

**Testimony on Assembly Bill 422
Assembly Committee on Substance Abuse and Prevention
Tuesday, November 05, 2019**

Chairman Plumer and members of the Assembly Committee on Substance Abuse and Prevention, thank you for allowing me the opportunity to share my testimony with you today regarding Assembly Bill 422.

This bill changes the age for purchasing cigarettes, tobacco products, and nicotine products from 18 to 21. Under current law there is no minimum age for purchasing vapor products, so this bill also establishes that minimum age at 21.

We have introduced this bill to address the demonstrated public health crisis caused by the rampant use of vapor products by our youth.

Between 2017 and 2018, the use of vapor products increased 78% among high school students, and by 48% among middle school students. 40% of 12th graders report using a vapor product in the past 12 months. These students are either able to purchase the products themselves or obtain them from a friend or classmate. Increasing the smoking age from 18 to 21 will get these products out of the schools and ensure that students are not able to buy them for their friends.

There has been significant research to show that vapor products impact adolescent brain development, including parts of the brain most responsible for decision making, impulse control, and sensation seeking.

Unfortunately, we've all seen how quickly these products can effect someone's health, with hundreds of people, mostly young people, being hospitalized due to vaping-related illnesses. This year we have also seen the first deaths linked to the use of vape products.

Educators and school administrators have repeatedly expressed their concerns over the widespread use of these vapor products by their students, and school staff saw some of their students returning to school in the fall of 2019 with serious lung diseases.

Even our military has expressed concerns about the increased use of smoking products by young people. A Military News op-ed written by military officials states that "use of tobacco products among service members is pervasive, harmful, and an urgent public health problem".

This problem isn't going away on its own. 18 other states have already passed legislation to increase the smoking from 18 to 21 and I hope we can follow their lead to stop 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.



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

November 6, 2019

Assembly Committee on Substance Abuse and Prevention Testimony on Assembly Bill 422

Good morning!

Thank you Chair Plumer and committee members for hearing Assembly Bill 422 (AB 422), that would increase the age for sale, purchase, and possession of cigarettes, nicotine and tobacco products, including vapor products, from 18 to 21.

Ask any parent or teacher of high school students and they will tell you that vaping is the new threat to the health and wellbeing of young people. Children's Hospital of Wisconsin recently reported eight cases of hospitalized teenagers with "seriously damaged lungs" who reported vaping in the weeks and months prior to their hospitalization. This story was closely followed by the Wisconsin Department of Health Services (DHS) announcing that doctors have confirmed 12 cases of adults with lung disease tied to vaping marijuana oils, extracts or concentrates and another 13 cases under investigation!

Vaping or JUULing (named after a brand of products) uses an electronic device to deliver nicotine, flavorings and other chemicals into a person's lungs. The devices heat liquid and produce an aerosol, or mix of small particles in the air, which a person inhales. The practice is similar to smoking tobacco-based products. But it is an alternative way to deliver nicotine to the body that some users consider "safer" or "healthier" than smoking tobacco.

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 Federal Food and Drug Administration (FDA). Studies have shown nearly 40% of 12th graders report using a vaping product in the past 12 months.

It is widely accepted that vaping products, and the nicotine they deliver, uniquely impact adolescent brain development, including parts of the brain most responsible for decision making, impulse control, and sensation seeking. Additionally, a study by the Institute of Medicine of the National Academies found "substantial evidence" that vaping use among youth "increases the risk of transitioning to smoking conventional cigarettes."

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.

Seventeen states, including neighboring Illinois, have increased the age to 21. Minnesota passed similar legislation in their House last spring, but it did not make it through the Senate. More than 50% of the country's population is currently subject to Tobacco 21 laws.

Demonstrating the effectiveness of the policy, the Institute of Medicine of the National Academies found raising the minimum legal sales age nationwide would reduce tobacco initiation, particularly among adolescents aged 15 to 17, lead to a 12% reduction in smoking over time, and immediately improve the health of adolescents and young adults.

Increasing the age to 21 will 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, and that an age 21 policy aligns Wisconsin with the direction other states and the federal government are headed.

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.

This bipartisan legislation has broad support that includes the American Heart Association; Wisconsin Association of School Boards; Wisconsin Chiefs of Police Association; Association of Wisconsin School Administrators; Boys & Girls Clubs of Wisconsin; Wal-Mart Stores; Aurora Health Care; Marshfield Clinic Health System; Marshfield Children's Hospital; Altria Client Services; JUUL Labs, Inc.; RAI Services (formerly Reynolds American Inc.); Wisconsin Association of School Business Officials; Wisconsin Association of School District Administrators; Wisconsin Association of School Personnel Administrators, Wisconsin Council for Administrators of Special Services; Wisconsin Retired Educators Association.

Thank you again for hearing AB 422, 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.



Testimony on Assembly Bill 422
Assembly Committee on Substance Abuse and Prevention
November 6, 2019

Chairman Plumer and members of the Assembly Committee on Substance Abuse and Prevention, thank you for holding a public hearing on Assembly Bill 422 (AB422), which would raise the legal age for sale, purchase, and possession of tobacco and nicotine products including vapor products to the age of 21. Special recognition to the committee members Representatives' Jesse James, Deb Kolste, and Melissa Sargent for co-sponsoring this important legislation.

Every day, 300 children become regular, daily smokers. Nearly all adult smokers began smoking before the age of 21, and three-quarters started before the age of 18. Tobacco companies are aware of this information and use it to specifically target this age demographic. In an internal document from 1982, a tobacco researcher stated that, "If a man has never smoked by the age of 18, the odds are three-to-one he never will. By age 24, the odds are twenty-to-one." That is why it is critical to keep Wisconsin youth shielded from becoming regular smokers.

To make situations worse, today's children are not getting hooked on cigarettes alone. E-cigarettes and other vaping products have become commonplace in high schools across the entire State of Wisconsin. These new nicotine-delivery systems come in numerous candy and fruit flavors that pointedly target our youth in the hopes of getting them addicted. It is far too easy for minors to access these products because many high school seniors turn 18 before they graduate, creating a legal pipeline onto high school campuses.

No one has been immune from the horror stories that have gripped our nation over the last couple of months in regards to vaping related illnesses and deaths. E-cigarettes are not a safer alternative to cigarettes for our young people; they are cotton-candy-flavored gateways into a lifetime of nicotine addiction. The stark reality is that the adverse effects of vaping may not be limited to long-term illnesses. Across the country, particularly Wisconsin, has seen a spate of lung disease because of vaping. These unforeseen consequences are why it is critically important that we ensure that we are doing everything possible to keep them out of the hands of our children.

AB422 specifically addresses the issue of nicotine products being funneled into our schools. By raising the age to 21, the school-tobacco pipeline will be closed. It is much less likely that high school students and younger children know someone that age. It is unrealistic to expect that this will completely stop underage smoking (much like raising the age for alcohol did not completely stop underage drinking), but it will slow the ready availability of tobacco and vaping products in our schools.



Other states and cities have seen outstanding results from raising the smoking age to 21. After raising the age in Oregon, 18-20 year olds who had started smoking in the previous 6 months fell from 23% to 18%, and 10% of the same age group reported that it was significantly more difficult to obtain tobacco and vaping products. Even more importantly, those aged 13-17 – in other words, high school kids – saw the largest decline in new smokers over that six-month period.

These results are not solely limited to Oregon: in New York City, there was a nearly one-third decline in cigarette smoking among high school students after they implemented the law. In total, 18 states and the District of Columbia have already passed laws raising the minimum age to 21.

Nearby Chicago has been one of the biggest success stories. Only 6% of Chicago high school students said they smoked in 2017 – an all-time low. Raising the age to 21 works in keeping cigarettes out of our children's hands. The bill that I am co-authoring with my colleague, Representative Spiros, while not perfect, will be the foundation of a legal framework to cut smoking rates across the entire state and ensure more of our children will escape the deadly addiction of nicotine.

Thank you again for taking the time to understand why the committee should move forward with this critical legislation. I would be happy to answer any questions that you have at this time.

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Assembly Bill 422 Public Hearing

**Testimony of Dr. Michael Fiore, MD, MPH, MBA, Director,
University of Wisconsin Center for Tobacco Research and Intervention
Nov. 6, 2019**

1. **Tobacco use is the leading cause of preventable disease and death in Wisconsin and the United States.**
 - According to the CDC, more than 1,200 Americans die every day from diseases caused directly by smoking.
 - 19 Wisconsinites die every day from smoking.
 - Source: CDC
2. **Youth and young adults are particularly vulnerable to tobacco addiction.**
 - According to the National Survey on Drug Use and Health, 80% of adult smokers started before they turned 18, and nearly 95% started before age 21.
 - (Sources: [University of Michigan](#), [National Survey of Drug Use and Health](#))
3. **Kids are particularly at risk because nicotine negatively affects brain development in adolescents.**
 - The prefrontal cortex is still developing through age 25:
 - Decision-making, impulse control, executive functioning
 - Neural remodeling, connections between amygdala and pre-frontal cortex
 - nACh-r highly active in brain development
 - Addiction occurs more quickly, at smaller doses of nicotine
 - Nicotine “re-wires” the adolescent brain, with lasting and behavioral consequences
 - UW-CTRI Research on Teens and Genetics: The expression of increased genetic risk with CHRNA5-A3-B4 haplotypes were only among smokers who began daily smoking relatively early in life, particularly resulting in worsened withdrawal severity and an inability to stop smoking.
 - Source: Baker TB, Weiss RB, Bolt D, von Niederhausen A, Fiore MC, Dunn DM, Piper ME, Matsunami N, Smith SS, Coon H, McMahon WM, Scholand MB, Singh N, Hoidal JR, Kim SY, Leppert MF, Cannon DS. (2009) Human Neuronal Acetylcholine Receptor A5-A3-B4 Haplotypes are Associated with Multiple Nicotine Dependence Phenotypes. *Nicotine and Tobacco Research*. 11:785-96.
 - Increased risk of later substance abuse and reduced pre-frontal cortex activation (functional-mri)
 - Sources: U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014. Printed with corrections, January 2014.
 - U.S. Department of Health and Human Services. *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National

Center for Chronic Disease Prevention and Health Promotion,
Office on Smoking and Health, 2016.

- “Compared with older adults, the brain of youth and young adults is more vulnerable to the negative consequences of nicotine exposure. The effects include addiction, priming for use of other addictive substances, reduced impulse control, deficits in attention and cognition, and mood disorders.” Former U.S. Surgeon General Vivek Murthy.
 - Source: U.S. Department of Health and Human Services. *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.
- It’s critical to keep nicotine out of the hands of youth

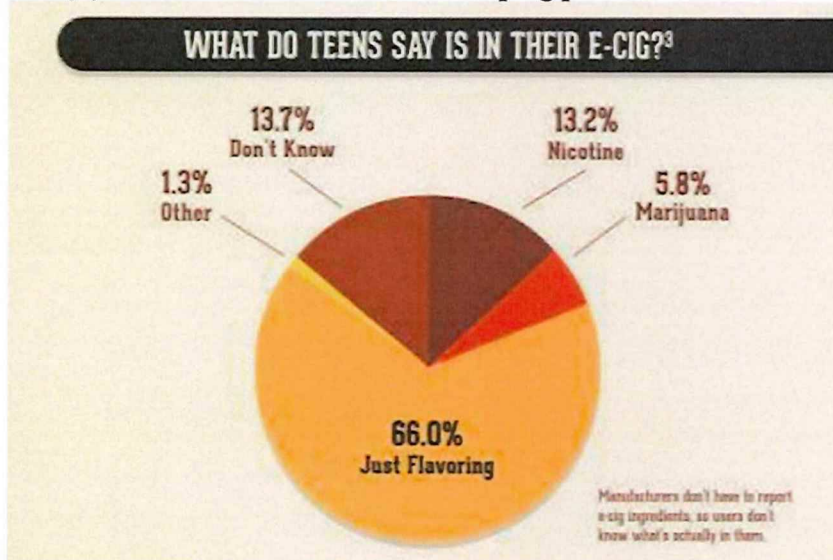
4. Youth who vape are at increased risk for transitioning to combustible tobacco products.

- This has been shown in California and replicated on the national level via a systematic review.
 - Pooled 9 longitudinal studies. 17,989 participants, 14-30 year-olds
 - Baseline data, resurveyed at ~12 months
 - AT FOLLOW-UP: Probability of past 30-day cigarette
 - If baseline ‘non-past 30-day e-cig user’: 4.6%
 - If baseline ‘past 30-day e-cig user’: 21.5%
 - Pooled odds ratio
 - For baseline ‘past 30-day e-cig user’ vs ‘non-past 30-day e-cig user’ = 4.28 (95% CI, 2.52-7.27)
 - For baseline ‘ever’ vs ‘never’ e-cig user = 3.5 (95% CI 2.38-5.16)
 - Source: Soneji S, et al. 2017 Systematic Review (JAMA Peds)
- Youth who vaped e-cigs were nearly 4 times more likely to smoke.
 - Levanthal et al, Association of Electronic Cigarette Use With Initiation of Combustible Tobacco Product Smoking in Early Adolescence, *JAMA* 2015.
- Therefore, any Tobacco 21 law should apply to all tobacco products.

5. We can’t say vaping is safe.

- Not only are we unsure of the safety of “store-bought” vaping products like JUUL or BLU, but now we have the use of “street vapes” containing THC that have led to more than 1600 serious cases of lung injury and 34 deaths of otherwise healthy teens and young adults
 - Source: CDC

6. Many youths don't realize what's in vaping products.



- Source: National Institute on Drug Abuse; National Institutes of Health; U.S. Department of Health and Human Services

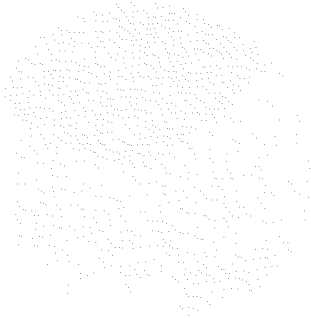
7. Currently, one in five Wisconsin high schoolers vape.

- 27.5% nationwide had vaped in the previous 30 days
 - Source: Preliminary results from the National Youth Tobacco Survey
- In 2019, 25% of high school seniors reported vaping in the last month - up from 20% in 2018
 - Source: Monitoring Our Future, University of Michigan

8. Tobacco 21 decreases youth smoking and vaping.

- Tobacco use would decrease by 12 percent by the time today's teens were adults
- Smoking-related death would decrease by 10 percent
 - Source: National Academies of Medicine, Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products. (2018, October 08).
- Nationwide, 223,000 deaths could be prevented among those born between 2000 and 2019, including 50,000 fewer deaths from lung cancer
 - Source: National Academies, Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products (2018, October 08).
- 18-year-old seniors are often a supply source for tobacco products for their younger classmates. By raising the tobacco purchasing age to 21, that social supply is disrupted, since your typical high school freshman knows fewer 21-year olds
 - Source: DiFranza JR, Coleman M. Sources of tobacco for youths in communities with strong enforcement of youth access laws. *Tobacco Control*. 2001;10(4):323-328
- Tobacco sales to those younger than 21 years account for just 2% of total tobacco sales, yet produce 90% of new smokers
 - Source: Farber, HJ., Pakhale, S., Neptune, ER and American Thoracic Society Tobacco Action Coalition. Tobacco 21: An important public policy to protect our youth. *Annals of the American Thoracic Society*. 2016: 13:2115-2118.

9. **If Tobacco 21 is enacted, it's crucial to have free, accessible help for people to quit, like the Wisconsin Tobacco Quit Line.**



I started my job as principal at Arrowhead High School nearly 27 years ago. At that time Arrowhead, like most schools, had a significant problem with students smoking on 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 at that time.

Just when I thought we had the nicotine problem solved we started seeing vaping pop up in our school. We quickly realized this was a serious problem that was not going to go away anytime soon. The first indication of how addictive vaping really is and how serious a problem we had was when student-athletes who had devoted a lot of their youth to a specific sport were getting caught vaping in school; which resulted in a suspension from their sport. In a short period of time, these students had been caught vaping so many times they lost all eligibility to play a sport they loved. Feeding their addiction to nicotine was more important than their passion for their sport.

These students are so addicted they will vape in the classroom, lunchroom, hallway, or bathroom. When asked why they do this, the common answer is that it calms them down and relieves their stress. Across the country, this problem of teen vaping is getting consistently worse. According to the National Youth Tobacco Survey in 2013, only 4.5% of all teenagers had vaped in the past 30 days, in 2019 the number has risen to 27.5 % which equates to 5 Million kids vaping. Even with young people dying or ending up in the hospital all over our country, teenagers are still vaping at an alarming rate. I wonder how many 25-year-olds will be carrying an oxygen tank with them like a 2 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 are going on-line and checking the “Are you 18 Box” yes which enables them to order any device or vape oil they want. The vape oils are marketed to a younger audience with flavors like Cotton Candy and Gummy Bear. It appears as though the companies are luring the youngsters in with flavors that appeal to kids and keeps them coming back with addiction to nicotine. The devices that are available are getting smaller and more easily concealed. Who needs to hide the fact they are vaping; not the adult trying to quit smoking, but the kid who doesn’t want their parents to find out does.

