



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

September 9, 2021 Senate Committee on Judiciary and Public Safety Testimony on Senate Bill 355

Good morning!

Thank you Chair Wanggaard and committee members for hearing Senate Bill 355 (SB 355), which raises the state minimum age requirements for sale, purchase, and possession of cigarettes, nicotine and tobacco products, including vapor products, from 18 to 21.

Federal law changed on December 20, 2019, prohibiting the sale of tobacco products to any person younger than 21 years of age. Federal law also requires states, within approximately three years, to annually conduct random, unannounced inspections to ensure that retailers do not sell tobacco products to individuals under the age of 21.

SB 355 simply updates state statutes to match the federal age of 21. Why does Wisconsin need to update our law, if Tobacco 21 is already the law of the land? State and local law enforcement cannot enforce federal law. Therefore, Wisconsin statutes must be updated to enable Wisconsin law enforcement to be able to enforce the law. Federal law requires compliance checks, or Wisconsin could lose funding from the Substance Abuse and Mental Health Services Administration (SAMHSA) substance abuse grants.

I recognize that there are two different camps when it comes to increasing the age for tobacco, nicotine and vaping products. I understand the rationale that a legal adult should be able to purchase these products when they turn 18. However, I am also extremely concerned about the proven fact that we have high school and even middle school kids accessing these products from friends and siblings. This law change may not entirely solve the problem, but it is a reasonable action to protect our kids.

Between 2017 and 2018, the use of vaping products increased by 78% for high school students and by 48% among middle school students, according to figures from the FDA. Studies have shown nearly 40% of 12th graders report using a vaping product in the past 12 months.

The vast majority of high school and middle school students obtain vaping products from social sources, such as a classmate, friend or sibling. Obtaining the products has proven far too easy for youth, in part because 80% of their classmates turn 18 before they graduate. Parents and educators across the state have passionately voiced their concerns about the prevalence of youth vaping at listening sessions and have urged lawmakers to take action.

The increase to age 21 will help ensure fewer social access points to the products in high schools, while aligning e-vapor and tobacco products with other adult products, including beer, wine and distilled spirits. It is true that in most circumstances, the age of 18 is accepted as the entry point to adulthood. However, I believe those concerns are outweighed by the public health consequences of youth vaping.

I am also very concerned about the potential for illegal drugs and narcotics to be added to vaping products with – or without – the consent and knowledge of a user. We are already seeing this issue manifest in emergency rooms and hospitals throughout the state. Teenagers, who acquire their vaping products from others, may be more subject to this type of threat to their health and well-being. With all that said, we should align Wisconsin law with federal law to enable our local law enforcement to enforce the law.

This bipartisan legislation has broad support that includes the Altria Client Services; Badger State Sheriffs' Association, DCI Group AZ L.L.C., JUUL Labs, Inc.; Kwik Trip Inc., Wisconsin Association of Distributors, Wisconsin Chiefs of Police Association, Wisconsin Grocers Association; Wisconsin Petroleum Marketers & Convenience Store Association; Wisconsin Sheriffs and Deputy Sheriffs Association.

Thank you again for hearing SB 355, I am proud to be part of the solution to this growing problem in our state and will continue to work with my colleagues to move the Tobacco21 bill through the legislative process.



JOHN SPIROS

State Representative • 86th Assembly District

Testimony on Senate Bill 355 Senate Committee on Judiciary and Public Safety Thursday, September 9, 2021

Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety, thank you for allowing me the opportunity to testify today on Senate Bill 355.

In December of 2019, the federal government passed a law increasing the minimum age for purchasing cigarettes, tobacco products, and nicotine products from 18 to 21. The federal law also set the minimum age for purchasing vapor products to 21 and expanded the definition of retailers to include those who sell without a license. Senate Bill 355 aligns Wisconsin law with the federal law regarding the minimum age to purchase these products and the definition of a retailer.

We have reintroduced this bill this session for two primary reasons: 1) to begin to address the public health crisis caused by the use of vapor products by our youth, and 2) to provide our local law enforcement the ability to actually enforce the federal age requirements.

There has been significant research that shows that use of vapor products and cigarettes in adolescence can impact brain development in the parts of the brain most responsible for addiction, mood disorders, and lowering impulse control. This is important to take into account as a 2019 study from the Centers for Disease Control and Prevention reports a total of 50.1% of high school students had tried electronic vapor products at least once, and 24.1% had tried smoking a cigarette at least once. We want to ensure that our youth are setup with a base of healthy habits so that they don't enter adulthood already at risk for future health issues. With the current minimum age in Wisconsin to purchase these products at 18, students are either able to purchase the products themselves or borrow them from a friend or classmate. Increasing the smoking and vaping age to 21 will help get these products out of schools and ensure that students are not able to buy them for their friends.

In order to ensure that these products do not get in the hands of youth, law enforcement actually has to have the ability to enforce policy changes. Currently, local law enforcement do not have the authority to enforce the federal policy as it does not align with state law and therefore have asked for updates to Wisconsin law. As this committee is well aware, removing ambiguity and conflicting requirements allows officers to better perform their job.

In addition to the concerns for the health of our youth and needs of law enforcement, Wisconsin also needs to change the minimum age to purchase to 21 in order to ensure that we continue to receive federal funding for substance abuse grants. We risk losing about \$2.7 million annually if statutes are not updated to align with federal law.

Last session this bill passed the full Assembly and the Senate Committee on Health and Human Services, but never received a full Senate vote. 39 other states have already passed legislation to increase the tobacco age from 18 to 21, and I hope that we can follow their lead to help alleviate this public health crisis.

Thank you again for allowing me the opportunity to share testimony in support of this bill, and I welcome any questions.



STATE REPRESENTATIVE

JESSE JAMES

September 9th, 2021

Representative Jesse James' Testimony in support of SB 355:

To Chairman Wangaard and other committee members,

Thank you for holding this hearing on the Tobacco 21 initiative. In my opinion, this legislation makes sense and will hopefully improve public health. I am supporting this legislation for several reasons:

First and foremost, this bill excites me because it ensures no kids in our schools or outside of them have the ability to possess any cigarettes, vape devices, or tobacco products. Possession would automatically indicate guilt and warrant a violation. I am sure this will not completely erase the problem of under age violations, but there is no question that this will make it easier to catch and enforce.

Secondly, as a law enforcement officer, I cannot currently take any actions against those who violate state statute section 254.92, which prohibits the purchase of cigarettes, tobacco, or nicotine products and falsifying one's age in order to receive these types of products. Under 254.92(4), a county, town, village, or city may not enact an ordinance that differs from what's stated in this section in regards to age. Our statute reflects the age of 18, so it does not currently match federal regulations. Some say we can enforce federal regulations, however this is not true. Only federally credentialed personnel are able to do this. We cannot enforce this at the county, city, town, or village level because we must adhere to state statutes.

With this bill we will also be able to assist our local partners and agencies who do alcohol and tobacco compliance checks. This happens frequently, and right now we cannot cite businesses who violate this law. This will bring opportunity to right this wrong; period.

I stand along-side all of our law enforcement who support this legislation, as it will allow us to do our jobs.

Thank you,

Representative Jesse James

September 9, 2021



Testimony of the American Lung Association
Regarding Senate Bill 355
Senate Committee on Judiciary and Public Safety

Chair Wanggaard and members of the committee,

The American Lung Association has long advocated for increasing the age of sale for tobacco products from 18 to 21 because it will help save lives. In March 2015, a report from the National Academy of Medicine revealed that raising the age of sale for tobacco products to 21 or "Tobacco 21" could prevent 223,000 deaths among people born between 2000 and 2019, including reducing lung cancer deaths by 50,000.

