

IN THE SUPREME COURT OF OHIO

CITY OF COLUMBUS, et al.	:	Case No. 2025-1057
	:	
Appellees	:	On Appeal from the Franklin County
	:	Court of Appeals,
v.	:	Tenth Appellee District
	:	
STATE OF OHIO	:	Court of Appeals
	:	Case No. 24AP-333
Appellant.	:	

BRIEF OF *AMICI CURIAE* PUBLIC HEALTH, MEDICAL, AND CIVIL RIGHTS ORGANIZATIONS IN SUPPORT OF APPELLEES

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INTRODUCTION

As the U.S. Supreme Court has recognized, “[t]obacco use, particularly among children and adolescents, poses perhaps the single most significant threat to public health in the United States.” *FDA v. Brown & Williamson*, 529 U.S. 120, 161 (2000). Indeed, tobacco product use remains the leading cause of preventable death in the U.S. and Ohio, resulting in more than 490,000 and 20,000 deaths per year, respectively—more than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined.¹ Ninety percent of adult smokers begin smoking in their teens, a fact long understood by the tobacco industry.² As the U.S. Court of Appeals for the D.C. Circuit noted, “[b]usinesses seeking to make a profit selling tobacco products . . . face powerful economic incentives to reach younger customers.” *Prohibition Juice Co. v. FDA*, 45 F.4th 8, 12 (D.C. Cir. 2022).

Localities, in Ohio and elsewhere, have historically played a critical role in curbing tobacco use, including among youth.³ In keeping with that tradition, in 2022, Columbus adopted a law prohibiting the sale of flavored tobacco products, which have a particularly strong appeal to youth. *See* Am. Compl. ¶¶ 82-89. Rather than encouraging this and similar life-saving measures, the

¹ U.S. Dep’t of Health & Human Servs., *Eliminating Tobacco-Related Disease and Death: Addressing Disparities—A Report of the Surgeon General* 9 (2024), <https://www.hhs.gov/sites/default/files/2024-sgr-tobacco-related-health-disparities-full-report.pdf> (“2024 Surgeon General’s Report”); Campaign for Tobacco-Free Kids, *The Toll of Tobacco in Ohio*, <https://perma.cc/T2AE-E3V5> (last visited Mar. 3, 2026).

² U.S. Dep’t of Health & Human Servs., *The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General* 708 tbl.13.2 (2014), <https://perma.cc/VXS5-YX67>.

³ *See generally* David S. Gartner, *States, Localities and Public Health*, 122 W. Va. L. Rev. 965, 965-80 (2020), <https://perma.cc/JJA6-CGFG>.

General Assembly retaliated, overriding the Governor’s veto, to enact R.C. 9.681, which purports to preempt all existing and future municipal regulation related to tobacco products.⁴

As detailed below, R.C. 9.681 violates over a century’s worth of the Court’s Home Rule precedent by stripping municipalities of their constitutionally guaranteed police powers without setting forth any sort of substantive state regulation of tobacco products. It would also devastate public health. If given effect, R.C. 9.681 would invalidate Appellees’ and other municipalities’ existing life-saving local tobacco control laws, like those prohibiting the sale of flavored tobacco products, requiring tobacco retailers to be licensed, and prohibiting smoking in public parks, high school football stadiums, and other outdoor public spaces. Moreover, due largely to industry targeting, tobacco use patterns, and the associated morbidity and mortality, differ across communities. As the level of government closest to the people, localities are ideally positioned to tailor policies to address the tobacco products and practices most harmful to their communities—authority R.C. 9.681 seeks to remove. Finally, R.C. 9.681 would interfere with localities’ historical role as laboratories for innovative and effective tobacco control policies, some of which were later adopted by the State.

STATEMENT OF INTEREST OF *AMICI CURIAE*

Amici are the following seventeen state and national public health, medical, and civil rights organizations: African American Tobacco Control Leadership Council; American Cancer Society Cancer Action Network; American Heart Association; American Lung Association; American Medical Association; Association of Ohio Health Commissioners; Campaign for Tobacco-Free Kids; LGBTQIA+ Cancer Network; NAACP; NAACP Ohio State Conference; Ohio Chapter,

⁴ This brief uses the term “tobacco product” to refer all products containing tobacco or nicotine, including cigarettes, e-cigarettes, “tobacco products,” and “alternative nicotine products,” as defined in R.C. 9.681.

American Academy of Pediatrics; Ohio State Medical Association; Parents Against Vaping E-cigarettes; Preventing Tobacco Addiction Foundation; Public Health Law Center; The Center for Black Health and Equity; and Truth Initiative (collectively, “Public Health, Medical, and Civil Rights *Amici*”).

As is evident from the description of *Amici* included in the Addendum to this brief, these groups work daily to reduce the devastating public health harms caused by tobacco products. *Amici* include physicians who counsel their young patients and their parents about the hazards of tobacco use, organizations with formal programs to urge users to quit, and groups representing parents and families struggling to free young people from nicotine addiction. Each of the *Amici* has a direct and immediate interest in preserving municipalities’ home rule authority to regulate tobacco products. *Amici* also possess expertise on tobacco-related disparities, the harms of flavored tobacco products, and the role that local authority has played in creating effective tobacco control policies. Thus, *amici* are particularly well suited to inform the Court of the substantial public health benefits that are associated with preserving local tobacco control authority in Ohio.

STATEMENT OF THE CASE AND FACTS

The Public Health, Medical, and Civil Rights *Amici* defer to the statement of the case and facts set forth in Appellees’ merits brief.

ARGUMENT

I. R.C. 9.681 Violates a Century’s Worth of Home Rule Precedent

The state law at issue here, R.C. 9.681, sets forth no regulations to protect Ohioans from the plague of tobacco-related disease and death. Instead, its sole purpose is “to preempt political subdivisions from the regulation of tobacco products and alternative nicotine products.” R.C. 9.681(D). In doing so, it purports to invalidate all existing municipal tobacco-related laws and strip localities of their authority to enact any such future laws. Allowing R.C. 9.681 to stand would run

counter to over one hundred years of the Court's Home Rule jurisprudence by effectively prohibiting municipalities from exercising their police powers in ways that profoundly affect public health.

Since 1912, the Ohio Constitution has guaranteed localities broad home rule authority by providing that “[s]ubject to the requirements of Section 1 of Article V of this constitution, municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws.” Ohio Const., art. XVIII, §3. This Court has long recognized that if a state law “preclude[s] a home rule municipality, with police powers guaranteed it by the Ohio Constitution, from enacting any and all legislation related to the state statute, then that provision of state law must be ruled unconstitutional.” *Fondessy Ents., Inc. v. Oregon*, 23 Ohio St. 3d 213, 216 (1986); *see also Fremont v. Keating*, 96 Ohio St. 468, 470 (1917) (A state law that “specifically provides that local authorities shall not regulate the speed of motor vehicles . . . is clearly in violation of” of the Home Rule Amendment. “It is sufficient to say that the General Assembly of Ohio cannot deprive a municipality of its constitutional rights.”). “The words ‘general laws’ as set forth in Section 3 of Article XVIII of the Ohio Constitution means statutes setting forth police, sanitary or other similar regulations and *not statutes which purport only to grant or to limit the legislative powers of a municipal corporation to adopt or enforce police, sanitary or other similar regulations.*” (Emphasis added.) *W. Jefferson v. Robinson*, 1 Ohio St. 2d 113, 118 (1965).

