17.0407.01000

FISCAL NOTE

Requested by Legislative Council
01/16/2017

Bill/Resolution No.: HB 1312

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$(35,400)			
Expenditures						
Appropriations						

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities		$(2,600)	
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1312 raises the minimum legal age to purchase and use tobacco products from eighteen to nineteen.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, HB 1312 will increase the minimum legal age (MLA) for purchasing and using cigarettes and tobacco products to age nineteen. Studies indicate that out of approximately 10,000 eighteen year old North Dakota residents, about 300 are daily smokers and an additional 800 are occasional smokers (1100 total). By enacting this bill, some of the consumption of tobacco products by these individuals will cease, and some eighteen year-olds will delay smoking for one or more years. Others will find other means to purchase their cigarettes, including using older friends, or cross-border purchases in surrounding states with MLA's of 18.

Assuming 550 young adults stop purchasing cigarettes in the state, each consuming an average of 1.5 fewer packages per week, there would be an estimated drop in wholesale cigarette tax of $38,000 for the 2017-19 biennium.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3402

Date Prepared: 01/20/2017

2017 HOUSE HUMAN SERVICES

HB 1312

2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1312
1/23/2017
27214

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Judy Kopplé

Relating to the prohibition of an individual under nineteen years of age from purchasing and using tobacco products; and to provide a penalty.

Minutes: 1, 2, 3, 4,

Chairman Weisz: called the committee to order.
Chairman Weisz: Opened hearing on HB 1312

Chairman Weisz: Support for HB 1312

Representative P. Anderson
(Attachment1)

Chairman Weisz: Are there questions from the committee?
4:25

Representative McWilliams: Some states have increased the age to 19, so do we know how that has effected the number of smokers?

Representative P. Anderson: They just recently changed it so there is not data?

Chairman Weisz: Explain your chart.

Representative P. Anderson: I asked the Department of Education to tell how many kids turn 18 every month they are in high school. Then there is the student count and the percentage of change. I was just concerned that they can buy a pack of cigarettes before they graduate.

Chairman Weisz: further questions from the committee?

Representative Porter: What about the kids that quit school or the ones that graduate and go to college? Your goal is to stop the purchase of tobacco products in K – 12. Not everyone that is 18 is in school, but they are considered an adult inside of our society. Now you are saying they are less of an adult in regards to tobacco than they were last week.

Representative P. Anderson: I suppose in a way, but what I was looking at was more the percentage. We are talking about 85% of these kids that would fall in here that are still in high school. If you are nineteen before you can buy a pack of cigarettes, you are probably out of high school.

Representative Porter: Did you check to see how many are 19 are in high school?

Representative P. Anderson: No, I didn't, but I can get those, because it says those that are 18 and older.

Representative Porter: It seems odd to me the relevancy of the bills we are having today with decriminalizing and making marijuana use for minors an infraction and almost saying it is ok to have and don't get caught marijuana and now all of a sudden it is bad to smoke a cigarette. I am having a hard time bringing this into my mind that it is ok to smoke one thing and bring it into your body, and yet another one is bad.

Representative P. Anderson: Marijuana smoking is not the leading cause of preventable death. I think you could look at smoking marijuana as opposed to smoking cigarettes and see that it is a whole different health issue. I think if we can get people to not smoke cigarette, even a few children. If in only 300 cities in the state of ND one child didn't start smoking the long term effects on our health system would be huge.

Representative McWilliams: If we stop one child from smoking, but we cause headaches and aggravation for a 1000 others. Is it worth that?

Representative P. Anderson: Yes. I think smoking is that dangerous. Like I said, I just want them to be out of high school.

Representative McWilliams: At the age of 59 ½ you can access your IRA. What I am saying is that if our aim is to be able to prevent children in high school from smoking would it all be possible to look at an age gap and see where the distribution is say at 18 1/2 from leaving high school and entering college. Or could we put some kind of regulation or lid on that to say you have to have a high school diploma or a ged or something like that and then it would be a ridiculous line of questioning. But just asking the question. There are a lot of 18 year olds in college. My niece is 17 right now and graduated a year and a half early, so she is in college. She will be around a bunch of people that will be smoking marijuana and smoking cigarettes. So I am wondering if that was ever looked at at 18 1/2 like our current of 59 ½. .

Representative P. Anderson: I would say that is the same as age 21. Some are out of college and some are in college. I suppose we could say that you ought to be out of college before you can drink. I am just going by age and the statistics that show the number of kids still in school.

Chairman Weisz: Further questions?

Representative Skroch: I too am trying to sort this all out as how we are now legalizing and decriminalizing marijuana, and I wonder about the data. How do we know that the people smoking tobacco are not also smoking marijuana? While we have linked deaths from lung

cancer and so forth to tobacco, I am not sure how many are smoking marijuana too? How much data is there for long term marijuana use? Or would they even admit to the fact that they are long time marijuana smokers. It troubles me that we are separating those two when maybe they should be connected.

Representative P. Anderson: Marijuana is illegal even though we are going to decriminalize it. Smoking is legal. I would wonder walking through some of our hospitals, nursing homes, and assisted livings where a long time smoker versus a long time marijuana smoker, I would guess the health issues are way worse for the person who has been smoking two packs of cigarettes every day and they started at age 17.

Chairman Weisz: Further questions from the committee?

Chairman Weisz: Further testimony in support of HB 1323?
13:42

Jeanne Prom, Exe. Dir. Of Breathe ND and the ND Center for Tobacco Prevention and Control Policy
(Attachment 2)

Chairman Weisz: I have a question on increasing the age to 19 and how would that decrease the number of smokers that are between 15 – 17?

J. Prom: Peers in high school that are 18 are supplying cigarettes to their younger friends.

Chairman Weisz: are there any further questions from the committee?

Chairman Weisz: Further support for HB 1312?

Jack Mc Donald, Respiratory Therapist Society of ND
Would like to add our support for H 1312. Their belief is that anything that would deter smoking would be a good deal. They are not trying to offer any scientific explanations, they are just feeling that it would be better if there was less smoking.

Chairman Weisz: Are there any questions from the committee? Seeing none. Thank you.

Chairman Weisz: Further testimony in support of HB 1312?

