 8<sup>th</sup> District  
Erika Pierce, Legislator, 2<sup>nd</sup> District  
Nancy Barr, Legislator, 6<sup>th</sup> District  
MaryJane Shimsky, 12<sup>th</sup> District

DATE: August 29, 2022

RE: Amending the Laws of Westchester County by adding a new Chapter 539 in relation to prohibiting the sale or distribution of flavored tobacco products

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We request that the attached proposal, a local law amending the Laws of Westchester County by adding a new Chapter 539 in relation to prohibiting the sale or distribution of flavored tobacco products, be added to the agenda for the September 12, 2022 meeting of the Westchester County Board of Legislators so that it may be referred to the appropriate committees.

Thank you.

CC: Marcello Figueroa  
Melanie Montalto

TO: HONORABLE BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW adding a new Chapter 539 of the Laws of Westchester County in relation to prohibiting the sale or distribution of flavored tobacco products.” Your Committee has determined that Chapter 539 will have the effect of mitigating the impact of the public health crisis caused by tobacco use on Westchester County residents.

As your Committee is aware, tobacco use remains the leading cause of preventable death in the United States. It causes or contributes to many forms of cancer, as well as heart and respiratory diseases and other health disorders. The financial cost of tobacco use in New York alone amounts to \$17.72 billion per year in direct healthcare expenses and lost productivity.

Your Committee is informed that each year in New York, 5,800 children become smokers. Flavored tobacco products promote the initiation of tobacco use among young people, and help turn occasional smokers into daily smokers, by reducing or masking the natural harshness and taste of tobacco smoke. As tobacco companies know, menthol in particular cools and numbs the throat to reduce throat irritation. This makes menthol cigarettes an appealing option for youth who are initiating tobacco use. Tobacco companies have used flavorings in their products as part of a “graduation strategy” to encourage new users to progress to products with increasingly higher levels of nicotine. It is therefore unsurprising that young people are much more likely than adults to use menthol-, candy-, and fruit-flavored tobacco products, including cigarettes and

cigarillos. Data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle-school and high-school smokers report using such flavored tobacco products.

Your Committee is further informed that menthol-flavored tobacco products are aggressively, and disproportionately, marketed towards racial minorities.

Your Committee finds that in order to improve the safety and well-being of the residents of Westchester County, a new law that prohibits the sale or distribution of flavored tobacco products is needed. This proposed legislation is modeled after existing laws in San Francisco and New York City. The law in New York City previously survived judicial scrutiny. The implementation of these new legislative provisions will help to protect the public health, avoid losses in workforce productivity, and save taxpayer money.

Your Committee notes that a 2020 New York State law, Section 1399-mm-1 of the Public Health law, bans the sale of flavored vapor products, but does not apply to other tobacco products such as cigarettes. Your Committee further notes that while the federal Food and Drug Administration has advanced two proposed tobacco product standards – one prohibiting menthol as a characterizing flavor in cigarettes and another prohibiting all characterizing flavors (including menthol) in cigars – final rules based on those proposals have yet to be published. Additionally, the final rules will not take effect until one year after they are published.

As you know, this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”). The proposed Local Law does not meet the

definition of an action under SEQRA and its implementing regulations, 6 NYCRR Part 617.

Please refer to the January 14, 2022 Department of Planning memorandum, which is on file with the Clerk of the Board of Legislators.

Your Committee, after careful consideration, recommends adoption of this Local Law.

Dated: \_\_\_\_\_, 2022  
White Plains, New York

COMMITTEE ON

**Resolution No.        -2022**

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No.    - 2022, entitled “A LOCAL LAW in relation to prohibiting the sale or distribution of flavored tobacco products.” The public hearing will be held at \_\_\_\_ .m. on the \_\_\_\_\_ day of \_\_\_\_, 2022 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.