In December 2019, federal legislation was passed by both houses of Congress, President Trump signed the bill into law, and it immediately took effect. It is therefore already illegal under federal law to sell or distribute tobacco products to people under the age of 21 in Wisconsin. However, aligning the states sales age for tobacco products, including e-cigarettes to 21 to match federal law could be beneficial and allow our local communities to address problem retailers who are selling to underage people.

Tobacco products remain the leading cause of preventable death in the United States and are responsible for approximately \$170 billion in health care costs each year. Tobacco use almost always begins during adolescence and young adulthood. About 95 percent of adult smokers began smoking before they turned 21. In the United States, 1,500 kids try smoking for the first time each day. If current trends continue, 5.6 million of today's youth will die prematurely from a smoking-related illness.

The American Lung Association has also been extremely troubled by the high rate of young people using e-cigarette or "vapor" products. According to the [2020 National Tobacco Youth Survey](#), 19.6% of high school students and 4.7% of middle school students reported current e-cigarette use. Among current e-cigarette users, 38.9% of high school students and 20.0% of middle school students reported using e-cigarettes on 20 or more of the past 30 days; 22.5% of high school users and 9.4% of middle school users reported daily use. Because this is such a huge issue, we hope that the definition of "vapor product" used in SB 355 can be expanded to include all parts, components, and liquids of e-cigarettes that are sold separately from each other rather than referring to Sec. [139.75\(14\)](#) – because there is no reason for kids to be able to purchase any individual e-cigarette liquids or parts if possessing the entire product is illegal. A more comprehensive definition would align with best practice recommendations and allow us to have greater impact by protecting the health of Wisconsin youth.

The American Lung Association opposes laws that punish underage purchase and possession of tobacco products. While the Lung Association is glad to see the continued absence of civil or especially criminal penalties for violation in state law beyond confiscation of the product, punishing young people for underage possession or purchase of tobacco products has not been demonstrated to be an effective tobacco control strategy and should ultimately be eliminated.

This bill does take a step in the right direction by extending the ability to do state compliance checks of retailers for selling tobacco products to persons under age 21. However, the Lung Association would encourage that all tobacco product retailers in the state be required to undergo at least one compliance check per year with a required follow-up compliance check within three months for retailers that fail the initial check. E-cigarette retailers also need to be licensed in Wisconsin like cigarette and tobacco product retailers are to make sure compliance checks capture all tobacco product sales.

Senator Jacque has also made an [amendment to the bill](#), which the Lung Association would urge the committee to support, that would require retailers to keep all tobacco products behind the counter or in locked cases. Clerk intervention for sale of all tobacco products should be required under state law.

Tobacco 21 can be an important component of a comprehensive public health approach to preventing and reducing tobacco use, and we hope this will be a first step for the state legislature. The Lung Association's [annual State of Tobacco Control report](#) highlights additional public policies to prevent and reduce tobacco use that we would encourage the legislature to consider. If passed, Wisconsin will join 39 other states and the District of Columbia who have passed laws increasing their state legal sales ages to 21.

Thank you for considering this legislation and I hope we can work together to improve it.

**Wisconsin Senate
Senate Judiciary & Public Safety Committee**

**Submitted Testimony Regarding SB 355
David Fernandez, Vice President, Government Affairs and Public Policy
Altria Client Services Inc.**

September 9, 2021

Chairman Wanggaard and Members of the Committee, thank you for the opportunity to submit testimony today on the behalf of Altria and its affiliates Philip Morris USA, John Middleton, US Smokeless Tobacco Company, and Helix Innovations.

Altria Supports Prompt Enactment of Senate Bill 355 to raise the minimum age to purchase tobacco products to twenty-one.

We support this legislation because we believe a minimum age of 21 is one of the most effective ways of reducing underage use of tobacco products – a goal we strongly support. We agree with others here that moving to 21 will help with effective enforcement and consistent practices at retail.

Reducing underage use of all tobacco products has been a critical policy goal for both public and private stakeholders over many years. Among other things, in 2009 Congress passed federal legislation we supported that empowered FDA to comprehensively regulate tobacco products – including provisions specifically intended to reduce underage use.¹ And over the years, the states have played a frontline role in building regulatory systems to ensure that only adults can purchase tobacco products.

The good news is that these policy changes are working. Underage use of traditional tobacco products – cigarettes, cigars, and moist snuff – has been steadily declining for decades. And according to the most recent U.S. government data, underage use of these products today is the lowest in a generation (Figure 1a).

In 2018, however, underage use of e-vapor products sharply increased. This was clearly unacceptable, and raising the minimum age became an important component of turning this trend around. The data was clear. Youth under eighteen get tobacco products primarily from friends or siblings who can legally purchase them.² In fact, 80% of high school students in the U.S. turn 18 before they graduate.³ And, according to government data, 80% of youth gain access to tobacco products through social sources.⁴

We joined a broad coalition – retailers, wholesalers, policy groups, and others – to advocate for raising the minimum age for all tobacco products to 21. In 2019, Congress passed, and

¹ U.S. Food and Drug Administration website, “Family Smoking Prevention and Tobacco Control Act – An Overview,” <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/family-smoking-prevention-and-tobacco-control-act-overview>.

² ALCS analysis of Population Assessment of Tobacco and Health (PATH) Study, Wave 3 data (2015-16). PATH is a joint project of the National Institutes of Health (NIH) and the U.S. Food and Drug Administration (FDA).

³ Tobacco 21 Fact Sheet, <https://tobacco21.org/wp-content/uploads/2019/01/T21-Fact-Sheet-1-2-2019.pdf>.

⁴ ALCS analysis of Population Assessment of Tobacco and Health (PATH) Study, Wave 4.5 data (December 2017 – December 2018).

the president signed, bipartisan legislation setting the federal minimum age at 21, and that federal law is now fully in effect.

While that was an important step, it was not enough. Most minimum age enforcement happens in the states. Differences in federal and state minimum age laws lead to confusion and to inconsistent practices across retail.

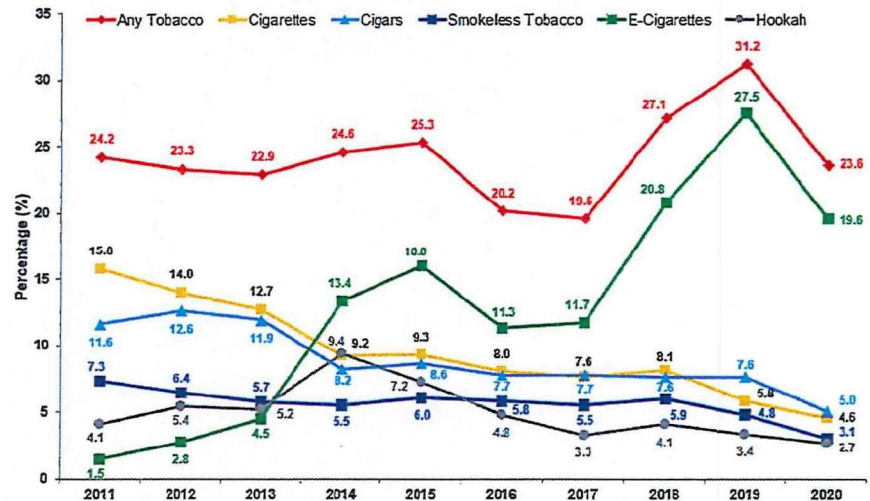
That's why we strongly support states moving to 21. To date, 39 states covering 84% of the U.S. population have made this change.