Cheryl Rising, FNP
(Attachment 3
I totally support the testimony that has been given by the previous speakers. The data is overwhelming that the kids in high school that are 18 are buying tobacco for their younger peers, so if we can get that age raised to 19 it could help a lot. It will help our society and increase the health of our state and decrease the chronic illnesses. I have been a nurse for over 40 years and a nurse practitioner since 1996. All of us are all treating people with smoking related diseases. It is awful the illnesses we are seeing in our state. It is not just the lungs. It is the heart. It is the peripheral vascular disease. Now things coming across

my desk in the last year is showing a link between arthritis and joint pain and osteoarthritis and smoking.

Chairman Weisz: Are there any questions from the committee? Seeing none, thank you.

Chairman Weisz: Further testimony in support of HB 1312?

Chairman Weisz: Is there any testimony in opposition to HB 1312?

Mike Rud, President of the ND Petroleum Marketers Assoc.
(attachment 4)

Chairman Weisz: Questions from the committee?

Representative McWilliams: If someone goes to a state that it is legal to buy tobacco and comes back here and smoke are they in opposition to the law and guilty of breaking the law? If so, is it punishable.

M. Rud I don't know

Representative P. Anderson: So today in a court of law teenagers are considered adults at 18 years of age. So why then can't they buy a six pack? And why doesn't your organization put in a bill to reduce the legal sale of alcoholic products to 18? What is the difference?

M. Rud: I don't have the answer to that question. This bill is about tobacco products. Alcohol is a whole different issue. It is not that big a portion of our business.

Chairman Weisz: further testimony in opposition of HB 1312?

Seeing none, we will close the hearing on HB 1312.

2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1312
1/25/2017
27406

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Donna Whetham

Explanation or reason for introduction of bill/resolution:

Relating to the prohibition of an individual under nineteen years of age from purchasing and using t tobacco products; and to provide a penalty.

Minutes:

Chairman Weisz: Called the committee together in regard to HB 1312. Are there any suggested amendment, we are pretty clear of what it does, it is through the age of nineteen instead of eighteen.

Representative P. Anderson: Like I said in my testimony, if 85 or 87% graduating are eighteen and almost 20% out of high school. I just want them to be out of high school to buy a pack of cigarettes. There are 4 other states that have done this. Alaska, New Jersey, Alabama and Utah there is no rhyme or reason across the country.

Chairman Weisz: California and Hawaii are both 21 years of age to buy cigarettes. What does the committee want to do?

Representative Porter: I move a Do not pass on HB 1312.

Representative McWilliams: seconded.

Chairman Weisz: Any further discussion?

Representative McWilliams: I can agree with all the statistics but I think it is more important to preserve the freedom of being considered an adult at age 18. I did a lot of things at age 18 and even traveled to Australia for three months by myself at that age and I think we need to preserve that.

Representative Damschen: I am very torn about this bill. I think the spirit of the bill is right. I don't think it will prevent anyone from getting the cigarettes. I might support the Do not pass motion, but I don't 100% disagree with it. I really don't know how to vote.

Chairman Weisz: I think it does make sense in maybe keeping the 15 –17 year olds from getting them. If they really want them they will find somebody to buy them for them.

Representative P. Anderson: Our children will get it if they want it but some kids are kind of compliant. If I can't buy a pack of cigarettes until I am 19, I won't.

Chairman Weisz: Any further discussion? Roll call vote on a do not pass on HB 1312.

Roll call vote taken on a Do not pass on HB1312.

Vote: Yes 7 no 5 absent 2. Motion carried on Do Not Pass on HB 1312.

Representative McWilliams: Will carry this bill.

Chairman Weisz: Hearing adjourned.

Date: 1-25-17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1312

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Porter Seconded By Rep McWilliams

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. P. Anderson		✓
Vice Chairman Rohr	AB		Rep. Schneider		✓
Rep. B. Anderson		✓			
Rep. D. Anderson	AB				
Rep. Damschen	✓				
Rep. Devlin	✓				
Rep. Kiefert	✓				
Rep. McWilliams	✓				
Rep. Porter	✓				
Rep. Seibel		✓			
Rep. Skroch	✓				
Rep. Westlind		✓			

Total (Yes) 7 No 5

Absent 2

Floor Assignment Rep. McWilliams

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1312: Human Services Committee (Rep. Weisz, Chairman) recommends **DO NOT PASS** (7 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). HB 1312 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

HB 1312

Att. 1
HB 1312
1-23-17

Testimony for House Bill 1312

House Human Services Committee

January 23, 2017

Pamela Anderson, Representative District 41

Mr. Chairman and members of the Human Services Committee, this bill changes just one word in our stature- eighteen to nineteen. I believe our kids should be out of high school before they can buy a pack of cigarettes. According to the Department of Education, 19.4% of our kids are eighteen or over when they start their senior year of high school. The table shows by month how many seniors turn eighteen. When they graduate in the spring, 84.7% are eighteen. Times have changed, in my era you had to be six by December 31st to start first grade, now it is August 1st and many kids born during the summer preceding are held back another year for good reason.

According to Tobacco Free Kids, North Dakota has 300 new youth smokers every year and 14,000 kids now alive in North Dakota will die from smoking. If by increasing the age to purchase cigarettes, just 10% didn't start smoking, that is 30 kids a year- 30 lives.

I would like to drive by a high school and not see a bunch of students across street smoking, most of them would be eighteen. At that age, life can happen. Maybe they meet a boy or a girl and smoking is a deal breaker. So they never started smoking in high school and never started smoking period because their first boyfriend or girlfriend.

The argument against this bill will be if you can vote or serve your country you should be able to buy cigarettes when you are eighteen. That argument falls flat in the fact that you can't buy a beer at eighteen. What we are saying is our kids cannot make a decision to drink until twenty-one, but deciding to smoke is okay? Smoking is less dangerous to our kids than alcohol?

There might be negative testimony from the convenience stores, but I can't believe they will go out of business if they cannot sell cigarettes to eighteen year olds. If that is the case, more than 300 youth are starting to smoke each year which would be quite alarming.

