



## PREVENTING TOBACCO ADDICTION FOUNDATION

House Finance Subcommittee on Health & Human Services

Regarding  
**HB 166**

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April 10, 2019

Chairman Romanchuk, Ranking Member West and members of the House Finance, Health and Human Services Subcommittee, thank you for the opportunity to offer testimony today.

The Preventing Tobacco Addiction Foundation (PTAF)/Tobacco 21.org works nationwide to reduce youth initiation and use of tobacco and nicotine by advocating for raising the minimum legal sales age (MLSA) to 21 and supporting other proven tobacco control initiatives. Tobacco 21 laws are currently in effect in over 450 communities across the United States, and eleven<sup>i</sup> states have adopted these laws on a statewide level. Tobacco 21 just passed the Maryland and New York legislatures and will soon be signed into law. Several more states are poised to pass the policy within weeks.

Tobacco use is responsible for over half a million deaths per year in the U.S. and **95% of smokers started using tobacco products before the age of 21.**<sup>ii</sup> Many transition from experimental smoking to regular, daily use between age 18 to 21. Delaying the age of experimentation or first-use of tobacco and nicotine reduces the risk that a person will ever become a regular, daily smoker.<sup>iii</sup> An earlier age of smoking initiation increases the potential duration of smoking throughout a person's lifespan, likewise increasing their risk of developing lung cancer or experiencing a vast range of smoking-related illnesses.<sup>iv</sup> Smokers who start smoking at younger ages are also among the heaviest users.<sup>v</sup>

***Tobacco 21 has taken on a new urgency in the wake of the e-cigarette epidemic.***<sup>vi</sup> Former FDA Commissioner Scott Gottlieb declared that youth use of e-cigarettes had reached an 'epidemic proportion of growth', principally because of JUUL e-cigarettes. We saw a 75% increase in e-cigarette use among high school students between 2017 and 2018.<sup>vii</sup> E-cigarette use among our youth has exploded, undoing years of Ohio's progress in reducing tobacco use. The tobacco industry continues to target adolescents with slick products like JUUL and predatory social-media marketing. One in five high schoolers use e-cigarettes<sup>viii</sup> and preliminary data from researchers at Ohio State have indicated that approximately one in four OSU freshman use Juul. So we can agree there is a problem, but what to do about it? If we want to prevent and reduce youth initiation, we must implement a Tobacco 21 policy the *right* way.

### **Tobacco 21: Reforming Ohio's Youth Access Laws**

Current Ohio youth access laws have failed, as evidenced by the ongoing e-cigarette epidemic. Now Altria and JUUL are endorsing age 21 using the same flawed system. It's good PR for them, and they have calculated that with the current level of enforcement, there will be no significant threat to their business interests. In other

words, they support it where it *won't work*, where there is no real plan or mechanism for enforcement and in places where it might preempt local elected leaders trying to protect their kids.

While we applaud the Governor's intent to raise the minimum legal sales age for tobacco and nicotine, we urge the Committee to strengthen the language to make this policy *work*. The good news is that twenty-two Ohio cities have already enacted age 21 and many have passed laws that include a strong enforcement mechanism. We urge the committee to follow the proven examples of communities like Columbus, Cincinnati, Euclid, Cleveland Heights, Akron, and most recently, Lakewood. Critical issues for success in protecting our kids include the following:

- **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. A minimum of two compliance checks per year should be conducted for every retailer in the state, with follow-up checks required for violators. These compliance checks should be conducted using persons aged 19 and 20 and the results of those compliance checks made available to the public.
- **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.
- **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 purchase/use/possession laws could actually detract from more effective enforcement measures and tobacco control efforts.<sup>ix</sup> 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.<sup>x</sup> 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.

Parents, teachers, health providers, addiction specialists and community coalitions throughout Ohio support Tobacco 21, if done the *right* way, as evidenced by the passage of strong ordinances already in so many Ohio cities, with others considering adoption of the law. It is our hope to be able to enthusiastically support best-practices language in a Tobacco 21 bill that contains strong enforcement and that does not penalize youth. To this end, I urge thoughtful consideration and discussion to ensure the strongest possible language emerges for a Tobacco 21 bill and to protect Ohio's youth. Thank you.

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<sup>i</sup> Hawaii, California, Maine, New Jersey, Oregon, Massachusetts, Virginia, Utah, Arkansas, Washington and Illinois.

<sup>ii</sup> United States Department of Health and Human Services. Substance Abuse and Mental Health Services Administration. Center for Behavioral Health Statistics and Quality. National Survey on Drug Use and Health, 2014. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2016-03-22. <https://doi.org/10.3886/ICPSR36361.v1> U.S. Department of Health and Human Services. The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Atlanta: 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 [accessed 2017 Jun 15].

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<sup>iii</sup> See, e.g., Khuder, SA, et al., “Age at Smoking Onset and its Effect on Smoking Cessation,” *Addictive Behavior* 24(5):673-7, September- October 1999; D’Avanzo ,B, et al., “Age at Starting Smoking and Number of Cigarettes Smoked,” *Annals of Epidemiology* 4(6):455-5; see also Bonnie, Richard J., Stratton, Kathleen, and Kwan, Leslie Y. “Public health implications of raising the minimum age of legal access to tobacco products.” Institute of Medicine of the National Academies and the U.S. Committee on the Public Health Implications of Raising the Minimum Age for Purchasing Tobacco Products. March 2015: <http://nationalacademies.org/HMD/Reports/2015/TobaccoMinimumAgeReport.aspx>.

<sup>iv</sup> HHS, *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*, 2012,

<http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf>. See also, Hegmann, KT, et al., “The Effect of Age at Smoking Initiation on Lung Cancer Risk,” *Epidemiology* 4(5):444-48, September 1993; Lando, HA, et al., “Age of Initiation, Smoking Patterns, and Risk in a Population of Working Adults,” *Preventive Medicine* 29(6 Pt 1):590-98, December 1999.

<sup>v</sup> HHS, *Preventing Tobacco Use Among Young People: A Report of the Surgeon General*, 1994.

<sup>vi</sup> McGinley, Laurie. “FDA Chief Calls Youth E-Cigarettes an 'Epidemic'.” *The Washington Post*, WP Company, 12 Sept. 2018, [www.washingtonpost.com/national/health-science/fda-chief-calls-youth-use-of-juul-other-e-cigarettes-an-epidemic/2018/09/12/ddaa6612-b5c8-11e8-a7b5-adaaa5b2a57f\\_story.html?utm\\_term=.de6dec987d0b](http://www.washingtonpost.com/national/health-science/fda-chief-calls-youth-use-of-juul-other-e-cigarettes-an-epidemic/2018/09/12/ddaa6612-b5c8-11e8-a7b5-adaaa5b2a57f_story.html?utm_term=.de6dec987d0b).

<sup>vii</sup> *Id.*

<sup>viii</sup> Ctrs. for Disease Control & Prevention, *Tobacco Use Among Middle and High School Students – United States, 2011 - 2018*, 68 *Morbidity & Mortality Wly.* 157 (2019), <https://www.cdc.gov/mmwr/volumes/68/wr/pdfs/mm6806e1-H.pdf>.

<sup>ix</sup> 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.

<sup>x</sup> 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.