

House Finance Subcommittee on Health & Human Services

Regarding
HB 166

Wendy Hyde
Preventing Tobacco Addiction Foundation/Tobacco 21.org
May 5, 2019

On behalf of the Preventing Tobacco Addiction Foundation, Tobacco to 21 and the Preventing Tobacco Addiction Foundation **oppose** the tobacco 21 provisions of HB 166. Those of us who work on this issue every day in venues around the country recognize this bill as **unacceptable** by today's standards.

We've made such progress in over 440+ municipalities throughout the United States and within 31 local communities throughout Ohio with language that is having a real impact on health. Simply changing "18" to "21" without changing the structure of licensure and enforcement, would be meaningless. And, that's the language that Big Tobacco/the Industry have been promoting. While we are certainly supportive of raising the minimum legal sales age, for Tobacco 21 laws to work, they must contain the following key provisions, all missing from HB 166. A meaningful Tobacco 21 bill must include:

Full Licensing is an integral part of a Tobacco 21 policy. Currently Ohio law only requires retailers of cigarettes to obtain a cigarette license. No license is required for retailers of vapor products or e-cigarettes, including the JUUL, or other tobacco products. Without full licensure, Ohio cannot possibly enforce Tobacco 21 because the state cannot know who its retailers are. Moreover, reasonable expanded licensing can contribute to funding for enforcement of Tobacco 21 law.

Adequate enforcement is a sentinel issue. A Tobacco 21 bill must include active enforcement by local health departments, under civil, rather than criminal law. Health departments already have an ongoing relationship with many tobacco retailers and are uniquely motivated by virtue of their purpose and expertise to enforce such a law. Health inspectors are best suited to provide retailer education as well as conduct unannounced youth-based compliance checks to assess retailer adherence to the law.

Penalties for illegal sales to persons under age 21 should be placed on the retail owner who makes a profit from illegally selling harmful and deadly products rather than on the clerk or the youth. Penalties for repeated violations must result in meaningful fines and be followed up with license suspension for those few retailers who refuse to comply. Penalizing youth 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 Many youth smokers are addicted, making it difficult for them to quit, and some research suggests that

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penalizing youth could deter them from seeking support for cessation.ⁱⁱ Rather than treat children as the wrongdoers, youth access laws should focus on limiting access to tobacco products.

Removal of penalties on the youth-Removal of penalties for purchase, use and possession (PUP) for those under 21, which penalties are not shown to be effective in reducing youth smoking. In addition, they may undermine other conventional avenues of youth discipline, divert attention from more effective strategies, and relieve the tobacco industry of responsibilities for its marketing practices of attracting youth to its addictive and harmful products. Moreover, there are concerns that these provisions may prevent kids from seeking cessation services or be enforced inconsistently and inequitably with respect to youth from certain racial and ethnic groups, resulting in their introduction into the criminal justice system, results we cannot support.

I have spent almost 20 years of my career as a middle/high school teacher and 17 years as parent and it is not the knowledge that we leave with our children or those entrusted to us that is most impactful, but the greatest influence we make in their young lives is when we show them that they are valued. My colleagues and I hope that we can work with you on this legislation to eventually pass a strong Tobacco 21 bill as local health departments have effectively committed to doing. For example, Columbus, Cincinnati, Cleveland Heights, Euclid, and many other Ohio communities have passed tobacco 21 law that included a tobacco retail license covering all tobacco products so that the city could know who was selling these products in their city. The law also included required compliance checks and reinspection for violators, giving real teeth to the policy. Ohio's law fails to do this. Laws that exist without enforcement simply will not work to prevent and reduce youth initiation of tobacco products. Therefore, I urge you to consider incorporating the strongest possible language making a statement that young life and youth in Ohio are valued. I will leave you with these words once spoken by President Theodore Roosevelt "Great thoughts speak only to the thoughtful mind, but great actions speak to all mankind."

Thank you,

Wendy Hyde
Ohio/Michigan Regional Director
Preventing Tobacco Addiction Foundation/Tobacco21

ⁱ Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," *Tobacco Control*, 12(Suppl 1):i6-i13, 2003; Jason, LA, et al., "Youth Tobacco Sales-to-Minors and Possession-Use-Purchase Laws: A Public Health Controversy," *J Drug Education*, 35(4):275-290, 2005.

ⁱⁱ Hrywna, M, et al., "Content Analysis and Key Informant Interviews to Examine Community Response to the Purchase, Possession, and/or Use of Tobacco by Minors," *J Comm Health*, 29(3):209-216, 2004; Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," *Tobacco Control*, 12(Suppl 1):i6-i13, 2003; Loukas, A, et al., "Examining the Perspectives of Texas Minors Cited for Possession of Tobacco," *Health Promotion Practice*, 7(2):197-205, 2006.