R.C. 9.681's sole effect is to entirely remove municipalities' authority to regulate tobacco products. It establishes no substantive tobacco regulations and instead targets municipalities by prohibiting them from exercising their constitutional police power authority. Rather than furthering a comprehensive state-wide scheme, R.C. 9.681 disables the very local police powers that

municipalities rely on to reduce tobacco-related harms. That is an unconstitutional infringement on municipalities' home rule authority.

Under the State's primary view, the only requirement to be a general law is that it apply uniformly throughout the State. State Merits Br. 9-44. The State argues in the alternative that when applying the third and fourth prongs of the general law test articulated in *Canton v. Sate*, 2002-Ohio-2005—whether a statute (3) prescribes a rule of conduct upon citizens and (4) purports only to grant or limit municipal power—the Court should consider all Ohio statutes on the matter, rather than just the challenged statute. *Id.* at 45-48. Either of these approaches would eviscerate the Home Rule Amendment's municipal protections and provide carte blanche to the State to simply withdraw municipalities' constitutionally guaranteed authority over any number of areas. For example, a state law that does no more than declare that any existing and future municipal police power regulation conflicts with the state's comprehensive statutory scheme would seem to pass muster under either of the State's favored approaches. In litigation, the State—as it does here—would only need to point to previously adopted statutes that regulate “public health, safety, or morals, or the general welfare of the public.” *Marich v. Bob Bennett Constr. Co.*, 2008-Ohio-92, ¶ 11 (citing *Downing v. Cook*, 69 Ohio St.2d 149, 150 (1982)) (defining police powers). Under either of the State's preferred approaches, the Home Rule Amendment would be a dead letter.

II. Preserving Local Authority to Regulate Tobacco Products Is Critical for Public Health.

A. R.C. 9.681 Would Invalidate Appellees' Current Life-Saving Tobacco Control Laws.

In addition to violating municipalities' constitutional home rule authority, R.C. 9.681 would devastate public health by invalidating existing (and future) life-saving municipal tobacco

control laws, including laws restricting the sale of flavored tobacco products, laws requiring tobacco retailers to be licensed, and smoke-free requirements.

1. Flavored Tobacco Laws

Columbus and some other Appellees (Bexley, Grandview Heights, Worthington) have enacted laws prohibiting the sale of flavored tobacco products, including e-cigarettes. *See* Am. Compl. ¶¶ 86, 105, 198, 370. These laws provide critical protection to youth because for all tobacco products—including cigarettes, e-cigarettes, and cigars—flavors significantly increase the appeal of tobacco products to youth.⁵ Data from the U.S. Food and Drug Administration (“FDA”) and National Institutes of Health’s Population Assessment of Tobacco and Health (“PATH”) study found that almost 80% of 12-to-17 year-olds who had ever used a tobacco product initiated their use with a flavored product.⁶ The FDA has concluded that “the availability of tobacco products with flavors at these developmental stages attracts youth to initiate use of tobacco products and may result in lifelong use.”⁷

While flavors increase youth appeal across all categories of tobacco products, this section of the brief focuses specifically on flavored e-cigarettes, which have experienced the most dramatic recent surge in youth usage. As noted, it was local action against flavored e-cigarettes and other flavored tobacco products that led to enactment of R.C. 9.681. E-cigarettes have been

⁵ *See* Elizabeth L. Seaman et al., *Stronger flavor policies, better outcomes for young people: comparing youth and young adult tobacco use behaviors in areas with and without flavored tobacco sales restrictions, by strength of policy, 2022*, 70 J. Nat’l Cancer Inst. Monograph 235 (2025), <https://doi.org/10.1093/jncimonographs/lgaf019>.

⁶ Bridget K. Ambrose et al., *Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014*, 314 J. Am. Med. Ass’n 1871, 1872 (2015), <https://jamanetwork.com/journals/jama/fullarticle/2464690>.

⁷ Regulation of Flavors in Tobacco Products, 83 Fed. Reg. 12,294, 12,295 (proposed Mar. 21, 2018)

the most commonly used tobacco product among U.S. youth since 2014.⁸ In December 2018, Surgeon General Jerome Adams issued an advisory on e-cigarette use among youth, declaring the growing problem an “epidemic.”⁹ Youth e-cigarette use remains a serious public health concern today, with over 1.6 million youth, including 7.8% of high schoolers, reporting current e-cigarette use in 2024.¹⁰ Rates are even higher in Ohio. In 2023 (the most recent year with available data), 18.8% of Ohio high schoolers, including 27.5% of 12th graders, were current e-cigarette users.¹¹

Young people are not only experimenting with e-cigarettes—they are using them frequently. In 2024, 42.1% of U.S. high school e-cigarette users reported using them on at least 20 of the preceding 30 days, and even more alarming, 29.7% of U.S. high school e-cigarette users reported *daily* use, a strong indicator of nicotine addiction.¹² Roughly 430,000 U.S. middle and high school students are vaping on a daily basis.¹³ In Ohio, in 2023, 7.7% of *all* high schoolers, including 15.3% of 12th graders, reported using e-cigarettes on 20 of the preceding 30 days, and 5.5% of high schoolers, including more than one-in-ten 12th graders (10.2%), reported daily use.¹⁴

⁸ Jan Birdsey et al., *Tobacco Product Use Among U.S. Middle and High School Students – National Youth Tobacco Survey, 2023*, 72 *Morbidity & Mortality Wkly. Rep.* 1173, 1177 (2023), <https://perma.cc/96DW-L9E4>.

⁹ U.S. Dep’t of Health & Human Servs., *Surgeon General’s Advisory on E-Cigarette Use Among Youth* (2018), <https://perma.cc/P96Q-5XYJ>.

¹⁰ Eunice Park-Lee et al., *E-Cigarette and Nicotine Pouch Use Among Middle and High School Students – United States, 2024*, 73 *Morbidity & Mortality Wkly. Rep.* 774, 774 (2024), <https://perma.cc/352G-426C>.

¹¹ Ohio Youth Surveys, *YRBS/YTS High School Tobacco and Electronic Vapor Product Use 2023*, at 13, <https://youthsurveys.ohio.gov/reports-and-insights/yrbs-yts-reports/2023/yrbs-yts-high-school-tobacco-and-electronic-vapor-product-use-2023> (last visited Mar. 3, 2026). The Ohio survey uses the term “electronic vapor product” rather than the synonymous “e-cigarette.” This brief uses the term “e-cigarette” throughout.

¹² Park-Lee et al., *supra* note 10, at 775 tbl.

¹³ *Id.*

¹⁴ Ohio Youth Surveys, *supra* note 11, at 15, 17.