There might be neutral testimony but how can you be neutral about kids smoking? Here are a few facts:

1. 1 out of every 3 young people who become regular smokers will die of a smoking related disease.
2. If current smoking patterns in the United States persist, approximately 5 million of today's children will die prematurely of tobacco-related diseases.
3. Teenagers who smoke have significantly more trouble sleeping than those who do not smoke.
4. Smoking is the leading cause of preventable death
5. Most people start using tobacco before they finish high school. This means that if you stay smoke-free in school, you will probably never smoke.

Yes, I would like to raise the smoking age to 21 in North Dakota like California and Hawaii have done, but again the purpose of age 19 for me is out of high school. Four states: Alabama, Alaska, New Jersey and Utah have age 19, let's be number 5! Thanks.

KEY STATE-SPECIFIC TOBACCO-RELATED DATA & RANKINGS

State	Adult Smoking Rate*	Adult Smoking Rank (1=low)	Pregnant Smoking Rate€	Youth Smoking Rate**	New Youth Smokers Per Year	Annual Adult Smoking Deaths (approx.)	Kids Now Alive Who Will Become Smokers	Kids Now Alive Who Will Die From Smoking	Smoking Caused Health Costs (millions)	Cigarette Tax† (per pack)	Cigarette Tax Rank (1 = high)	FY 2017 Funding for State TC Programs (millions)	Tobacco Prevention Spending % of CDC Target
All States	**15.1%**	///	**8.4%**	**10.8%**	**153,000**	**480,000‡**	**17+ mill.**	**5.6 mill.**	**$170 bill.**	**$1.69**	///	**$491.6**	**14.9%**
Alabama	21.4%	42nd	10.8%	**14.0%**	2,900	8,600	336,200	108,000	$1.88 bill.	$0.675	40th	$1.5	2.7%
Alaska	19.1%	35th	13.3%	**11.1%**	300	600	43,600	14,000	$438	$2.00	14th	$9.5	93.0%
Arizona	14.0%	6th	5.4%	**10.1%**	3,100	8,300	359,800	115,000	$2.38 bill.	**$2.00**	**14th**	$18.4	28.6%
Arkansas	24.9%	49th	15.0%	**15.7%**	1,800	5,800	214,700	69,000	$1.21 bill.	$1.15	34th	$9.0	24.5%
California	11.7%	2nd	1.8%	**7.7%**	12,100	40,000	1,376,800	441,000	$13.29 bill.	$2.87	9th	$75.7	21.8%
Colorado	15.6%	15th	6.7%	*8.6%*	2,400	5,100	283,200	91,000	$1.89 bill.	**$0.84**	**38th**	$23.2	43.8%
Connecticut	13.5%	3rd	*7.0%*	**10.3%**	1,500	4,900	175,400	56,000	$2.03 bill.	$3.90	2nd	$0.0	0.0%
Delaware	17.4%	25th	10.8%	**9.9%**	400	1,400	53,700	17,000	$532	$1.60	25th	$6.4	48.9%
DC	16.0%	18th	2.6%	**12.5%**	100	800	22,300	7,000	$391	$2.50	13th	$1.0	9.3%
Florida	15.8%	16th	6.4%	5.2%	7,400	32,300	844,500	270,000	$8.64 bill.	$1.339	30th	$67.8	34.9%
Georgia	17.7%	28th	6.5%	**12.8%**	5,600	11,700	637,500	204,000	$3.18 bill.	**$0.37**	**49th**	$1.8	1.7%
Hawaii	14.1%	8th	**5.0%**	**9.7%**	500	1,400	67,000	21,000	$526	$3.20	5th	$5.3	38.6%
Idaho	13.8%	5th	10.7%	**9.7%**	800	1,800	94,300	30,000	$508	**$0.57**	**45th**	$2.9	18.4%
Illinois	15.1%	10th	6.8%	**10.1%**	6,300	18,300	720,100	230,000	$5.49 bill.	$1.98	19th	$9.1	6.7%
Indiana	20.6%	40th	15.1%	12.0%	4,100	11,100	471,100	151,000	$2.93 bill.	$0.995	37th	$5.9	8.0%
Iowa	18.1%	30th	14.6%	**18.1%**	1,500	5,100	172,100	55,000	$1.28 bill.	$1.36	29th	$5.2	17.4%
Kansas	17.7%	28th	12.0%	**10.2%**	1,600	4,400	191,200	61,000	$1.12 bill.	$1.29	32nd	$847,041	3.0%
Kentucky	25.9%	51st	20.7%	**16.9%**	3,200	8,900	371,700	119,000	$1.92 bill.	$0.60	43rd	$2.4	4.2%
Louisiana	21.9%	44th	7.4%	**12.1%**	2,700	7,200	307,400	98,000	$1.89 bill.	$1.08	35th	$7.0	11.7%

* Due to changes in CDC's methodology, these state-specific adult smoking rates cannot be compared to data prior to 2011.

€ Pregnant smoking rate for most recent year available. In regular type from 2014 birth certificate data. Smoking = smoked at any point during pregnancy. In **bold** type from 2011 Pregnancy Risk Assessment Monitoring System (PRAMS) survey. Smoking=smoked during the last 3 months of pregnancy. Data in *italics* (CT only) the 2002 PRAMS. Smoking = smoked at any point during pregnancy.

** Youth smoking rate from most recent year available; in **bold** type from the Youth Risk Behavioral Surveillance (YRBS); in regular type from Youth Tobacco Surveillance (YTS); and in *italics* from state-specific surveys. OR data are for 11th grade only. WA data are for 10th grade only. Because of different surveys and years, state rankings based on youth smoking cannot be done.

† Tax rates shown in **bold** have not been increased for at least 10 years (since 2006 or earlier). "All states" is the state tax average.

‡ Includes deaths caused by cigarette smoking but not deaths caused by other forms of combustible tobacco or smokeless tobacco products, which are expected to be in the thousands per year. National data includes deaths attributable to exposure to secondhand smoke; state-specific data do not.

β NA = not available. State budget for FY2016 was not available at time report went to press.

