

Communication from Public

Name: Rima S. Khoury, Esq.

Date Submitted: 07/29/2019 12:22 PM

Council File No: 18-1104

Comments for Public Posting: Dear Sir or Madam, Please see attached letter sent to the Los Angeles City Attorney's office regarding the Flavored Tobacco Products / Youth Tobacco Use / Sale Restriction / Proposed Strategy, council file number 18-1104. Thank you for your consideration. Best regards, Rima S. Khoury, Esq. Corporate Counsel Fumari, Inc.



July 22, 2019

Office of Mike Feuer
Los Angeles City Attorney
James K. Hahn City Hall East, Suite 800
Los Angeles, CA 90012

RE: Proposal for Los Angeles Flavored Tobacco Regulation

Dear Mr. Feuer,

I represent Fumari, Inc ("Fumari") a global premium hookah tobacco manufacturer located in San Diego, California. The purpose of this letter is to provide some history and background of Fumari, hookah culture, and provide recommendations on addressing the teen youth vape issue.

Fumari opened in 1997 and was the first hookah lounge in San Diego, California. The owners wanted to share their memories of hookah from the Middle East with the people living here in the U.S.A. Fumari grew from a single hookah lounge in downtown San Diego to a global leader in hookah tobacco manufacturing. Their mission since day one was to keep their tradition alive. Fumari's business was founded on creating the best quality hookah tobacco flavors delivered in its freshest form. A flavor ban would strike at the heart of Fumari's cultural and business foundation.

Hookah is a part of a cultural heritage that has been around for thousands of years. Historically, the Hookah's origin traces back to India. It surfaced in the form we know today around the 15th Century when Indian Glass manufacturing began as a result of the exporting of glass to India through the British East India Company. The glass base was called hookah. Its mystique spread to Iran where special strong tobacco was used with it called "Ajami". It rose to fame under the Ottoman Empire's rule around the time of Murat V in 1623-1640. The sultans of the age took portraits with their Nargiles and it became a status symbol of the time. Hookah was smoked after royal dinners and at diplomatic meetings. The Egyptians introduced the use of a variety of tobacco flavors that are now considered part of the hookah experience. Today, Hookah smoking tends to be at the center of cultural, business and social meetings.

A hookah is an instrument for smoking flavored tobacco. Hookah is also known as narghile, argileh, shisha, hubble-bubble, shisha and goza depending on local custom and tradition. During the session, the smoke is passed through a water basin – often glass-based – before inhalation. A hookah waterpipe is approximately 1 – 4 feet tall and very difficult to conceal in your pocket like an e-cigarette. To set up a hookah it takes approximately fifteen minutes to assemble, which is something of a ritual. Minors cannot easily assemble a hookah waterpipe in school or at home without being noticed. As you can see, hookah is not as accessible as vape which can be easily concealed in a pocket and smoked at any time without prep.





The Food and Drug Administration (FDA) recently noted in their guidance that “waterpipe tobacco does not appear to have the same ease of use particularly on school grounds as [e-cigarette] products and cigars, due to the cumbersome nature of the related equipment.” Additionally, the FDA has noted that these products “do not appear to have wide-spread, significant youth use at this time.” Revised Compliance Policy Draft Guidance, at 19.

The State of California has the largest number of Arab Americans than in any state, with the Los Angeles area constituting the largest cluster in the state. Arab Americans in California represent many different nationalities including Lebanese, Syrian, Egyptian, Iraqi, Jordanian, Palestinian, Moroccan, as well as Arabs from Algeria, Bahrain, Djibouti, Kuwait, Libya, Oman, Qatar, Saudi Arabia, Tunisia, the United Arab Emirates, and Yemen. Each year, new immigrants from the Arab world choose California as their new home more than any other state. The Arab American Institute Foundation estimates that over 800,000 Arab Americans currently reside in California of which nearly 12% reside in Los Angeles.

Additionally, California is home to the largest population of Armenian Americans. According to the 2017 American Community Survey, the highest concentration of Armenian descent is found in the Los Angeles area, where over 80,000 Armenians reside. According to the same survey, over 3,000 Turkish and 37,000 Indian residents also reside in Los Angeles. And according to extrapolated U.S. Census data and other independent surveys done by Iranian-Americans themselves in 2009, there is an estimated one million Iranian-Americans living in the U.S., with the largest concentration—about 300,000 people—living in the greater Los Angeles area.

