

# National Action Network



Rev. Al Sharpton, *President & Founder*

Rev. Dr. W. Franklyn Richardson, *Chairman*

November 7, 2022

Westchester County Council  
148 Martine Avenue  
White Plains, NY 10601

Members of the Westchester County Council,

As the Health and Wellness Policy Associate of the National Action Network (NAN), I am writing to urge the Westchester County Council, most profoundly, to take into consideration the unintended consequences of a menthol ban before advancing proposed tobacco product standards to prohibit menthol as a characterizing flavor in cigarettes. A menthol ban would severely target and harm African American smokers, who overwhelmingly prefer menthol cigarettes.

National Action Network is one of the leading civil rights organizations in the Nation, with chapters nationwide. Founded in 1991 by Reverend Al Sharpton, NAN works within the spirit and tradition of Dr. Martin Luther King, Jr. to promote a modern civil rights agenda that includes the fight for one standard of justice, decency, and equal opportunities for all people regardless of race, religion, ethnicity, citizenship, criminal record, economic status, gender, gender expression, or sexuality.

While NAN supports efforts to reduce tobacco-related disease and promote public health, we are very concerned about the negative impact a menthol ban would have on African Americans, at-risk youth (i.e., Black and Hispanic males), and other underserved populations. In the U.S., it is estimated that there are nearly 18.6 million current smokers of menthol cigarettes. Of the total number of menthol smokers, 85% are African Americans, so any proposed action will put African American smokers at risk of racially discriminatory government action while leaving all other cigarette smokers to enjoy the product of their choice safely and at peace. Research shows that there has not been a decline in Black youth preferring to smoke menthol cigarettes between 2011-2018. The days of Black Americans going to the back door of the store to make purchases should be in our rearview mirror.

A menthol ban would impose serious risks, including increasing the illegal sale of smuggled, black market menthol cigarettes and the street sales of individual menthol cigarettes--"loosies" and place menthol smokers at significant risk of entering the criminal justice system. Any proposed rule to ban menthol would expand the illicit market for menthol cigarettes in African American communities. Specifically, several economically challenged consumers would not comply with the ban and instead increase engagement in less

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regulated (but dangerous) activities like tampering with cigarettes to create their menthol and switching to unregulated herbal menthol cigarettes. This would expose consumers to dangerous contraband cigarettes, increase youth access to cigarettes and promote criminal activity. Further, a menthol ban would exacerbate existing, simmering racial profiling, discrimination, and policing issues.

I recommend that the Westchester County Council consider the racial and criminal justice impact a menthol ban would have on African Americans and other underserved communities. Such a review has not happened to date. This commission or working group should include federal, state, and local law-enforcement officials and other agencies that enforce illicit tobacco sales.

In closing, no other country has a well-documented history of selective enforcement and over-representation of African Americans in the criminal justice system. In 2019, when the menthol ban was proposed in New York City, NAN leaders met with the police commissioner, who stated, "If there's a ban in place, his officers would have to enforce the illegal sale of tobacco products." The New York City Council did not pass a menthol ban to avoid unintended consequences in black areas of the city. We urge the Westchester Council to consider the unintended consequences of a menthol ban and instead strongly review the heavy unintended consequences that would arise from the enforcement of a menthol ban in black and brown communities, particularly the guaranteed increase in street sales of loosies if the Westchester County Council decides to move forward with considering a ban on Menthol cigarettes.

Sincerely,

Alicia Butler  
Health and Wellness Policy Associate  
National Action Network