1400 I Street NW - Suite 1200 - Washington, DC 20005. Phone (202) 296-5469 · Fax (202) 296-5427 · www.tobaccofreekids.org

State	Adult Smoking Rate*	Adult Smoking Rank (1=low)	Pregnant Smoking Rate€	Youth Smoking Rate**	New Youth Smokers Per Year	Annual Adult Smoking Deaths (approx.)	Kids Now Alive Who Will Become Smokers	Kids Now Alive Who Will Die From Smoking	Smoking Caused Health Costs (millions)	Cigarette Tax† (per pack)	Cigarette Tax Rank (1 = high)	FY 2017 Funding for State TC Programs (millions)	Tobacco Prevention Spending % of CDC Target
Maine	19.5%	37th	16.5%	**11.2%**	700	2,400	84,300	27,000	$811	**$2.00**	**14th**	$7.8	49.1%
Maryland	15.1%	10th	7.0%	**8.7%**	2,500	7,500	288,900	92,000	$2.71 bill.	$2.00	14th	$10.6	22.0%
Massachusetts	14.0%	6th	6.2%	**7.7%**	2,800	9,300	322,300	103,000	$4.08 bill.	$3.51	4th	$3.9	5.8%
Michigan	20.7%	41st	13.3%	**10.0%**	5,800	16,200	666,500	213,000	$4.59 bill.	**$2.00**	**14th**	$1.6	1.4%
Minnesota	16.2%	20th	9.8%	10.6%	2,800	5,900	319,000	102,000	$2.51 bill.	$3.04	7th	$22.0	41.7%
Mississippi	22.5%	48th	11.2%	**15.2%**	1,800	5,400	213,900	68,000	$1.23 bill.	$0.68	39th	$10.7	29.4%
Missouri	22.3%	47th	16.7%	**11.0%**	3,500	11,000	398,600	128,000	$3.03 bill.	**$0.17**	**51st**	$109,341	0.1%
Montana	18.9%	33rd	15.9%	**13.1%**	500	1,600	59,000	19,000	$440	**$1.70**	**22nd**	$6.4	44.1%
Nebraska	17.1%	22nd	11.4%	**13.3%**	1,000	2,500	118,600	38,000	$795	**$0.64**	**41st**	$2.6	12.4%
Nevada	17.5%	26th	5.1%	**7.5%**	1,100	4,100	128,700	41,000	$1.08 bill.	$1.80	20th	$1.0	3.3%
N. Hampshire	15.9%	17th	13.7%	**9.3%**	500	1,900	67,900	22,000	$729	$1.78	21st	$125,000	0.8%
New Jersey	13.5%	3rd	**5.7%**	**8.2%**	3,900	11,800	445,800	143,000	$4.06 bill.	$2.70	10th	$0.0	0.0%
New Mexico	17.5%	26th	6.8%	**11.4%**	1,000	2,600	124,500	40,000	$844	$1.66	24th	$5.7	24.9%
New York	15.2%	12th	5.4%	**8.8%**	7,600	28,200	873,900	280,000	$10.39 bill.	$4.35	1st	$39.3	19.4%
North Carolina	19.0%	34th	9.8%	**13.1%**	4,900	14,200	562,500	180,000	$3.81 bill.	$0.45	47th	$1.1	1.1%
North Dakota	18.7%	32nd	14.5%	**11.7%**	300	1,000	43,400	14,000	$326	**$0.44**	**48th**	$9.9	100.9%
Ohio	21.6%	43rd	16.3%	**15.1%**	7,100	20,200	809,800	259,000	$5.64 bill.	$1.60	25th	$13.5	10.3%
Oklahoma	22.2%	46th	13.1%	14.6%	2,400	7,500	275,600	88,000	$1.62 bill.	**$1.03**	**36th**	$23.5	55.6%
Oregon	17.1%	22nd	10.3%	*8.3%*	1,800	5,500	213,400	68,000	$1.54 bill.	$1.32	31st	$9.8	25.0%
Pennsylvania	18.1%	30th	13.7%	**12.9%**	6,700	22,000	761,500	244,000	$6.38 bill.	$2.60	11th	$13.9	9.9%
Rhode Island	15.5%	14th	**9.7%**	**4.8%**	400	1,800	48,700	16,000	$640	$3.75	3rd	$375,622	2.9%
South Carolina	19.7%	38th	11.2%	**9.6%**	2,800	7,200	322,900	103,000	$1.90 bill.	$0.57	45th	$5.0	9.8%
South Dakota	20.1%	39th	14.8%	**10.1%**	500	1,300	65,700	21,000	$373	$1.53	27th	$4.5	38.5%
Tennessee	21.9%	44th	14.9%	**11.5%**	3,400	11,400	391,400	125,000	$2.67 bill.	$0.62	42nd	$1.1	1.5%
Texas	15.2%	12th	3.9%	10.6%	13,700	28,000	1,557,800	498,000	$8.85 bill.	$1.41	28th	$10.2	3.9%
Utah	9.1%	1st	3.9%	**4.4%**	1,000	1,300	120,800	39,000	$542	$1.70	22nd	$7.5	38.9%
Vermont	16.0%	18th	16.8%	**10.8%**	200	1,000	31,500	10,000	$348	$3.08	6th	$3.4	40.2%
Virginia	16.5%	21st	7.8%	**8.2%**	4,100	10,300	469,800	150,000	$3.11 bill.	**$0.30**	**50th**	$8.2	9.0%
Washington	15.0%	9th	8.0%	*7.9%*	2,800	8,300	324,900	104,000	$2.81 bill.	$3.025	8th	$2.3	3.6%
West Virginia	25.7%	50th	27.1%	**18.8%**	1,300	4,300	147,900	47,000	$1.00 bill.	$1.20	33rd	$3.0	11.1%
Wisconsin	17.3%	24th	13.1%	8.1%	2,900	7,900	332,000	106,000	$2.66 bill.	$2.52	12th	$5.3	9.2%
Wyoming	19.1%	35th	16.9%	**15.7%**	300	800	37,800	12,000	$258	**$0.60**	**43rd**	$4.2	49.4%

Sources for Table

Adult Smoking Rates. National rate from CDC, "Current Cigarette Smoking Among Adults—United States, 2005-2015," *Morbidity & Mortality Weekly Report*, 65(44): 1205-1211, November 11, 2016, http://www.cdc.gov/mmwr/volumes/65/wr/mm6544a2.htm?s_cid=mm6544a2_w. State smoking rates from 2015 Behavioral Risk Factor Surveillance System (BRFSS) data available online from State Tobacco Activities Tracking and Evaluation (STATE) System.

