



Black Lives Black Lungs: Racial Inequity in the Tobacco Industry and Other Tobacco Updates

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Workshop Objectives

- Understand the changes in MA omnibus state tobacco bill
- Explain the difference in the amended smoke-free workplace law and the exemption in the minimum legal sale of tobacco age of 21
- Identify issues of racial inequality in the tobacco industry marketing and the compelling reasons to ban menthol
- Understand how to develop and use local policy that supports racial equity



Agenda

- Review MA Tobacco Omnibus Bill and changes to MA Tobacco Laws
- Brief history MTCP policy history
- Policy actions and priorities
- Flavor Product regulation
- Menthol and the African American Community
- Moving forward

Statewide smoke-free workplace law

M.G.L. chapter 270, Section 22

1. Adds e-cigarettes/vaping products to the definition of “smoking”

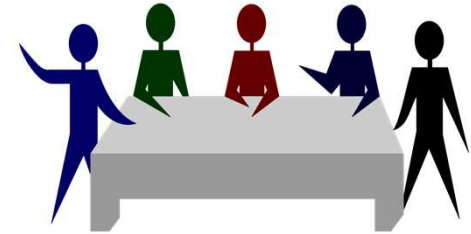
- Includes electronic cigarettes and any products “that rely on vaporization or aerosolization”
- Can’t vape wherever you can’t smoke.

2. Removed “or non-tobacco product designed to be combusted and inhaled” from definition of “smoking”

- Excludes marijuana or any type of herbal cigarette that does not contain tobacco.
- G.L. ch. 94G prohibits smoking of cannabis wherever smoking tobacco is prohibited.

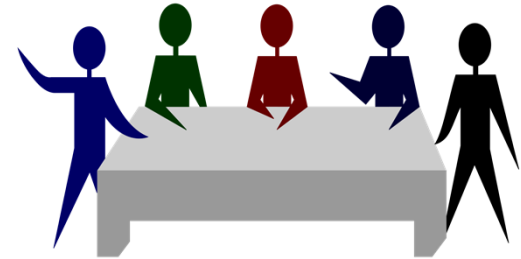


Municipal action



- Continue to use our definition of smoking which includes “or non-tobacco products designed to be combusted or inhaled” in local regulations.
- Enforce the state law that prohibits use of e-cigarettes/vaping products, even if you don’t have a local law that does this.
 - State law provides for local board of health enforcement.
- Add e-cigarettes/vaping products to your Secondhand Smoke Regulation.

Municipal action



Nursing Homes

- Use of e-cigarettes/vaping products are now prohibited in nursing homes.
 - Use state law to enforce in nursing homes.
 - Add e-cigarettes/vaping products to your Secondhand Smoke Regulation.

Municipal action



Education Reform act – Ch. 71, Sec. 2A, Ch. 74, Sec.58 -
Schools, school grounds, school-sponsored activities

- Includes prohibition of smoking on public or private primary and secondary schools and public and private vocational schools, grounds and facilities, school buses and school-sponsored events.
 - Includes parochial schools.
 - Private, vocational and parochial school grounds, buses and school-sponsored events were not addressed by the Education Reform Act.
 - School committee or Board of Trustees shall establish a policy to enforce this.
- Smoke-Free Workplace Law prohibits smoking in enclosed areas of all schools.
- Can enact a regulation addressing all of these areas (resources?)

Amendments to tobacco sales laws

1. Definition of “tobacco product” expanded to include a product **made or derived from tobacco or nicotine**, including:
 - Conventional combustible tobacco products;
 - Electronic cigarettes, e-cigars, e-pipes, e-nicotine delivery systems or other similar products that rely on vaporization or aerosolization; and
 - Components, parts, accessories of a tobacco product.
2. Definition **no longer includes** “non-nicotine” products.
 - AG regulation **does include** “non-nicotine” products.
3. Not preemptive – keep our stricter definition.



Increases minimum legal sale age to 21*

- State law exempts anyone who is 18 by **December 30, 2018**.
 - **If you are 18 the day the law goes into effect [December 31, 2018] you can buy tobacco. PERIOD. PERIOD. PERIOD. PERIOD. PERIOD. END OF REPORT.**
- This section of the law is **preemptive**.
 - If a municipality does not have a local T-21 regulation with an effective date **before December 30, 2018** then a municipality **cannot** enact a local T-21 regulation.
- The vast majority of cities and towns in MA already have a T 21 law in effect (almost 80% of the population).

