

# Public Health Committee JOINT FAVORABLE REPORT

**Bill No.:** HB-7200

AN ACT PROHIBITING THE SALE OF CIGARETTES, TOBACCO PRODUCTS,  
ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS TO

**Title:** PERSONS UNDER AGE TWENTY-ONE.

**Vote Date:** 3/22/2019

**Vote Action:** Joint Favorable Substitute

**PH Date:** 3/4/2019

**File No.:**

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## **SPONSORS OF BILL:**

Public Health Committee

## **REASONS FOR BILL:**

This legislation raises the age to purchase cigarettes, tobacco products, and e-cigarettes from eighteen to twenty-one. The bill alters corresponding aspects of the law, including the sale and delivery of products to underage consumers. In addition, this legislation:

1. Prohibits the sale of flavored products
2. Requires online distributors to obtain the signature of the consumer upon delivery and states that they must provide identification to confirm that they are at least twenty-one years of age
3. Increases the annual licensure fee of distributors from \$50 to \$250 and mandates that \$160 of the fee be placed into a "Tobacco Control Enforcement Account" created in the bill.
4. Increases the annual registration fee for e-cigarette distributors from \$400 to \$1,000 and dictates that \$480 of the fee be placed into the "Electronic Nicotine Delivery System and Vapor Product Enforcement Account" established by the bill
5. Increases the penalties for selling to underage consumers
6. Mandates the Department of Consumer Protection (DCP) to conduct unannounced annual test purchases of e-cigarettes by individuals ages eighteen to twenty to monitor compliance by dealers.
7. Enables e-cigarette distributors to provide promotional samples, similar to the current standard outlined for cigarettes and tobacco
8. Bans smoking, whether inside or on the grounds of schools and childcare facilities

This proposed legislation is to address the growing crisis among minors using tobacco and vapor products in the state.

## **RESPONSE FROM ADMINISTRATION/AGENCY:**

**Commissioner Raul Pino, Department of Public Health (DPH):** DPH supports the underlying concept of this legislation; however, the language as currently written is problematic. The Department respectfully requests that the committee review sections 47 to 53 of SB 877, An Act Concerning Revenue Items to Implement the Governor's Budget, as a potential model for JFS language. Raising the legal purchasing age to twenty-one is a method endorsed by a number of national groups including the American Heart Association and the American Academy of Pediatrics. Approximately 90% of smokers begin by the age of 18, with usage becoming more consistent between the ages of 18 and 21. The Institute of Medicine reports that raising the purchasing age will reduce the number of individuals who start smoking and consequently, improve the health of adolescents and families. The younger an individual starts smoking, the greater the health impacts including the propensity to continue smoking into adulthood and a higher risk of nicotine addiction. Three out of four adolescent smokers will continue smoking into adulthood due to nicotine addiction. By raising the purchasing age, it should decrease the likelihood of students getting tobacco products from their friends. This in turn will minimize tobacco-related disruptions in schools. In addition, DPH supports the expanded definition of tobacco products and the more precise labeling regarding nicotine composition.

**Senator Martin Looney, 11<sup>th</sup> District, Connecticut General Assembly:** Senator Looney supports this legislation and has proposed this concept in the past. It is evident that vaping and the use of e-cigarettes is a critical issue impacting Connecticut's youth. Distributors of such products even seem to be targeting our youth, by producing flavored vapor products. Tobacco use negatively impacts a consumer's health and quality of life. Raising the age can delay the start of tobacco use or prevent it long-term. The testimony mentioned a National Academy of Science report, which noted that raising the age would lead to reduced use and therefore improve the health of individuals. Five states and more than 300 localities have raised the legal purchasing age to twenty-one. This comes at a time when vaping has increased by 78% in high schools. Despite the FDA's attempt to place restrictions on consumers under eighteen, CT should not wait to move to raise the age to twenty-one.

**Representative Tim Ackert, 8<sup>th</sup> Assembly District, Connecticut General Assembly:** Representative Ackert supports this legislation. 95% of smokers started before the age of twenty-one. Even if that statistic is slightly higher than in reality, it is still common for students to begin smoking in high school when peer pressure increases. Connecticut should join other states in leading the fight for a healthier society.

**Representative Cristin McCarthy Vahey, 133<sup>rd</sup> Assembly District, Connecticut General Assembly:** Representative McCarthy Vahey is in support of this legislation, as she witnessed firsthand the impact smoking had on her grandfather. This bill would ensure that children would be protected from the suffering that her grandfather endured. Tobacco is the leading cause of preventable death in the country, and addiction often begins in adolescence. The apparent decreases in smoking combustible cigarettes may have been offset by increases in vaping. Vaping first became an issue in schools in 2015, and the use of electronic nicotine delivery systems in schools has since tripled throughout the years. More than half of students

report that their friends provided them with e-cigarettes. Representative McCarthy Vahey also referenced the Surgeon General's discussion on e-cigarette use, in which he urged action to be taken to protect our kids.