Pregnancy and Smoking Data. National rate from CDC, "Smoking Prevalence and Cessation Before and During Pregnancy: Data from the Birth Certificate, 2014," National Vital Statistics Reports, 65(1), February 10, 2016, http://www.cdc.gov/nchs/data/nvsr/nvsr65/nvsr65_01.pdf. State-specific rates for smoking in regular text from: CDC, "Smoking Prevalence and Cessation Before and During Pregnancy: Data from the Birth Certificate, 2014," National Vital Statistics Reports, 65(1), February 10, 2016, http://www.cdc.gov/nchs/data/nvsr/nvsr65/nvsr65_01.pdf. State-specific rates for smoking among pregnant women in **bold** from: CDC, PRAMS 2011 online data: http://www.cdc.gov/prams/pramstat/. State-specific rates for smoking among pregnant women in italic type from: CDC, "Smoking During Pregnancy—United States, 1990-2002," *MMWR* 53(39):911-15, October 8, 2004, http://www.cdc.gov/mmwr/PDF/wk/mm5339.pdf.

Youth Smoking Rates. National rate from the 2015 National Youth Risk Behavior Survey (YRBS). State youth smoking rates from most recent years available; in bold type from the Youth Risk Behavioral Surveillance (YRBS); in regular type from Youth Tobacco Surveillance (YTS); and in italics from state-specific surveys. OR data are for 11th grade only. WA data are for 10th grade only. Because of different surveys and years, state rankings based on youth smoking cannot be done.

New Regular Daily Smokers Each Year. Estimate based on U.S. Dept of Health & Human Services (HHS), Substance Abuse and Mental Health Services Administration (SAMHSA), HHS, *Results from the 2015 National Survey on Drug Use and Health, NSDUH: Detailed Tables,* 2016. http://www.samhsa.gov/data/sites/default/files/NSDUH-DetTabs-2015/NSDUH-DetTabs-2015/NSDUH-DetTabs-2015.pdf. State-specific numbers based on each state's share of the national number.

Smoking-Caused Deaths. Includes deaths caused by cigarette smoking but not deaths caused by other forms of combustible tobacco or smokeless tobacco products, which are expected to be in the thousands per year. National data includes deaths attributable to exposure to secondhand smoke; state-specific data do not. HHS, *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General,* 2014, http://www.surgeongeneral.gov/library/reports/50-years-of-progress. State estimates of smoking-attributable deaths: CDC, *Best Practices for Comprehensive Tobacco Control Programs—2014,* http://www.cdc.gov/tobacco/stateandcommunity/best_practices/. ***Projected youth smoking deaths.*** HHS, *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General,* 2014, http://www.surgeongeneral.gov/library/reports/50-years-of-progress.

Kids Who Will Become Smokers. HHS, *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General,* 2014, http://www.surgeongeneral.gov/library/reports/50-years-of-progress.

Smoking-Caused Health Care Costs. CDC, *Best Practices for Comprehensive Tobacco Control Programs—2014,* http://www.cdc.gov/tobacco/stateandcommunity/best_practices/. See also Xu, X., et al., "Annual Healthcare Spending Attributable to Cigarette Smoking: An Update," *Am J Prev Med,* 2014. State estimates in 2009 dollars; national estimate in 2010 dollars. Health costs do not include estimated annual costs from lost productivity due to premature death and exposure to secondhand smoke. For other non-health care smoking-caused costs, see, e.g., U.S. Department of the Treasury, *The Economic Costs of Smoking in the U.S. and the Benefits of Comprehensive Tobacco Legislation*, 1998; Chaloupka, FJ & Warner, KE, "The Economics of Smoking," in Culyer, A & Newhouse, J (eds), *The Handbook of Health Economics*, 2000; Leistikow, BN, et al., "Estimates of Smoking-Attributable Deaths at Ages 15-54, Motherless or Fatherless Youths, and Resulting Social Security Costs in the United States in 1994," *Preventive Medicine* 30:353-60, 2000.

State Cigarette Tax Rates. Tax rates in effect as of 4/1/2017 (MN effective 1/1/17; CA effective 4/1/17). Orzechowski & Walker, *Tax Burden on Tobacco,* 2014 [annual report funded by the three major cigarette companies] with updates from media reports, state revenue offices. Tax rates shown in **bold** have not been increased for at least 10 years (since 2006 or earlier).

State Spending to Prevent and Reduce Tobacco Use. Campaign for Tobacco-Free Kids, et al., *Broken Promises to Our Children: A State-by-State Look at the 1998 State Tobacco Settlement 18 Years Later*, December 14, 2016, http://www.tobaccofreekids.org/microsites/statereport2017/

. CDC recommendations for the amounts states should spend to prevent and reduce tobacco use from CDC, *Best Practices for Comprehensive Tobacco Control—2014,* http://www.cdc.gov/tobacco/stateandcommunity/best_practices/.

Campaign for Tobacco-Free Kids, December 22, 2016 / Laura Bach

1617 Total Students (Public and BIA) - 7,490	7,490			
	Student Count	Pct of Total Students	Student Count Change	PCT Change
August 01, 2016 - 18 Years and Older Students	1,451	19.4%	343	4.6%
September 01, 2016 - 18 Years and Older Students	1,794	24.0%	530	7.1%
October 01, 2016 - 18 Years and Older Students	2,324	31.0%	522	7.0%
November 01, 2016 - 18 Years and Older Students	2,846	38.0%	508	6.8%
December 01, 2016 - 18 Years and Older Students	3,354	44.8%	533	7.1%
January 01, 2017 - 18 Years and Older Students	3,887	51.9%	490	6.5%
February 01, 2017 - 18 Years and Older Students	4,377	58.4%	473	6.3%
March 01, 2017 - 18 Years and Older Students	4,850	64.8%	547	7.3%
April 01, 2017 - 18 Years and Older Students	5,397	72.1%	490	6.5%
May 01, 2017 - 18 Years and Older Students	5,887	78.6%	456	6.1%
June 01, 2017 - 18 Years and Older Students	6,343	84.7%		