No sale of tobacco in health care institutions

- New section of the law.
- Includes pharmacies.
- Exempts locations that only sell optical, hearing aid and/or audiology products/services.
 - Not subject to state’s “board of registration in pharmacy”
- Law does not expressly give local boards of health the legal authority to enforce.
 - If municipality does not ban the sale of tobacco in pharmacies.
 - Smoke-Free Workplace Law does.
- Municipal action:
 - Incorporate all sections of the amended tobacco sales law into local regulation.



Other amendments

- No exemption for parents and guardians.
 - Stricter than our local regulations.
- Signage required.
 - DPH working on this.
 - Challenging for municipalities that do not already have a minimum age of 21.
- MLSA for vending machines is 21.
- Online sales MLSA 21.
- No free samples of tobacco products except in adult-only retail tobacco stores and smoking bars approved by DOR.





MTCP Policy History

- State tobacco control program began in 1992, funded by a referendum that raised the pack of cigarettes by 25 cents
- Early on, a decision was made to focus on enacting local policies as (1) they could be tailored to each community and (2) more difficult for tobacco industry lobbying to have an effect



Types of Policy

- Local tobacco policy is enacted under two general subjects – ETS and Retail Tobacco Sales
 - **ETS Environmental Tobacco Smoke** (secondhand smoke) policies ban or limit smoking in public places, restaurants, bars, workplaces, parks and beaches
 - **Retail Tobacco Sales** policies that thwart the sale of tobacco or nicotine products to youth and regulate the sale of certain tobacco products to the whole population



Tobacco Sales Policy

- A strong municipal tobacco sales policy, mostly enacted as health regulations, contain these policies, amongst others:
 - Expanded to include vaping products
 - Minimum pricing for cigars
 - Bans sales in pharmacies
 - Raises the Minimum Legal Age to 21
 - Caps the number of Tobacco Sales Permits
 - Flavored Product Sales Restriction



Focus on Flavor and Cigars

- **Increase in Availability**

- By 2010, over 100 different flavors of cigars were found on the market (Market Street Research).
- Between 2006 and 2010, revenue from flavored cigars sale nearly doubled (84% increase) among merchandisers in the Greater Boston Area (Market Street Research).