According to government data, this policy appears to be helping. In 2020, use of e-vapor products among 12- to 17-year-olds declined from its high of 27.5 percent to 19.6 percent (Figure 1a).⁵ Recent research further supports the view that these laws are helping.⁶ There is still more progress to be made, but these trends are encouraging.

We believe this policy change is also important for preserving the reduced harm potential of smoke-free technologies – heated tobacco products, oral nicotine products, and e-vapor – for adult smokers. A harm reduction framework means not only reducing underage use, but also helping adult smokers who don't quit move to FDA-authorized reduced harm products. While nicotine is addictive and not risk-free, as FDA says, it is the smoke from conventional cigarettes that leads to most tobacco-related harm.⁷ FDA's regulatory authority includes the tools to do both things – reduce underage use while supporting adult smokers moving to less harmful smoke-free products.⁸

For these reasons, we support a minimum age of 21 for all tobacco products, and we encourage enactment of Senate Bill 355.⁹

**Figure 1a: Current Tobacco Product Use Among High School Students
National Youth Tobacco Survey, 2011-2020⁷**



⁵ Chart is ALCS rendering of National Youth Tobacco Survey data.

⁶ Sabia, Joseph, "Do State Tobacco-21 Laws Work?" <https://www.tobaccopolicy.org/seminars.html>

⁷ "[W]hat primarily causes death and disease from tobacco use isn't the nicotine in these products. It's the act of lighting tobacco on fire to free that drug for inhalation." Former FDA Commissioner Scott Gottlieb. See also, Mitchell Zeller et al., *The Strategic Dialogue on Tobacco Harm Reduction: A Vision and Blueprint for Action in the US*, 18 Tobacco Control J. 324, 325 (2009); Dorothy K. Hatsukami et al., Developing the Science Base for Reducing Tobacco Harm, 9 Nicotine & Tobacco Res. S537, S546 (2007). <https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm620185.htm>.

⁸ U.S. Food and Drug Administration website, "Family Smoking Prevention and Tobacco Control Act – An Overview," id.

⁹ Importantly, setting the minimum age of purchase to 21 also ensures Wisconsin continues to receive up to \$6,790,99 in federal funding for state-run substance abuse programs funded by Substance Abuse and Mental Health Services grants. This money, about 10% of the state's total, is conditioned on Wisconsin enforcing the new federal Tobacco 21 law through existing youth tobacco prevention inspections. "SAMHSA Grant Awards by State, FY 2021," SAMHSA as of 10/09/2020, <https://www.samhsa.gov/grants-awards-by-state?year=2021>.



TO: Senate Committee on Judiciary & Public Safety
FROM: Louella Amos, MD, Pediatric Pulmonologist, Children's Wisconsin
DATE: Thursday, September 9, 2021
RE: Comments regarding SB 355 – Raising the legal age for sale, purchase and possession of nicotine, tobacco and vapor products

Chairman Wanggaard and members of the committee, thank you for considering my testimony today. My name is Dr. Louella Amos and I am a pediatric pulmonologist at Children's Wisconsin and Associate Professor of Pediatrics for the Division of Pulmonary and Sleep Medicine with the Medical College of Wisconsin.

Today, I want to share Children's Wisconsin's (Children's) perspectives on the Tobacco 21 legislation and respectfully suggest an improvement to this important bill. We appreciate the bill's authors, Senator Marklein and Representative Spiros, as well as the bipartisan cosponsors of this legislation for taking the lead on this crucial issue and I hope that together we can craft a proposal that will be a positive step in addressing this public health crisis.

Let me first start by saying that at Children's, we strongly believe that e-cigarette and tobacco use is never appropriate, healthy or safe for kids and teens. My mantra is the only thing that should be inhaled into anyone's lungs is air. While the federal government passed a national law to raise the age to legally purchase tobacco and e-cigarette products from age 18 to age 21, passage of a state-focused bill is necessary. Stakeholders who receive their authority from state law, including law enforcement and retail partners, need this legislation to ensure they can help keep these harmful products out of the hands of our young people and out of our high schools. Strong, adequate compliance and enforcement is essential to limiting youth access to these products.

As we have all seen in the past few years, the vaping and tobacco industry is ever-evolving. This is why we want to ensure that this legislation is comprehensive in covering all products and is enforceable. Children's and our partners believe the definition of "vapor products" should be amended as the current version does not cover non-nicotine e-liquids, other substances or parts/accessories purchased and used by those who vape. **While products that contain nicotine would be covered, we know that even liquids/substances without nicotine still contain harmful ingredients that contribute to EVALI, including vitamin E, diacetyl, formaldehyde and acrolein.**

To ensure the legislation covers all products and is enforceable, we recommend the following definition: **"Vapor product" means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Vapor products includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include any battery or battery charger when sold separately. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act. In addition, we recommend using the word "substance" instead of "liquid" as the tobacco and vaping industry are now marketing products, like e-gels, that might not be defined as liquid.**

Let me share a couple reasons why we are concerned about youth tobacco and e-cigarette use:

- Traditional tobacco and many e-cigarette products contain nicotine. This highly addictive drug has a negative impact on brain development, which continues until the mid-20s. The adolescent brain is exquisitely sensitive to nicotine, which can cause problems with learning and memory, as well as long-term behavioral impairments including depression, anxiety and mood disorders.
- Studies have shown that high exposure to nicotine in children makes them more susceptible to nicotine addiction and puts them at risk for lifelong addiction to tobacco products and other drugs. While there are resources available for youth to quit using traditional tobacco products, there are limited resources addressing youth e-cigarette cessation. Some may turn to using traditional tobacco products instead which also have significant health risks. As with most public health issues, prevention is critical.
- There is not sufficient data or research regarding both the short- and long-term health impacts of e-cigarette use among adults, let alone teens. We continue to learn about the effects of inhaling the aerosol produced by these products, which contains harmful chemicals, heavy metals and ultrafine particles. Importantly, these products are easy to use: vaping devices, pods/cartridges and disposable products come in appealing and pleasant flavors (even with the federal action targeting flavored products); they are easy to hide and have no residual odor; they are less expensive than traditional tobacco products; and they don't require a lighter.
- Based on Wisconsin 2019 Youth Risk Behavior Survey data, 6% of high schoolers use traditional combustible cigarettes, 5% use cigars or cigarillos and 3% use hookah and smokeless tobacco. In stark contrast, 21% of high schoolers use electronic vapor products. This effectively represents a new generation of nicotine addicts and potential future traditional tobacco users. These statistics are alarming and should concern parents, providers and policymakers.

As you may know, Children's has been on the forefront of the nationwide outbreak of severe lung injuries associated with vaping and use of e-cigarette products. Since first identifying the e-cigarette or vaping-use associated lung injuries (EVALI) in 2019, Children's continues to see teenagers admitted to our hospital with severe respiratory distress and lung injuries related to vaping. These previously healthy teens experienced weeks to months of fatigue, GI complaints, weight loss and ultimately chest pain, shortness of breath and acute respiratory failure leading to their hospitalization. Post-hospitalization follow-up, some teens have reported losing sports scholarships due to their illness, have objective evidence of residual lung disease, and despite their horrible ordeal, some are so addicted that they are physiologically and psychologically unable to quit vaping. We have seen teenagers admitted over the course of the last year, including one who was admitted twice due to relapse. Regardless of the contents being used in these devices, they have no place in the hands of our youth. All of this occurred because they had access to e-cigarettes.