1617 Total Students (Public and BIA) - 7,490	7,490				
	Students >= Age 21	Student Count(excludes Students >= Age 21	Pct of Total Students (excludes Students >= Age 21	Student Count Change	PCT Change
August 01, 2016 - > = 18 and < 21	0	1,451	19.4%	340	4.5%
September 01, 2016 - > = 18 and < 21	3	1,791	23.9%	524	7.0%
October 01, 2016 - > = 18 and < 21	9	2,315	30.9%	516	6.9%
November 01, 2016 -> = 18 and < 21	15	2,831	37.8%	501	6.7%
December 01, 2016 - > = 18 and < 21	22	3,332	44.5%	526	7.0%
January 01, 2017 -> = 18 and < 21	29	3,858	51.5%	477	6.4%
February 01, 2017 - > = 18 and < 21	42	4,335	57.9%	462	6.2%
March 01, 2017 - > = 18 and < 21	53	4,797	64.0%	539	7.2%
April 01, 2017 - > = 18 and < 21	61	5,336	71.2%	481	6.4%
May 01, 2017 - > = 18 and < 21	70	5,817	77.7%	447	6.0%
June 01, 2017 - > = 18 and < 21	79	6,264	83.6%		

Att. 2
HB1312
1-23-17

North Dakota Tobacco Prevention and Control Executive Committee
Center for Tobacco Prevention and Control Policy
1680 E Capitol Avenue, Suite A • Bismarck, ND 58501-5603
Phone 701.328.5130 • Fax 701.328.5135 • Toll Free 1.877.277.5090

Testimony in support of House Bill 1312
10:45 a.m. January 23, 2017
House Human Services Committee
Representative Robin Weisz, Chair

Good morning, Chairman Weisz and members of the House Human Services Committee. I am Jeanne Prom, executive director of the North Dakota Center for Tobacco Prevention and Control Policy. The Center, also known as "BreatheND," is the state agency office operated by the N.D. Tobacco Prevention and Control Executive Committee. I am testifying in support of House Bill 1312.

In 1982, RJ Reynolds tobacco company documents stated: "If a man has never smoked by age 18, the odds are 3-to1 he never will. By age 21, the odds are 20-to-1." The tobacco industry has known for decades that increasing the age of purchase of tobacco products drives youth tobacco rates down.

In 2013, the federal Food and Drug Administration requested the Institute of Medicine (IOM) convene a committee of scientific experts to study the public health implications of raising the minimum legal age to purchase tobacco products. Why? Because 90% of first use of cigarettes occurs before age 19. After reviewing scientific literature, the committee concluded that yes, **increasing the minimum legal age of tobacco purchase above 18 would delay or completely prevent youth, especially those 15 to 17 years old, from using tobacco.**

The committee also concluded **"the impact of raising the minimum legal age to 21 will likely be substantially higher than raising it to 19."** Two reasons for this conclusion: adolescent brain development and social peer networks.

- **Adolescent brain development --** The areas of the brain responsible for decision making, sensation seeking and susceptibility to peer pressure are not fully developed until age 25. Up to age 25, the brain is most vulnerable to nicotine addiction. The IOM reported that nicotine addiction's impact on the developing brain has the potential to rewire the pleasure-seeking pathway. This rewiring can lead to a lifetime of nicotine addiction and also makes one vulnerable to other addictions. Thus, nicotine is known as a "gateway drug" leading to other drug use.

- **Social peer networks --** Most high school students under age 18 obtain tobacco products from: 18- to 20-year-old peers buying for them; family or friends giving them products; or purchasing products themselves. According to American Journal of Public Health, cigarette sales to those under 21 account for only 2.12% of total tobacco sales but produce 90% of new, replacement smokers. RJ Reynolds

astutely understood tobacco marketing. It is true that *tobacco* business will be lost if the minimum age is raised. But studies of purchasing habits show that money otherwise spent on tobacco will instead be used to purchase other non-tobacco items.

The Institute of Medicine estimated the reduction in adult tobacco use based on raising the minimum legal age to 19, 21 and 25. This reduction would be realized once today's teenagers become adults. Less tobacco use also means less exposure to secondhand smoke, good role modeling for future generations, and a healthier population.

Raising the age now to:	**Results in future adult tobacco use decreasing by:**
19	**3%**
21	**12%**
25	**16%**
Source: Institute of Medicine (IOM)	

You may hear arguments against raising the age of tobacco purchases that were made when raising alcohol's minimum age of purchase was proposed.

However, when alcohol's minimum age of purchase was raised to 21 years of age, alcohol dependence and drunk driving fatalities were remarkably reduced. *(National Institute on Alcohol Abuse and Alcoholism Research Monograph No. 25. HIH Pub. No 93-3523.; 1993: 175-200)*

And, if you can serve in the military and vote at age 18, does that mean you should be able to use or buy an age-restricted legal product? The minimum age of military service does not equal readiness to enlist in a lifetime of smoking disability and eventual death. In fact, there are active plans to decrease tobacco availability at military bases and improve the health of military personnel through quit programs. Reducing tobacco use is also based on concerns about troop combat readiness.

BreatheND supports efforts proven to reduce access to, and use of, tobacco. A 2014 review of the scientific literature by The Community Preventive Services Task Force, a basis for best practices, found insufficient evidence of the effectiveness of laws on minors' tobacco purchase *when implemented alone*, as no studies qualified for review.

Any increase in the age of tobacco purchases must be supported by resources for public education to assure high compliance, effective enforcement, and supportive tobacco-free policies (like tobacco-free school policies and our strong smoke-free state law) that BreatheND and your local public health units provide.

Please vote yes on HB 1312, and also consider amending the age to 21 for considerably greater public health impact. Vote yes for the health of your children, grandchildren, and all youth and young adults in North Dakota.

Thank you for this opportunity to testify. BreatheND is ready to assist you in the successful implementation of this law, if passed.