Flavored e-cigarettes are driving the high rates of youth use. As courts have recognized, flavored e-cigarettes “especially appeal to children,” *Breeze Smoke, LLC v. FDA*, 18 F.4th 499, 505 (6th Cir. 2021), and “lie at the heart of the problem” of youth e-cigarette use. *Prohibition Juice*, 45 F.4th at 11. A 2020 Surgeon General’s Report noted that “the role of flavors in promoting initiation of tobacco product use among youth is well established . . . and appealing flavor is cited by youth as one of the main reasons for using e-cigarettes.”¹⁵ In 2024, 87.6% of current U.S. middle and high school e-cigarette users reported using a flavored product.¹⁶ In a separate matter currently pending before this Court, the State itself has acknowledged that flavored e-cigarettes “appeal particularly to children and often serve as a gateway to other tobacco use.” Memo in Supp. of Jurisdiction of Attorney General Dave Yost, at 2 (Nov. 17, 2025), *State ex rel. Attorney General Dave Yost v. Central Tobacco & Stuff Inc.*, No. 2025-1510 (appeal accepted, Feb. 17, 2026).

Most e-cigarettes “contain high concentrations of nicotine,”¹⁷ which is “among the most addictive substances used by humans.” *Nicopure Labs, LLC v. FDA*, 944 F.3d 267, 270 (D.C. Cir. 2019). According to the U.S. Centers for Disease Control and Prevention (“CDC”), adolescent brains are particularly sensitive to nicotine, and exposure during this critical period can “harm the parts of an adolescent’s brain that control attention, learning, mood, and impulse control.”¹⁸

¹⁵ U.S. Dep’t of Health & Human Servs., *Smoking Cessation: A Report of the Surgeon General* 611 (2020), <https://www.hhs.gov/sites/default/files/2020-cessation-sgr-full-report.pdf>.

¹⁶ Park-Lee et al., *supra* note 10, at 774.

¹⁷ Office of the Surgeon General, U.S. Dep’t of Health & Human Servs., *Sound the Alarm: Youth Vaping Can Harm 2* (2025), <https://www.hhs.gov/sites/default/files/osg-youth-vaping-data-sheet.pdf>; see also Fatma Romeh M. Ali et al., *Trends in U.S. E-Cigarette Sales Measured in Milligrams of Nicotine, 2019-2024*, 68 Am. J. Prev. Med. 1173 (2025), <https://doi.org/10.1016/j.amepre.2025.02.007> (documenting that e-cigarette market is increasingly dominated by disposable e-cigarettes that have gotten bigger and cheaper, delivering more nicotine at price points more affordable to youth).

¹⁸ Ctrs. for Disease Control & Prevention, *E-Cigarette Use Among Youth* (Oct. 17, 2024), <https://perma.cc/79PC-GZ3Q>.

Many e-cigarettes also contain other harmful chemicals. The Office of the Surgeon General recently noted that “[r]esearch has detected arsenic along with other toxic metals in vapes, e.g., chromium, antimony, nickel, lead, tin, and aluminum” and that “[i]norganic arsenic and antimony are classified as carcinogenic and can lead to an increased risk of cancer and disruption of hormones.”¹⁹ FDA also recently warned that illegal e-cigarettes, which comprise “[a]s much as 54% of vaping products sold nationally[,] . . . frequently contain chemicals such as formaldehyde, lead, and acrolein—materials more commonly found in industrial textiles and pesticides.”²⁰

Finally, there is little evidence that e-cigarettes, particularly flavored e-cigarettes, yield any public health benefit. The leading public health authorities in the U.S., including the Surgeon General, the U.S. Preventive Services Task Force, the CDC, and the National Academies of Science, Engineering and Medicine, have all concluded that there is insufficient evidence to recommend any e-cigarettes for smoking cessation.²¹ The FDA has also repeatedly found that there is little evidence that flavors in e-cigarettes aid smokers to stop smoking. For example, in upholding FDA marketing denial orders for flavored e-cigarettes, the U.S. Court of Appeals for the Fourth Circuit noted FDA’s conclusion that “[t]he literature was conflicting and inconclusive

¹⁹ Office of the Surgeon General, *Sound the Alarm*, *supra* note 17, at 3.

²⁰ U.S. Food & Drug Admin., *A Statement from FDA Commissioner Marty Makary, M.D., M.P.H.: Encouraging Retailers to Stop Selling Illegal Vapes* (Sept. 30, 2025), <https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-marty-makary-md-mph-encouraging-retailers-stop-selling-illegal-vapes>.

²¹ U.S. Dep’t of Health & Human Servs., *Smoking Cessation: A Report of the Surgeon General*, *supra* note 15, at 7; U.S. Preventive Servs. Task Force, *Interventions for Tobacco Smoking Cessation in Adults, Including Pregnant Persons: USPSTF Recommendation Statement*, 325 J. Am. Med. Ass’n 265 (2021), <https://jamanetwork.com/journals/jama/fullarticle/2775287>; Ctrs. for Disease Control & Prevention, *Adult Smoking Cessation – The Use of E-Cigarettes*, <https://perma.cc/UZB4-2C6L> (last visited Mar. 3, 2026); Nat’l Acads. of Sci., Eng’g & Med., *Public Health Consequences of E-Cigarettes* 10 (2018), <https://perma.cc/AZZ8-LKXW>.

on whether flavors actually promoted switching [from cigarettes to e-cigarettes] or cessation by adult smokers.” *Avail Vapor, LLC v. FDA*, 55 F. 4th 409, 421 (4th Cir. 2022).

Thus, Appellees’ flavored tobacco laws provide their residents, particularly youth, with substantial protection from the addictive and other harmful effects of flavored e-cigarettes—protections that would be removed if R.C. 9.681 is upheld.

2. Other Critical and Long-Standing Municipal Tobacco Control Laws

R.C. 9.681’s impact extends far beyond municipal flavored tobacco laws. If upheld, it would preempt *all* other municipal tobacco control laws. For example, municipalities would be powerless to enforce their smoke-free laws. While Ohio has an important Smoke-Free Workplace Act, which was modeled after previously enacted local laws, *see infra* 22, the state law only prohibits smoking in *enclosed* public places and places of employment. *See* R.C. 3794.01-0.3. Many of the Appellees have enacted their own laws that provide additional protections beyond the state law. For example, if R.C. 9.681 is given effect, Appellees would be barred from enforcing their laws prohibiting smoking at high school football games or in public outdoor playgrounds. *See, e.g.*, Am. Compl. ¶¶ 148 (Cleveland law prohibiting smoking in outdoor areas owned or controlled by the city); 241 (Hilliard law prohibiting smoking at public parks leased or owned by the city); 295 (Reynoldsburg ordinance prohibiting smoking in city-owned parks and other city-operated outdoor facilities); 320 (Upper Arlington law prohibiting smoking in public outdoor spaces).