Our Children's primary care doctors see firsthand the prevalence of tobacco and e-cigarette use and are very concerned about the severe risks these products pose to kids' health. As a physician, it's frustrating that after years of progress in decreasing teen tobacco use, we have witnessed an alarming increase in the use of the next generation of harmful products. In talking with our patients, some describe fewer students vaping in their schools while others describe experiencing an increase in vaping among their peers. The key is prevention because right now, those who are hooked are having a hard time quitting, especially with the adolescent mental health crisis exacerbated by the pandemic. While it is very

important to tackle the current e-cigarette crisis, we must also at the same time take action to reduce the harm and death toll caused by traditional tobacco use.

We are all familiar with the harmful risks associated with tobacco use including various cancers, lung disease, heart disease, stroke and more. In Wisconsin, approximately 7,000 people die each year from smoking-related causes with a direct health care cost of \$3 billion. And each year, teens begin the habit and risk becoming life-long tobacco users. We know that tobacco/nicotine habits start when you're young: 90% of adults who use tobacco started in their teen years and 99% started before age 26. The younger a person starts using tobacco, the faster they become addicted and the harder it is for them to stop. Preventing use in the first place is critical to reducing the number of youth who smoke or use e-cigarette products.

Importantly, three-quarters of high school students say it is easy to obtain tobacco products. 80% of kids turn 18 while in high school; unfortunately, this makes it easy to supply these products to their younger friends and classmates. Raising the purchase age to 21 will make it more difficult for kids to access these products. Younger teens and middle schoolers are not as likely to be friends with 21-year-olds. Adults should be doing what we can to make these products unappealing and as hard as possible for our kids to get their hands on them.

We hope to see cross-sector cooperation in preventing e-cigarette possession among our young people. While a comprehensive strategy is needed to address youth tobacco and e-cigarette use, including making sure that there are addiction resources for teens and families, we believe that Tobacco 21, with these definition modifications, would be a strong step in the right direction. We must do what we can to prevent kids from having easy access to these products and reduce their opportunities to try them in the first place.

Tobacco 21 is an important component of addressing this public health crisis among our youth. **I again ask for your collaboration to improve this important legislation.** Please contact me with any questions you may have.

Dr. Louella Amos
lamos@mcw.edu

Children's Wisconsin (Children's) serves children and families in every county across the state. We have inpatient hospitals in Milwaukee and the Fox Valley. We care for every part of a child's health, from critical care at one of our hospitals, to routine checkups in our primary care clinics. Children's also provides specialty care, urgent care, emergency care, dental care, school health nurses, foster care and adoption services, family resource centers, child health advocacy, health education, family preservation and support, mental health services, pediatric medical research and the statewide poison hotline.



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Brandon Scholz
Wisconsin Grocers Association
SB 355 Testimony

September 9, 2021

Good morning Chairman Wanggaard and members of the committee. My name is Brandon Scholz and I am here on behalf of the Wisconsin Grocers Association. We represent more than 600 grocers—both independent and chain stores, convenience stores, grocery warehouses and food manufacturers.

The WGA has registered in support of Senate Bill 355 and ask that the committee act quickly on this issue. Senate Bill 355 raises Wisconsin's minimum sales age to 21, but more importantly provides consistency to retailers.

We understand there are opponents to raising the tobacco age, but this bill is no longer about raising the legal age to buy tobacco. It is about providing uniformity and consistency to retailers and ensuring state funding for enforcement.

After the federal law changed, there was a lot of confusion among many of our members, but they were quick to adopt to the new age requirement. We assume there are retailers, probably not WGA members, that are taking advantage of the lack of enforcement and consistency, and could still be selling tobacco to minors. This puts the retailers complying with the law at a competitive disadvantage and makes us all look bad. Passage of SB 354 will prevent this by providing a consistent minimum age but also by ensuring enforcement of 21-year old tobacco sales. Passage of this bill is long overdue.

Once again, I would like to register Wisconsin Grocers Association's support for SB 355 and encourage the committee to do the same.



**Preventing Tobacco Addiction Foundation/Tobacco 21
Senate Bill 355 Position: Oppose**

OUR POSITION FOR THE RECORD:

The Preventing Tobacco Addiction Foundation urges the Senate Judiciary and Public Safety Committee to protect Wisconsin youth over tobacco industry profits by opposing the current version of SB 355. While the intent to raise the age to purchase tobacco from 18 to 21 is a concept we support, our extensive work supporting the adoption of Tobacco 21 policies throughout the country for the last 20+ years has proven that simply raising the age is not enough to save lives. Should this current version pass, numerous tobacco products would be left unregulated for youth to access. This bill would also be in direct opposition to public health best practice as underage users, rather than retailers, would continue to be punished. Finally, this bill includes no significant forms of enforcement making the bill highly ineffective in practice. It is for these reasons we urge you to reject the current version of SB 355 and instead champion a version that addresses the following critical areas of concern. Our organization would be happy to work with you to draft language that will truly protect youth throughout Wisconsin from the dangers of tobacco use and nicotine addiction. Please consider us a resource as you move forward.

PROBLEMS WITH SB355:

Poor Definitions and Inadequate Licensing

- The definition of “vapor product” excludes non-nicotine liquid sold separately from the devices, as well as parts, components, and accessories.
- This bill does not include vape shop licensing, which means there is no mechanism to track who sells these deadly, addictive products.

Dangerous Preemption and PUP (youth purchase, use, and possession)

- This bill does not repeal preemption and PUP language found in [Wisconsin State Statute § 254.92](#). PUP laws punish users instead of tobacco retailers, and they are likely to target youth and young adults of color and low-income youth.
- *Enforcement of T21 policies should focus on retailers, rather than young consumers.*

No Compliance and Ineffective Penalties

- There are currently no mandated compliance checks with only 60% of retailers being checked for compliance of minimum legal sales age (MLSA) laws.
- Penalties are on “person” which makes it easy for penalties to be passed along to hourly wage clerks and not putting the onus on the retailer to comply with the law.

IS WISCONSIN REQUIRED TO RAISE THE AGE?

- States are not required to pass their own Tobacco 21 laws to update their tobacco sales age to 21 in order to receive their Substance Abuse Prevention and Treatment Block (SAPT) grant money. This provision of the Synar amendment was repealed in the new legislation.
- States will need to demonstrate compliance with the federal age of 21 as a condition of the grant, including annually conducting random, unannounced inspections to ensure that retailers do not sell tobacco products to individuals under the age of 21.

Contact: Amanda Turner, Executive Director, Preventing Tobacco Addiction Foundation/Tobacco 21
amanda.turner@tobacco21.org | 571.431.8282

**Senate Committee on Judiciary & Public Safety
September 9, 2021
Testimony provided by Vivek Balasubramaniam, MD
Re: Support for Senate Bill 355**

Good morning Chairperson Waggard and members of the committee. My name is Vivek Balasubramaniam and I am a Pediatric Pulmonologist with UW Health American Family Children's Hospital. Specifically, I am a pediatrician who specializes in the treatment of children with lung disease. Thank you for the opportunity to speak to you about the reasons I support Senate Bill 355.

This issue is both personal and professional for me. My father smoked and growing up, my brother and I made it as difficult as possible for him. We hid and destroyed his cigarettes, hounded him about smelling like smoke, and badgered him about the damage to his health. It wasn't until the day they found a mass on his chest X-ray that he was finally able to kick the habit that he had started 30 years earlier, before he was even 16 years old. Thankfully, the mass they found was benign but the abject terror he felt at possibly having cancer at such a young age had a profound impact on him – and on me.