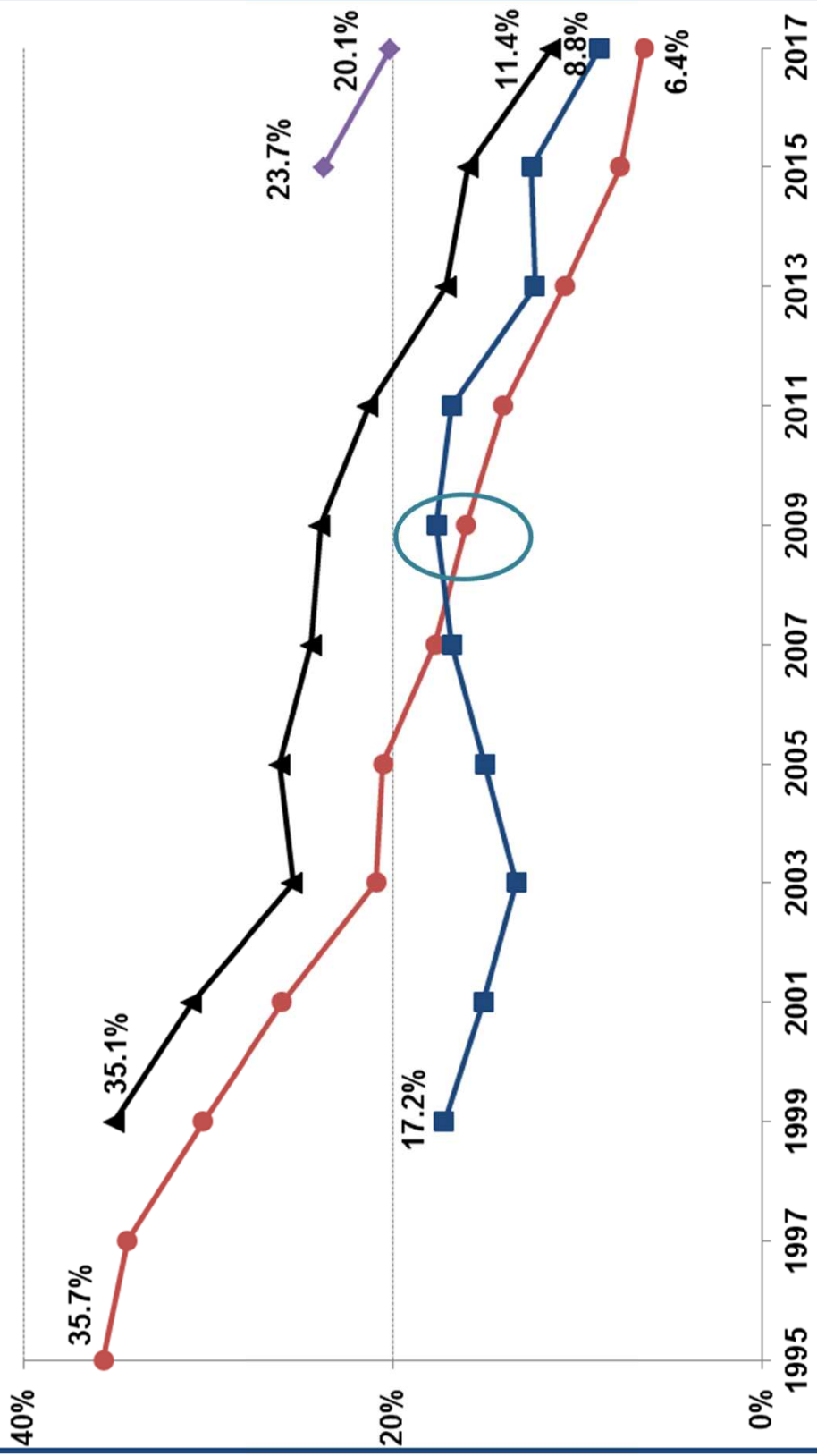
- **Increase in Product Offerings**

- 2006-2010 saw a dramatic increase in the availability and diversity of flavored cigars, such as apple, grape, wild cherry, and vanilla

- **Decrease in Price**

- In many places, these colorful and sweet products could be purchased for as low as 49 cents.

Current Use* of Tobacco Products Among High School Students: Massachusetts, 1995-2017



* Current use is within the past 30 days

Source: MYRBS

- Cigarettes
- ◆ Electronic nicotine products
- Cigars or Smokeless
- ▲ Cigarettes, Cigars, Smokeless



Flavored Product Sales Restriction