R.C. 9.681 would also invalidate local laws that require retailers to obtain a license before selling tobacco products in a jurisdiction. *See, e.g.*, Amended Compl. §§ 71, 101, 146-148, 180, 198, 260, 295. These laws provide important public health protections to municipal residents. Researchers have concluded that tobacco retail licensure laws can “be an effective policy approach to reduce the availability of tobacco and tobacco marketing . . . [,] decrease tobacco-related

disparities in low socioeconomic communities,” and reduce the number of tobacco outlets near schools.²² If left to stand, R.C. 9.681 would eliminate these and other important tobacco control laws.

B. Localities Are in the Best Position to Address Tobacco-Related Disparities Plaguing Their Communities.

While all communities in Ohio are impacted by tobacco—the leading cause of preventable death and disease in the State—differences in use patterns, products used, and the associated morbidity and mortality exist across communities, largely due to industry targeting. As the level of government closest to the people, localities are ideally positioned to enact tailored tobacco control policies that respond to the particular needs of their residents.

1. Rural Residents

Rural Americans, including in Ohio, have been bombarded for years with heavy advertising and discounted pricing for cigarettes and smokeless tobacco. The industry has saturated the rural market with advertising that uses themes and images historically associated with rural communities, such as cowboys, hunters, and race car drivers.²³ It has also employed pricing strategies targeted at rural residents. For example, one study that used a sample of over 100 urban and 100 rural tobacco retailers in Ohio, found that the cheapest packs of cigarettes were, on average, sold for the lowest prices in rural areas.²⁴ Similarly, a study of tobacco retailers in

²² Hannah G. Lawman et al., *Tobacco Retail Licensing and Density 3 Years After License Regulations in Philadelphia, Pennsylvania (2012-2019)*, 110 *Am. J. Pub. Health* 547, 552 (2020), <https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2019.305512>.

²³ Am. Lung Ass’n, *Cutting Tobacco’s Rural Roots: Tobacco Use in Rural Communities* 8 (2012), <https://perma.cc/PC43-Q2YE>.

²⁴ Brittney Keller-Hamilton et al., *Cigarette Prices in Rural and Urban Ohio: Effects of Census Tract Demographics*, 21 *Health Promot. Prac.* 37s (2020), <https://doi.org/10.1177/1524839919881141>.

California found that rural stores charged less for the cheapest cigarette pack (regardless of brand), and were more likely to advertise discounts on chewing tobacco compared to non-rural areas.²⁵ Moreover, the two largest dollar store chains, Family Dollar and Dollar General, began selling tobacco products in 2012 and 2013, respectively, and have since opened many new stores, specifically targeting small towns in rural areas.²⁶

Unsurprisingly, rates of tobacco use, particularly cigarettes and smokeless tobacco, remain stubbornly high in rural areas, including among youth. In 2024, adults living in rural areas in the U.S. smoked cigarettes at nearly twice the rate of those living in urban areas (15.4% vs. 8%).²⁷ Similarly, in Ohio, current cigarette smoking is significantly higher among Appalachia residents than the overall population (21.2% vs. 15%).²⁸ Research shows that rural populations are also more likely to start smoking at earlier ages and be heavier smokers.²⁹ Rural Americans are also more likely to use smokeless tobacco. According to data from the PATH Study, past 30-day use of

²⁵ Lisa Henriksen et al., *Retail Tobacco Marketing in Rural Versus Nonrural Counties: Product Availability, Discounts, and Prices*, 21 Health Promot. Prac. 27s (2020), <https://doi.org/10.1177/1524839919888652>.

²⁶ Jaelyn Hall et al., *Rural-urban disparities in tobacco retail access in the southeastern United States: CVS vs. the dollar stores*, 15 Prev. Med. Rep. 100934 (2019), <https://doi.org/10.1016/j.pmedr.2019.100935>.

²⁷ Nat'l Ctr. for Health Stats., *Percentage of current cigarette smoking for adults aged 18 and over; United States, 2024*, National Health Interview Survey. Generated interactively Aug. 4, 2025 from https://wwwn.cdc.gov/NHISDataQueryTool/SHS_adult/index.html.

²⁸ Ohio Dep't of Health, *Tobacco Use Among Adults in Ohio, 2023*, at 4, 8, https://odh.ohio.gov/wps/wcm/connect/gov/c4adc0ba-4b34-4d9d-b594-8ecf6dcab77f/Adult+Tobacco+Survey+Slides+2023.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_JQGCH4S04P41206HNUKVF31000-c4adc0ba-4b34-4d9d-b594-8ecf6dcab77f-puDASUH (last visited Mar. 3 2026).

²⁹ Ctrs. for Disease Control & Prevention, *Best Practices User Guides: Health Equity in Tobacco Prevention and Control* 11 (2015), <https://stacks.cdc.gov/view/cdc/42355>.

smokeless tobacco products was three times higher among U.S. adults in rural areas compared to their urban counterparts (6.3% vs. 2.1%).³⁰

Youth living in rural and smaller metropolitan areas also use tobacco products at higher rates than youth living in large urban areas. According to national data from the Monitoring the Future survey, use of cigarettes, e-cigarettes, smokeless tobacco, and overall nicotine product use were all higher among rural youth (Chart 1).

Chart 1: Past 30-day Use of Tobacco Products Among 12th Graders³¹

Product	Rural	City	Suburban
Cigarettes	4.4%	2.9%	2.2%
Vaping Nicotine	21.1%	9.2%	16.6%
Nicotine Pouches	9.8%	1.9%	3.5%
Smokeless Tobacco	5.6%	2.2%	3.6%
Any Nicotine Use	26.7%	11.2%	17.2%

Resulting from these higher use rates, rural residents are more likely to suffer from tobacco-related death and disease than those living in urban areas. Smoking causes 8 out of 10 lung cancer deaths, and people in rural areas have an 18-20% higher lung cancer mortality rate than people in urban areas.³² The prevalence of chronic obstructive pulmonary disease (COPD), which is

³⁰ See 2024 Surgeon General’s Report, *supra* note 1, at 179.

³¹ Richard A. Miech et al., *Monitoring the Future Study Annual Report, National Survey Results on Drug Use, 1975-2024: Overview and detailed results for secondary school students* 79 tbl.4.3 (2025), <https://monitoringthefuture.org/wp-content/uploads/2024/12/mtf2025.pdf>.

