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May 14, 2019

Karen L. Smith, MD, MPH
Director and State Public Health Officer
California Department of Public Health
1615 Capitol Avenue
PO Box 997377, MS 0500
Sacramento, California 95899-7377

Re: SB 38 (Hill): Flavored tobacco products.

Dear Dr. Smith:

The California Conference of Local Health Officers (CCLHO) voted at the CCLHO Board meeting on April 4, 2019 to take a Support recommendation on SB 38 (Hill), a bill that would prohibit a tobacco retailer from selling, offering for sale, or possessing with the intent to sell or offer for sale, a flavored tobacco product, as defined. The bill would authorize an enforcing agency to assess civil penalties under the Stop Tobacco Access to Kids Enforcement (STAKE) Act for a violation of this prohibition. The bill would state the intent of the Legislature that these provisions not be construed to preempt or prohibit the adoption and implementation of local ordinances related to the prohibition on the sale of flavored tobacco products. The bill would state that its provisions are severable.

In 2016, California enacted the STAKE Act, which regulates e-cigarettes in the same manner as other tobacco products and prohibits the sale of any tobacco products to a person under 21 years of age. While there is no state law restricting the sale of flavored tobacco products, twenty-six California local governments have taken action to restrict youth access to flavored tobacco products. Local ordinances range from complete bans of flavored tobacco products to establishing zoning restrictions on where flavored tobacco products may be sold.

CCLHO recommends support under SB 38, as retail stores and vending machines in California would be prohibited from selling flavored tobacco products. The legislation covers flavored e-cigarettes, e-hookahs, e-pipes and other vaping devices as well as all flavored smokable and nonsmokable tobacco products, such as cigars, cigarillos, pipe tobacco, chewing tobacco, snuff, and tobacco edibles. Violators would face civil penalties ranging from \$400 to \$600 for the first incident to \$5,000 to \$6,000 for a fifth violation in a five-year period. SB 38 creates a threshold for restrictions and prohibitions regarding tobacco product sales and would not prevent local jurisdictions from taking further steps.

CCLHO was established in statute in 1947 to advise the California Department of Health Services (now California Department of Public Health), other departments, boards, commissions, and officials of federal, state and local agencies, the Legislature and other organizations on all matters affecting health. CCLHO membership consists of all legally appointed physician health officers in California's 61 city and county jurisdictions.

Should you have any questions, please contact me by email at roidham@placer.ca.gov or by phone at (530) 745-3121. Thank you.

Sincerely,

Robert L. Oldham, MD, MSHA
President, California Conference of Local Health Officers