When I started practicing pediatric pulmonary medicine in 1998, my greatest concern with tobacco products was the effect of second-hand smoke on my patients. It negatively impacted a child's breathing and control of their asthma and other lung disease. Fortunately, there has been a substantial reduction in the rates of adult and teen tobacco use since 1998 so I see fewer health concerns brought on by second-hand smoke today compared to my early years in medicine.

However, 20 years later, I found myself in the midst of a new tobacco crisis that was impacting children at an alarming rate. I watched in horror as the extent of this crisis became evident as reports of young patients with respiratory failure started to flood in and then reports of patients dying. I realized I was seeing more teens with "new onset" asthma and when I queried my patients about tobacco, they reported using e-cigarettes and/or vaping.

One of the teen patients I treated started using e-cigarettes because he felt they helped him with his anxiety and depression. When I first met him, he was vaping up to 50 times a day from "pods" of flavored nicotine products purchased from local stores. He presented with abdominal pain and shortness of breath so severe that he could not walk even short

distances or up a flight of stairs. A CT scan was performed and shockingly, it showed lung injury. He was soon found to need oxygen and admitted to the Pediatric Intensive Care Unit at American Family Children's Hospital. He quickly progressed to needing a non-invasive BiPAP machine to support his breathing but because of the nicotine withdrawal he was experiencing, he became combative and irritable and we were challenged to keep his BiPAP mask on his face. Over time, he responded to treatment for both his lung injury and nicotine addiction, but he continues to experience shortness of breath with any activity.

In fact, we are not sure of the *long-term impact* of vaping and e-cigarettes on lungs, including those that have sustained injury and I am especially concerned for the effect that the aerosolization of nicotine and non-nicotine products has on the developing lungs of children. Lungs continue to grow and develop throughout childhood with the peak in lung function at about 25 years of age. If there is an injury to the lung during the latter part of its growth, an individual may not achieve maximum growth. This impaired lung function will show up as increased susceptibility to infection, limits on exercise capacity, and higher risk for developing emphysema earlier in life.

In addition to the lungs, the brain is continuing to develop into one's 20s and nicotine has been shown to adversely affect brain development. The developing brain is more sensitive to the addictive properties of nicotine, more so than the adult brain. The signs of nicotine addiction include mood-related symptoms, such as anxiety, irritability, restlessness, difficulty concentrating, depressed mood, frustration, anger, increased hunger, difficulty sleeping, constipation or diarrhea. These symptoms can be seen in both teens and adults and can be seen within a few hours of stopping or not using nicotine. Like any addiction, it is hard to quit and stay off nicotine products.

I strongly recommend against any person under the age of 21 using any nicotine containing product, including cigarettes and vaping devices. I breathed a sigh of relief when in late 2019 the US Congress passed and the President signed into law a policy to increase the federal minimum sales age to 21. I was shocked when I learnt that our local law enforcement could not enforce the federal prohibition on sales to 18–20-year-olds because Wisconsin State law does not mirror the federal law. We need to keep our children from becoming addicted so that they do not have to suffer from a health scare as the reason they stop, like what happened to my father. We need to keep more kids from developing asthma from using these products, and we need to do whatever we can to keep our children out of the Pediatric Intensive Care Unit and suffering lifelong crippling lung injury. Legislation like Senate Bill 355 is intended to help protect kids' lungs

and brains from the detrimental effects of nicotine products by raising the age at which people can purchase tobacco or e-cigarettes to 21 years old.

I would also ask that you consider amending the definition of “vapor products” to include liquids and other substances that do not contain nicotine such as flavorings. These products do not contain nicotine but have been shown to result in the inhalation of toxic compounds including formaldehyde, acrolein, and acrylamide into the lungs. These non-nicotine products result in the same injury to the throat and lungs from inhalation and instigate chronic inflammation in the lungs that result in ongoing damage, even when not actively vaping. “Vapor products” definition should include the device used to deliver the vaporized substance and any substance or liquid that may be aerosolized or vaporized by such a device.

We Pediatricians will say “children are not little adults” as a way of reminding ourselves and others that what works for adults is not necessarily safe or effective for children because they are still growing and developing. As a parent, we zealously protect the lives and well-being of our children, as they are our hope for the future. Please help us ensure the healthiest future for our children by protecting them from addiction and lung injury from vaping products, by aligning state and federal policy to empower local law enforcement and by amending the definition of “vapor product” in this bill. Supporting this bill is the responsible thing to do.

Thank you again for your time and attention. I’d be happy to take questions from the committee at this time.

**Senate Committee on Judiciary and Public Safety
Thursday, September 9, 2021
Testimony provided by Brian Williams, MD in support of Senate Bill 355**

Good morning Chairman Wanggaard and members of the committee. My name is Brian Williams and I work as an adult and pediatric hospitalist for UW Health. I appreciate the opportunity to provide testimony in support of Senate Bill 355.

As a hospitalist, I take care of both adults and children when they are sick enough to require spending at least one night in the hospital. One thing I see too much of is tobacco related illnesses. In adults, this can include heart attacks, strokes, lung diseases and a wide variety of deadly cancers. Over the past year, I have had a handful of patients who have come to the hospital with severe breathing difficulties and found to have advanced lung cancer. One of my patients was diagnosed just weeks after she'd retired. Taking care of these patients is difficult. It is devastating for patients and their families to learn that they have lung cancer and as you go through this highly emotional experience with patients, you get to know them on a pretty deep level, relatively quickly. Often times, the topic of cigarettes comes up and patients consistently express frustration with their smoking habits. I always ask patients about when they first began smoking and, aside from one patient that I recall, everyone describes starting before the age of 21.

Now these adult patients are often people who have been smoking for 30, 40, or even 50 years. This population reflects the high rates of smoking in the 1970's, 80's, and 90's. Fortunately, there's been some slow progress in decreasing the adult smoking rate over time. The smoking rate in WI remains unacceptably high at 16% and sadly about 20 people will die in Wisconsin today as a direct result of smoking, but the smoking rate is improved from previous decades. Unfortunately, we have a new problem that is threatening to wipe out our progress, and that is the E-cigarette. Since 2014, E-cigarettes have been the most popular device used by teenagers and the use of E-cigarettes is also climbing in young adults. We now know that approximately 1 in 5 high school students is using E-cigarettes.

I always ask my teenage patients about E-cigarette use and they describe it being everywhere. They see it used in school bathrooms, the library, and on the school playground. This rapid rise in adolescent use is concerning because we

know that in order to become a life-long smoker, you have to start young. In fact, 95% of adult smokers today report having started before the age of 21.

So why is this? If you have a teenager or have raised a teenager, you know their brain is just different – it's still developing. In fact, some major components of the brain don't fully develop until about 25 years old. When you expose that developing brain to nicotine, whether it's an E-cigarette or regular cigarette, you rewire the pathways in the brain that lead to addiction, making it hard to quit once you've started. The teenage brain is incredibly sensitive to the addictive properties of nicotine. We also know that this re-wiring of the brain sets teenagers up for mood disorders, difficulties with attention, and also increases their risk of addiction to other substances.

It is important to note that while we strongly support the intent of the legislation before you, it should be amended to address how “vaping product” is defined regardless whether nicotine is included or not. That's because E-cigarettes ARE NOT SAFE. They contain carcinogens that cause cancer and even though E-cigarettes haven't been around long enough to show they cause cancer in users, we do have new animal studies showing that they can develop cancer, specifically lung and bladder cancer after E-cigarette exposure.