There is significant research on how nicotine negatively affects the developing adolescent brain, specifically in the area of attention, learning, and memory. It comes as no surprise to me that we see our academic scores going down around the state with over a quarter of our students vaping regularly.

At Arrowhead we are training high school students to go back to their middle school and tell the 6th, 7th, and 8th graders about the dangers of vaping in an attempt to be proactive and stop them before they start. I give informational sessions on vaping to the parents in our seven feeder schools to help them fight the battle at home.

I became a principal to help students learn and make an impact on the education of our youth. Unfortunately, I'm spending way too much time tackling the vaping problem when there are other things I should be doing. We are apparently allowing companies to make billions of dollars with no regard for the health of our youth.

I ask that you help us help the youth of this state by passing AB 422.

I brought some of the devices that have been confiscated from some of our students that I would like to show you at this time.



American
Heart
Association.

TO: Assembly Substance Abuse and Prevention Committee
FROM: Nicole Hudzinski, Government Relations Director, American Heart Association
DATE: November 6, 2019
RE: Support for Assembly Bill 422

Good morning Chairman Plumer and members of the committee. My name is Nicole Hudzinski and I am the Government Relations Director here in Wisconsin for the American Heart Association. I'm joined by two of our youth advocates, Gabby and Bryn, to testify in support of Assembly Bill 422.

We want to start by thanking Representative Spiros, Senator Marklein, and a great group of bipartisan legislators for introducing this bill. I also want to thank this committee for having a public hearing today.

Tobacco use remains the leading cause of preventable death in the United States, killing 7,900 Wisconsinites each year. Tobacco use steals lives prematurely and significantly drives up health care costs. In WI, the direct health care costs of smoking are estimated at \$3.0 billion annually. That includes physician visits, hospitalizations, medications, etc. If you factor in lost productivity, add in another \$1.6 billion.

Raising the sales age for tobacco products, including e-cigarettes, will help eliminate tobacco use and addiction. Nearly 95 percent of adult smokers start smoking before age 21, and most 15- to 17-year-olds get their tobacco from friends who have turned 18 (as Gabby and Bryn can tell you). Raising the sales age to 21 will help remove tobacco from high schools altogether.

Additionally, adolescents' brains are still developing. Studies have shown nicotine can harm brain development and have adverse impacts on learning, memory and attention. Nicotine exposure during adolescence can also cause addiction and increase risk for future addiction to other drugs. Make no mistake about it, nicotine is a highly addictive substance.

Youth are especially susceptible to tobacco industry marketing, and they don't fully recognize the health consequences. Many youth mistakenly believe e-cigarettes are harmless, and some may use these products simply to defy their parents or other adults. We must do more to restrict youth access to these dangerous products.

There is also overwhelming public support for increasing the sales age. Recent Gallup results show strong support— 73% of Americans believe the minimum age to purchase tobacco

products should be 21. Support is higher among women (at 76%), and even includes 64% of current smokers and 74% of former smokers.

These products— whether it be cigarettes, cigars, chewing tobacco, or e-cigarettes— are not safe, and do not belong in the hands of our youth. By raising the minimum sales age for all tobacco products, we can help reduce tobacco use, nicotine addiction and tobacco-related disease and death.

We applaud Rep. Spiros, Senator Marklein, and all the authors and supporters of this bill. It is a definite step in the right direction and will have an impact on youth usage of tobacco and nicotine products. That said, we would be remised if we didn't take this opportunity to comment on the need for comprehensive legislation and regulation regarding e-cigarettes.

We've made great strides in reducing traditional tobacco usage (cigarettes, chew, etc.). This is in part the result of community education and outreach done by public health officials, doctors, and others. However, we see success when community education is coupled with strong public regulation. In addition to raising the sales age to 21, we must also include e-cigarettes in our state's Clean Indoor Air law, levy a tax on e-cigarettes that's equal to our tax on cigarettes, and robustly fund our state's tobacco prevention and control program.

In addition, it's important we require "vape shops" to be licensed. Traditional tobacco retail (gas stations, grocery stores, etc.) is required to be licensed in order to sell tobacco and nicotine products. Compliance checks are done periodically, and if a retailer sells to someone underage, financial penalties are given and the tobacco license can be suspended. Under current WI law, vape shops are not required to be licensed, and we have concerns about enforcement of this law, as well as other youth access laws, in vape shops. While vape shop licensure is not a part of this proposal, we would support adding it as an amendment. Alternatively, we would welcome an opportunity to work with interested legislators on a separate proposal. Vape shops should be licensed and on an even playing field with traditional tobacco retail.

I ask you to do what has already been done in 18 other states and over 450 communities nationwide, and that is to raise the minimum sales age of tobacco products to 21. Please support AB 422.

Thank you again for having a hearing today, and for listening to my testimony. I'd be happy to answer any questions after Gabby and Bryn have a chance to share what they're seeing in their communities.

To: Assembly Committee on Substance Abuse and Prevention
From: Bryn Dresselhuys
Date: November 6, 2019
RE: AB 422, raising the sales age for tobacco and nicotine products to 21

Good morning. My name is Bryn Dresselhuys and I'm a freshman at Whitefish Bay High School. I am happy to be hear today testifying in support of Assembly Bill 422, to raise the sales age for all tobacco and nicotine products to 21.

I am only in my first year of high school, but it is so alarming for me to see the amount of kids already using e-cigarettes. Every weekend there seems to be another Snapchat or Instagram post, showing kids in my grade vaping in their basement or at a party with friends.

My family has a history with cigarettes. My dad and uncle still smoke, and my grandma died from Stage 4 Lung Cancer. Because we have seen that nicotine addiction firsthand, my sister and I choose not to use e-cigarettes, but she and I have both seen a lot of vaping in our school.

I know the effects of these products and as a singer I'd never risk my voice. But other kids my age aren't as careful. Upperclassmen have no problem making a quick buck by reselling a new Juul. Vaping has become an epidemic; it is endangering my classmates, my friends and my generation. I want everyone to know how important it is to support the Tobacco 21 bill. This bill will raise the minimum tobacco sales age to 21, and get these harmful products out of our schools, before it is too late!

Please support Assembly Bill 422.

To: Assembly Committee on Substance Abuse and Prevention
From: Gabby Ralphe
Date: November 6, 2019
RE: AB 422, raising the minimum sales age for all tobacco products to 21

Hi, my name is Gabby Ralphe and I'm a 16-year-old junior at Middleton High School. I'm here today to share with you a little about what I see, and my perspective on this issue.

In my high school, e-cigarette use, or what we refer to as "Juuling", has skyrocketed. With the distinguishable sweet smell filling every bathroom, finding pods in the parking lot and seeing glorified videos strewn across social media, it is taking over my generation's lifestyle. With this type of peer pressure everywhere, it is no wonder so many kids are using. However, choosing not to participate should become very easy once we take a second look at the kids who Juul.

When you look behind what may be a 'cool' facade, what you see is not pretty. The kid with the e-cigarette up his sleeve in class is not doing it to be funny or get attention; it is because he cannot last through second period without it. The girl vaping in the stall next to me started using because it was a fun, cool thing to do with friends, but now she is alone and it no longer seems that fun. The boy on SnapChat selling his name brand clothes is not doing this because his closet is too full; it is because his cartridge is too empty, and he needs cash for pods.

My classmates did not ask for this, and they do not deserve this. So many are like this because of the common misconceptions of e-cigarettes being "safe" and because buying pods from 18-year-old siblings and classmates is too easy. All these kids who I have grown up with are going to pay the consequences of nicotine addiction and unknown chemicals in their lungs because they wanted to be cool and accepted at 14.

I want the sale age of tobacco products to be 21 years old because I want these products out of my school. I want people to talk about this issue, because the younger kids in our community need to know the dangers and the risks before they take that first inhale and it is too late. I ask you to support Assembly Bill 422.



TO: Wisconsin Legislators
 DATE: November 6, 2019
 RE: SB 364/AB 422, raising the minimum sales age to purchase tobacco products

Tobacco use remains the leading cause of preventable death in the United States. Each year 7,900 Wisconsinites die from smoking related causes. We must enact strong regulation to reduce youth access to these products. We ask for your support on SB 364/AB 422 which will increase the minimum sales age for all tobacco products, including e-cigarettes, to 21.

Nicotine is a dangerous and highly addictive drug. Studies have shown that nicotine can harm the still-developing adolescent brain and have adverse impacts on learning, memory and attention. Our schools are seeing this firsthand. These products harm the health of young students and disrupt the learning environment in schools.

Nicotine exposure during adolescence can also increase the risk for future addiction to other substances. Addiction to alcohol or other drugs have several physical and mental health effects, and oftentimes this includes interaction with law enforcement and the criminal justice system. Everyday law enforcement sees the tragic impact of addictive behavior amongst our youth.

These products— whether it be cigarettes, cigars, chewing tobacco, or e-cigarettes— are not safe, and they do not belong in the hands of our youth. If done right, raising the sales age for tobacco products, including e-cigarettes will help prevent a lifetime of nicotine addiction.

Additional Key Points:

- Most 15- to 17-year-olds get their tobacco from school peers who have turned 18.
- Nearly 95 percent of adult smokers started smoking before age 21.

- Youth are especially susceptible to tobacco industry marketing and they don't fully recognize the health consequences.
- There is overwhelming public support for this policy. Recent Gallup results show strong support— 73% of Americans believe the minimum age to purchase tobacco products should be 21. This includes 64% of current smokers and 74% of former smokers.

Similar policies have passed in 18 states and over 450 communities nationwide. It's time for Wisconsin to take a step forward and raise the age to 21. Please support SB 364/AB 422.

If you have questions or would like additional information, please contact Nicole Hudzinski, Government Relations Director, American Heart Association, at 608-225-4042 or nicole.hudzinski@heart.org.

American College of Cardiology- Wisconsin Chapter

Advocate Aurora Health

American Heart Association

Ascension Wisconsin

Association of WI School Administrators

Badger State Sheriffs' Association

Boys and Girls Clubs WI Alliance

Children's Hospital of Wisconsin

City of Milwaukee

Marshfield Children's Hospital

Marshfield Clinic Health System

Medical College of Wisconsin

Southeastern WI Schools Alliance

SSM Health

UW Health

UW Health- American Family Children's Hospital

Walgreens

WI Academy of Family Physicians

WI Association of School Boards Inc.

WI Association of School Business Officials

WI Association of School District Administrators

WI Association of School Personnel Administrators

WI Council of Administrators of Special Services

WI Dental Association

WI Grocers Association

WI Medical Society

WI Primary Health Care Association

WI Retired Educators Association

WI Rural Schools Alliance

WI Sheriffs and Deputy Sheriffs Association



November 6, 2019

Good morning Chairman Plumer, and members of the Assembly Committee on Substance Abuse and Reform, my name is Sara Sahli. I am the Director of Government Relations for the American Cancer Society Cancer Action Network (ACS CAN) in Wisconsin. Thank you for the opportunity to testify before you on this very important issue. While we are encouraged by the efforts of the authors and co-authors, in its current form, ACS CAN does not support Assembly Bill 422 – a bill to raise the minimum sales age for tobacco products to 21.

ACS CAN is registered opposed to this bill. We take this position because we feel compelled to advocate for the strongest public health solutions on behalf our mission, our volunteers, survivors, caregivers, and maybe most importantly the current generation of kids facing this tobacco and e-cigarette crisis.

Today you may have heard/might be hearing from doctors and researchers on the impact tobacco has on youth brain development – and the benefits of raising the minimum sales age to 21 to reverse that impact. Please don't mistake our current opposition as a rejection of that science.

Some may contend that our organization is letting the good be the enemy of the perfect. When it comes to addressing youth tobacco and e-cigarette use, the perfect solution would be: more funding for the Tobacco Prevention and Control program, comprehensive clean indoor air laws that includes e-cigarettes and a significant tax on all tobacco and e-cigarette products. We have advocated for all these measures in state legislature over that last ten years, but none have moved forward. If Tobacco 21 is the most this body is willing to tackle right now, ACS CAN stands firm that such a law must be as comprehensive as possible. The strongest Tobacco 21 laws protect kids and hold retailers accountable.

It is important to note that it takes more than just changing the minimum age from 18 to 21 in existing statute for the desired health benefits to be reached. More specifically, raising the minimum sales age should in no way benefit the industry that created this problem. The sections of this bill that we have concern with directly benefit the industry by keeping them unregulated and unchecked. I'd like to point out a few key areas of concern with this bill as currently written:

- This bill creates separate definitions for tobacco products, nicotine products and electronic cigarettes...An effective Tobacco 21 law does NOT create new categories of products which exempts them from other tobacco control laws. A public health model definition of tobacco products is comprehensive and includes electronic smoking devices because best practice is regulating all tobacco products in the same way whether it's clean indoor air, youth access, tax, or licensing.

- This bill fails to adequately address enforcement of the law as retailers of e-cigarettes are not required to be licensed (the sellers of the very products we are most concerned our youth and young adults are using). Without this licensing requirement, we will have status quo... there will be no mechanism for retailer education, enforcement of the law or penalties for non-compliance. All evidence-based strategies that lead to the impact we believe this body is hoping to accomplish.
- The bill also fails to remove preemption which would give local governments the ability to respond quicker to the public health needs of their constituents.

We ask you to vote no on the current version of Assembly Bill 422 and stand ready to work with you on language that would make Wisconsin's Tobacco 21 policy a public health solution to this crisis.

Thank you.

Sara Sahli
Wisconsin Government Relations Director
American Cancer Society Cancer Action Network
sara.sahli@cancer.org



Assembly Committee on Substance Abuse and Prevention
Wednesday, November 6, 2019
Testimony provided by Vivek Balasubramaniam, MD
Re: Support for Assembly Bill 422

Good morning Chairperson Plumer 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 Assembly Bill 422.

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 and he is still alive today. 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. We need to keep our children from becoming addicted and needing a health scare to be the reason they stop, like 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 Assembly Bill 422 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. 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.



Contact: Connie Schulze
Director, Government Affairs
749 University Row, Suite 240
Madison, WI 53705
608/422-8063 office
608/516-2552 mobile
cschulze@uwhealth.org

Assembly Committee on Substance Abuse and Prevention
Wednesday, November 6, 2019
Testimony provided by Brian Williams, MD in support of Assembly Bill 422

Good morning Chairperson Plumer 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 Assembly Bill 422.

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 every patient describes starting before the age of 21. *Every single one.*

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 climbing every year. We now know that over 1 in 4 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. We also know that kids that use E-cigarette are more likely to use traditional cigarettes in the future.

In addition to teenagers being exposed to nicotine through the E-cigarette, we also know they are inhaling toxic chemicals. E-cigarettes ARE NOT SAFE. We know they contain carcinogens that cause cancer. E-cigarettes haven't been around long enough to show they cause cancer in users, but 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 to 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 Assembly Bill 422 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.

Support for 21 as Legal Age of Purchase for Tobacco Products

The large majority of high school e-vapor users get e-vapor products from social sources. Increasing the legal age of purchase to 21 ensures fewer social access points in high schools.

- 74% of youth e-vapor users report they access the products by social sources such as a classmate or friend¹
- 80% of high school students turn 18 before they graduate, making them current legal purchasers²

Increasing the legal age of purchase to 21 aligns tobacco products with other adult products, including:

- Beer
- Wine
- Distilled spirits
- Cannabis (in states where legal)

¹ Susanne Tanski et. al., "Youth Access to Tobacco Products in the United States: Findings from Wave 1 (2013-2014) of the Population Assessment of Tobacco and Health (PATH) Study," 2018, <https://www.ncbi.nlm.nih.gov/pubmed/30407588>. Vapor use data in report in Figure 1.

² "Tobacco 21 Fact Sheet," Tobacco 21, <https://tobacco21.org/tobacco-21-fact-sheet/>.



DATE: 11/6/19

FROM: American College of Cardiology, Wisconsin Chapter

REPRESENTATIVE: Dr Matthew McDiarmid

TO: Wisconsin Assembly, Committee on Substance Abuse and Prevention

RE: Assembly Bill 422

The Wisconsin chapter of the American College of Cardiology endorses and supports the passage of Assembly Bill 422. Smoking is the leading modifiable risk factor regarding cardiovascular disease. Furthermore, most individuals with nicotine addiction have exposure before the age of 21 years.

I have personally witnessed acute and chronic cardiovascular disease that was a direct result from prior exposure and/or chronic nicotine/tobacco use. Every day, I care for patients with cardiovascular disease, the majority of which are prior or current smokers. Below is a brief list of common occurrences.

- Middle age women on supplemental oxygen from lung damage
- Middle age men requiring coronary artery bypass for coronary disease
- Men and women with severe heart failure now on disability
- Limb salvage procedures for peripheral artery disease
- Severe reduction in life expectancy and quality of life

These are just a few of the many scenarios that I see as a physician. Sadly, many of these could have been avoided. The recent increase of smoking incidence and prevalence in young people (under 21 years of age) should be taken seriously. After years of success, the medical community has now started to see that success erode, likely secondary to nicotine vapor products exposing young individuals, children in some cases, to nicotine and tobacco addiction.