³² Rebecca L. Siegel et al., *Cancer Statistics, 2023*, 73 CA: A Cancer J. Clin. 17, 19 (2023), <https://doi.org/10.3322/caac.21763>; Gopal K. Singh et al., *Socioeconomic, Rural-Urban, and Racial Inequalities in US Cancer Mortality: Part I – All Cancers and Lung Cancer and Part II – Colorectal, Prostate, Breast, and Cervical Cancers*, J. Cancer Epidemiology 1, 6 (2012), <https://doi.org/10.1155/2011/107497>.

primarily caused by smoking, is also significantly higher in rural areas than urban areas (8.2% vs. 4.7%).³³

2. Socio-Economic Status

The tobacco industry has also aggressively targeted lower-income and less-educated populations, which has led to these groups using tobacco products at elevated levels and suffering a disproportionately high burden of tobacco-related death and diseases. As smoking rates have declined in higher-income populations, tobacco companies are increasingly relying on low-income populations for their consumer base—and they have targeted this price-sensitive population through price discounting, coupons, and promotions.³⁴ As the 2024 Surgeon General’s Report concluded:

[P]eople with lower socioeconomic status are more likely to receive and use a coupon or price discount code to purchase tobacco products compared with . . . those of higher socioeconomic status. Use of coupons appears to increase the likelihood of tobacco initiation among people who have never used tobacco and to reduce the likelihood of quitting among people who use tobacco.”³⁵

Researchers have also found a higher density of tobacco retailers in lower-income neighborhoods.³⁶ This is concerning given the substantial evidence that retailer density is associated with greater exposure to tobacco product marketing and greater access to and availability of tobacco products, which can curb quit attempts, prompt impulse purchases, and cue cravings to smoke.³⁷ One study from Mecklenburg County, North Carolina (home of Charlotte)

³³ Janet B. Croft et al., *Urban-Rural County and State Differences in Chronic Obstructive Pulmonary Disease – United States, 2015*, 67 *Morbidity & Mortality Wkly. Rep.* 205, 207 tbl.1 (2018), <https://perma.cc/W6EW-HPUJ>.

³⁴ 2024 Surgeon General’s Report, *supra* note 1, at 12, 98-99, 394, 420, 432.

³⁵ *Id.* at 12.

³⁶ *Id.* at 385 (compiling research).

³⁷ See, e.g., Janine Paynter & Richard Edwards, *The impact of tobacco promotion at the point of sale: A systematic review*, 11 *Nicotine & Tob. Res.* 25 (2009),

found that neighborhoods of residents in the lowest income quintile “were on average closer to 10 tobacco retailers (0.88 miles) than people in the three higher income neighborhood quintiles were to just a single tobacco retailer (Q3=0.94 miles; Q4=1.07 miles; Q5=1.25 miles).”³⁸

As a result, these populations are particularly burdened by tobacco use; they smoke more, suffer more, and die more from tobacco use. In Ohio, 36.3% of adults with an annual income of \$15,000 or less are current cigarette smokers, which is more than 2.5 times the rate of those making over \$15,000 (14.2%).³⁹ Nationally, the smoking rate among adults with the lowest reported income is 18.6%, nearly twice the overall adult smoking rate of 9.9%.⁴⁰ Data from the National Health Interview Survey also show that, among U.S. working adults, workers with blue collar jobs, such as construction (20.2%), manufacturing (16.4%), and utilities (15.8%), smoke at higher rates than those with white collar jobs, such as finance and insurance (5.8%) and professional, scientific, and technical services (5.9%).⁴¹ Lower-income smokers also suffer disproportionately from smoking-caused diseases. From 2009 to 2013, counties with the lowest educational attainment or

https://www.researchgate.net/publication/24043691_The_Impact_of_Tobacco_Promotion_at_the_Point_of_Sale_A_Systematic_Review; Owen B.J. Carter et al., *The effect of retail cigarette pack displays on unplanned purchases: results from immediate postpurchase interviews*, 18 *Tob. Control* 218 (2009), <https://doi.org/10.1136/tc.2008.027870>.

³⁸ Amanda Y. Kong, *Neighborhood racial, ethnic, and income disparities in accessibility to multiple tobacco retailers: Mecklenburg County, North Carolina, 2015*, 17 *Prev. Med. Rep.* 101031 (2020), <https://doi.org/10.1016/j.pmedr.2019.101031>.

³⁹ Ohio Dep’t of Health, *supra* note 28, at 8.

⁴⁰ Nat’l Ctr for Health Stats., *Percentage of Current Cigarette Smoking for adults aged 18 and over, United States, 2024*, National Health Interview Survey. Generated interactively Aug. 7, 2025 from https://wwwn.cdc.gov/NHISDataQueryTool/SHS_adult/index.html.

⁴¹ 2024 Surgeon General Report *supra* note 1, at 111, 117 tbl.2.20.

highest poverty had the highest levels of tobacco-related cancer incidence and death rates as well as the slowest decline in cancer incidence rates.⁴²

Therefore, the need for strong tobacco regulation is particularly strong in localities that experience such economic and educational disparities.

3. African Americans and Menthol Cigarettes

Since at least the 1950s, the industry has targeted African Americans with marketing for menthol cigarettes through magazine advertising, sponsorship of community and music events, and youthful imagery and marketing in the retail environment.⁴³ For example, tobacco companies strategically placed menthol cigarette ads featuring Black models in magazines with high Black readership. One study found that from 1998-2002, *Ebony* was 9.8 times more likely than *People* magazine to carry ads for menthol cigarettes.⁴⁴

The industry also marketed menthol brands through popular community events, particularly those focused around music, such as R.J. Reynolds' Salem Summer Street Scenes festivals, Brown & Williamson's Kool Jazz Festival, and Philip Morris's Club Benson & Hedges promotional bar nights, which targeted clubs frequented by Black Americans.⁴⁵ R.J. Reynolds

⁴² S. Jane Henley et al., *Vital Signs: Disparities in Tobacco-Related Cancer Incidence and Mortality—United States, 2004-2013*, 65 *Morbidity & Mortality Wkly. Rep.* 1212, 1213 (2016), <https://perma.cc/ZU8G-6HDZ>.

⁴³ See generally Campaign for Tobacco-Free Kids et al., *Stopping Menthol, Saving Lives: Ending Big Tobacco's Predatory Marketing to Black Communities* 7-9 (2021), <https://perma.cc/Q2DX-JPAA>.

⁴⁴ Hope Landrine et al., *Cigarette Advertising in Black, Latino, and White Magazines, 1998-2002: An Exploratory Investigation*, 15 *Ethnic Disparities* 63, 65 (2005), <https://pubmed.ncbi.nlm.nih.gov/15720050/>.

⁴⁵ Navid Hafez & Pamela M. Ling, *Finding the Kool Mixx: how Brown & Williamson used music marketing to sell cigarettes*, 15 *Tobacco Control* 359, 360 (2006), <https://tobaccocontrol.bmj.com/content/15/5/359.long>; Valerie B. Yerger et al., *Racialized Geography, Corporate Activity, and Health Disparities: Tobacco Industry Targeting of Inner Cities*, 18 *J. Health Care for Poor & Underserved* 10, 25 (2007),

estimated that they reached at least half of African Americans in five major cities through their street festivals.⁴⁶ As FDA’s Tobacco Product Scientific Advisory Committee concluded in its report on Menthol Cigarettes and Public Health, menthol cigarettes are “disproportionately marketed per capita to African Americans. African Americans have been the subjects of specifically tailored menthol marketing strategies and messages.”⁴⁷

Today, menthol cigarettes continue to be more heavily advertised and priced cheaper in Black communities, making them especially appealing to price-sensitive youth. The 2018 California Tobacco Retail Surveillance Study found that menthol advertisements were significantly more common in neighborhoods with higher proportions of African American residents and school-age youth.⁴⁸ Another study from California concluded that, as the proportion of African American high school students in a neighborhood rose, so did the proportion of menthol advertising.⁴⁹ The 2024 Surgeon General’s Report on tobacco-related health disparities concluded

<https://muse.jhu.edu/article/224501>; see also R.J. Reynolds, *Black Street Scenes 1993 Review and Recommendations*, in *Truth Tobacco Industry Documents*, <http://legacy.library.ucsf.edu/tid/onb19d00>.