In short, NO developing brain should be exposed to nicotine and risk becoming addicted. These young people are exposing themselves to known carcinogens and are at serious risk of life-long addiction. I worry if something doesn't change, we're going see a whole new generation of kids growing up to be addicted to E-cigarettes and traditional cigarettes and suffer the long-term effects on their health that many of our older citizens are suffering from today. Raising the age to buy tobacco products to 21 by passing Senate Bill 355 is an important step to limiting adolescents' access to these products and the health harms that accompany them. We have an opportunity to make a lasting impact on the health of future generations and I hope you can support the legislation before you.

Thank you for your consideration. I'd be happy to take questions at this time.

Gregg H. Wieczorek
President of the National Association of Secondary School Principals
Former Principal
Arrowhead Union High School
Testimony SB 355

I am currently the president of the National Association of Secondary School Principals. We have over 17,000 members, and this is one topic I am confident would have unanimous support from them. Our organization is teaming up with the campaign for Tobacco-Free Kids and the National Association of School Nurses to keep our children nicotine-free.

I started my job as principal at Arrowhead High School more than 28 years ago. At that time, like most schools, Arrowhead had a significant problem with students smoking on the grounds. Gradually the problem started reducing and dropped significantly in the early 2000s. We fought the good battle and got kids to stop smoking.

I thought we were done with the nicotine fight, but we started seeing vaping pop up in our school. We quickly realized this was a severe problem that was not going away. The first indication of how addictive vaping is and how serious a problem we had was when student-athletes who had devoted much of their youth to a specific sport were getting caught vaping in school, which resulted in a suspension from their sport. These students were caught vaping so many times that they lost all eligibility to play their loved sport. Feeding their addiction to nicotine was more critical than their passion for their sport.

This practice is so addictive that students will vape in the classroom, lunchroom, hallway, or bathroom. When asked why they do this, the typical answer is that it calms them down and relieves their stress. In reality, all they are doing is staving off withdrawal symptoms by putting more nicotine into their body. According to the National Youth Tobacco Survey in 2013, only 4.5% of all teenagers had vaped in the past 30 days. In 2020, 20.5% of all teenagers reported vaping in the previous month, equating to 3.6 million kids using e-cigarettes, including 1 in 5 high school students. Even with evidence that vaping is harmful, students are still doing it at a significant rate. We do not know the long-term effects of vaping on an adolescent body; I wonder how many 25-year-olds will carry an oxygen tank like a two-pack-a-day 80-year-old with emphysema.

“How are students getting this stuff?” is a common question I hear. One of my students got his 19-year-old brother to legally buy vaping devices, which he then sold to his friends and classmates for a 100% markup on the cost. Young people go online and check the “Are you 18 Box” yes, enabling them to order any device or vape oil they want. The vape oils are marketed with flavors like gummy bear, cotton candy, mint, and watermelon to a younger audience. There are currently over 15,000 kid-friendly flavors of e-cigarettes on the market, most of which are known to appeal to kids. It appears as though these companies try to lure the youngsters in flavors that appeal to kids, which keeps them coming back due to their nicotine addiction. The

devices are getting smaller and more easily concealed -- they look like everyday items such as pens or flash drives. When you think about it, who needs to hide their vaping habit? Not the adult trying to quit smoking, but the kid who doesn't want their parents to find out.

E-cigarettes expose kids to HUGE doses of nicotine, with a single Juul containing as much nicotine as a whole pack of 20 cigarettes. There is significant research on how nicotine negatively affects the developing adolescent brain, specifically attention, learning, and memory. It is no surprise that we see our academic scores going down around the state, with over a quarter of our students vaping regularly.

At Arrowhead, we trained high school students to return to their middle school to share the dangers of vaping with the 6th, 7th, and 8th graders so we can stop them before they start. In addition, I have presented the risks of vaping to parents from the seven feeder schools to help them fight the battle at home.

Principals get into the profession to help students learn and impact the education of our youth. Unfortunately, they are spending way too much time tackling the vaping problem when there are other things they could be doing. We are allowing companies to make billions of dollars with no regard for the health of our youth and the future health of our country.

I ask that you help us help the youth of this state by passing SB 355.

I brought some confiscated devices from our students; I would like to show them to you.



School Administrators Alliance

Representing the Interests of Wisconsin School Children

TO: Senate Committee on Judiciary and Public Safety
FROM: John Forester, Executive Director
DATE: September 9, 2021
RE: Support for Senate Bill 355

Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety, thank you very much for the opportunity to submit testimony on this important legislation. My name is John Forester. I'm the Executive Director of the Wisconsin School Administrators Alliance (SAA). In that capacity, I represent the combined memberships of five professional associations of public school administrators: the Association of Wisconsin School Administrators (AWSA), the Wisconsin Association of School Business Officials (WASBO), the Wisconsin Association of School District Administrators (WASDA), the Wisconsin Association of School Personnel Administrators (WASPA), and the Wisconsin Council for Administrators of Special Services (WCASS). The SAA also represents the 10,000 members of the Wisconsin Retired Educators Association (WREA).

The SAA, and WREA, supports Senate Bill 355, relating to raising the legal minimum sales age for tobacco products from 18 to 21. I would like to begin by thanking Senator Marklein and Representative Spiros for bringing this legislation forward. Please consider the following in support of our position:

- Wisconsin schools are in the front lines in dealing with fallout from rising teen nicotine addiction.
- As e-cigarettes and vaping products have become more widely available, we have seen an explosion in the numbers of young people using these products.
- According to the most recent Wisconsin Youth Risk Behavior Survey from 2019, e-cigarette use among high school students was at 20.6%. Further, 45.5% of all Wisconsin high schoolers report having tried an e-cigarette at least once.
- Eighteen-year-olds are suppliers of these products to their younger peers. Raising the minimum sales age will reduce the number of high schoolers who can legally purchase these products for others in their social circles.
- Just like raising the legal drinking age from 18 to 21 helped remove alcohol from high school campuses, we hope this bill will produce similar results when it comes to e-

cigarettes and other dangerous products that harm the health of young students and disrupts learning environments in schools.

- In 2019, Congress passed, and President Trump signed into law, an increase in the minimum federal sales age to 21. However, we need to increase Wisconsin's minimum sales age to ensure compliance with federal law and to provide Wisconsin law enforcement with the authority to enforce the new federal policy. The current confusion surrounding the legal purchasing age in Wisconsin, as well as confusion over enforcement of the federal purchasing age law, allows youth continued access to tobacco products.

While the SAA, and WREA, strongly supports raising the legal minimum sales age for tobacco products from 18 to 21, we have two concerns about the bill:

- The current definition of "vapor products", as referenced in the bill, does not include all liquids and other substances used in vape devices, potentially making enforcement a challenge. We urge the Committee to support a more comprehensive definition.
- Current state statutes punish tobacco users instead of the retailers and it could lead to enforcement action against low-income youth and youth of color disproportionately.

Thank you for your consideration of our views. If you should have any questions regarding our thoughts on SB 355, please call me at 608-242-1370.



"Leadership in Public School Governance"

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

122 W. WASHINGTON AVENUE, MADISON, WI 53703
PHONE: 608-257-2622 FAX: 608-257-8386

TO: Members, Senate Committee on Judiciary and Public Safety
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: September 9, 2021
RE: SUPPORT for SENATE BILL 355, raising the legal age for sale, purchase, and possession of cigarettes and nicotine and tobacco products, providing a legal age for sale, purchase, and possession of vapor products, and providing a penalty.

The Wisconsin Association of School Boards (WASB) is a voluntary membership association representing Wisconsin's 421 locally elected public school boards.

The WASB supports Senate Bill 355, based on a member-approved resolution, WASB Resolution 6.02, which states: "The WASB supports school learning environments free of tobacco, nicotine and vaping products and devices." We thank Senator Marklein and Representative Spiros for bringing this bill forward.