The American College of Cardiology supports the passage of Bill 422 and urges your support.

Matthew McDiarmid, DO MPH
Cardiovascular Disease Fellow, PGY-6
GME Resident Council, Co-Chair
Advocate Aurora Healthcare
St Lukes Medical Center – Milwaukee
WIACC – Fellow in Training Representative



Monroe High School

1600 26th Street
Monroe, WI 53566

November 6, 2019

Committee on Substance Abuse and Prevention,

Mr. Chairman and members of the committee. Thank you for allowing me to testify about AB 422. As a high school principal, I see the pressure to use nicotine, particularly vaping products, and the devastating effects of addiction for young people. In particular, vaping use seems to entice students of all types: athletes, honor students, and at-risk students. I've seen students tearfully realize that they are addicted to nicotine and feel as though they cannot make it through the day without using a vaping product. I've seen students scared because they know they are not in control any longer and do not feel that they have the skills to deal with addiction.

Some basic data about vaping product use by Wisconsin students:

- From 2014 to 2018 - 154% increase in e-cigarette use (Wisconsin Department of Health Services, High School Snapshot, 2019)
- 1 in 4 students have tried a vape before age 16 (Wisconsin Department of Health Services, High School Snapshot, 2019)
- 13% of students at Monroe High School have vaped in the past 30 days (WI YRBS 2019)
- 37% of students at Monroe High School have tried vaping (WI YRBS 2019)
- 38% of students at Monroe High School have tried to quit tobacco or vaping products (WI YRBS 2019)

These numbers are concerning, as nearly all e-cigarettes contain nicotine, which studies have shown is highly addictive. Because the adolescent brain is still developing, nicotine use during adolescence can disrupt the formation of brain circuits that control attention, learning, and susceptibility to addiction (American Journal of Preventive Medicine, Nicotine and the Developing Human: A Neglected Element of the E-cigarette Debate,



Monroe High School

1600 26th Street
Monroe, WI 53566

2015). Research has also shown that teens who are addicted to nicotine are more susceptible to using marijuana, alcohol, and prescription drugs (U.S. Department of Health and Human Services, Know the Risks: E-Cigarettes and Young People, 2018).

Raising the minimum sales age will reduce the number of high schoolers who can legally purchase these products, and, in my opinion, will undoubtedly have an effect on reducing the supply to high school students. When I was 17 years old, the drinking age was changed to 21 years old. While it did not eliminate high school drinking during my time in high school, and it hasn't eliminated it now, it certainly made alcohol more difficult to obtain. I hope that AB 422 would have a similar result and help improve the health of adolescents across Wisconsin.

Respectfully,

Chris Medenwaldt
Principal

Monroe High School
608-328-7557

chrismedenwaldt@monroe.k12.wi.us



324 Beloit Street • Delavan, Wisconsin 53115 • (262) 233-6800 • Fax (262) 728-5954 • www.ddschools.org

To: Assembly Committee on Substance Abuse and Prevention
Re: Assembly Bill 422, the so-called "Tobacco 21" legislation, relating to: 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.

My name is Jim Karedes, Principal at Delavan-Darien High School in Walworth County. My administrative team is completely for Assembly Bill 422, requiring the legal age to purchase vaping products and tobacco to be set at 21 years of age. We have experienced, first hand, the prevalence and rising usage of vaping products by our middle and high school student populations. The flavors that mask the chemicals are marketed directly to developing brains in our middle & high school students. Requiring the purchaser to be at a minimum of 21 years of age will help keep the products out of our building and away from our students for consumption. Too frequently our seniors and 18 year old students are purchasing these items and selling/providing them to our younger students. We fully believe support healthy choices for our youth in the Delavan-Darien community.

I would like to share the data (below) to support AB 422. I have taken the liberty to assemble our Youth Risk Behavior Survey data from the 2018-19 academic year for both Phoenix Middle School & Delavan-Darien High School (both members of the Delavan-Darien School District). Additionally, I was able to further assemble data from 6 of the 13 high schools (public, charter, virtual or other type of school) as only 6 of them (46%) participated in the survey. Participating schools included: Elkhorn Area, Delavan-Darien, Whitewater, East Troy, Lake Geneva Badger and the Walworth County Alternative High School. Finally, there were also 14 public schools in Walworth County that served middle school students. 5 of the 14 (36%) middle schools (public, charter, virtual or other type of school) participated in the survey.

The Youth Risk Behavior Survey (YRBS) asks students about both traditional tobacco products and electronic tobacco products. Questions about electronic tobacco were added to Wisconsin's state YRBS in 2017. The 2019 survey asked about current and lifetime use of electronic vapor products, such as JUUL.

By the tables below, you can see:

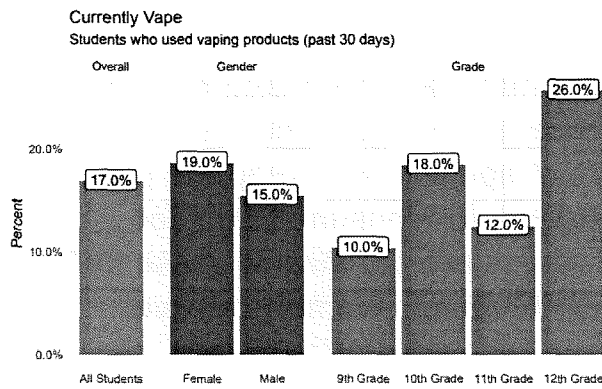
17% of DDHS students reported vaping in the 2018-19 academic year;

18% of Walworth County high school students...

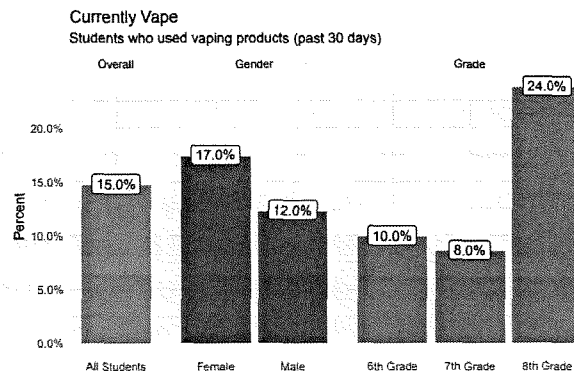
15% of Phoenix Middle School students...

9% of Walworth County middle school students...

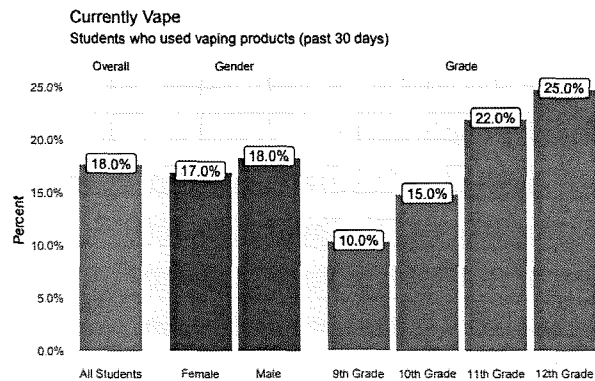
Delavan-Darien High School



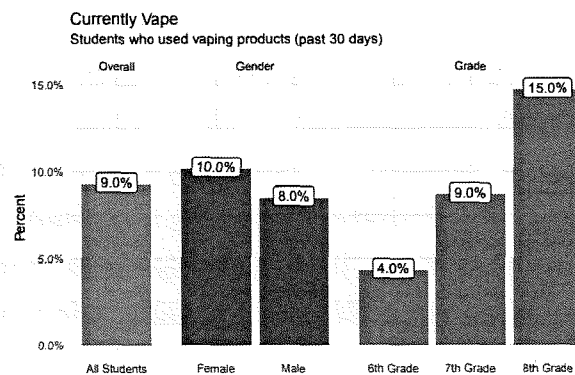
Phoenix Middle School



Walworth Cty High Schools

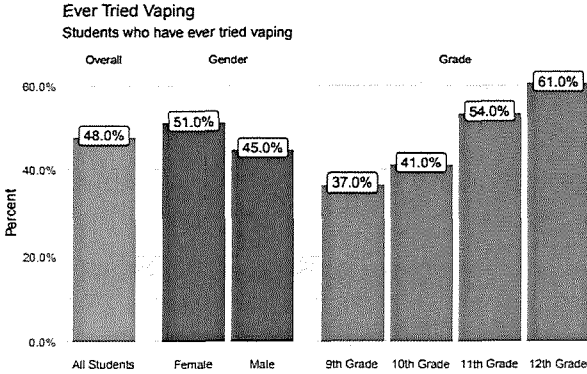


Walworth Cty Middle Schools

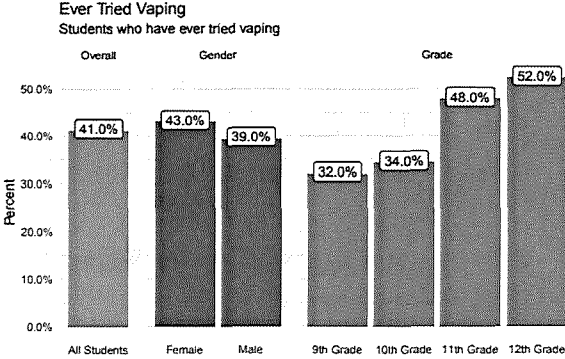


By the tables below, you can see:
 48% of DDHS students reported having tried vaping;
 41% of Walworth County high school students...

Delavan-Darien High School



Walworth Cty High Schools



Students were asked about a number of other tobacco products, including cigarettes, cigars, and chew or other smokeless tobacco products. The charts below show the percent of students who responded affirmatively to any of these questions about traditional tobacco products.

By the tables below, you can see:

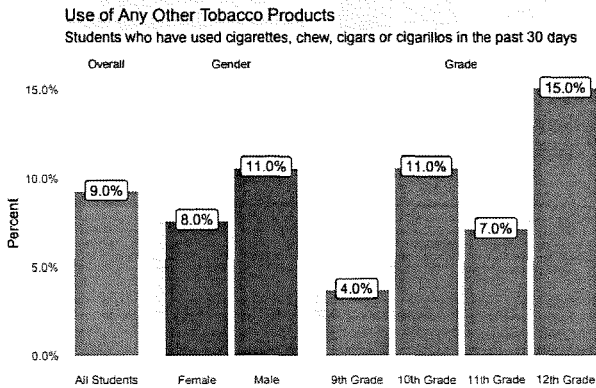
9% of DDHS students reported using "other" tobacco products;

9% of Walworth County high school students...

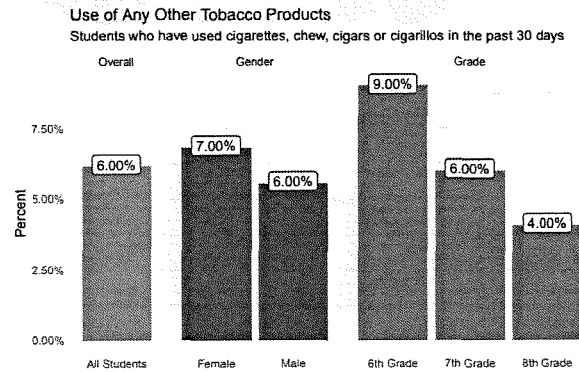
6% of Phoenix Middle School students...

4% of Walworth County middle school students...

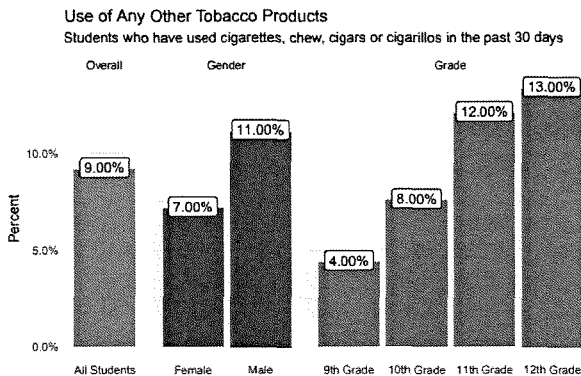
Delavan-Darien High School



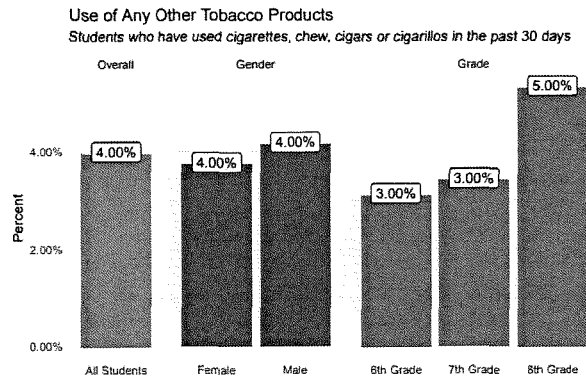
Phoenix Middle School



Walworth Cty High Schools



Walworth Cty Middle Schools



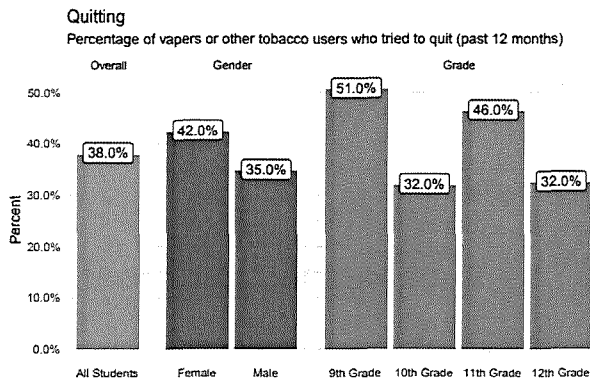
Tobacco Cessation

Students were asked whether they had tried to quit using any tobacco products, including electronic tobacco products.

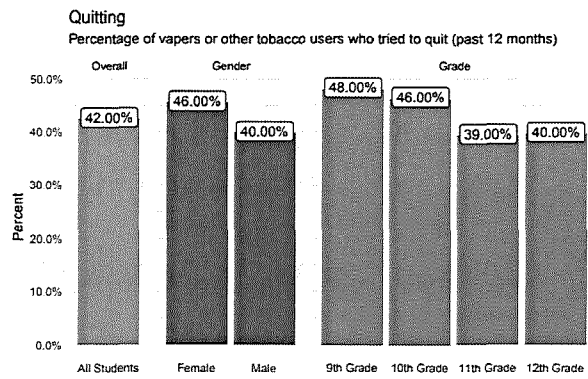
By the tables below, you can see:

38% of DDHS students reported trying to quit vapes or tobacco use;
42% of Walworth County high school students...

Delavan-Darien High School



Walworth Cty High Schools



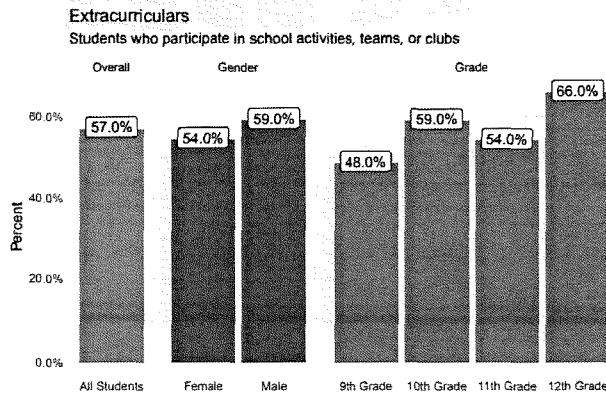
Students were asked how many hours per week they participate in “school activities, such as sports, band, drama or clubs”. The chart below shows students who indicated that they spent any time during a typical week participating in such activities.

This data is shared to model that until we get 100% of our students involved in extracurricular activities, there is time for them to make poor choices before or after school hours.

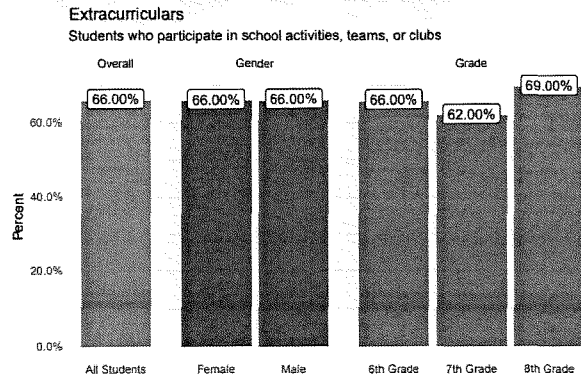
By the tables below, you can see:

- 57% of DDHS students reported vaping in the 2018-19 academic year;
- 67% of Walworth County high school students...
- 66% of Phoenix Middle School students...
- 71% of Walworth County middle school students...