⁴⁶ Yerger et al., *supra* note 45, at 25.

⁴⁷ Tobacco Product Scientific Advisory Committee, *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations* 92 (2011), <https://wayback.archive-it.org/7993/20170405201731/https://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>.

⁴⁸ Nina C. Schleicher et al., *California Tobacco Retail Surveillance Study* 2018, at 3, 22 (2019), <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/Reports/CaliforniaTobaccoRetailSurveillanceStudyReport-2018.pdf?utm>.

⁴⁹ Lisa Henriksen et al., *Targeted Advertising, Promotion, and Price For Menthol Cigarettes in California High School Neighborhoods*, 14 *Nicotine & Tobacco Res.* 116, 118 (2012), <https://doi.org/10.1093/ntr/ntr122>.

that “marketing for menthol cigarettes” is “more prevalent in neighborhoods with greater percentages of African American residents or of residents with lower incomes . . .”⁵⁰

The data reflects the effects of this targeting. In the early 1950s, 5% of African American smokers preferred menthol brands.⁵¹ By 2018, 85% of African American smokers smoked menthol cigarettes, compared to 29% of Whites.⁵²

Menthol cigarettes are particularly pernicious because, as the Surgeon General has observed, they “mask the harshness of cigarette smoke, facilitate addiction, [and] make quitting more difficult.”⁵³ Menthol cigarettes are also a major reason why tobacco use is the number one cause of preventable death among African Americans, who die from smoking-caused diseases at far higher rates than other Americans.⁵⁴ A recent study found that among the African-American community, menthol cigarettes were responsible for 1.5 million extra smokers, 157,000 smoking-related premature deaths, and 1.5 million excess life-years lost between 1980 and 2018.⁵⁵ Similar disparities exist in Ohio. The CDC estimates that 83% of Black smokers in Ohio use menthol

⁵⁰ 2024 Surgeon General’s Report, *supra* note 1, at 9.

⁵¹ See Phillip S. Gardiner, *The African Americanization of menthol cigarette use in the United States*, 6 *Nicotine & Tobacco Res.* S55, S59 (2004), <https://doi.org/10.1080/14622200310001649478>; Burns W. Roper, *A Study of People’s Cigarette Smoking Habits and Attitudes Volume I*, in Truth Tobacco Industry Documents (1953), <https://www.industrydocuments.ucsf.edu/tobacco/docs/#id=fhcv0035>.

⁵² Cristine D. Delnevo et al., *Banning Menthol Cigarettes: A Social Justice Issue Long Overdue*, 22 *Nicotine & Tobacco Res.* 1673, 1674 (2020), <https://doi.org/10.1093/ntr/ntaa152>.

⁵³ (Cleaned up.) 2024 Surgeon General’s Report, *supra* note 1, at 22 .

⁵⁴ See generally Campaign for Tobacco-Free Kids et al., *Stopping Menthol*, *supra* note 43, at 4 and sources cited therein.

⁵⁵ David Mendez & Thuy T.T. Le, *Consequences of a Match Made in Hell: The Harm Caused by Menthol Smoking to the African American Population Over 1980-2018*, 31 *Tobacco Control* 569, 570 (2021), <https://tobaccocontrol.bmj.com/content/tobaccocontrol/31/4/569.full.pdf>.

compared to 33.8% of all Ohio adult smokers.⁵⁶ Thus, the toll of menthol cigarettes on the Black population in Ohio is particularly acute in localities with a high percentage of Black residents, making local authority to take action against those flavored products particularly important to protect public health.

As these examples illustrate, communities face different burdens from tobacco use. It is critical that localities continue to have the authority to enact and tailor tobacco control policies to meet the particular needs of their residents. By stripping localities of this authority, R.C. 9.681 poses a clear and present danger to public health.

C. Localities Play a Vital Role in Developing Innovative Laws that Protect Their Residents from the Harms of Tobacco Products

Local tobacco regulatory authority is also important to preserve the historical role that localities, in Ohio and elsewhere, have played as policy laboratories, in which they can experiment with innovative tobacco control laws that may be precursors to state-wide, and even federal, action. States and the federal government have benefited from this bottom-up approach, which allows states and the federal government to assess, tweak, and later adopt legislative ideas that originated at the local level. It strongly serves the health of Ohioans to preserve this life-saving authority to engage in local innovation.

1. Municipalities as Policy Laboratories

Justice Brandeis famously referred to the states as “laborator[ies],” that “if its citizens choose,” can experiment with novel policies “without risk to the rest of the country.” *New State Ice Co. v. Liebmann*, 285 U.S. 263, 311 (1932) (Brandeis J., dissenting). Such reasoning applies with equal and perhaps greater force to localities due to their sheer number. Municipalities’

⁵⁶ Ctrs. for Disease Control & Prevention, *Menthol Facts – Ohio*, <https://perma.cc/N3JB-VAFF> (last visited Mar. 3, 2026).

relatively small scale and streamlined lawmaking process make them the ideal jurisdictions to develop innovative public health policies.⁵⁷

As one legal scholar put it, “[i]f the fifty states are laboratories for public policy formation, then surely the . . . [many more] municipalities provide logarithmically more opportunities for innovation, experimentation and reform.”⁵⁸ Local experimentation allows the public and policymakers at all levels to assess the benefits, burdens, and gaps of a law on a small scale and use that information to decide whether they should replicate or build upon the law in their municipality, state, or even at the federal level. “Refining policies at the local level” also “helps . . . minimise negative outcomes and build social acceptance.”⁵⁹ While no jurisdiction may have the perfect solution, each attempt helps it and other jurisdictions understand what is effective in solving complex public health problems.⁶⁰

Municipalities’ streamlined lawmaking process also promotes public health innovation. Compared to the bicameral legislatures in most state governments (and at the federal level), municipalities’ unicameral city council or town meeting structure creates fewer opportunities for lobbyists and interest groups to upend policy experiments.⁶¹ With respect to tobacco control laws specifically, it has been recognized that “the tobacco industry and its allies tend to have far more

⁵⁷ See generally Paul A. Diller, *Why Do Cities Innovate in Public Health? Implications of Scale and Structure*, 91 Wash. U. L. Rev. 1219 (2014), <https://perma.cc/VP4K-SMAH>.

⁵⁸ Richard Briffault, *Home Rule and Local Political Innovation*, 22 J.L. & Pol. 1, 31 (2006), https://scholarship.law.columbia.edu/faculty_scholarship/1405/.

⁵⁹ John A. Francis et al., *Policy-Driven Tobacco Control*, 19 Tobacco Control i16, i19 (2010), https://tobaccocontrol.bmj.com/content/19/Suppl_1/i16.