- Providence City Council enacted a flavored tobacco product sales restriction in January 2012
- The tobacco industry sued Providence in Federal Court and lost at the Federal Court of Appeals and chose not to appeal to the U.S. Supreme Court



“Flavor” Policy Comes to Mass

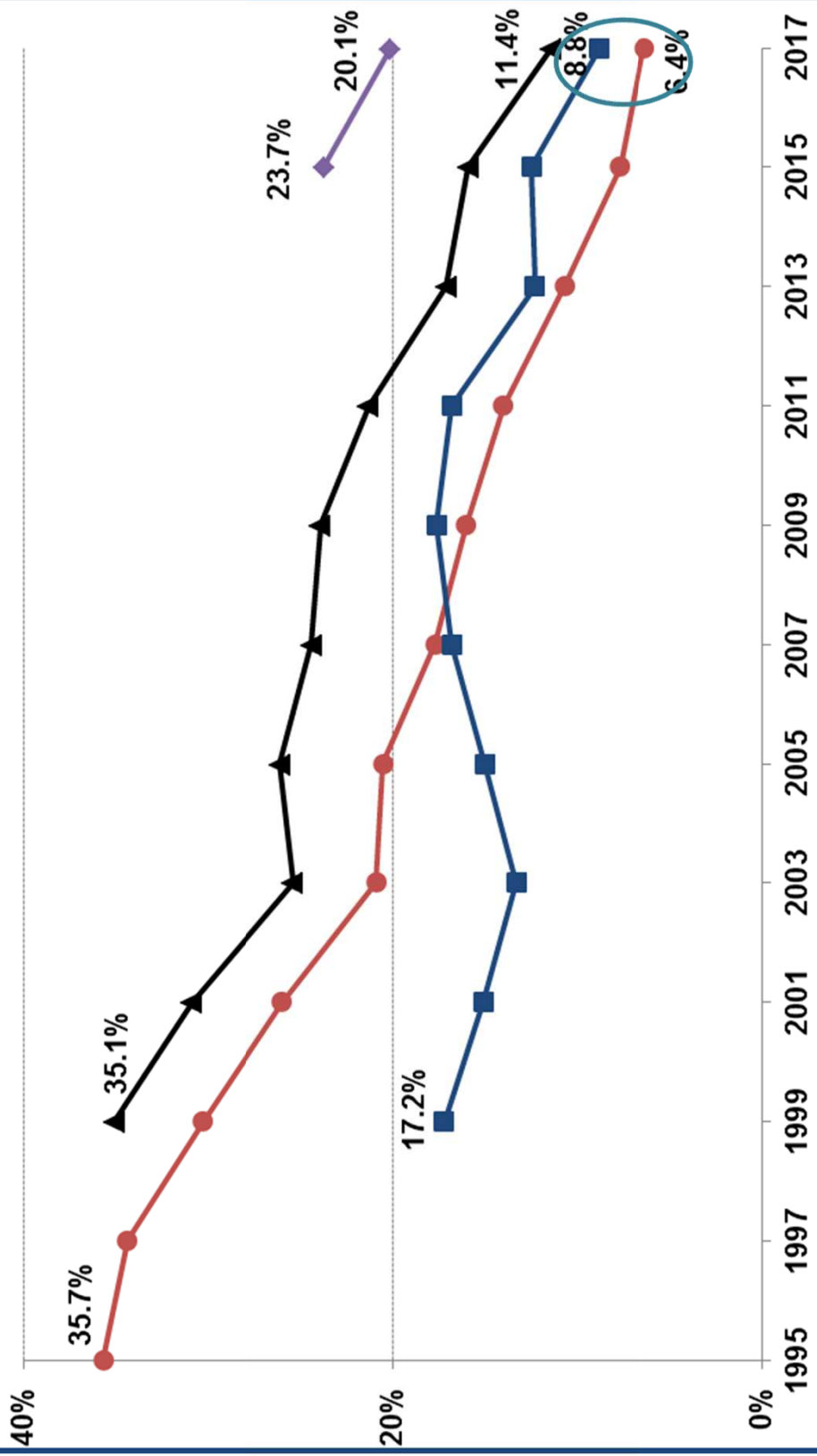
- Providence’s win gave a “green light” to enact the same language in Massachusetts without fear of lawsuit.
 - Menthol exemption kept
 - Retail location exemption tailored to “adult-only Retail Tobacco Stores” (including vape shops) and “Smoking Bars” (cigar bars, hookah bars)
 - 136 municipalities have enacted this policy (representing 60.7% of state’s population)