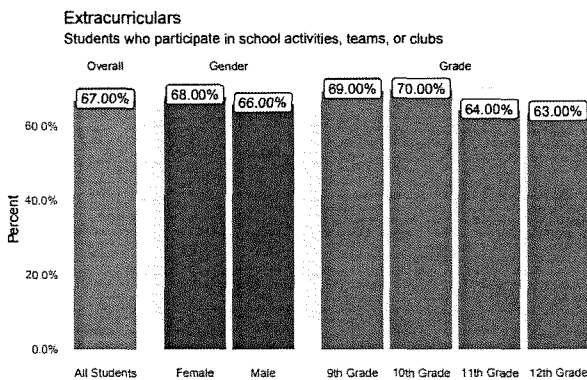
Delavan-Darien High School



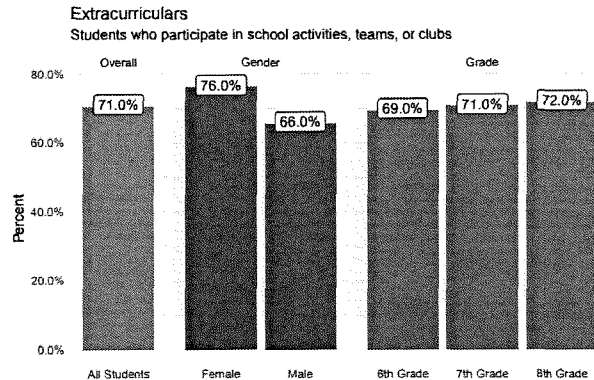
Phoenix Middle School



Walworth Cty High Schools



Walworth Cty Middle Schools



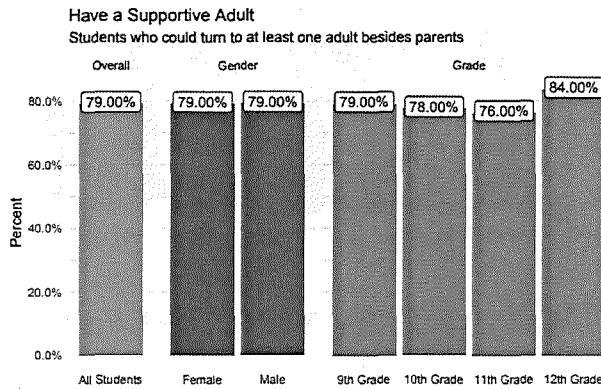
Students were asked how many adults besides their parents they could speak with about an important question affecting their life. The chart below shows students who had at least one such adult.

This data is shared as we know supportive adults are a vital resource in a young person’s life. Parents are a primary source of support for many young people. Having other supportive adults is also important. Until we achieve 100%, we have students receiving advice (including using e-cigarettes) from others that may not otherwise provide the appropriate advice.

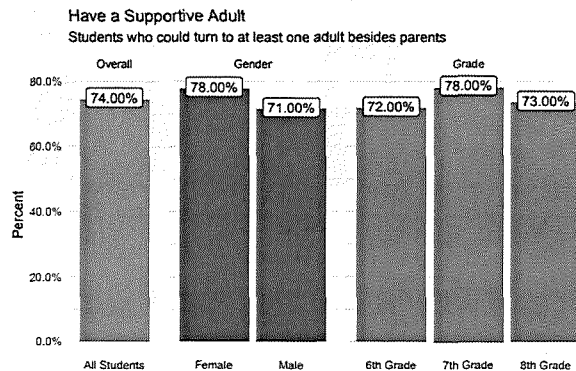
By the tables below, you can see:

- 79% of DDHS students reported having a supportive adult;
- 83% of Walworth County high school students...
- 74% of Phoenix Middle School students...
- 79% of Walworth County middle school students...

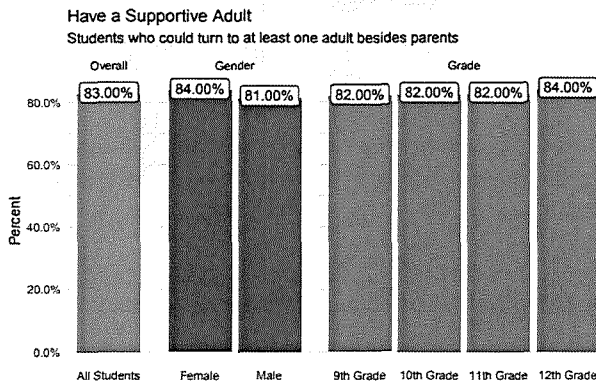
Delavan-Darien High School



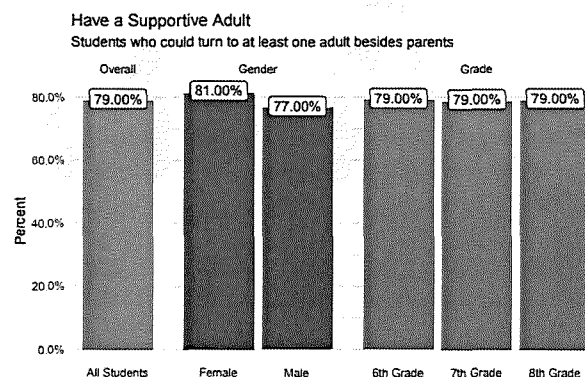
Phoenix Middle School



Walworth Cty High Schools



Walworth Cty Middle Schools



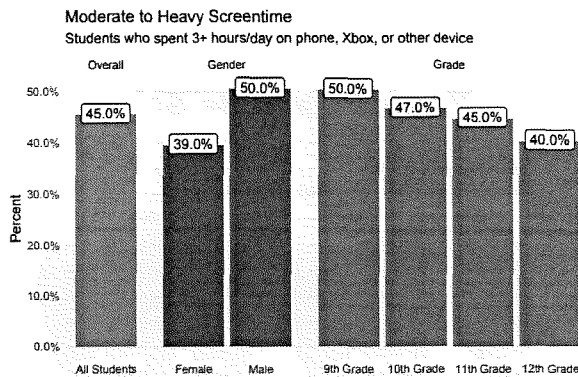
Students were asked the amount of time per day spent watching television and engaging in other forms of media, such as social media or video games.

This data is shared to model that our students are receiving advertisements from the e-cigarette and nicotine companies in all forms a facets, including social media and television.

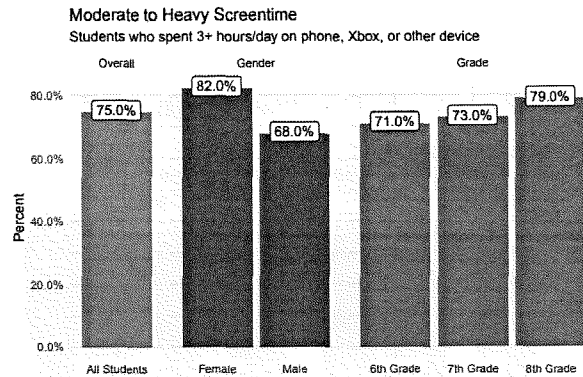
By the tables below, you can see:

- 45% of DDHS students spent 3+ hours per day with screen time;
- 43% of Walworth County high school students...
- 75% of Phoenix Middle School students...
- 57% of Walworth County middle school students...

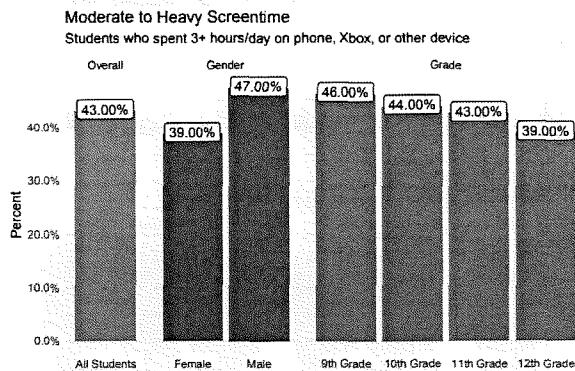
Delavan-Darien High School



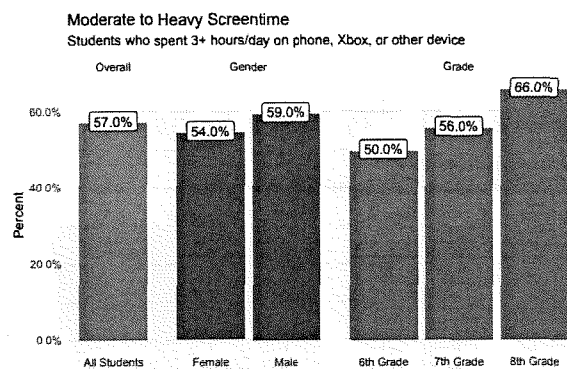
Phoenix Middle School



Walworth Cty High Schools



Walworth Cty Middle Schools



Final Talking Points:

- Wisconsin schools are directly experiencing the vaping and e-cigarette epidemic, directly handling the fallout from rising teen nicotine addiction.
- Due to the flavor and marketing campaigns by e-cigarette and vaping vendors, districts have seen an immense increase in students using and selling these products to their peers.
- In Wisconsin, the average is 1:5 high schoolers using e-cigarettes. The middle school use is 1:9.
- The urgency is upon us now, before more illness and deaths associated with vaping occur, to take action to protect our students.
- We have direct links (noted above) that our current 18 year old students are providing our middle & high school aged students with access to e-cigarettes and vapes. Raising the minimum purchasing age from 18 to 21 would not necessarily negate, but would certainly reduce the number of middle and high school aged students that would have access to these products.

Thank you for listening and supporting the legislation (AB 422) to support all students in the Delavan-Darien District, Walworth County and the State of Wisconsin.

Respectfully Submitted,



Jim Karedes, Principal
Delavan-Darien High School
262-233-6601

Thank you,

Good Morning/Afternoon,

Raising Wisconsin's legal tobacco purchase age to 21 is one step towards addressing youth tobacco use, but it must be done right. Currently stores that wish to sell tobacco in Wisconsin must purchase a tobacco license from their local municipality and renew their license on an annual basis. This provides oversight on how many stores are selling tobacco and where they are located. However, vape shops are not required to purchase a tobacco license. There is no oversight on how many vape shops are in Wisconsin. I currently oversee the WI Wins tobacco compliance checks for Rock County. Last night we did checks in the city of Janesville and not one stand alone vape shop was inspected due to the shop not having a license. If you have been to Janesville you will know that there are numerous vape shops. Law enforcement are uneasy about checking an establishment that doesn't hold a tobacco license. It is very hard to educate and enforce the laws when there are inconsistencies. Public health best practice for Tobacco 21 would include licensing for all tobacco retailers including vape shops. Thank you.

November 6, 2019 T21 Testimony, Ann M. Dodge

Good afternoon Chairman Plumer 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 here in Madison. I'm also a volunteer with the American Heart Association. I am here today to ask for your support on Assembly Bill 422.

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. These medical problems that you have heard about today are a result of how extremely addictive nicotine is. 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 last week. I saw 3 teenagers seeking help for their vaping nicotine addiction in a single day. 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 2 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 pod contains as much nicotine as one 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.

Her favorite flavor was mango until it was harder to find, so now she uses mint. 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. She buys her nicotine e-cig supplies from 18-year-olds in the school.

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

We need to do everything we can to keep these addictive substances out of the hands of our youth, and the Tobacco 21 bill will do that. We must stop the pipeline of nicotine products being sold by 18 year olds to young children. Please support AB 422. Thank you for your time, and I'm happy to answer any questions you have.

TO: Assembly Committee on Substance Abuse and Prevention
FROM: Kellie Kalberer
DATE: November 6, 2019
RE: Support for Assembly Bill 422, raising the minimum sales age for tobacco and nicotine products to 21

Good morning Chairman Plumer and members of the Committee.

My name is Kellie Kalberer. I am a small business owner and live in Sun Prairie and have three children, ages 11, 12 and 15. I am here to testify in support of Assembly Bill 422, raising the minimum sales age for tobacco and nicotine products to 21.

When my now 12 year old turned 5, we discovered she had 3 different heart conditions that put her at a high risk of cardiac arrest. With the help of an amazing medical team, we stabilized her condition. But while reduced, her risk of cardiac arrest remains. To help keep her safe at school, I worked diligently with administrators and school nurses to create cardiac specific emergency response plans and to train staff on how to use an AED. Her school became the first school in Wisconsin to be designated as a "Heart Safe School." I continue to volunteer in school classrooms, I have served on multiple PTO boards, and am a member of the Sun Prairie Area School District's Interagency Safety and Security Subcommittee. I have worked diligently over the years to make our schools safer for not just my children, but for all students and staff and raising the sales age for tobacco, nicotine and vapor products to 21 will do just that – help keep our kids safe!

Last fall, my then 14 year old came home from school. She rides the bus and the route carries students in 8th - 12th grade. She enjoys the social time on the bus with friends, but on this particular day, she was complaining about her heart racing and impaired breathing function. She told me that she wasn't in her regular seat and was close to someone who was JUULing on the bus.

I immediately called the school and the bus company and told them what happened and asked that they review their video footage. Their response was, "What's JUULing?" They didn't even know what to look for, and they were completely unaware of both the harmful nature of e-cigarettes for those that smoke them and the danger of breathing the secondhand aerosol they release.

The adults at the school and the bus company are not alone. Even among those that know what a JUUL is, there is a false belief that they are safe.

Shortly before Christmas last year, I was talking with a friend about stocking stuffers for our kids. She said that she got a bunch of JUUL pods for her son, who was a senior in high school. He was not 18, but had gotten e-cigarettes from friends and thought that they were a safe alternative to smoking. When I told her that 1 JUUL pod can contain as much nicotine as a full pack of cigarettes she was mortified. She had unknowingly put her son's health at risk.

Raising the sales age for tobacco, nicotine and vapor products to 21 will further restrict accessibility and reduce the opportunities for these products to land in

the hands of our youth. Like the student on the bus and my friend's son, most high school students get their products from friends. By raising the sales age to 21, the supply chain to our youth will be dramatically impacted, and secondhand exposure will be reduced.

My focus as a parent is to create safe school environments for my children – and yours. With my daughter's cardiac needs, we could teach the skills that were needed to be safe. We can continue to educate students, staff and parents about the dangers of tobacco, nicotine and vapor products, but strong regulation is also needed. We need your to help disrupt the supply chain by passing the Tobacco 21 legislation.

Thank you for listening to my testimony. I'm happy to answer any questions you may have.

Kellie Kalberer

Sun Prairie, WI

To: Chairman Plumer and Members of the Substance Abuse Committee
From: Tim Sanborn, MD
Date: November 6, 2019
RE: Assembly Bill 422, raising the age to purchase all tobacco products to 21

Good morning Chairman Plumer and members of the Substance Abuse Committee. My name is Dr. Tim Sanborn. I'm the Chief of Cardiology for Froedtert Kenosha and Pleasant Prairie Hospitals, Clinical Professor of Medicine at the Medical College of Wisconsin, and a longtime volunteer with the American Heart Association (AHA). I am here today to testify in support of Assembly Bill 422, legislation to raise the legal age of sale for all tobacco products, including e-cigarettes.

In over 40 years of practice, I've seen the devastating consequences of tobacco use. In the past week, I was consulted on patients with heart attacks, lung cancer spreading to the heart, a patient with COPD who died on a ventilator and the need for leg amputation, all related to long term smoking. We also had a 17-year-old student present to the ER after passing out in the school hallway after vaping.

Tobacco kills over 480,000 individuals each year. That's more than automobile crashes, gun violence and opioid overdoses combined. Students who start smoking or use e-cigarettes in high school are 6 times more likely to become chronic smokers.

For the past 15 years, I've been a voluntary advocate for the American Heart Association. Most of that time was spent working with the AHA team in Illinois. We worked on policies proven to impact tobacco initiation and use such as smoke free laws in public places, raising tobacco taxes in Cook County, and the statewide Tobacco 21 bill signed this past April, 2019. Illinois was the first state in the Midwest to pass Tobacco 21. There are now 18 states that have raised the minimum sales age to 21.

This past summer I accepted the Chief of Cardiology position at Froedtert and relocated to Wisconsin. Now I volunteer with the AHA in Wisconsin, continuing to advocate for proven tobacco prevention policies. I'm also active locally, in the Kenosha, Racine and

Walworth counties, working with the schools and our youth on tobacco prevention education.

I'm sure you have all heard about the epidemic of e-cigarette use in our schools in Wisconsin. 1 in 5 high school students self-reported vaping, and 1 in 9 middle schoolers have reported trying e-cigarettes. Now we have an outbreak of serious lung illnesses related to vaping, and we still do not know what the long-term impact will be.

A recent Mayo Clinic report of 17 patients with serious lung disease after vaping described the pathology on lung biopsy to be a chemical burn like Agent Orange.

As a public health policy, Tobacco 21 can help eliminate this epidemic in our schools!

Since passage of Tobacco 21 in Chicago in 2016 there was a 36 % decrease in cigarette and e-cigarette use among residents 18-20 years-old. (15.2 % to 9.7 %)

Some may say, "If you're old enough to serve in the military, you're old enough to smoke." When Hawaii was the first state to pass Tobacco 21 legislation, all branches of the military services approved the measure as nicotine has been shown to affect a soldier's "readiness". Smoking is not a freedom, it's a bondage.

I ask for your support of Assembly Bill 422.

Thank you for listening to my testimony, and I'm happy to answer any questions you have.