⁶⁰ See Marquan Robertson, *Preference-Based Federalism*, 54 St. Mary's L.J. 805, 833 (2023), <https://commons.stmarytx.edu/thestmaryslawjournal/vol54/iss3/8/>.

⁶¹ See Erin A. Scharff, *Hyper Preemption: A Reordering of the State-Local Relationship?*, 106 Geo. L.J. 1469, 1492 (2018), <https://perma.cc/UY25-GASS>.

sway with state legislators than they do with local elected officials,” underscoring the public health importance—and sometimes necessity—of acting at the local level.⁶² As one Philip Morris executive put it all the way back in 1994, “[b]y introducing pre-emptive statewide legislation we can shift the battle away from the community level back to the state legislatures where we are on stronger ground.”⁶³

2. Local Policy Experimentation Has Led to Impactful State and Federal Tobacco Control Laws

The impact of local experimentation with tobacco control laws can be seen here in Ohio by examining policies that originated locally before being adopted at higher levels of government. For example, before Ohio voters passed the statewide Smoke-Free Workplace Act in November 2006, which prohibits smoking in enclosed public places and places of employment, at least 21 localities in Ohio, including the majority of cities and suburbs in Franklin County, had passed similar laws, creating momentum for state action.⁶⁴ These laws have saved lives. The 2020 Surgeon General’s Report, *Smoking Cessation: A Report of the Surgeon General*, found that there is sufficient evidence “to infer that smoke-free policies reduce smoking prevalence, reduce cigarette consumption, and increase smoking cessation.”⁶⁵ The CDC has also concluded that

⁶² Micah L. Berman, *Raising the Tobacco Sales Age to 21: Surveying the Legal Landscape*, 131 *Pub. Health Reps.* 378, 380 (2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4765989/pdf/phr131000378a.pdf>.

⁶³ See Delmonte Jefferson & Cynthia Hallet, *Better Tobacco Control Policy Starts Locally*, Robert Wood Johnson Found. Blog (July 14, 2022), <https://perma.cc/A6BG-8WM3> (quoting Tina Walls).

⁶⁴ Ohio Dep’t of Health, *Analyses of the Impact of Ohio’s Smoke-Free Workplace Act: Executive Summary* 3 (2011), [https://odh.ohio.gov/wps/wcm/connect/gov/3f5adafd-813a-4d40-9514-fc873bab6cc6-pEeSGNX](https://odh.ohio.gov/wps/wcm/connect/gov/3f5adafd-813a-4d40-9514-fc873bab6cc6/smokefreeimpactstudyexecutivesummary.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_JQGCH4S04P41206HNUKVF31000-3f5adafd-813a-4d40-9514-fc873bab6cc6-pEeSGNX); Benesch, Friedlander, Coplan & Arnoff, *Smoke Free Creates Obligations for Ohio Employers* (Nov. 16, 2006), <https://perma.cc/S53F-CKTS>.

⁶⁵ U.S. Dep’t of Health & Human Serv., *Smoking Cessation: A Report of the Surgeon General*, *supra* note 15, at 11.

smoke-free laws “help improve the health of workers and the general population” and “also can make it easier for people who smoke to quit, reducing their risk of disease.”⁶⁶

Ohio localities also led the way on laws raising the minimum sales age. In July 2019, Ohio became the eighteenth state to raise the minimum sales age for tobacco products from 18 to 21 years (“Tobacco 21 law”). See 2019 Am.Sub.H.B. No. 166 (codified at R.C. 2927.02). This state law again built on local momentum, with 26 localities in Ohio, including many of the Appellees, having adopted similar policies before the state acted.⁶⁷ The policy later trickled up to the federal level when, in December 2019, President Trump signed a law raising the minimum sales age to 21. Further Consolidated Appropriations Act, 2020, Pub L. 116-94, Div. N, Tit. I, Subtit. E, § 603(a), 133 Stat. 2534, 3123 (2019) (codified at 21 U.S.C. § 387f(d) (5)).

Tobacco 21 laws play an important role in youth tobacco prevention efforts. Tobacco companies are aware that the ages of 18 to 21 are a critical time period for solidifying tobacco addiction and thus heavily target their marketing towards this population.⁶⁸ In fact, national data show that about 95% of adult smokers begin smoking before they turn 21.⁶⁹ Delaying the age when young people first experiment or begin using tobacco can reduce the risk that they transition to regular or daily tobacco use and increase their chances of successfully quitting, if they do become

⁶⁶ Ctrs. for Disease Control & Prevention, *Smokefree Policies Improve Health* (Nov. 30, 2021), <https://perma.cc/Y3UM-NBNR>.

⁶⁷ Campaign for Tobacco-Free Kids, *States and Localities That Have Raised the Minimum Legal Sale Age for Tobacco Products to 21*, at 3 <https://perma.cc/AD67-R9TM> (last visited Mar. 3, 2026).

⁶⁸ Pamela M. Ling & Stanton A. Glantz., *Why and How the Tobacco Industry Sells Cigarettes to Young Adults: Evidence From Industry Documents*, 92 Am. J. Pub. Health 908, 909-914 (2002), <https://doi.org/10.2105/ajph.92.6.908>; Edward Sepe et al., *Smooth Moves: Bar and Nightclub Tobacco Promotions That Target Young Adults*, 92 Am. J. Pub. Health 414, 414-418 (2002), <https://doi.org/10.2105/ajph.92.3.414>; V.L. Ernster, *Advertising and promotion of smokeless tobacco products*, 8 NCI Monograph 87 (1989), <https://pubmed.ncbi.nlm.nih.gov/2654652/>.

⁶⁹ Institute of Medicine, *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products* 43 tbl.2-8 (2015), <https://www.nationalacademies.org/publications/18997>.

regular users.⁷⁰ If R.C. 9.681 had been the law prior to 2019, it would have suppressed the local legislative action that set the stage for Ohio’s statewide Tobacco 21 law.

In sum, municipal policy experimentation has led to the subsequent enactment of life-saving tobacco control laws at the state and federal levels. Based on the historical success of local tobacco control laws, this Court should recognize the strong public health benefits of preserving Ohio municipalities’ constitutional home rule authority.

CONCLUSION

For these reasons, and those presented by Appellees, the Court should affirm the Appellate Court’s judgment and find R.C. 9.681 to be an unconstitutional infringement on municipalities’ home rule authorities.

⁷⁰ See, e.g., Sadik A. Khuder et al., *Age at Smoking Onset and its Effect on Smoking Cessation*, 24 *Addictive Behavior* 673 (1999), [https://doi.org/10.1016/s0306-4603\(98\)00113-0](https://doi.org/10.1016/s0306-4603(98)00113-0); Sherry A. Everett et al., *Initiation of Cigarette Smoking and Subsequent Smoking Behavior Among U.S. High School Students*, 29 *Preventive Medicine* 327 (1999), <https://doi.org/10.1006/pmed.1999.0560>.