**Department of Revenue Services (DRS):** DRS is in support of the concept that HB 7200 presents. The Department recognizes the impact that these products have on public health and they are happy to play a role in reducing the use of nicotine throughout the state. However, DRS does not have the resources to comply with all aspects of the bill, including the regulatory checks of all distributors and the subsequent follow-up if standards are not met. DRS currently collaborates with the Department of Mental Health and Addiction Services (DMHAS) to provide educational programs for the youth and DMHAS already conducts compliance checks. DRS encourages the committee to look into the Governor's approach as codified in SB 877. That proposal decreases the purchasing age, while maintaining the roles of the agencies. DRS offers their support to discuss the proposal further.

**Michelle Seagull, Commissioner of Consumer Protection, Department of Consumer Protection (DCP):** This legislation would require the Department of Revenue Services (DRS) and DCP to enforce current statutes, as well as the proposed initiatives in this bill. DCP recognizes the significance of this issue and applauds the committee for raising it. While the Department covers registration of distributors, its duties do not encompass oversight over restrictions on the sale of tobacco. With close to 2,000 dealer registrations in the state, DCP would require additional resources to fulfill the requirements of this legislation. The Department asks that the committee consider adopting Sections 47-53 of SB 877, An Act Concerning Revenue Items to Implement the Governor's Budget. These sections allow the underlying concept to prevail, while also not placing a burden on state agencies.

**Commissioner Miriam Delphin-Rittmon, Department of Mental Health and Addiction Services (DMHAS):** DMHAS is tasked with preventing substance abuse throughout the state of CT. The Department currently has the Tobacco Prevention and Enforcement Program, which works with distributors in communities to inform them of current laws as well as provide support through educational services. The US Food and Drug Administration is also connected to the Program through regulation compliance. While the Department supports the concept of HB 7200, its language is problematic due to the burden it would place on state agencies. DMHAS respectfully asks that the committee consider the language included in Sections 47 to 53 in SB 877, An Act Concerning Revenue Items to Implement the Governor's Budget. This could potentially provide JFS language, as it seeks the same goal of restricting tobacco sale to adolescents. Raising the age of purchase would help prevent nicotine addiction. Nicotine has detrimental impacts on a developing brain, and 90% of smokers started before the age of eighteen.

**State of Connecticut Judicial Branch:** The CT Judicial Branch does not have a "substantive" position on this legislation; however, they offered several language modifications that are included in the testimony.

#### **NATURE AND SOURCES OF SUPPORT:**

**Byron Kennedy, Director of Health, City of New Haven:** Mr. Kennedy strongly supports this legislation. According to the National Academy of Medicine (NAM), raising the legal purchasing age to 21 will positively impact public health. By increasing the minimum

purchasing age, NAM predicts that smoking rates will drop by 12% and smoking-related deaths will fall by 10%. The tobacco industry has targeted the adolescent population and many adolescents serve as the “social source” for tobacco. Six states and 380 localities have increased the minimum purchasing age. A number of national organizations support this change, as well as adults and roughly 70% of smokers.

**Pareesa Charmchi Goodwin, Executive Director, The CT Oral Health Initiative, Inc.**

**(COHI):** The Connecticut Oral Health Initiative supports this legislation because tobacco use results in negative consequences on oral and overall health. According to the testimony, “the most effective way to avoid becoming a smoker is to delay use.” Roughly 90% of adult smokers began smoking in their teenage years and 80% began before they turned twenty-one. By increasing the purchasing age, high schoolers’ exposure will be decreased because they are no longer in social settings with individuals who are legally able to purchase tobacco products. DPH reported that 18% of high school students in the state are smokers, with a majority utilizing e-cigarettes. Though approximately half of high school students will attempt to quit smoking, roughly 75% of teenage smokers will continue into adulthood due to the addictive nature of nicotine. If this trend continues, 5.6 million adolescents will die prematurely as a result of smoking-related conditions. Additionally, COHI respectfully requests that menthol, mint, and wintergreen are all added to the banned flavors list because those flavors provide a cooling or numbing sensation that leads to a greater rate of smoking initiation.