Tim Sanborn MD, MS

Chief of Cardiology

Froedtert Kenosha and Pleasant Prairie Hospitals

Clinical Professor of Medicine

Medical College of Wisconsin

To: Assembly Committee on Substance Abuse
From: Carrie Chapman, MD
Date: November 6, 2019
RE: Assembly Bill 422, raising the legal age for sale, purchase and possession of
cigarettes and nicotine and tobacco products

Good morning Chairman Plumer and committee members. I'm Dr. Carrie Chapman, a cardiologist in Appleton, WI and mother of three boys in grades 3rd, 5th and 7th. I am here today to share with you my perspectives of our tobacco crisis both as a physician and as a parent. I am also here to ask for your support of AB 422.

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 which is why I support Tobacco 21.

Here are a few examples of what I have personally seen locally in NE WI. At our recent heart walk this fall, 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 urge you to look at Tobacco 21 as a great step towards ending this vaping epidemic.

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.

Why would we make an exemption and make it okay for our military to suffer with a lifetime of addiction? I don't want anyone to have to deal with addiction. Not my veterans, not my kids and not my patients.

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. Please support the Tobacco 21 bill. Thank you for your time, and I'm happy to answer any questions you have.

TO: Assembly Committee on Substance Abuse & Prevention
FROM: Louella Amos, MD, Pediatric Pulmonologist, Children's Wisconsin
DATE: Wednesday, November 6, 2019
RE: Support for AB 422 – Raising the legal age for purchase of nicotine, tobacco and vapor products

Chairman Plumer and members of the committee, thank you for allowing me the opportunity to testify 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.

I am here today to express my strong support for Tobacco 21 legislation and ask for your support on this important bill. I applaud the bill's authors, as well as the many bipartisan cosponsors of this legislation. Tobacco 21 represents a positive step to address the e-cigarette epidemic and to continue reducing youth tobacco use. Let me first start by saying that at Children's Wisconsin, 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.

We have seen at least 20 teenagers admitted to our hospital, extremely ill, 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. All of this occurred because they had access to e-cigarettes. One hospitalized teen had shared his device with his best friend. This friend was hospitalized one week later. Soon after that, this friend's younger brother disclosed using his brother's e-cigarette device and presented to his pediatrician with chest pain and similar respiratory symptoms. One teen with access to e-cigarettes led to 3 cases of lung injury.

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 are now witnessing an alarming increase in the use of the next generation of harmful products. While it is 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.

Let me tell you why we are concerned about youth tobacco and e-cigarette use:

- Traditional tobacco and 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 also not sufficient data or research regarding both the short- and long-term health impacts of e-cigarette use among adults, let alone teens. We are still learning about the effects of inhaling the aerosol produced by these products, which contains harmful chemicals, heavy metals and ultrafine particles. Additionally, these products are easy to use: vaping devices and pods/cartridges come in appealing and pleasant flavors, 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.
- In Wisconsin, nearly 5% of high schoolers use combustible cigarettes, 6% use cigars or cigarillos and 4% use hookah and smokeless tobacco, respectively. Importantly, three-quarters of high school students say it is easy to obtain tobacco products. There has been a 154% increase in teen e-cigarette from 2014, with 1 in 5 high schoolers reporting using e-cigarettes in 2018. 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 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. To date, nearly 1,900 lung injuries and 37 deaths have been reported to the Centers for Disease Control & Prevention (CDC). This includes more than 80 confirmed or probable lung injury cases in Wisconsin. Nationwide, 14% of patients are under age 18 and 80% are under age 35; in Wisconsin, the majority of affected patients are also young people. Children's continues to see an average of one patient per week being hospitalized with vaping-related illness.

While the exact cause of this specific outbreak remains unknown, it underscores the serious health risks of teen e-cigarette use. At 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. Regardless of the contents being used in these devices, they have no place in the hands of our youth. Certainly this vaping-related injury outbreak is concerning; however, we know all tobacco products are harmful and place our kids' health at risk.

We are all familiar with the harmful risks associated with tobacco use including various cancers, lung disease, heart disease, stroke and more. Cigarette smoking is responsible for more than 480,000 deaths a year in the United States and more than 16 million Americans are living with a tobacco-caused disease; this costs the nation more than \$300 billion each year. In Wisconsin, approximately 7,900 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 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 and Tobacco 21 aims to do just that.

As I mentioned, high schoolers report that it's easy to access 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.

18 other states and more than 500 cities and counties have enacted Tobacco 21 laws and seen success. In fact in Needham, Massachusetts for example, raising the sale age for tobacco products to 21 lowered the rate of high school students who smoke by almost half. It's time for the State of Wisconsin to do the same. While we had seen a decrease in tobacco use by kids and teens throughout the years, that disturbingly has begun to change with the rise of e-cigarettes and vaping.

Raising the age to legally purchase tobacco and e-cigarette products to 21 will help keep them out of the hands of more of our youth. Certainly, strong enforcement efforts are crucial to ensuring compliance with the law. 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 is 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 thank you for your time today and ask again for your support on this bill. I am happy to answer 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 Hospital 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.



Our Mission: Improve the lives of the world's one billion adult smokers by eliminating cigarettes

November 6th, 2019

Written Testimony of

**Genevieve Plumadore, Sr. Regional Manager of Government Affairs
State Public Policy, JUUL Labs**

Before the Assembly Committee on Substance Abuse and Prevention

Chair and Distinguished Members of the Assembly Committee on Substance Abuse and Prevention,

On behalf of JUUL Labs, thank you for the opportunity to submit testimony in strong support of Assembly Bill 422, legislation that would increase the minimum age for purchasing or possessing tobacco, alternative nicotine, and vapor products from 18 to 21 years of age.

JUUL's corporate mission is simple: the elimination of combustible cigarettes.

Smoking is the number one cause of preventable death in the U.S. and the world. In the four short years that JUUL Labs has been around, it has already profoundly changed the tobacco industry as the year-over-year decline in cigarette use has accelerated to a historic high.

We share a common goal with policymakers, regulators, parents, school officials, and community stakeholders - **prevent the use of tobacco and vapor products, including JUUL, by America's youth.** We are committed to stopping youth access of JUUL products, and no young person or non-nicotine user should ever try JUUL. In November of 2018, we began implementing a number of significant voluntary actions, as outlined in our [Action Plan](#), to address youth access, appeal, and use of JUUL products including removing flavors other than mint, menthol, and tobacco off of retail shelves. We have also been actively supporting T21 efforts around the country.

We believe that these efforts combined with increasing the minimum age to purchase tobacco and vapor products to 21, will drastically reduce youth access of JUUL products. Nearly 90% of smokers started before age 18. A primary source of tobacco is often their 18-20-year-old peers. The Institute of Medicine published a study that stated if the country went to T21 there would be 249,000 fewer premature deaths among youths born since 2000, there would be a 15% decrease in new smokers under the age of 21, and there would be a 25% decrease in new smokers among high schoolers.¹

Although we're here to discuss T21, I'm compelled to address another issue that may be on your minds. In recent weeks we have seen reports of an uptick in vapor related illnesses across the country, including in Wisconsin. The quality of our products, as well as the safety of our consumers, is of paramount importance to JUUL Labs, which is why we have implemented industry-leading quality controls and appropriately label our products with ingredient disclosures and health warnings. JUUL Products are closed systems and manufactured under strict quality standards. These recent reports are deeply troubling, which is why we are monitoring the situation closely and understand that these serious events are also being reviewed by federal and state health authorities, including the CDC and FDA. TO BE CLEAR, the ingredients of our products, unlike those for cannabis-related products, do not contain THC, any compound made or derived from cannabis or Vitamin E acetate.

¹ Institute of Medicine, 2015. Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products. Washington, DC: The National Academies Press.



Our Mission: Improve the lives of the world's one billion adult smokers by eliminating cigarettes

Lastly, as a part of our action plan JUUL labs has been conducting proactive enforcement in retail settings. We are working with retailers to promote retail compliance and have increased our own penalties on retailers that sell to underage or permit bulk sales. We would be honored to partner with municipalities in Wisconsin and your current enforcement efforts to ensure no minor is accessing these types of products.

In conclusion, JUUL Labs strongly supports Tobacco 21 as an important part of the solution to ensure that youth do not access any tobacco products. We urge the committee to vote favorably on this proposal.

Thank you. I look forward to engaging with you further on this issue.

Genevieve Plumadore
Sr. Regional Manager
JUUL Labs

JUUL LABS SUPPORTS RAISING THE TOBACCO AGE TO 21

At JUUL Labs our mission is to improve the lives of the world's one billion smokers by eliminating cigarettes.

WE NEED TOBACCO 21



Nearly 90% of smokers started before age 18¹



DOWN 45% Retailer sales to under-18 (California 21³)

DOWN 47% High school smoking (Needham, MA 21⁴)

INSTITUTE OF MEDICINE: NATIONAL TOBACCO 21 WILL SAVE LIVES⁵



249,000

fewer premature deaths among youths born since 2000



15%

decrease in new smokers under the age of 21



25%

decrease in new smokers among high schoolers

JUUL Labs is committed to being a part of the solution to youth use.

JUUL LABS

Raising the age to 21 is common sense — no youth should be smoking or using vapor products of any kind.

1. "The Health Consequences of Smoking - 50 Years of Progress. A Report of the Surgeon General." U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, 2014.
2. Ribisl, KM, et al. "Which Adults Do Underaged Youth Ask for Cigarettes?" American Journal of Public Health, 89(10):1561 - 1564, 3. <https://tobaccocontrol.bmj.com/content/27/6/656>
3. <https://tobaccocontrol.bmj.com/content/27/6/656>
4. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4202948/>
5. Institute of Medicine. 2015. Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products. Washington, DC: The National Academies Press.

This information is intended for policymakers and is not intended for advertising or promotional purposes or for consumer audiences.

AMERICANS OVERWHELMINGLY SUPPORT TOBACCO 21⁶

More than 28% already live
in a Tobacco 21 state or locality



JUUL LABS

⁶ "Attitudes Toward Raising the Minimum Age of Sale for Tobacco Among U.S. Adults," King, Brian A. et al., American Journal of Preventive Medicine, 2015

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JUUL LABS ACTION PLAN

Honoring Our Commitments

STOPPING FLAVORED JUULPOD SALES TO TRADITIONAL RETAIL

- ✓ **COMPLETED** JUUL Labs stopped sales of four flavored JUULpods – Cucumber, Fruit, Creme and Mango – to more than 90,000 retail stores in November, restricting the products to our 21+ age-gated website.

ENHANCING OUR 21+ ECOMMERCE PLATFORM

- ✓ **COMPLETED** We have further enhanced our industry-leading online age-verification system, adding two-factor authentication and facial-recognition technology to verify purchasers are at least 21.

STRENGTHENING RETAIL COMPLIANCE

- ✓ **COMPLETED** We have established escalating penalties against retailers that fail FDA age-verification compliance checks, including potential permanent sales bans.

STOPPING UNAUTHORIZED ONLINE SALES

- ✓ **COMPLETED** This year alone, JUUL Labs has worked to remove more than 25,000 third-party listings of JUUL products and counterfeits.

EXITING SOCIAL MEDIA

- ✓ **COMPLETED** We have eliminated our U.S.-based Facebook and Instagram accounts and restricted the use of Twitter to non-promotional communications.



JUUL LABS ACTION PLAN

Honoring Our Commitments

STRENGTHENING RETAIL COMPLIANCE

- 🔄 **ONGOING** | Along with escalating penalties against retailers caught by the FDA, we're also stepping up our own monitoring. We are quadrupling our "secret shopper" program of retailers to ensure that they will not sell our product to minors or make bulk sales that might find their way into the hands of minors.

STOPPING UNAUTHORIZED ONLINE SALES

- 🔄 **ONGOING** | We have filed complaints in the United States International Trade Commission (ITC) against more than two-dozen entities based around the world for selling copycat JUUL products and "JUUL compatible" pods that are often marketed in kid-appealing flavors, and will continue to go after these manufacturers for infringing on our intellectual-property rights.

DEVELOPING NEW TECHNOLOGY TO TRACK PRODUCTS AND FURTHER LIMIT YOUTH ACCESS AND USE

- 🔄 **ONGOING** | We are building out an individual-device traceability system to track JUUL products throughout the distribution channel, enabling us to identify and penalize bad-actor retailers that sell to youth.

**Comments from Lauren Cnare, Chair, Tobacco Free Columbia-Dane County Coalition
Tobacco 21 (SB 364; AB 422) on Nov. 6, 2019.**

Legislators, thank you for taking up this important bill as we all work together to assure that Wisconsinites, especially our youth, can grow up in the healthiest possible environment.

As we have done with alcohol use, moving the age of purchase for tobacco, including electronic cigarettes, to 21 will allow more of our children to grow up without the health effects and costs associated with the use of these products.

TFCDC's coalition of volunteers and staff are committed to educating the community, including parents, administrators, and decision makers about the e-cig epidemic, and about evidence-based policies to successfully reduce tobacco use in our state, especially among our youth

Thankfully, tobacco prevention legislation benefits from extensive health expert review. This is especially important as tobacco use takes on new forms, like vaping. I have no doubt that the future will bring even more interesting forms of delivery, making it critical that you, as lawmakers and guardians of the state's health, craft a law today that holds up for tomorrow, letting us all focus on reducing even further the uptake in tobacco use - in any form, that we are currently seeing.

As with any bill, the details matter. Having consistent definitions across similar-topic policies is important. Even more specific to this bill, it's extremely important that it creates easy enforcement for locals through the requirement that vape shops are licensed.

Tobacco 21 policies can have a significant impact on our youth vaping rates. It's crucial that this legislature use model language, free from industry influence. Please closely consider and discuss the concerns and recommendations shared by the organizations who have examined the topic nationwide, and deeply understand the public health principles. Their recommendations deserve a close look as you craft the best possible law.

Thank you again for your work on this important issue.



November 6, 2019

RE: Written Testimony Opposing A.B. 422

Dear Chairman Plumer,

My name is Nia Kamara. I am a senior at Shorewood High School and the National Youth Ambassador for the Campaign for Tobacco-Free Kids, representing Wisconsin. For more than 20 years, the Campaign for Tobacco-Free Kids has fought to protect children and save lives from the number one cause of preventable death: tobacco use. Our vision is a future free of death and disease caused by tobacco. I am proud to represent this issue in my state. As our state's Ambassador, I lobby for local, state and federal policy that will help restrict youth access to tobacco.

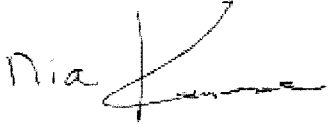
I am writing you today on a very important issue, Assembly Bill 422, also known as, the "T-21 bill." I personally know many of the authors and supporters of the bill and thank them for their tireless efforts to help keep tobacco out of the hands of kids. It seems simple, just raise the age to 21 and kids won't have access to these products. Well, it's a bit more complicated than that.

Strong tobacco 21 laws: a) cover all tobacco products, including e-cigarettes and b) implement effective enforcement measures, like retailer licensing and penalties. I also participate in the Wisconsin Wins Program. WI Wins program is a science-based, state-level initiative designed to decrease youth access to tobacco. As a participant of the program I collaborate with the City of Milwaukee Police Department to conduct compliance checks. I, along with one of my peers, will enter a store and try to purchase a tobacco product, including e-cigarettes, which is a problem in our schools. If I am able to purchase, our adult supervisor alerts the police office assigned to us, who then comes and issues a citation. The citations and possible loss of a tobacco license, helps to reduce the number of retailers that sell to us. Our success with the program demonstrates the need for licensing and penalties for **all** tobacco products, including e-cigarettes, which are popular with many of Wisconsin's middle and high school students.

Strong tobacco 21 laws do not: a) exempt tobacco products like e-cigarettes or menthol flavored tobacco from tobacco control laws -- all tobacco products are harmful and may cause illness, disease and death, b) penalize youth -- we need prevention, education and cessation if we are caught trying to purchase tobacco products, not fines and other penalties and c) prevent other jurisdictions from passing strong tobacco control laws -- local governments, like the Village of Brown Deer where I live, should have the right to make decisions on how best to keep tobacco out of the reach of their youth.

For these reasons, as one of the youth responsible for representing the youth voice in Wisconsin, I cannot support this piece of legislation as it is currently written. It needs to be stronger to include the provisions that I outlined in this letter. I therefore am in opposition to A.B. 422.

Sincerely,

A handwritten signature in black ink that reads "Nia Kamara". The signature is written in a cursive style with a large, sweeping initial "N" and a long horizontal stroke at the end.

Nia Kamara,
National Youth Ambassador, Wisconsin,
Campaign for Tobacco-Free Kids
9005 N. Bethanne Dr.
Brown Deer, WI. 53223

cc: WI State Legislature Substance Abuse and Prevention Committee, Gustavo Torrez, Campaign for Tobacco Free Kids, Jodi Radke, Campaign for Tobacco -Free Kids



WISCONSIN
ASSOCIATION OF
SCHOOL BOARDS

"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, Assembly Committee on Substance Abuse and Prevention
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: November 6, 2019
RE: SUPPORT for ASSEMBLY BILL 422, 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 all 421 of Wisconsin's locally elected public school boards.

The WASB supports Assembly Bill 422 based on our member-approved resolutions. WASB Resolution 6.02 states: "The WASB supports school learning environments free of tobacco, nicotine and vaping products and devices." We view this bill as a way to help keep tobacco and vaping products out of schools by raising the legal age for purchase and possession from 18 to 21.