Enacting this "T-21" legislation will help keep cigarettes, tobacco and nicotine products and vaping products out of schools by raising the legal age for purchase and possession of these products from 18 to 21. Wisconsin's purchasing age for these products remains at 18, despite the federal age limit being raised to 21 more than a year ago through legislation passed by Congress and signed into law by President Trump. However, legal uncertainty prevents local municipalities and counties from increasing the legal age to 21, and there is widespread confusion about *who may enforce* the legal purchase age of 21. Passing this bill would alleviate this confusion.

There is little confusion, however, about how common it is for 18-year-old high school students to provide their younger friends and siblings with these products, or that increasing the legal purchasing age to 21 would greatly reduce such occurrences.

As we detail below, mounting evidence suggests that not only are these products harmful to the health of schoolchildren, but these products also disrupt the learning environment in schools.

Beyond our concerns about the health of students and staff and the learning environment, schools have legal obligations to remain tobacco-free.

Wisconsin school boards are required by section [120.12\(20\)](#), Wis. Stats., to prohibit the use of tobacco products on premises owned, rented by or under the control of the school district. This prohibition applies to any use of tobacco products, not just smoking, and applies to everyone, not just students and staff.

The federal Pro-Children Act of 2001 also prohibits any person from permitting smoking within any indoor facility used to provide regular kindergarten, elementary or secondary education to children and funded directly by the federal government or funded through state or local governments as part of a federal grant.

The health hazards of tobacco smoking and other tobacco products are well known, as is their potential for causing addiction. It is also well known that the risk of addiction and serious health consequences increases in proportion to the age at which use first begins. Similar risks are posed by vapor products, the use of which is already widespread and growing among high schoolers—increasing 154% between 2014 and 2018 alone—and is rapidly increasing among middle schoolers as well.

Vapor products and devices are being designed specifically to appeal young people, including through the use of flavorings (such as mint, fruit, and bubble gum) that not only appeal to young people but may encourage youth who otherwise might not have been exposed to tobacco, nicotine products or cigarettes to take up vaping.

Studies indicate an alarming number of young people (mistakenly) believe that the liquid used for vaping contains only water and flavoring and are unaware that vape liquid contains nicotine or other harmful chemicals. As a result, they may see vaping as less dangerous than using other tobacco products, such as cigarettes. However, the amount of nicotine in the vape liquid or “juice” can be the same or even more than the amount found in cigarettes and the long-term health effects of inhaling vapor heated to as high as 400 degrees (Fahrenheit) or more remain to be determined.

The use of e-cigarettes and vaping devices poses a significant – and avoidable – health risk to young people. According to the U.S. Surgeon General, beyond increasing the possibility of addiction and long-term harm to brain development and respiratory health—the latter of which is a significant concern in an era of COVID—e-cigarette use is associated with the use of other tobacco products that can do even more damage to the body.

Because vaping devices produce vapor rather than smoke, their use is easier to conceal than traditional tobacco products or cigarettes, and their small size and design also makes them easy to conceal, increasing the likelihood they will be used in schools, disrupting the learning environment.

As the use of e-cigarettes and vaping devices has become vastly more widespread in schools, students have become bolder and bolder in their use of these products. Vaping devices are increasingly being passed back and forth between students, often during classes. It is common for students to engage in a dare to see who can “vape” either directly in front of a teacher or as close to a teacher as possible. These behaviors distract both the perpetrators and fellow classmates from their lessons. And the nicotine contained within the vape juice produces its own sort of “high” which, in most cases, is also not conducive to effective student learning.

Schools, for all the above reasons, have a strong interest in limiting both the use of tobacco and the use of e-cigarettes and other vaping products. School leaders ask for your help in removing vaping from schools.

Establishing a legal age of 21 in state law will enable local law enforcement to enforce the federal legal age. A legal age of 21 will also significantly reduce the social access points through which cigarettes, tobacco and nicotine products, and vapor products can be obtained by school age children and used in their schools. At the same time, it will also align the legal age for vaping and tobacco products with other adult products, including beer, wine and distilled spirits.

History tells us that increasing the legal age for alcohol products from 18 to 21 served to remove alcohol issues from many middle school and high school campuses. We believe that similar success will result from the establishment of a legal age of 21 for cigarettes, tobacco and nicotine products and vapor products.

That is not to suggest Senate Bill 355 is perfect. We believe the bill before you could be improved by broadening the definition of “vapor product” to include, for example, non-nicotine vaping liquid sold separately from the devices, as well as parts, components, and accessories. We believe there are solid public health reasons to restrict youth access to these components as well.

We are also concerned over criticisms that the bill attaches more serious legal consequences to those who purchase, use or possess these products unlawfully than to those who purvey them. The concern is that the bill could serve to target teenagers, particularly youth of color and low-income youth, with enforcement measures that may place them within the judicial system, and potentially saddle them with a record.

While we encourage you to address these last two concerns, for the reasons cited above the WASB supports Senate Bill 355.

To: Senate Committee on Judiciary and Public Safety
From: Carrie Chapman, MD
Date: September 9, 2021
RE: Senate Bill 355, raising the minimum sales age for tobacco products

Good morning Chairman Wanggaard and committee members. I'm Dr. Carrie Chapman, a cardiologist in Appleton, WI, mother of three boys (in grades 4th, 6th and 8th), and volunteer with the American Heart Association. I want to share with you my perspectives of our tobacco crisis both as a physician and as a parent.

Everyday I counsel patients on smoking cessation, and I begin that conversation by stating "this will be one of the hardest things you ever do". Nicotine is as powerful as cocaine in its control as an addictive substance. Everyday I see patients regretting they ever took that first puff.

We had been making such great progress in our efforts to stomp out tobacco and then the vaping epidemic hit. Products marketed and sold to our children. Easy to buy and easy to hide. Each little flavor filled cartridge with the same amount of nicotine as a pack of cigarettes. And now the tobacco industry has a customer for life. 1 in 5 of our children are now vaping and are now addicted. It's in our elementary schools and we've only scratched the surface in identifying these products long and short-term harms. We must keep these products out of the hands of our children.

Here are a few examples of what I have personally seen locally in NE WI. At the last heart walk (prior to the pandemic), a second grade teacher approached me and told me a student brought her mom's vaping device into the classroom. A second grader! I've asked my own boys what they have seen. Of course my middle schooler tells me "mom I don't hang out with those kids" but he does tell me the grounds are littered with juul pods so he knows other kids are doing it. My husband has been a coach for baseball and football for years. Kids that are using these products— they never would have picked up a cigarette. But juuling, they think that's different, and now we have a whole new generation addicted.

I would also like to take a moment to address the counter argument that states if your old enough to fight for our country then you should have the right to purchase tobacco products. A patient of mine, marine corporal X, a 34- year-old man with extensive family history of heart disease saw me for a preventative cardiac wellness assessment a month ago. He started using nicotine during his time as a marine as he was told it would keep him alert during special operations missions. He comes to me for help now to deal with his addiction. He is ashamed. He wants to be healthy and be proactive in managing his cardiac risk factors, so he doesn't die like his father did of a heart attack at a young age. He wants his own son to have his dad around longer than he did. But he struggles, because nicotine is a such an addictive substance.

Cardiovascular disease remains the leading cause of death, and tobacco use remains one of the top risk factors. We have a responsibility to protect people from a lifetime of cardiac morbidity and addiction. I wholeheartedly support raising the minimum sales age for all tobacco products

to 21, just as almost every state and the federal government have done. However, we must make sure our policy is designed and implemented correctly. Please work with the American Heart Association to amend the definition of “vapor products” to be more comprehensive and enforceable.