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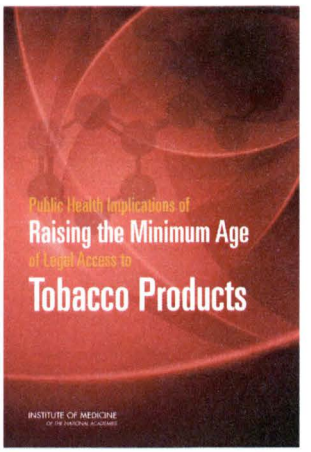
For more information visit www.iom.edu/TobaccoMinimumAge

Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products



Over the past 50 years, tobacco control in the United States has led to an estimated 8 million fewer premature deaths. However, tobacco use continues to significantly affect public health, and more than 40 million Americans still smoke.

In 2009, the Family Smoking Prevention and Tobacco Control Act granted the U.S. Food and Drug Administration (FDA) broad authorities over tobacco products, though it prohibited FDA from establishing a nationwide minimum age of legal access—an MLA for tobacco products—above 18 years of age. It also directed FDA to convene a panel of experts to conduct a study on the public health implications of raising the minimum age to purchase tobacco products. At FDA's request, the Institute of Medicine (IOM) convened a committee in 2013 for this purpose.

...tobacco use continues to significantly affect public health, and more than 40 million Americans still smoke.

In the resulting report, *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*, the committee of experts reviews existing literature on tobacco use initiation, developmental biology and psychology, and tobacco policy and predicts the likely public health outcomes of raising the MLA for tobacco products to 19 years, 21 years, and 25 years. The committee also uses mathematical modeling to quantify these predictions. Of note, the report contains only conclusions regarding raising the MLA; as requested by FDA, the committee does not offer recommendations as to whether the MLA should be raised.

Lowering Initiation Rates

The initiation age of tobacco use is critical. Among adults who become daily smokers, approximately 90 percent report first use of cigarettes before reaching 19 years of age, and almost 100 percent report first use before age 26. As mentioned above, FDA cannot raise the MLA nationwide. However, states and localities can set a higher minimum age for their communities. Most states currently set the MLA at 18 years. Four states set it at 19 years, and several localities around the country have raised the minimum age to 21 years.

Based on its review of the literature, the committee concludes that overall, increasing the MLA for tobacco products will likely prevent or delay initiation of tobacco use by adolescents and young adults. The age group most impacted will be those age 15 to 17 years. The committee also concludes that the impact of raising the MLA to 21 will likely be substantially higher than raising it to 19. However, the added effect of raising the MLA from 21 to 25 will likely be considerably less.

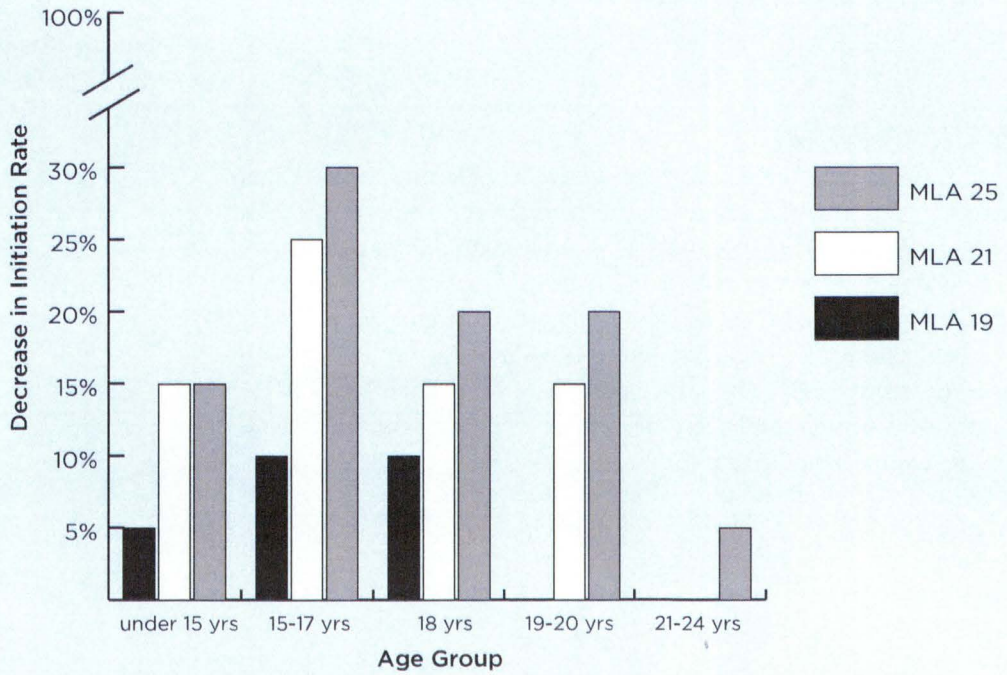
The parts of the brain most responsible for decision making, impulse control, sensation seeking, and susceptibility to peer pressure continue to develop and change through young adulthood, and adolescent brains are uniquely vulnerable to the effects of nicotine. In addition, the majority of underage users rely on social sources—like family and friends—to get tobacco.

Raising the MLA to 19 will therefore not have much of an effect on reducing the social sources of those in high school. Raising the MLA to 21 will mean that those who can legally obtain tobacco are less likely to be in the same social networks as high school students. In the same vein, increasing the MLA from 21 to 25 is not likely to achieve additional notable reductions in social sources for those under age 15.

Reducing Prevalence, Decreasing Disease

Delaying initiation rates will likely decrease the prevalence of tobacco users in the U.S. population. To quantify this decrease in both prevalence of tobacco users and in related health concerns

FIGURE: Committee Estimates Regarding Effects on Initiation Rates



NOTE: This figure was created using data from Table 7-2 in the report.

The parts of the brain most responsible for decision making, impulse control, sensation seeking, and susceptibility to peer pressure continue to develop and change through young adulthood, and adolescent brains are uniquely vulnerable to the effects of nicotine and nicotine addiction.

that could be a result of raising the MLA, the committee commissioned the use of two established and complementary tobacco simulation models, SimSmoke and the Cancer Intervention and Surveillance Modeling Network smoking population model (CISNET).

In using the models, the committee employed all available evidence and expert judgment to project outcomes. The committee also had to make assumptions with important implications. The models only address cigarette smoking, but the committee expects the MLA and relative effects on initiation to apply to all tobacco products. In addition, the models project the effects of raising the MLA on the United States as a whole and do not take into account existing variations in tobacco use—such as by race or socioeconomic status—initiation rates, and tobacco control activities. In addition, the rapidly changing landscape of tobacco products—for example, e-cigarettes—provides unknowns and could affect the future of tobacco product use in ways that the committee was unable to anticipate due to lack of evidence.