Wisconsin school boards are required by section 120.12(20), Wis. Statutes, 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 that is used to provide regular kindergarten, elementary or secondary education to children and is 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. The risk of addiction and serious health consequences associated with these products increase in proportion to the age at which use first begins.

A similar pattern is emerging with regard to e-cigarettes and vaping devices. E-cigarettes and vaping devices produce vapor but do not produce smoke, making their use easier to conceal than traditional tobacco cigarettes and making it more likely they will be used in schools.

E-cigarettes 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 young people to take up using e-cigarettes who otherwise might not have been exposed to tobacco cigarettes. Many young people believe (mistakenly) that the liquid used in vaping only contains water and flavoring and are unaware that it contains nicotine or other 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 liquid or "juice" can be the same or even more than the amount found in cigarettes.

To anyone who reads the newspapers or watches television or surfs the Internet, it is becoming increasingly clear that 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, e-cigarette use is associated with the use of other tobacco products that can do even more damage to the body.

As you will no doubt hear in other testimony today, the use of e-cigarettes and vaping devices has not only become vastly more widespread in schools, but students have become bolder and bolder in their use of these products. Vaping devices are easily concealed and increasingly are being passed back and forth between students, often during classes. It is not uncommon to students engaged in a game to see who can “vape” either directly in front of a teacher or as close to a teacher as possible. These shenanigans distract both the perpetrators and fellow classmates from the lessons sought to be imparted by teachers. In addition, 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 are finding this increasingly difficult, particularly as the use of e-cigarettes and vaping devices increases, the potential and serious health hazards from vaping become more and more apparent, and as new and easily concealed devices emerge.

Increasing the legal age to 21 will significantly reduce the social access points through which both tobacco, other nicotine products and e-cigarettes can be obtained in high schools, while aligning vaping and tobacco products with other adult products, including beer, wine and distilled spirits.

In large measure, the increase of the legal age for alcohol products from 18 to 21 served successfully to remove alcohol issues from most middle school and high school campuses. We believe that a similar effect will result from increasing the legal age for tobacco, nicotine and vapor products.

For all of the above reasons, the WASB supports Assembly Bill 422 and urges your support as well.

Written Testimony/Comments Opposing A.B. 422

Jodi L. (Radke) Jalving

Regional Director, Campaign for Tobacco-Free Kids

Assembly Committee on Substance Abuse and Reform

November 6, 2019

Chairman Plumer, Members of the Assembly Committee on Substance Abuse and Reform, thank you for allowing public comment and written testimony on this critical public health issue addressing tobacco use, and the devastating impacts of a lifelong addiction.

My name is Jodi (Radke) Jalving. I am the Regional Director for the Campaign for Tobacco-Free Kids. Wisconsin is one of an eleven-state region that I work with directly on tobacco control policy and related law.

We are the leading advocacy organization working to reduce tobacco use and its deadly consequences in the United States and around the world. Through strategic communications and policy advocacy campaigns, we promote the adoption of proven solutions that are most effective at reducing tobacco use and save the most lives. We are experienced public health advocates with a more than a 20-year track record of leading and supporting successful policy advocacy campaigns that result in decreased tobacco use amongst kids and adults.

I am submitting written comment on behalf of my organization, with strong **opposition** to A.B. 422.

This is a flawed piece of legislation that does not include critical public health protections. We find A.B. 422 is transparent in its minimal protections, demonstrated by the support of the corporations who have themselves directly contributed to the epidemic we are watching unfold across the country through targeted marketing, and lack of support for evidence-based, comprehensive policies that demonstrate reduced use amongst kids, namely Altria, and JUUL.

Critical Public Health Issues within A.B. 422:

- **Conflicting product definitions that disallow consistency in how products are regulated (ecigarettes vs. cigarettes/other tobacco products)**
- **Retains Preemption** – Disallows municipal authority to enact comprehensive tobacco control policies, a long-standing, well-supported, well-documented tobacco industry tactic
- **Lacks comprehensive tobacco retail licensure requirements which include:** suspension, revocation, a significant, graduated fine structure upon the retailer (owner), minimum number of compliance checks using youth decoy, and mandatory rechecks for those who violate
- **Retains Youth Penalties** – Evidence and research (despite decades of these enacted policies) fails to demonstrate reduction in youth use rates, and, in actuality, reveals

negative public health outcomes. This is a long-standing policy provision well supported by the tobacco industry, not one supported by leading health organizations.

The tobacco industry continues to target Wisconsin's kids with its deceptive marketing practices, spending \$165 million annually. We must be vigilant in protecting Wisconsin's kids from the tobacco industry's outreach and efforts to addict them.

Public health organizations (including ours) are collectively doing all we can to hold the tobacco industry and the FDA (specifically related to the growing vaping/JUULing epidemic) accountable, but we cannot do this alone. We need public health heroes and leaders, such as yourselves, to pass evidence-based policies at the state level that reduce use among kids.

In 2018, FDA compliance checks in Wisconsin revealed there were over 438 successful sales of tobacco products to kids, a 21% failure rate. In 2019, from January 1, 2019 to October 31, 2019, that rate trends even higher at 27%, an alarming statistic given the vaping epidemic unfolding rapidly across the country, and in Wisconsin.

A.B. 422 prioritizes the tobacco industry over protecting Wisconsin's kids. This is a time when proposed legislation should strengthen existing laws, and one where authority should be expanded, not limited. *It is also a time when the tobacco industry, vaping associations, convenience store associations, and retailers have publicly indicated their support for added regulation that include the identified concerns I've identified above.*

Protecting Wisconsin's kids does not stop at raising the age of sale. Retail accountability is critical, and without it, we fall short in that commitment.

We look forward to the opportunity to partner with the Wisconsin legislature to protect Wisconsin's kids from a lifetime addiction, and respectfully ask that in doing so, you also oppose A.B. 422.

Thank you.

Respectfully,

Jodi L. (Radke) Jalving
Regional Director
jradke@tobaccofreekids.org
970-214-4808



YOUTH PURCHASE, USE, OR POSSESSION LAWS ARE NOT EFFECTIVE TOBACCO PREVENTION

Youth purchase, use, or possession (PUP) laws are not an effective approach to reducing youth tobacco use and inappropriately shift the blame for underage tobacco use from the tobacco industry and retailers, to young people. PUP laws also present enforcement challenges.

PUP Laws Inappropriately Shift the Blame Away from the Tobacco Industry and Retailers to Kids

- PUP laws unfairly punish and stigmatize children, many of whom became addicted at a young age as a result of the tobacco industry's aggressive marketing to kids. In this way, PUP laws shift the blame away from the industry's irresponsible marketing, to its victims. PUP laws also minimize the responsibility of the retailer.
- Penalizing children is not an effective strategy for reducing youth smoking; and some experts argue that PUP laws could actually detract from more effective enforcement measures and tobacco control efforts.¹
- Tobacco companies and their allies have a history of supporting PUP laws as alternatives to other laws that would produce greater declines in youth smoking.
- Many youth smokers are addicted, making it difficult for them to quit, and some research suggests that penalizing youth could deter them from seeking support for cessation.² Promoting interventions that provide cessation resources for youth interested in quitting could be a more beneficial alternative.

Youth Access Laws Should Emphasize Restricting Sales to Minors

- Youth access laws successfully reduce youth tobacco use when they are well enforced to ensure a high rate of compliance.³
- Rather than treat children as the wrongdoers, youth access laws should focus on limiting access to tobacco products. Rigorous enforcement of restrictions against sales to minors is critical to minimizing the accessibility of tobacco products and, ultimately, reducing youth tobacco use. The most successful youth access programs incorporate routine retailer compliance checks which use minors to attempt tobacco purchases.

Purchase, Use, and Possession Laws May Pose Enforcement Challenges

- Penalizing youth can divert enforcement officials' attention from stopping retailers from illegally selling tobacco to kids in the first place.
- PUP laws are more difficult to systematically enforce than sanctions against retailers. It is easier and more effective to conduct compliance checks for retailers, who are fewer in number compared to youth and whose locations are both known and constant.⁴
- The ease of discretely possessing and using some tobacco products makes PUP laws more challenging to enforce than laws restricting sales to minors.
- There is little evidence showing that PUP laws have been enforced well enough to reduce youth smoking.⁵

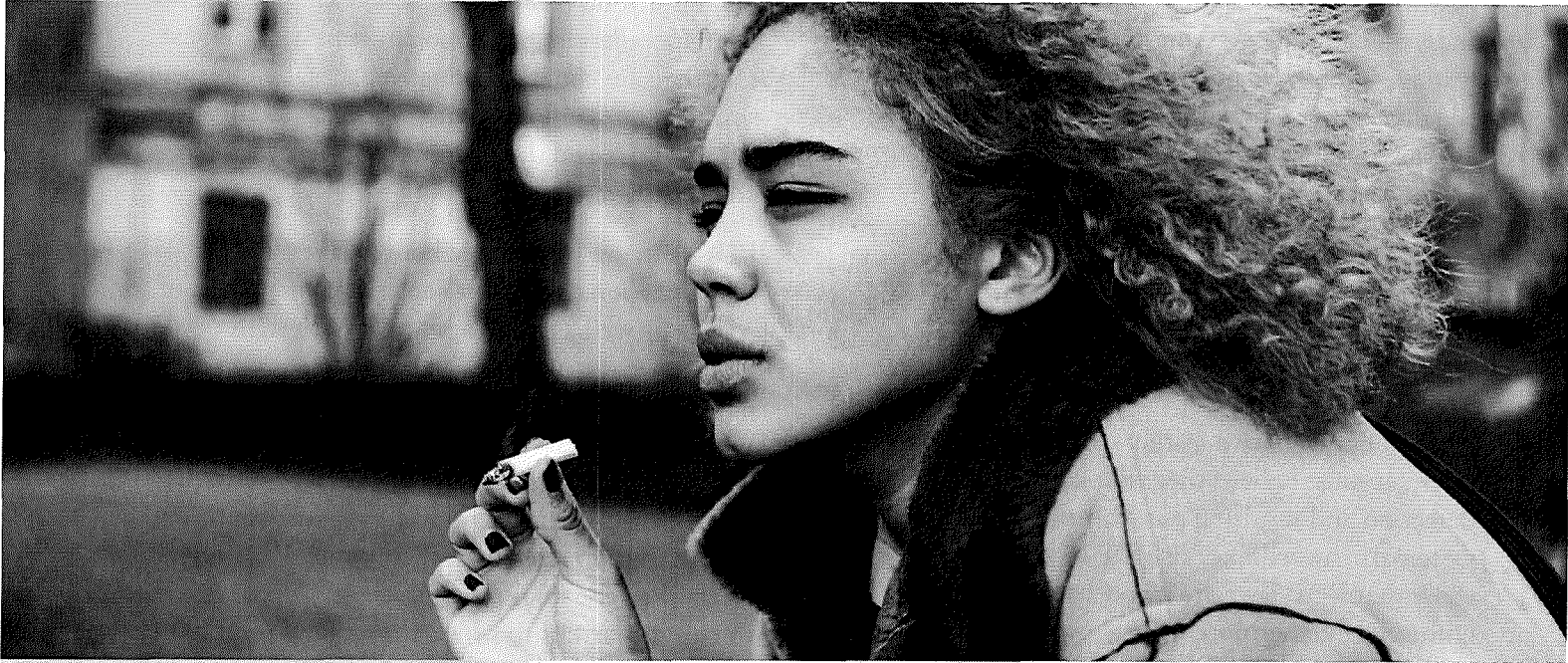
Campaign for Tobacco-Free Kids, September 20, 2018 / Laura Bach

1400 I Street NW · Suite 1200 · Washington, DC 20005

Phone (202) 296-5469 · Fax (202) 296-5427 · www.tobaccofreekids.org

PUP in Smoke

Why Youth Tobacco Possession and Use Penalties
Are Ineffective and Inequitable



Laws prohibiting the possession, use, and purchase of tobacco products by minors — also known as *PUP laws* — are ineffective as deterrents to youth smoking and are often enforced inequitably. This fact sheet provides tobacco control advocates with effective alternatives, best practices, and resources.

What Are PUP Laws?

The early 1990s saw a large increase in laws prohibiting the possession, use, and purchase of tobacco products by minors — also known as *PUP laws*. In 1988, only 6 states prohibited possession of cigarettes by minors. By 1995, that number had tripled, and by 2001, 32 states prohibited youth possession.¹ The numbers and trends are similar for youth use and purchase prohibitions. Today, all 50 states and the District of Columbia have laws restricting the sale of tobacco to minors, and all but 7² also have PUP laws.³

Many states adopted PUP laws in response to escalating tobacco use by youth and a growing body of evidence on tobacco-related harms. However, the rise in PUP laws is also linked to Big Tobacco's response to the Synar amendment,⁴ which required states to enact and enforce laws prohibiting distribution and sale of tobacco products to minors. As states imposed restrictions on tobacco retail sales, the tobacco industry and retail merchants associations pressured lawmakers to penalize buyers and users as well as vendors.^{5,6}

Advocates for PUP laws hoped that the laws would play a central role in a multi-pronged approach to reducing youth initiation and smoking rates, but studies show little evidence of a deterrent effect over time.

Enforcement of PUP Laws

Big Tobacco targeted youth for decades, seeking to create new generations of customers addicted to its products. Instead of holding industry and retailers accountable, PUP laws shift responsibility to their victims – young consumers who are purchasing and using a deadly and highly addictive product. Enforcement mechanisms vary by jurisdiction, and penalties range from education and community service to fines and incarceration. Many jurisdictions suspend (or refuse to issue) driver’s licenses for PUP law violations. Some jurisdictions require participation in smoking cessation or tobacco education classes, which are chronically underfunded and often insufficient to meet public health goals. Some jurisdictions even use school suspension as an enforcement tool.

For a policy to have a lasting deterrent effect, a potential offender must believe there is a high likelihood of *detection and resulting punishment*.⁷ There is no systematic surveillance of PUP laws, but existing data show that PUP laws are inconsistently and selectively enforced. Furthermore, data show that PUP laws are 4 times more likely to be enforced than the laws prohibiting retailers from selling tobacco products to youth in the first place.⁸ Finally, psychologists have found that punishment is not an optimal strategy for behavior change – a finding that is even more relevant when the behavior in question is addictive.⁹



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PUP Laws Are Ineffective and Inequitable

ChangeLab Solutions does not include youth PUP provisions in its model ordinances because they are both ineffective and inequitable. PUP laws are unlikely to reduce youth initiation and smoking prevalence at the population level. Some researchers suggest that they are counterproductive, actually increasing smoking rates among youth who seek to engage in behavior deemed deviant or behavior associated with adulthood.

PUP laws are inequitable because they disproportionately affect youth of color. Youth of color – as well as LGBT youth, youth with disabilities, and boys – are more likely to smoke because these populations have been targeted via advertising and retailer placement by the tobacco industry.^{10,11} In addition to carrying a higher burden of tobacco-related harm, African American and Hispanic youth report higher citation rates than their white peers even after accounting for smoking frequency.¹² These findings mirror disparities recorded throughout criminal justice and school disciplinary systems.

Enforcement of PUP laws also disproportionately affects youth from low-income communities. High smoking rates are correlated with low income, and there are more tobacco retailers and advertisements in less affluent areas.¹³ Consequently, low-income youth are more likely to smoke and to be affected by PUP laws. A child with a job, a single parent, or 2 parents who work outside the home may struggle to complete community service or pay fines. If a violation results in suspension of a driver’s license, travel to school, a job, or a community service site becomes more difficult. A child who is unable to complete community service or pay fines may be subject to escalating penalties that are increasingly difficult to resolve. Further, the resulting stress takes a toll on health and increases the likelihood of risky behaviors or involvement with juvenile justice, mental health, substance use, or other systems.¹⁴

PUP laws stigmatize youth who smoke, yet smoking is an addictive behavior promoted by a billion-dollar industry that directly and deliberately targets them. Stigma is not an effective public health intervention,

and it may keep kids from seeking cessation treatment or education. Problematic behaviors such as smoking may be more likely to continue in the face of punishment (as opposed to cessation interventions) because punishment provides an incentive to hide the behavior and protect those engaged in it. In addition, long-term behavior correction is more likely to occur when those addressing the behavior are loved or trusted; thus, parents and teachers – not law enforcement – are best positioned to deter smoking by youth.¹⁵

Finally, PUP laws may divert law enforcement and policy resources away from more effective strategies, some of which are described in the next section.¹⁶

Alternatives and Best Practices

Jurisdictions that wish to curb youth smoking have a wide variety of effective, equitable options. ChangeLab Solutions offers model policies that incorporate many of these provisions:

Retailer-focused policies, including compliance checks with youth decoys

Comprehensive tobacco retailer licensing (TRL) policies imposed by states or local jurisdictions place responsibility on retailers rather than young consumers. With appropriate funding and enforcement, TRL policies have proven more effective than PUP laws in reducing youth initiation and ongoing tobacco use. Ideally, enforcement should include regular compliance checks that use youth decoys.