Thank you for considering my testimony.

September 9, 2021

Good afternoon Chairman Wanggaard and members of the Committee.

My name is Ann Dodge and I'm a Nurse Practitioner in Pediatric Cardiology at American Family Children's Hospital in Madison. I'm also a volunteer with the American Heart Association. I support raising the minimum sales age for all tobacco products to 21, but I ask that you also adopt a stronger definition of "vapor products" before moving the bill forward.

As part of my career, I help teens and their parents quit nicotine addictions. We know that there is a huge impact of nicotine on the developing adolescent body including the heart, lungs, and brain. Firsthand in my clinic, I have seen the extreme nicotine addiction that these young people are facing. Instead of reporting statistics to you, I want to share my experience from one of my patients from clinic. This patient's name has been altered to protect privacy.

Sarah is a junior in a Madison High School. She is a very good student. She started smoking cigarettes when she was a freshman in high school. She heard about vaping a few years ago and thought it would be a great way for her to quit cigarettes. She has now been vaping for 2 years. She has tried to quit vaping several times on her own but can't. She told her Mom she was desperate to get help so her mother made an appointment with me for Sarah.

I saw her alone so she could open up about her addiction. Sarah reports vaping 4 Juul pods per day. Each JUUL pod contains as much nicotine as a pack of cigarettes. She is spending \$40 per week on ecig supplies. She gets the money from her mom and her mom thinks this is for her lunches. She needs to vape within 30 minutes of waking up and has to vape at least once per hour to function during the school day. Without it she becomes irritable, stressed and gets headaches. She has started coughing most of the night.

She said she really doesn't care about the flavor because it is just the nicotine she needs so badly. Many of her friends are trying to switch to chewing tobacco to quit because they can still use that discretely in school. She tried it but felt "nic-sick", which is the term she and her friends use for the nausea feeling related to nicotine overdose. She told me she is desperate to quit, and just wants to be free. Sarah said 2 of her friends had seizures last year and another friend had a collapsed lung related to vaping. She states she is very worried about her nighttime cough. Sarah said she feels like this is holding her back in her goals.

This is Sarah's story but this could have been any of the 1/3 of our high school students that are using e-cigarettes.

We need to do everything we can to keep these addictive substances out of the hands of our youth, and if designed and implemented correctly, this bill will help do

that. Please work with the American Heart Association to revise the definition of “vapor products” to be more inclusive and enforceable before moving the bill through committee.

Thank you for considering my testimony.

Ann Dodge
Middleton, WI



WMC

September 9, 2021

Dear Senator,

We urge you to call on the members of the Committee on Judiciary and Public Safety to hear and pass SB 355. SB 355 puts Wisconsin in compliance with the new federal age for purchasing tobacco and nicotine products.

Congress raised the tobacco and nicotine-vape purchase age to 21. That was the first step. Until our state law is changed to conform with the federal action, law enforcement is unable to enforce this change. In Wisconsin, local law enforcement only has the authority to enforce local ordinances and state laws.

The current situation has led to confusion among parents, enforcement officials, high schools, retailers and the public. We ask that you join us in supporting SB 355 to allow for the enforcement of the new federal tobacco age and to prevent Wisconsin from losing federal Substance Abuse and Mental Health Services Administration (SAMHSA) funds.

Here's what SB 355 does:

- Makes it illegal for **ANY RETAILER** to sell tobacco or nicotine products including non-nicotine vapor products to anyone under the age set by the federal Food, Drug, and Cosmetic Act, which is currently 21.
- Makes it illegal for any **PERSON** to purchase tobacco or nicotine products including non-nicotine vapor products if they are under the age set by the federal Food, Drug, and Cosmetic Act, which is currently 21.

Thank you for your consideration.

Wisconsin Grocers Association Inc.
Wisconsin Petroleum Marketers and Convenience Store Association
Wisconsin Manufacturers and Commerce
Milwaukee Metropolitan Association of Commerce

Contact: Joel Kleefisch - jkleefisch.jk@gmail.com



September 8, 2021

Dear Chairman Wanggaard,

Thank you for the Senate Committee on Judiciary and Public Safety's consideration of SB355, which would raise the age for purchasing cigarettes, tobacco products, nicotine products, and certain vapor products from 18 to 21.

Community Advocates has been a leader in tobacco prevention and control for more than ten years. We have registered in support of SB355 because it would align state law with federal law and authorize Wisconsin law enforcement entities to enforce the federal age requirement.

We recommend the bill be improved by including non-nicotine vapor liquid, components, and accessories in its definition of "vapor product." The bill should also include a robust system of licensing and reporting for retailers who sell vapor products. This would allow organizations like ours to better track usage trends, and help retailers prevent sales to youth.

Additionally, we recommend Wis. Stat. 254.92 be amended to remove preemption and possession, use, and/or purchase (PUP) of tobacco products language. These laws punish users but not retailers and disproportionately target youth and young adults of color and low-income youth and young adults. There is little evidence that these laws prevent youth tobacco initiation and use and may even increase tobacco use among youth. State and local policy and resources should be directed at prevention and enforcement strategies with evidence of success.

We request your support for passage of an amended version of this bill to make it even more effective.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Bare".

Mike Bare
Research and Program Coordinator
Community Advocates Public Policy Institute

CC: Senators Wimberger, Darling, Jacque, Bradley, Taylor, and Roys



Wisconsin Public Health Association
Wisconsin Association of Local Health
Departments and Boards



563 Carter Court, Suite B, Kimberly, WI 54136
920-882-3650 · 877-202-4333

DATE: September 9, 2021
TO: The Senate Committee on Judiciary and Public Safety
FROM: The Wisconsin Public Health Association
The Wisconsin Association of Local Health Departments and Boards
RE: Senate Bill 355 – Tobacco 21 Legislation

The Wisconsin Public Health Association (WPHA) and Wisconsin Association of Local Health Departments and Boards (WALHDAB) support legislation that updates Wisconsin law to enable state and local law enforcement to enforce illegal sales to 18-, 19-, and 20-year-olds in accordance with public health best practice. While Senate Bill 355 takes steps to raise the age of purchase for tobacco products to 21, it does not adequately encompass all best practices.

As such, we urge bill's authors and proponents to amend Senate Bill 355, as follows:

1. Add non-nicotine liquid sold separately from vaping devices to the definition of "vapor product."
 - The FDA and CDC definitions of "vapor products" include non-nicotine liquid.
 - By excluding non-nicotine liquid from the definition of "vapor product," Senate Bill 355 gives false the impression non-nicotine liquid is safe to inhale.
 - This complicates prevention efforts amongst both adults and minors.
2. Create licensure for vape shops
 - By not licensing retailers of vapor products, the state will not know who is selling vapor products, making it difficult, if not impossible, to comprehensively enforce new laws created by Senate Bill 355.
3. Repeal language found in statute 254.92 that punishes users rather than the retailers that sold the products in the first place.
 - By punishing users, the law is likely to target low-income individuals and individuals of color, introducing them to the criminal justice system.
 - Research shows laws that punish users can be counterproductive in prevention by attracting individuals seeking deviant behavior.

WPHA and WALHDAB believe Senate Bill 355 would improve considerably by amending the bill as aforementioned. By utilizing best practice, new Tobacco 21 legislation would result in fair and equitable law that prevents sales and use by minors and enables law enforcement to enforce the law.

If you have any questions, please contact Erik Kanter (erik@hovenconsulting.com) or Tim Hoven (tim@hovenconsulting.com).