ADDENDUM

1. African American Tobacco Control Leadership Council

The African American Tobacco Control Leadership Council (“AATCLC”) is our country’s leading public health education and advocacy organization taking on Big Tobacco to save Black lives. Formed in 2008, the AATCLC is composed of a cadre of dedicated community activists, academics, public health advocates and researchers dedicated to removing menthol and flavored little cigars from the Black community.

2. American Cancer Society Cancer Action Network

The American Cancer Society Cancer Action Network (“ACS CAN”) is committed to ensuring everyone has a fair and just opportunity to prevent, find, treat, and survive cancer. Our advocacy includes support for evidence-based tobacco control measures such as Columbus’s prohibition on the sale of flavored products. ACS CAN currently has 1,941 tobacco control advocates in Ohio; 221 of these advocates are from Franklin County.

3. American Heart Association

The American Heart Association (“AHA”) is the nation’s oldest and largest voluntary organization dedicated to fighting heart disease and stroke. Founded in 1924, the organization now includes more than 35 million volunteers and supporters with offices nationwide. The Association funds innovative research, advocates for the public’s health, and shares lifesaving resources. AHA has long been active in ensuring policies that promote longer, healthier lives for all and recognizes that preemptive state laws limiting local authority are often a barrier to that goal.

4. American Lung Association

The American Lung Association is the nation’s oldest voluntary health organization working to save lives by improving lung health and preventing lung disease. The American Lung Association

has long been active in research, education and public policy advocacy regarding the adverse health effects caused by tobacco use. This includes supporting the rights of states to regulate tobacco product sales as allowed under the Family Smoking Prevention and Tobacco Control Act.

5. American Medical Association

The American Medical Association (“AMA”) is the largest professional association of physicians, residents, and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all physicians, residents, and medical students in the United States are represented in the AMA’s policy-making process. The AMA was founded in 1847 to promote the art and science of medicine and the betterment of public health, and these remain its core purposes.

6. Association of Ohio Health Commissioners

The Association of Ohio Health Commissioners (“AOHC”) is the statewide association that represents the 111 local health departments in Ohio. The mission of AOHC is to promote strong local public health leadership, form meaningful relationships with local, state and federal public health stakeholders, and advocate for an effective and efficient local governmental public health system.

7. Campaign for Tobacco-Free Kids

The Campaign for Tobacco-Free Kids is a leading force in the fight to reduce tobacco use and its deadly toll in the United States and around the world. The Campaign envisions a future free of the death and disease caused by tobacco, and it works to save lives by advocating for public policies that prevent kids from using tobacco products, help smokers quit, educate the public about the dangers of smoking and tobacco use, and protect everyone from secondhand smoke.

8. LGBTQIA+ Cancer Network

The mission of the LGBTQIA+ Cancer Network is to improve the lives of LGBTQI+ individuals on the cancer journey and those at risk through educational, training, and advocacy initiatives. LGBTQIA+ communities are disproportionately impacted by flavored tobacco products, which in turn impacts community rates of cancer. As such, LGBTQIA+ communities have a strong interest in responsible public health policy.

9. NAACP

The National Association for the Advancement of Colored People (“NAACP”), founded in 1909, is the nation’s first, foremost, and largest civil rights organization. The NAACP is committed to ending racial health disparities. It collaborates with communities through coordinated action to tackle the social determinants of health — racism, poverty, exclusion, inferior schools, unsafe housing, poor nutrition, and toxic environments.

10. NAACP Ohio State Conference

The NAACP Ohio State Conference is the state affiliate of the NAACP and has been a key driver in mobilizing grassroots engagement, championing policy advocacy, and building community partnerships to confront the challenges facing African Americans in Ohio.

11. Ohio Chapter, American Academy of Pediatrics

The Ohio Chapter, American Academy of Pediatrics (“Ohio AAP”) promotes the health, safety and well-being of children and adolescents so they may reach their full potential. The Ohio AAP accomplishes this by addressing the needs of children, their families, and their communities, and by supporting Chapter members through advocacy, education, research, service, and improving the systems through which they deliver pediatric care. The Ohio AAP works to curb tobacco exposure to children from infancy through adolescence with advocacy and programs on smoking

dangers and cessation for family members, and works to promote the dangers of tobacco use on long term health.

12. Ohio State Medical Association

The Ohio State Medical Association (“OSMA”) is a nonprofit professional association established in 1846 and is comprised of physicians, resident physicians, and medical students in Ohio. The majority of OSMA’s membership includes Ohio physicians engaged in the private practice of medicine. The OSMA’s purposes are to advocate for physicians and their patients, improve public health through education, encourage interchange of ideas among members, and maintain and advance the standards of practice.

13. Parents Against Vaping E-cigarettes

Parents Against Vaping E-cigarettes was founded by three moms in 2018 as a grassroots response to the youth vaping epidemic. Parents Against Vaping, a volunteer-powered education and advocacy nonprofit, is the first and only national parent voice in the fight against youth tobacco use and the predatory behavior of the tobacco industry. Parents Against Vaping educates parents across the country and supports ending the sale of all flavored tobacco products.

14. Preventing Tobacco Addiction Foundation

Founded in 1996, the Preventing Tobacco Addiction Foundation and its advocacy arm, Tobacco 21, have been the major driving forces behind increasing the sales age for all nicotine products to 21 nationwide. They also helped lead the 2003 effort to ban indoor smoking in Columbus and ten surrounding suburbs leading to a statewide ban, and helped direct the successful effort to persuade a unanimous Columbus City Council to end the sale of flavored nicotine and tobacco products in 2022.

15. Public Health Law Center

The Public Health Law Center is a public interest legal resource center dedicated to improving health through the power of law and policy, grounded in the belief that everyone deserves to be healthy. Located at the Mitchell Hamline School of Law in Saint Paul, Minnesota, the Center helps local, state, national, Tribal, and global leaders promote health by strengthening public policies. For more than twenty-five years, the Center has worked with public officials and community leaders to develop, implement, and defend effective public health laws and policies, including those designed to reduce commercial tobacco use, improve the nation's diet, encourage physical activity, enhance climate justice, protect the nation's public health infrastructure, and promote health equity.

16. The Center for Black Health and Equity

Since 2000, The Center for Black Health and Equity has been a leading advocate and capacity building institution that addresses social justice and health equity issues relative to commercial tobacco use. For more than 20 years these products have taken more than one million Black lives with targeting and misinformation by the tobacco industry. It is the opinion of The Center that local municipalities should have the authority afforded them in the Ohio Constitution and continue to enforce ordinances enacted to restrict access to menthol products in their communities. Our mission is to facilitate programs and services to benefit communities and people of African descent. In fulfillment of our mission, we build community capacity, develop community infrastructure, and advocate for equity-centered policies.

17. Truth Initiative

The Truth Initiative Foundation, d/b/a Truth Initiative, is a 501(c)(3) Delaware corporation created in 1999 out of a 1998 master settlement agreement that resolved litigation brought by 46 states,

five U.S. territories, and the District of Columbia against the major U.S. cigarette companies. Truth Initiative studies and supports programs in the United States to reduce youth tobacco use and to prevent diseases associated with tobacco use.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served this day, March 11, 2026, upon the following via electronic mail:

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