California's Department of Justice recently awarded a new wave of tobacco control grants to combat illegal sale and marketing of cigarettes and other tobacco products to minors. While these funds can be used in different ways, Oroville City Elementary School District's approach aligns with our recommended best practices. The district will use grant funds to implement a tobacco prevention program for students in grades 4–8 and to conduct retail enforcement operations near school campuses, targeting retailers who prey on youth rather than penalizing kids.

Limits on advertising

Although legal considerations make it difficult to eliminate all tobacco advertisements, local governments can effectively reduce youth exposure to Big Tobacco's advertising by limiting the amount of window signage of any kind.

Minimum pricing and pack size

Youth are particularly price-sensitive, and studies show that price controls reduce smoking prevalence and initiation. Combining policies that require both a minimum pack size and a minimum price for all tobacco products can make items that are particularly appealing to youth (such as single flavored cigarillos) more expensive and less accessible to youth.

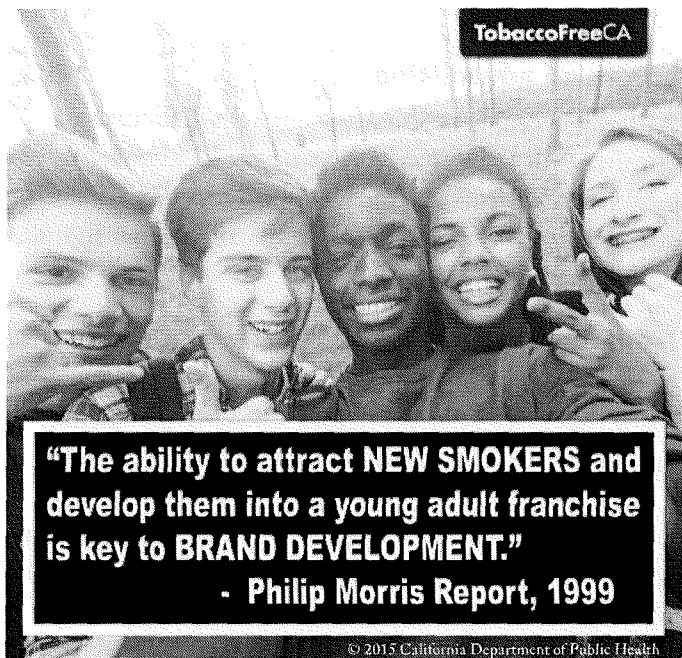
Restrictions on flavored tobacco products

Most young people report that they used flavored products when they started smoking. Restricting flavored tobacco products to adult-only stores or prohibiting them entirely can reduce youth initiation of smoking.

In 2014, the City of Santa Cruz adopted Ordinance 2014-04, which prohibited the use of e-cigarettes in smokefree areas, the sale of e-cigarettes to minors, and the possession or use of e-cigarettes by minors. Four years later, the City of Santa Cruz adopted Ordinance 2018-19, repealing youth possession and use penalties and adopting robust prohibitions of flavored tobacco products in their place. Banning the sale of flavored tobacco products is an effective and equitable strategy that can reduce youth initiation and tobacco use rates.

Cessation resources

Finally, cessation and tobacco education programs are often under-resourced and tailored for adults. Programs that are sufficiently funded, youth-specific, and free of charge are crucial elements of a comprehensive anti-tobacco strategy aimed at youth.¹⁷



What's Next?

ChangeLab Solutions and many tobacco control organizations agree that PUP penalties are outdated, misguided, and ineffective. But it's important not to replace one bad policy with another. Getting rid of PUP laws could shift enforcement from police to schools. Research shows bias in school discipline practices, which disproportionately affect youth of color and low-income youth.¹⁸ Further, schools that primarily serve low-income youth are more likely to impose harsh punishments and use intense surveillance measures associated with higher suspension rates. These practices also have a disparate impact on students of color. For example, a black student's odds of being suspended have been found to be 2.7 times higher than those of a white student.¹⁹

As communities and school districts begin to address increasing use of vapor and electronic smoking devices by youth, it is important to consider the equity implications of different approaches. Decisionmakers must ask whether policies address the inequities that lead to different youth populations' use of tobacco products – and whether enforcement will lead to equitable outcomes rather than worsening inequities.

While youth tobacco use remains a pressing public health problem, public health agencies should promote effective solutions that place the blame where it belongs: on the tobacco industry and retailers who sell to youth.

Resources

Stanford University's research on the impact of tobacco advertising

http://tobacco.stanford.edu/tobacco_main/index.php

Stanford School of Medicine's fact sheets and educational units on vaping

<https://med.stanford.edu/tobaccopreventiontoolkit/E-Cigs.html>

ChangeLab Solutions' Comprehensive TRL Model Ordinance

www.changelabsolutions.org/publications/model-TRL-Ordinance

California Smokers' Helpline resources, including a mobile app and support via text message

www.nobutts.org/free-services-for-smokers-trying-to-quit

Campaign for Tobacco-Free Kids' fact sheet on youth PUP laws

www.tobaccofreekids.org/assets/factsheets/0074.pdf

ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. The legal information provided in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.

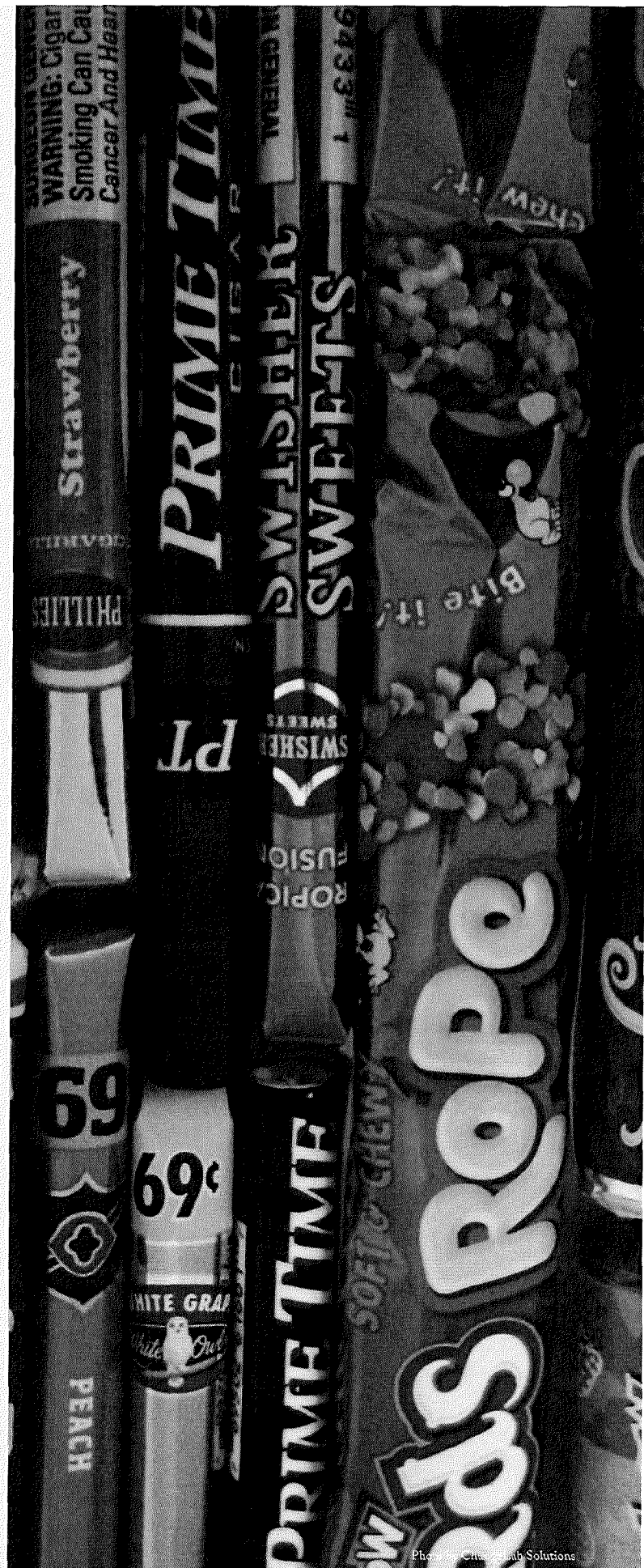
This material was made possible by funds received from Grant Number 14-10214 with the California Department of Public Health, California Tobacco Control Program.

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Photos courtesy of iStockPhoto (cover), California Department of Public Health, California Tobacco Control Program (pages 2, 4), and ChangeLab Solutions (page 5).

Notes

- ¹ Wakefield M, Giovino G. Teen penalties for tobacco possession, use, and purchase: evidence and issues. *Tobacco Control*. 2003;12(suppl 1):i6-i13.
- ² CA, MD, MA, NV, NJ, NY, DC.
- ³ States without PUP laws may still have local PUP ordinances.
- ⁴ U.S. Department of Health & Human Services. About the Synar Amendment and program. www.samhsa.gov/synar/about. Updated September 2017. Accessed March 5, 2019.
- ⁵ Lantz PM, Jacobson PD, Warner KE, et al. Investing in youth tobacco control: a review of smoking prevention and control strategies. *Tobacco Control*. 2000;9(1):47-63.
- ⁶ Jacobson PD, Wasserman J. *Tobacco Control Laws: Implementation and Enforcement*. Santa Monica, CA: RAND Corporation. www.rand.org/pubs/monograph_reports/MR841.html. 1997. Accessed March 5, 2019.
- ⁷ Wakefield M, Giovino G. Teen penalties for tobacco possession, use, and purchase: evidence and issues. *Tobacco Control*. 2003;12(suppl 1):i6-i13.
- ⁸ Forster JL, Komro KA, Wolfson M. Survey of city ordinances and local enforcement regarding commercial availability of tobacco to minors in Minnesota, United States. *Tobacco Control*. 1996;5(1):46-51.
- ⁹ Volkow ND, Baler RD, Goldstein RZ. Addiction: pulling at the neural threads of social behaviors. *Neuron*. 2011;69(4):599-602.
- ¹⁰ Bach, L. *Tobacco Company Marketing to Kids*. Washington, DC: Campaign for Tobacco-Free Kids. www.tobaccofreekids.org/assets/factsheets/0008.pdf. Accessed on March 5, 2019.
- ¹¹ American Lung Association, Campaign for Tobacco-Free Kids, American Cancer Society, et al. *Achieving Health Equity in Tobacco Control*. truthinitiative.org/sites/default/files/Achieving%20Health%20Equity%20in%20Tobacco%20Control%20-%20Version%201.pdf. Published December 8, 2015. Accessed on March 5, 2019.
- ¹² Gottlieb NH, Loukas A, Corrao M, McAlister A, Snell C, Huang PP. Minors' tobacco possession law violations and intentions to smoke: implications for tobacco control. *Tobacco Control*. 2004;13(3):237.
- ¹³ American Lung Association, Campaign for Tobacco-Free Kids, American Cancer Society et al. *Achieving Health Equity in Tobacco Control*. truthinitiative.org/sites/default/files/Achieving%20Health%20Equity%20in%20Tobacco%20Control%20-%20Version%201.pdf. Published December 8, 2015. Accessed on March 5, 2019.
- ¹⁴ Rew L, Horner SD. Youth resilience framework for reducing health-risk behaviors in adolescents. *J Pediatr Nurs*. 2003;18(6):379-388.
- ¹⁵ Wakefield M, Giovino G. Teen penalties for tobacco possession, use, and purchase: evidence and issues. *Tobacco Control*. 2003;12(suppl 1):i6-i13.
- ¹⁶ Wakefield M, Giovino G. Teen penalties for tobacco possession, use, and purchase: evidence and issues. *Tobacco Control*. 2003;12(suppl 1):i6-i13.
- ¹⁷ California Smokers' Helpline currently offers free alternative methods of cessation counseling such as a text message support system, available at www.nobutts.org/free-services-for-smokers-trying-to-quit.
- ¹⁸ Nance J. Student surveillance, racial inequalities, and implicit racial bias. *Emory Law J*. 2017;66(4):765-837.
- ¹⁹ Finn JD, Servoss, TJ. Misbehavior, suspensions, and security measures in high school: racial/ethnic and gender differences. *J Appl Res Child*. 2014;5(2).



Written Testimony/Comments Opposing A.B. 422

Jodi L. (Radke) Jalving

Regional Director, Campaign for Tobacco-Free Kids

Assembly Committee on Substance Abuse and Reform

November 6, 2019

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We look forward to the opportunity to partner with the Wisconsin legislature to protect Wisconsin's kids from a lifetime addiction, and respectfully ask that in doing so, you also oppose A.B. 422.

Thank you.

Respectfully,

Jodi L. (Radke) Jalving
Regional Director

jradke@tobaccofreekids.org

970-214-4808

Testimony in Support of Tobacco 21

Jeanne B. Hewitt, PhD, RN
Director, Community Engagement
UW-Milwaukee
Children's Environmental Health Sciences Center

Delores A. Green
Executive Director
Renew Environmental Public Health Advocates, Inc.

We strongly support raising the age at which tobacco products and their analogues (e.g., e-cigarettes/vaping devices) can be purchased in Wisconsin to 21 years of age—**Tobacco 21**. Research shows that e-cigarettes are increasingly being taken up as a habit across the spectrum of current tobacco smokers, former smokers, and young people who are non-smokers. Unfortunately, e-cigarettes/vaping devices, have had little premarketing toxicology testing or research to understand their short- and long-term effects (Gotts, Jordt, McConnel, & Tarran, 2019) though severe adverse effects to 1,888 individuals and 37 deaths nationwide have been reported as of October 29, 2019 (https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html). As a result, the CDC has urged people to follow its recommendations to not use e-cigarettes/vaping devices with THC, to refrain from the use of all e-cigarettes and vaping products, and to not use these devices by youth, young adult, or women who are pregnant.

Youth are the prime target for getting hooked on tobacco products—hence—the reason for increasing the legal age for purchasing tobacco products to age 21.

- ✓ The five largest cigarette companies spent over \$23 million dollars per day marketing their products in 2016.*
- ✓ Each day, more than 2,000 youth under 18 try their first cigarette and more than 300 youth become new, regular smokers.*
- ✓ Each day, more than 1,900 youth try their first cigar. On average, more than 80 youth try their first cigar every hour in the United States – equaling about 712,000 every year.*

Tobacco use takes its toll on the U.S. (and Wisconsin) economy.

- ✓ Smoking costs the U.S. economy over \$332 billion in direct health care costs and lost productivity every year.

- ✓ **Smoking is the number one preventable cause of death in the U.S., killing more than 480,000 people every year.***
- ✓ **Secondhand smoke additionally kills more than 41,000 people in the U.S. each year.**
- ✓ **In Wisconsin, 14,350 people died from lung cancer in the last 5 years (2013-2017) for which data are available. This statistic includes 288 individuals who were between the ages of 25 and 49 (<https://wish.wisconsin.gov/results>).**
- ✓ **THIS IS UNACCEPTABLE TO HAVE PEOPLE SO YOUNG DYING OF LUNG CANCER THAT IS ALMOST ASSUREDLY DUE ENTIRELY TO TOBACCO USE.**

In summary, raising the legal age to purchase tobacco products to 21 would reduce tobacco consumption among youth who are most vulnerable to addiction to nicotine products. This would result in marked reduction in healthcare costs, preventable diseases, and premature death in Wisconsin and the U.S.

REFERENCES

*<https://www.lung.org/our-initiatives/tobacco/reports-resources/sotc/facts.html>

Gotts, J.E., Jordt, S.E., McConnell, R., & Tarran, R. (2019). What are the respiratory effects of e-cigarettes? *BMJ*, Sep 30, 366, 15275, doi: 10.1136/bmj.15275.

Wisconsin Interactive Statistics on Health: <https://wish.wisconsin.gov/results>

Query: Wisconsin Cancer Mortality (Wisconsin 1995 - 2017)

- **((Sites = Lung and Bronchus))**
- **and ((Year=2017) or (Year=2016) or (Year=2015) or (Year=2014) or (Year=2013))**

Number of Cancer Deaths

Age	Year					
	All	2017	2016	2015	2014	2013
All	14350	2802	2788	2869	2959	2932
25 - 49	288	52	47	56	58	75
50 - 74	7936	1558	1547	1581	1625	1625
75+	6126	1192	1194	1232	1276	1232

Fiscal Estimate Worksheet - 2019 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-3796/1		Introduction Number AB-0422	
Description 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			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
	State Operations - Salaries and Fringes	\$	\$
	(FTE Position Changes)		
	State Operations - Other Costs		
	Local Assistance		
	Aids to Individuals or Organizations		
	TOTAL State Costs by Category	\$	\$
B. State Costs by Source of Funds			
	GPR		
	FED		
	PRO/PRS		
	SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
		Increased Rev	Decreased Rev
	GPR Taxes	\$	\$-11,300,000
	GPR Earned		
	FED		
	PRO/PRS		
	SEG/SEG-S		
	TOTAL State Revenues	\$	\$-11,300,000
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
	NET CHANGE IN COSTS	\$	\$
	NET CHANGE IN REVENUE	\$-11,300,000	\$
Agency/Prepared By		Authorized Signature	Date
DOR/ Momodou Bah (608) 266-8133		Jamie Adams (608) 266-6785	9/16/2019

Long-Range Fiscal Implications

Fiscal Estimate Narratives
DOR 9/16/2019

LRB Number 19-3796/1	Introduction Number AB-0422	Estimate Type Original
Description 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		

Assumptions Used in Arriving at Fiscal Estimate

Currently, no person under the age of 18 may purchase, attempt to purchase, possess, or falsely represent his or her age for the purpose of receiving any cigarette, nicotine product, or tobacco product with certain limited exceptions. Current law also prohibits any person from purchasing cigarettes, tobacco products, or nicotine products on behalf of a person who is under the age of 18 and subjects that purchaser to a penalty. Current law also prohibits a person from delivering a package of cigarettes unless the person making the delivery verifies that the person receiving the package is at least 18 years of age. The bill changes these ages from 18 to 21. The bill similarly prohibits the purchase of vapor products by or on behalf of a person under the age of 21.