**Mary Jane Williams, Connecticut Nurses’ Association (CNA):** CNA supports proposals that promote public health. Tobacco products, notably cigarettes, are the single largest cause of cancer and claim the lives of about seven million people annually. Millions of Americans have started using electronic nicotine delivery systems instead of combustible cigarettes and while these products are less dangerous than cigarettes, their long-term impact is not fully understood. The American Cancer Society urges the importance of preventing the initiation of smoking through policies such as increasing the minimum age of purchase. Restricting the sale of tobacco products to individuals under the age of twenty-one is “Sound public policy.”

**Jim Williams, Government Relations Director, American Heart Association:** The American Heart Association supports this legislation. Heart disease is the number one cause of death, both nationally and state-wide, and smoking is the primary cause of heart disease. Close to 5,000 adults in the state die annually as a result of smoking. Roughly 10% of high school students smoke in Connecticut, with over 1,000 new teenagers starting annually. Smoking causes widespread cancer, beyond just lung cancer. It causes more deaths than alcohol, AIDS, car accidents, murder, suicide, and illegal drug use combined. In addition to the direct consequences, thousands more die from the effects of smoking related incidents such as fires. Beyond physical consequences, smoking bears a significant fiscal impact including \$2.3 billion in healthcare costs. 95% of smokers started before they turned twenty-one and 80% tried smoking before they turned eighteen. Smoking during adolescence poses an issue as the developing brain is more likely to become susceptible to nicotine addiction. Evidence proves that increasing the minimum age will result in positive public health outcomes. In addition to the testimony, the American Heart Association urges that the exclusion of menthol, mint, and wintergreen from the flavor ban be removed. Flavors make tobacco products more appealing to adolescents and therefore, certain flavors should not be excluded.

**Bryte Johnson, American Cancer Society Cancer Action Network:** Tobacco-related disease is the single most preventable cause of death in society. Currently in our state and across the nation, the use of vapor products and e-cigarettes by middle school and high school students has surpassed that of combustible cigarette use. Due to this statistic, the Surgeon General has deemed youth e-cigarette use an “epidemic” and there is great concern that students will struggle with lifelong addiction. It is projected that 1,300 adolescents under eighteen will try tobacco products annually and approximately 56,000 Connecticut youth will die prematurely if the trend continues. Increasing the minimum purchasing age will complement a number of other initiatives, including prevention and cessation programs. Furthermore, this legislation is projected to decrease smoking by approximately 12% and decrease 10% of smoking-related deaths. While raising the age would be a “significant step” towards reducing tobacco use, more action is needed. There must be an intervention component, such as providing education and programs to distributors. The focus should not be on penalties for youth, but enforcement of the legislation and accessibility of cessation resources for smokers. Also, this bill will counter the industry’s attempt to market to youth consumers. The testimony also asserted that Tobacco 21 should not exempt military personnel.

#### **NATURE AND SOURCES OF OPPOSITION:**

**Jake Butcher, State Affairs Manager, Vapor Technology Association:** The Vapor Technology Association represents manufacturers, business owners, and distributors of vapor products. This legislation threatens businesses in Connecticut, as well as impacts individuals reliant on vapor products for the cessation of smoking. The justification for taxing tobacco products is typically the health consequences experienced by the consumer and the cost to society; however, flavored vapor products are scientifically proven to be 95% safer than cigarettes. In a 2015 study conducted by Public Health England, it was determined that e-cigarettes lack disease-causing chemicals and the chemicals that are in fact present pose minimal danger. This report was updated last year and noted that utilizing vapor products presents “substantial health benefits” and could have a role in approximately 20,000 “successful new quits per year.” The study also highlighted the misconceptions surrounding nicotine, stating that “people smoke for the nicotine but they die from the tar.” Therefore, equating vaping with combustible cigarettes continues to negatively impact society’s awareness and knowledge of the issue. The testimony mentions several other reports that argue that vapor products are considerably safer than combustible cigarettes. In February of 2018, the American Cancer Society (ACS) offered a shift in perspective when they announced their support for e-cigarettes as an alternative to FDA-approved cessation tools. The ACS primarily supports the FDA-approved aids; however, if an individual decides not to utilize such aids, they should switch to a less harmful alternative to combustible cigarettes. Though the long term health effects of e-cigarettes are not yet known, the ACS considers them to be less harmful. The FDA echoes those sentiments, noting that e-cigarettes are central to helping individuals stop smoking. In terms of the flavor ban, studies from The National Academies of Sciences, Tobacco Control, and the New England Journal of Medicine have all reported the benefits of vaping when attempting to quit smoking. A ban on flavored products would potentially negatively impact individuals trying to quit smoking. In addition to this information, two studies have asserted that raising the legal age to vape would actually lead to an increase in vaping in younger generations.

**Reported by: Meagan Schantz**

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