Based on the modeling and backed up by the literature review, the committee concludes that raising the minimum age of legal access to tobacco products in the United States, particularly to ages 21 and 25, will likely lead to a substantial reduction in smoking prevalence. If the MLA were raised now, the models projected that by the time today's teenagers were adults, there would be a 3 percent decrease in prevalence of tobacco use among those adults if the MLA were raised to 19, a 12 percent decrease if raised to 21, and a 16 percent decrease if raised to 25.

Given a decline in the initiation rates of tobacco use by adolescents and lower prevalence in the population, it follows that tobacco-related disease would also decrease in proportion to the reduction in tobacco use. It is generally known that smoking-related diseases like cancer and heart disease develop over decades, and therefore, it could take many years to lower rates of these diseases; however, there could be immediate decreases in other tobacco-related health effects.

The committee concludes that raising the MLA will likely immediately improve the health of adolescents and young adults by reducing the number of those with adverse physiological effects such as increased inflammation and impaired immune functioning caused by smoking, as these could potentially lead to negative health consequences, including increased hospitalizations and lessened capacity to heal wounds. Adverse maternal, fetal, and infant outcomes—including preterm births, low birth weight, and sudden infant death—will also probably decrease due to reduced tobacco exposure in mothers and infants. Raising the MLA will also lessen the population's exposure to secondhand smoke and its associated health effects, both now and in the future.

Over time, the committee concludes that raising the MLA will likely lead to substantial reductions in smoking-related mortality, though results from the models suggest that these results will not be observed for at least 30 years, assuming that the MLA increase occurs now. The CISNET model

projected that if the MLA were raised now to 21 nationwide, there would be approximately 223,000 fewer premature deaths, 50,000 fewer deaths from lung cancer, and 4.2 million fewer years of life lost for those born between 2000 and 2019.

Conclusion

The public health impact of raising the MLA for tobacco products depends on the degree to which local and state governments change their policies. These decisions will depend on each state's or locality's balance between personal interests and the privacy of young adults to make their own choices versus society's legitimate concerns about protecting public health.

The IOM committee makes conclusions about likely public health outcomes of raising the MLA for tobacco products. Overall, in the absence of transformative changes in the tobacco market, social norms and attitudes, or in the knowledge of patterns and causes of tobacco use, the committee is reasonably confident that raising the MLA will reduce tobacco use initiation, particularly among adolescents 15 to 17 years of age; improve the health of Americans across the lifespan; and save lives.

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att. 3
HB 1312
1-23-17

NDNPA
NORTH DAKOTA
Nurse Practitioner Association

TESTIMONY TO:

HOUSE HUMAN SERVICES COMMITTEE

65TH NORTH DAKOTA LEGISLATIVE ASSEMBLY

House Bill 1312 1/23/2017

Chairman Weisz and Committee Members:

I am Cheryl Rising, Family Nurse Practitioner (FNP) and Legislative Liaison for the North Dakota Nurse Practitioner Association (NDNPA). I am here to testify in support of House Bill 1312, A BILL for an Act to amend and reenact sections 12.1-31-03, 12.1-31-03.1, and 51-32-01 of the North Dakota Century Code, relating to the prohibition of an individual under nineteen years of age from purchasing and using tobacco products; and to provide a penalty.

There are individuals that are still in high school at the age 18. If the age is increased it may deter individuals that are still in high school from obtaining tobacco products. Each time we are able to deter individuals from obtaining tobacco products we are able to increase the health of our state and decrease chronic illness.

Cheryl Rising, FNP

crisingnp@gmail.com 701-527-2583

Att. 4
HB 1312
1-23-17

North Dakota Retail Association
ND Petroleum Marketers Association
North Dakota Propane Gas Association

LEGISLATIVE BULLETIN

Testimony HB 1312

January 23, 2017 – House Human Services

Chairman Weisz and members of the Committee:

For the record, my name is Mike Rud. I'm the President of the North Dakota Petroleum Marketers Association. NDPMA represents nearly 500 gas retail outlets from across the state. On behalf of our association members, I'm here urging you to recommend a "**DO NOT PASS" on HB 1312.**

NDPMA stands in opposition to HB 1312. It is just one more attempt to regulate the sale of a legal product to an adult consumer. I say adult consumer for this reason:

We all remember as teenagers asking mom or dad if we could use the family car to take the friends to Bismarck and hang out for the day or go to a concert in a larger city. In many cases the discussion would usually end up in disagreement with the parents saying when you are 18 years old you can do what you want and decide for yourself what is best.

Today in a court of law, Teenagers are considered adults at 18 years of age. They can get married at 18 years of age. They can sign business contracts at 18 years of age. They can be drafted at 18 years of age and be asked to defend OUR COUNTRY through force by taking another's life if needed.

It seems to me if 18 year olds are personally responsible enough make all of those critical life choices I just cited, then shouldn't these same people be mature enough to make the right choices when it comes to purchasing tobacco products?

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Web Address: ndretail.org • ndpetroleum.org • ndpropane.org

The retailers I represent don't encourage minors to use tobacco products. Nearly all retailers use the WE CARD program designed to make cashiers and the public more aware of the laws governing the sale of tobacco products. Many retailers have cash registers that allow them to swipe a customer's I.D. to verify age and some retailers still hire outside sources to do monthly tobacco stings on their own stores to ensure cashiers are not selling to minors.

NDPMA supports the minimum age of 18 for the sale of all tobacco products as is currently called for in the 2009 Federal Tobacco Control Act. The Federal Drug Administration (FDA) which has jurisdiction over this issue has decided not to change the current law.

A national survey by the Substance Abuse Mental Health Administration found in ND the rate of past 30-day use of tobacco products among 12-17 year olds declined from 14.7% in 2007 to 10.3 in 2014. ND retailers continually rank high in compliance check rates. Our membership is comfortable with enforcing the law as it stands. It's evident the current enforcement system isn't broken, so what are we trying to fix?

NDPMA urges a DO NOT PASS recommendation on HB 1312.