Current law prohibits a retailer, manufacturer, distributor, jobber, subjobber, or independent contractor or an employee or agent of any of these persons from selling or providing cigarettes or tobacco or nicotine products to an individual who is under the age of 18 and from providing cigarettes or tobacco or nicotine products to any person for free unless the cigarettes or products are provided in a place where persons under 18 years of age are generally not permitted to enter. Current law also prohibits a retailer or vending machine operator from selling cigarettes or tobacco or nicotine products from a vending machine unless the retailer or vending machine operator ensures that no person under 18 years of age is present on or permitted to enter the premises where the machine is located. The bill changes these ages from 18 to 21. The bill similarly prohibits the sale or provision of vapor products to a person under the age of 21.

This bill changes the age for purchasing cigarettes, tobacco products, or nicotine products from 18 to 21, and imposes a minimum age for purchasing vapor products. Nicotine products are products that contain nicotine and that are not tobacco products, cigarettes, or products that have been approved by the federal Food and Drug Administration for sale as a smoking cessation product. Tobacco products include products such as cigars, chewing tobacco, and smoking tobacco. Vapor products are noncombustible products that produce a vapor or aerosol for inhalation from the application of a heating element, regardless of whether the liquid or other substance contains nicotine.

The bill is expected to lower cigarettes and other tobacco products excise tax revenues by \$11.30 million in fiscal year 2021. The estimate is based on excise tax revenues reported for fiscal year 2019 and percent of users in Wisconsin by age group. The usage rates are from 2017 and we are assuming the same rates hold for 2019. For simplicity, we are also assuming children 14 year and under do not consume the products. Using the percent of users by age group (we are interested in ages 15 – 20) we can determine their revenue contribution by product. Not all 15 – 20 year olds will stop smoking as a result of this policy.

A 2015 National Academy of Medicine (formerly the Institute of Medicine) report, commissioned by the FDA and required by the Tobacco Control Act, concluded that increasing the age of purchase of tobacco products to 21 could decrease initiation and tobacco use rates among youth and young adults. The impact among 15-17 year olds is a decrease of approximately 25 percent and a decrease of nearly 15 percent among 18- 20 year olds, resulting in a total revenue loss of \$11.30 million.

There are limited statistics on vapor products. We are therefore assuming individual behavior towards vapor products follows the same trends as those of tobacco products.

Fiscal Estimate - 2019 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-3796/1	Introduction Number AB-0422
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Description
 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

Fiscal Effect

State:

- No State Fiscal Effect
- Indeterminate
 - Increase Existing Appropriations
 - Decrease Existing Appropriations
 - Create New Appropriations
- Increase Existing Revenues
- Decrease Existing Revenues
- Increase Costs - May be possible to absorb within agency's budget
 - Yes
 - No
- Decrease Costs

Local:

- No Local Government Costs
- Indeterminate
 - 1. Increase Costs 3. Increase Revenue
 - Permissive Mandatory Permissive Mandatory
 - 2. Decrease Costs 4. Decrease Revenue
 - Permissive Mandatory Permissive Mandatory
- 5. Types of Local Government Units Affected
 - Towns Village Cities
 - Counties Others
 - School Districts WTCS Districts

Fund Sources Affected

Affected Ch. 20 Appropriations

GPR
 FED
 PRO
 PRS
 SEG
 SEGS

Agency/Prepared By DOR/ Momodou Bah (608) 266-8133	Authorized Signature Jamie Adams (608) 266-6785	Date 9/16/2019
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Fiscal Estimate Worksheet - 2019 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-3796/1		Introduction Number AB-0422	
Description			
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			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
A one-time cost of \$130,000 GPR is needed to update the retailer training and develop an educational outreach campaign to retailers and law enforcement.			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$	\$
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations		139,200	
TOTAL State Costs by Category		\$139,200	\$
B. State Costs by Source of Funds			
GPR		139,200	
FED			
PRO/PRS			
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues		\$	\$
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$139,200	\$
NET CHANGE IN REVENUE		\$	\$

Agency/Prepared By	Authorized Signature	Date
DHS/ Veronnica Thompson (608) 267-5147	Andy Forsaith (608) 266-7684	10/8/2019

Fiscal Estimate - 2019 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-3796/1	Introduction Number AB-0422
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Description
 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

Fiscal Effect

State:

- No State Fiscal Effect
- Indeterminate
 - Increase Existing Appropriations
 - Decrease Existing Appropriations
 - Create New Appropriations
- Increase Existing Revenues
- Decrease Existing Revenues
- Increase Costs - May be possible to absorb within agency's budget
 - Yes
 - No
- Decrease Costs

Local:

- No Local Government Costs
 - Indeterminate
 - 1. Increase Costs 3. Increase Revenue
 - Permissive Mandatory Permissive Mandatory
 - 2. Decrease Costs 4. Decrease Revenue
 - Permissive Mandatory Permissive Mandatory
- 5. Types of Local Government Units Affected**
- Towns Village Cities
 - Counties Others
 - School Districts WTCS Districts

Fund Sources Affected	Affected Ch. 20 Appropriations
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS (1)(fm)	

Agency/Prepared By	Authorized Signature	Date
DHS/ Veronnica Thompson (608) 267-5147	Andy Forsaith (608) 266-7684	10/8/2019

Fiscal Estimate Narratives

DHS 10/8/2019

LRB Number 19-3796/1	Introduction Number AB-0422	Estimate Type Original
Description 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		

Assumptions Used in Arriving at Fiscal Estimate

Current law prohibits a person under the age of 18 from purchasing, attempting to purchase, possessing, or falsely representing his or her age for the purpose of receiving any cigarette, nicotine product, or tobacco product with certain limited exceptions. Current law also prohibits a retailer, manufacturer, jobber, subjobber, or independent contractor or an employee or agent of any of these persons from selling cigarettes, tobacco products, or nicotine products to a person who is under the age of 18, and from providing cigarettes, tobacco products, or nicotine products for free to any person except in specific instances. These requirements are enforced through unannounced investigations of retailers to ensure compliance, which are funded by the Department of Health Services

Current law also requires retailers that sell cigarettes or tobacco products to provide training to their employees on current regulations regarding the sale of cigarettes and tobacco products to minors. This training is developed and monitored by the Department of Health Services.

This bill changes the age for purchasing cigarettes, tobacco products, or nicotine products from 18 to 21, and imposes a minimum age for purchasing vapor products.

The Department of Health Services can comply with the requirements of this bill by conducting additional investigations of retailers and developing an educational outreach campaign for retailers and law enforcement regarding the impact of the proposed legislation. To meet the requirements of this legislation, the Department would expand the scope of their investigations to include additional vape stores, develop a mailing and digital media campaign for retailers to increase awareness and compliance with statute, and provide educational information to law enforcement. The cost of these activities is \$139,200 GPR per year. This amount includes \$74,200 GPR to local community agencies currently conducting the investigations and \$65,000 GPR to fund additional educational outreach and training for retailers and law enforcement. Additionally, a one-time cost of \$130,000 GPR is required to update the retailer training and develop an educational outreach campaign to retailers and law enforcement that is reflective of the proposed statutory changes.

The Department is unable to absorb these costs within existing resources.

Long-Range Fiscal Implications



PREVENTING TOBACCO ADDICTION FOUNDATION

TOBACCO
~~eighteen~~ twenty-one

November 4, 2019

RE: BEWARE INDUSTRY'S ATTEMPT TO PASS TOBACCO 21 IN YOUR STATEHOUSE

TO: Assembly Committee on Substance Abuse and Prevention
Representative Plumer (Chair) Rep.Plumer@legis.wisconsin.gov
Representative Magnafici (Vice Chair) Rep.Magnafici@legis.wisconsin.gov
Representative Petryk Rep.Petryk@legis.wisconsin.gov
Representative Hutton Rep.Hutton@legis.wisconsin.gov
Representative James Rep.James@legis.wisconsin.gov
Representative Nygren Rep.Nygren@legis.wisconsin.gov
Representative Kolste Rep.Kolste@legis.wisconsin.gov
Representative Sargent Rep.Sargent@legis.wisconsin.gov
Representative Billings Rep.Billings@legis.wisconsin.gov

Wisconsin Legislators,

I write on behalf of the Preventing Tobacco Addiction Foundation and its advocacy counterpart, Tobacco 21 to express our **STRONG OPPOSITION** to the industry version of a Tobacco 21 law in the state of Wisconsin with Assembly Bill 422. We've been working on raising the sales age for all nicotine and tobacco products to 21 for over two decades. We pass *comprehensive and effective* laws that stop illegal sales and prevent youth addiction. We run the website Tobacco21.org and are the acknowledged experts and definitive source on this issue.

Why, you might wonder, would an organization that has worked with hundreds of cities and counties around the country, and lobbied in a score of states, OPPOSE A.B. 422?

Quite simply, the Tobacco Industry is attempting to pass a Tobacco 21 law in your statehouse to allow industry to continue to write their own regulations. Juul and Altria, under the guise of publicly supporting "Tobacco 21," are supporting Tobacco 21 laws riddled with provisions that would undermine public health efforts. [We urge you to read more about Juul's tactics in this New York Times article](#) and [this article from the Center for Public Integrity](#).

If this bill passes, Wisconsin would fall victim to industry self-regulation by thinking they are not letting perfect be the enemy of good. We are not asking for perfect, we are asking for something that will make a public health impact in the midst of a true vaping epidemic and health crisis.

Here is our analysis in reviewing Wisconsin's state bill:

Inadequate Penalty on Retailer: The enforcement components that exist currently at the state level do not provide for any oversight of retailers selling to youth, as they only penalize the low wage clerk. These provisions are not stopping sales to underage youth, as seen in your high FDA violations rates, and will not be sufficient to work at age 21. The industry repetitively testifies that they fire all clerks who sell to minors. That is correct, they see these low wage workers as disposable and will not hold their employees accountable unless forced to (by the threat of sells privilege). Enforcement needs to include suspension/revocation of license for retailers who continue to sell a deadly addictive product to our kids. Retailers are happy to “pay to play” by simply paying fines, fines don’t stop retail sales to minors. With retailers receiving insufficient compliance checks, hardly any retailers receive the 2 checks in a year necessary to allow for the suspension of up to 3 days based on current Wisconsin statute.

No Mandatory Recheck of Violators: Retailers who violate are often found to be repeat violators and should be re-inspected within 3 months of identified violation. This allows for weeding out the bad actors and is missing from Wisconsin statute.

Short Accrual Period for Penalties: A 12-month accrual period for penalties is far less than best practices, and only 2 other Tobacco 21 state bills have an accrual period as short as this, while their penalties are higher. All other states have adopted a penalty accrual period far greater than 24 months, with some state’s accrual at 48 or 60 months. A 36-month accrual period for penalties is recommended.

Inadequate Compliance Checks: Without adequate compliance checks, retailers are not held accountable for sales to minors. Best practices Tobacco 21 policy says two compliance checks per retailer annually. Wisconsin checked far fewer retailer than that, as there are not state resources allocated to sufficiently check. The license fee, currently set far too low and not over all products, should be adjusted to cover all tobacco products and generate funding for such oversight.

Realistic Compliance Checks/Age of Decoy: 254.916 sets standards for how the state can conduct compliance. The language provided in this section mirrors that which research has proven is industry written, preventing a realistic situation to check for compliance. The decoy age should be set at 18 to 20 to make sure true “Tobacco 21” checks are being conducted, and decoys younger than 18 should not be used. Because of the current provisions in 254.916.3.a requiring decoys if asked their age to “state his or her true age,” stores can simply ask for age without checking IDs and never get caught under the current system.

Weak/Contradicting Definitions: State statute currently defines products such as cigarettes and e-cigarettes differently. This creates inconsistencies in how the products are regulated and licensed, which clearly can be problematic.

Fails to Give Local Government Support or Control (Preemption): A.B. 422 still retains the preemption on local government authority in 134.65. In order for successful policy, adequate enforcement needs done. Local control can allow for retailer licensing and increase compliance checks in communities. Across the country, local communities are also adopting policies such as distance from schools or flavor restrictions to help combat this true epidemic. Right now, the State of Wisconsin has taken away the tools of local communities to adopt effective policies, and this bill would continue in that same direction with weak law.

Lack of Requirement for Age Verification: Best practices recommends when adopting Tobacco 21, there is a requirement to “verification to appearance age of 30.” Currently there is not a mandated age to check I.D. in state statute (other than for mail order) and the federal mandate is at age 27. The

proposed federal bill will set age verification to 30, Wisconsin's law should require an age verification as well.

Does Not Regulate Accessories: The policy lacks clear covering of all component, parts and accessory used in the consumption of a tobacco product, which is in all other state Tobacco 21 bills.

Education for Retailer or Public: The law fails to provide retailer or public education on the age restriction law. Best practices would encourage an educational component when adopting new age restriction laws.

Penalty on the Youth: Research shows that Purchase, Use and Possession laws have negative public health consequences and take the focus off of the retailers making illegal sales to minors. For the sake of equity and social justice, Tobacco 21 laws should never lift the age of penalties from 18 to 21.

Fiscal Impact: There is no fiscal note for A.B. 422. It is really important to identify what funding is needed to adequately enforce an age restriction policy. What is happening at 18 clearly isn't working, with the states egregious violation rates (one in every four retailers are caught making an illegal sale in 2019). It will not work at 21 either.

A simple cross out 18 and replace with 21 as A.B. 422 does will do more harm for public health than good. How do we know this? We now have six years of active experience with these laws across 520 cities and sixteen states. A law without adequate enforcement provisions will not work. It will have little to no effect in reducing adolescent addiction. Some people call these ordinances "youth access laws," but the best laws are actually those that restrict vape and tobacco sellers from access to our kids. For example, an effective Tobacco 21 bill will ensure the penalty is placed on the retailer, that the retailers are subject to multiple compliance checks per year, and that allows for suspension/revocation for those rogue retailers who refuse to comply. That's what's needed. That's what the parents, teachers and doctors who see the JUUL epidemic on a daily basis demand. We promise to work with the Wisconsin legislature to create and pass a Tobacco 21 bill that will work to protect Wisconsin's youth.

This year, the major national health organizations working on Tobacco 21, including the American Heart Association, the American Lung Association, The American Cancer Society's Cancer Action Network, the Public Health Law Center, Change Labs Solutions, the Campaign for Tobacco Free Kids, Kaiser Permanente and our organization, developed and endorsed a "**Tobacco 21 Policy.**" That document is enclosed. We ask that you vote no on the tobacco industry's "Tobacco 21" bill that is presented this legislative session. Wisconsin deserves a policy that will work.

Sincerely,



Ginny Chadwick
Western Regional Director
ginny.chadwick@tobacco21.org
www.tobacco21.org
(573)999-2641



10 West Mifflin Street, Suite 205 • Madison, Wisconsin 53703 • 608.244.7150 • FAX 608.244.9030
WisconsinGrocers.com

MEMORANDUM

TO: Members of the Assembly Committee on Substance Abuse and Prevention
FROM: Wisconsin Grocers Association
DATE: November 6, 2019
RE: Support of SB 364/AB 422, raising the minimum age to purchase tobacco products

On behalf of the Wisconsin Grocers Association (WGA), we would like to express our support for Senate Bill 364 and Assembly Bill 422 which raises the minimum sales age to purchase cigarettes, nicotine, tobacco and vapor products, from 18 to 21.

Since 2016, 18 states and over 450 communities nationwide have enacted similar legislation. In addition, the federal government is considering legislation to raise the legal age to buy tobacco to 21. We agree that it's time for Wisconsin to join others in raising the age to 21.

From a health perspective, we understand the health concerns with tobacco and vaping products. However, we are more concerned with statistics that detail youth are more susceptible to health consequences and that a high percentage of adult smokers started before age 21. Vaping specifically has had a 78% increase amongst high schoolers between 2017 and 2018 and a 48% increase among middle school students.

Traditionally, the Wisconsin Grocers Association has opposed efforts to increase the age to purchase tobacco and tobacco products due to the difficulties retailers would face to comply with age verification. However, our members have done an about-face on this issue because of the many recent health issues, specifically due to vaping, and also believe that raising the age would actually make it easier for retailer compliance by aligning with alcohol age restrictions.

On behalf of WGA, we would like to once again share our support for SB 364 and AB 422 and encourage this committee to also support these proposals.