How “flavor” is defined

- **Characterizing flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, ...
- Current FDA Commissioner Gottlieb considering expanding flavor ban with menthol

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History of Menthol Tobacco

- “Black Lives/Black Lungs” is a 15-minute short film that can be found at www.blacklivesblacklungs.com
- <https://www.youtube.com/watch?v=N4uL5tlkHQ8>



What were we missing?

- Black Americans smoke at a similar rate as other groups
- Black Americans quit at a lower rate
 - Though they make as many quit attempts
- Menthol makes it harder to quit
- Treatment options are not as available for Black Americans
- Black Americans are heavily targeted by the tobacco industry with menthol products

Black youth are much more likely to use menthol cigarettes than any other racial group.

TABLE 1

Menthol cigarette use among youth

Prevalence of menthol cigarette smoking among youth who smoke

Race/ethnicity	Middle school	High school	Simple average for ages 12-17
Black/African American	81%	85%	83%
All LGBT youth			71%
Hispanics	58%	56%	57%
Asian Americans	57%	44%	50.5%
White (non-Hispanic)	43%	38%	40.5%
All youth ages 12-17			47.80%

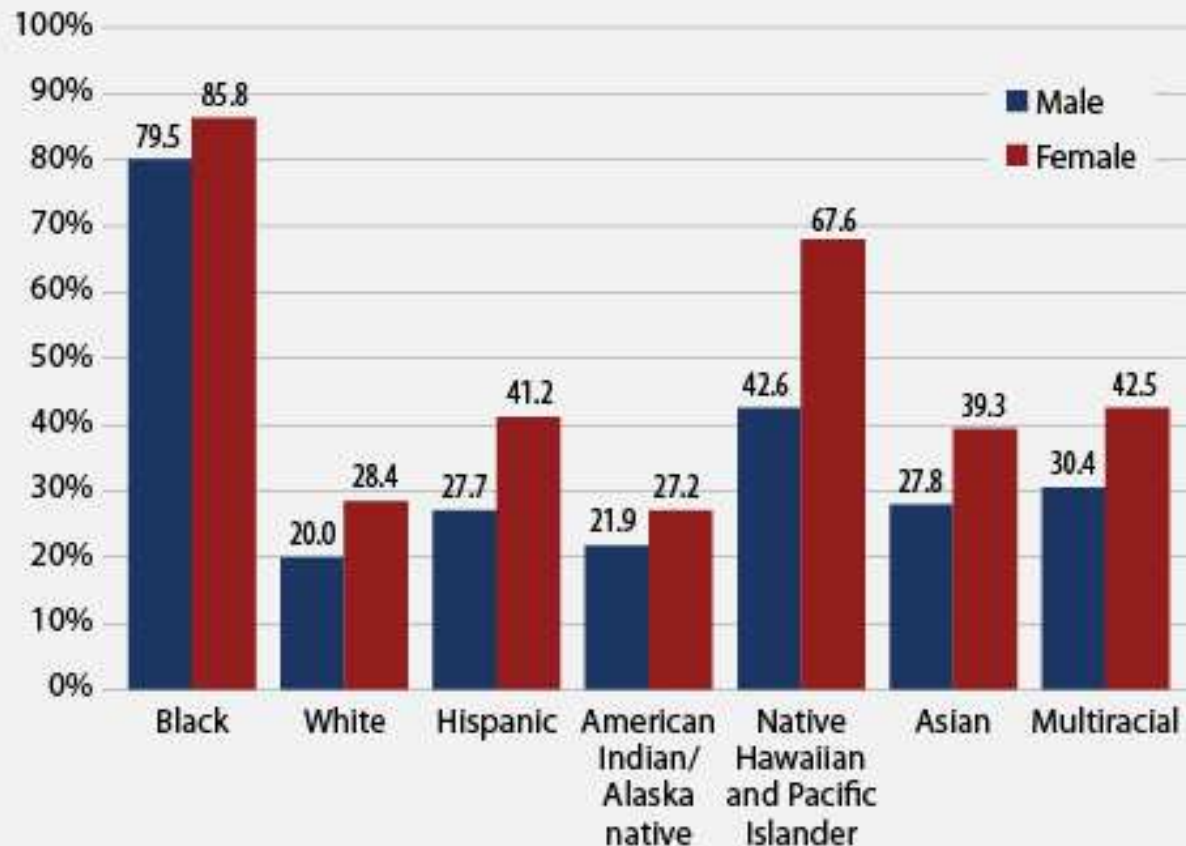
Source: Tobacco Products Scientific Advisory Committee, "Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations" (2011); National Youth Advocacy Coalition, "Coming Out about Smoking: A Report from the National LGBTQ Young Adult Tobacco Project" (2010).

Blacks are much more likely to be current users of menthol cigarettes than any other racial group.

FIGURE 1

Menthol smoking by race

Percentage of menthol use among cigarette smokers ages 12 and older by race and ethnicity in the past month



Source: Substance Abuse and Mental Health Services Administration (2009, November 19). The National Survey on Drug Use and Health (NSDUH) Report: Use of Menthol Cigarettes.



We took a closer look at the data in Massachusetts

- Menthol advertisements and marketing are **more** common in neighborhoods of color
- In Massachusetts, one study found that there was more tobacco availability, more tobacco advertising and more **menthol** advertising in a sample of predominately Black or Hispanic neighborhoods
- Both black youth and adults smoke menthol cigarettes at higher rates than whites
- Menthol cigarettes are *more addictive* and **harder to quit** than non-menthol cigarettes



Health Problems with Menthol

- Easier to start as menthol soothes against the harshness of plain tobacco
- Harder to quit
- Produces a deeper lung cancer that is harder to treat



Summary

Review of historical racist policies such as redlining provides insight into health disparities in 2017.

The Tobacco Industry has continued to capitalize on segregated cities.

There is greater retail density and tobacco marketing in non-white communities.

White, Black and Hispanic adults tend to smoke at similar rates.

Despite similar smoking rates, non-white adults are less likely to successfully quit – even with similar or *more* quit attempts.

Non-white adults are more likely to have smoking-attributable chronic diseases such as asthma or cancer.

Non-white adults are more likely to die prematurely of smoking-related diseases.



What is being done?

- FDA is looking at restricting menthol cigarettes (but not e-cigarettes)
- San Francisco is being sued
- Oakland and Palo Alto have it on books but not yet enforcing
- Chicago and Berkeley have it on a very limited “flavor” policy
- No Massachusetts city or town has included menthol in policy



Political Problems with Menthol

- Menthol is 25-33% of the total cigarette sales in the United States
- Thwarts government action as the Tobacco Industry will sue if menthol is included in a “Flavor” Policy
- Opposition exists at national and Massachusetts level
- Retailers don’t want to lose business



Policy Lessons Learned

- Adjust your lens when looking at desired outcome of policy
- Be aware of unintended consequences
- Ask for opinions and information
- Look at the data with a racial equity lens
- Engage the community



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