



September 4, 2025

The Honorable Gavin Newsom  
California State Governor  
1021 O Street, Suite 9000  
Sacramento, CA 95814

**RE: AB 3218 (Wood): REQUEST FOR VETO**

Dear Governor Newsom:

The California Retailers Association (CRA) respectfully requests your veto of AB 3218 (Wood), which would grant the Attorney General (AG) (and any future Attorney General) with unprecedented authority to ban tobacco products, including unflavored products currently permitted for sale by the United States Food and Drug Administration (FDA). This bill sets a dangerous precedent with potential far-reaching implications for California retailers and the State's General Fund.

While CRA supports the creation of a statewide Unflavored Tobacco List (UTL) to address the sale of flavored and illegal tobacco products, AB 3218 instead gives the Attorney General broad and unparalleled power to regulate, and potentially ban legal, unflavored tobacco products. Under this bill, the Attorney General could arbitrarily exclude compliant products from the UTL, driven by either legitimate concerns or political motivations.

Many CRA members currently offer tobacco and nicotine products that are federally permitted for sale. If AB 3218 (Wood) is not vetoed, the Attorney General could potentially ban these products, resulting in their removal from store shelves as early as next year. Given the seriousness of the state's ongoing budget deficit, retailers are very concerned when bills, such as AB 3218, advance that clearly exacerbate the budget deficit, employers often end up paying more in taxes, fees, and regulatory costs to make up for the lost revenue.

AB 3218 **gives the Attorney General broad new and unprecedented authority** to ban tobacco products – including unflavored products currently permitted for sale by the FDA.

- Granting the Attorney General this authority could result in a ban of 50% of existing products, cutting the state's tobacco tax revenue in half.
- That would **reduce tobacco tax revenues by almost \$700 million per year**, cutting about **\$300 million from Medi-Cal funding**.
- Because tobacco taxes fund existing Medi-Cal provider rate increases, this would **require \$300 million in General Fund dollars** to backfill.

**Tobacco taxes are already underwater.** DOF has over-projected tobacco tax revenues for FY 23/24—**creating an \$80 million deficit that must be addressed.**

- DOF's enacted budget for FY 23/24 claims tobacco tax revenues are \$1.47 billion.
- CDTFA's actual reported tobacco tax revenues are about \$1.39 billion, creating a deficit of \$80 million for the prior fiscal year.

DOF's tobacco tax projections for upcoming FY 24/25 are **overly optimistic.**

- DOF's enacted budget projects \$1.43 billion for the upcoming FY 24/25, a decline of about 3% from the previous year.
- Tobacco taxes have declined by about 13% per year since the flavor ban.
- **A similar decline for FY 24/25 would result in roughly a \$200 million deficit—far above what DOF is anticipating.**

The General Fund is already backfilling Medi-Cal funding from tobacco taxes.

- **In FY 23/24, the General Fund had to provide \$290 million to backfill Medi-Cal funding** due to a shortfall in tobacco tax funding.
- Any future decline in tobacco taxes **will cost hundreds of millions to the General Fund.**

Enacting AB 3218 will likely **deplete California's E-Cigarette Tax.**

- The E-Cigarette Tax is projected to raise \$45 million in FY 24/25
- \$4 million from this tax goes to the Small and Rural Hospital Relief Fund. Losing this revenue source will further reduce funding for rural hospital seismic improvements.

CRA is concerned with the proposed expansion of the definition of “characterizing flavor” in AB 3218 to include a cooling sensation—a highly subjective standard and an inappropriate approach to creating clear standards for retailers to comply with the law. We are unaware of any example (wine, distilled spirits, etc.) where retailers are subjected to an Attorney General-imposed ban on a product based on the Attorney General's subjective assessment of a consumer experience. Establishing such an ambiguous and inconsistent standard would create an untenable situation for retailers, forcing them to remove products from shelves at any time based on a standard that lacks clear criteria. Although challenging to fully assess the scope of products that could be banned under the Attorney General's authority, CRA estimates that the proposed expansion to include products with a **cooling sensation could cost the state approximately \$130 million in lost tobacco tax revenue.**

The California Retailers Association is the only statewide trade association representing all retail industry segments, including general merchandise, department stores, mass merchandisers, supermarkets and grocery stores, retail pharmacies, and specialty retail stores. CRA, as the authoritative voice of California's retail industry, operates over 400,000 retail establishments with a gross domestic product of billions annually and employs millions of Californians.

Legitimate retailers, like CRA members, sell unflavored, highly regulated nicotine products and diligently ensure that only those 21+ can purchase them. Instead of attempting to impose additional bans, the State should focus on the illicit market and crack down on illegal operators that we know are selling flavored products to underage buyers today and purposely skirt their obligation to pay state taxes, essentially stealing from the state.

Unfortunately, we know what happens when product bans are passed. While they remove those products from the legal market, they cause an explosion in the illegal marketplace. **California has the nation's second-highest rate of tobacco smuggling, leading to \$1.3 billion in uncollected tobacco taxes.** Another survey shows that 98% of discarded vape cartridges are flavored despite the State's existing flavor ban.

I am happy to answer any questions or provide additional information at your request.

On behalf of the members of the California Retailers Association, I respectfully request your veto of AB 3218 (Wood).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rachel Michelin', is positioned above the typed name.

Rachel Michelin  
President + CEO  
California Retailers Association