All of these communities, approximately 13% of the entire Los Angeles population many of whom are politically active, would be affected by a tobacco flavor ban. A flavor ban would cut at the heart of many hookah using adults partaking in their culture and undermine businesses owned by immigrants who often times support their entire family through their tobacco retail shops or hookah lounges.

A flavor ban would cause the flavor tobacco user to go underground to purchase products off the black market, whose participants are not concerned about checking IDs or complying with other health and safety regulations. As seen in our history with prohibition, organized crime will flourish which will result in an increase of resources used towards law enforcement and decrease in taxes from tobacco sales. Alternatively, those unable to purchase flavor tobacco may be forced to transition to cigarettes, which everyone including the FDA agrees is more harmful.

Instead, we propose that the Los Angeles City Attorney consider responsible and reasonable legislation that focuses on preventing youth access and devise a plan to educate teens and their families about the harm of vaping and lastly, have better enforcement of retailers that do not properly ID. Alternatively, if an across-the-board flavor ban is considered, we ask that traditional Hookah tobacco be granted a cultural exemption as was granted for Senate Bill 38, see attached. Thank you for your consideration of our culture and businesses.





If you have any questions do not hesitate to contact me.

Sincerely,

Rima S. Khoury, Esq.
Fumari Corporate Counsel



SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

SB 38 (Hill) - Flavored tobacco products

Version: December 3, 2018

Urgency: No

Hearing Date: May 16, 2019

Policy Vote: HEALTH 8 - 1

Mandate: No

Consultant: Samantha Lui

Bill Summary: SB 38 would prohibit a tobacco retailer, or any of the retailer's agents or employees, 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 specified civil penalties, and would provide that the bill does not preempt or prohibit adoption of a local standard that imposes greater restrictions on the access to tobacco products.

***** **ANALYSIS ADDENDUM – SUSPENSE FILE** *****

The following information is revised to reflect amendments
adopted by the committee on May 16, 2019

Fiscal Impact:

- The Department of Tax and Fee Administration (CDTFA) estimates a revenue loss of \$292 million (\$237 million in excise tax and \$54.5 million in sales tax revenue) in fiscal year (FY) 2020-21. Absent the amount of tax revenue remitted, CDTFA anticipates a gross domestic product increase of \$288 million, and employment impact gains of 1,685 jobs (537 within the industry, and 1,148 indirect jobs). CDTFA notes few data sources are available to document consumer responses to banning flavored products, so consumer impacts are highly uncertain. While the bill does not affect tax rates related to excise tax revenues, studies suggest a corresponding decrease in consumer purchases of products, as the bill's proposed banned flavors include menthol, mint, and others. Please see Staff Comments for more detail on the assumptions and methodology of the estimate.
- The Department of Public Health (CDPH) estimates unknown and significant ongoing costs (hundreds of thousands to low millions) to investigate and take enforcement action. The range reflects multiple enforcing agencies' actions, and the bill's proposed enforcement requirement would be broader than CDPH's current responsibility, discussed below.

Staff estimates that the original revenue loss estimate would need to be revised to reflect a narrower scope of products that will be affected by the ban, specifically those that did not have a patent prior to 2000. At the time of the analysis, the fiscal estimate reflects an unknown, significant, and ongoing revenue loss, potentially in the high tens of millions to low hundreds of millions.

SB 38 (Hill)

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Committee Amendments: The committee amendments would define "tobacco product" as a product that does not have a patent issued prior to January 1, 2000, is a menthol flavored product, and is as defined in existing law, except for hookah.

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Communication from Public

Name: Arbi Sardari

Date Submitted: 07/29/2019 10:06 PM

Council File No: 18-1104

Comments for Public Posting: Hello Hookah is part of our culture and part of our get together when family comes over ... hookah has less nicotine than any juul or vape product ... is not addicting like juul. Juul has 5.0 nicotine Vape has 3.0 to 9.0 Hookah has Usually round 0.6 nicotine to 1.0 Hookah children can not take to school like small vape or juul put in there pocket. Setting up hookah takes 10 min not like vape take out of your pocket and smoke. It's not fair to our culture to take that away. Our grandparents doing it my parent doing it and when we became 21+ we did it with them ... no one in our family smokes cigarettes they only do hookah NO one dose vape or juul need to be more restricted with hookah lounges for serving underage ppl big fees will help the city. To getting control back 8000\$ fees for serving underage ppl. Please don't take it away from our culture a socializing Thing. Thank you. My grand ma is 88 years old she smokes with me ... thank you so much