

DATE: March 23, 2016

TO: Representative Ann Pugh; Representative Sandy Haas; Members of the House Human Services Committee

FROM: Thomas Briant, Executive Director, NATO®

On behalf of retail stores members of the National Association of Tobacco Outlets located in Vermont, I am submitting the comments below as testimony in opposition to H.93 which would raise the legal age to purchase tobacco to 21. I sent each of you an e-mail yesterday with the letter as an attachment, but the message was returned as undeliverable. Thank you for your consideration of NATO's testimony.

RE: H.93 Raising the Legal Age for Buying and Selling Tobacco to 21

Dear Representative Pugh, Representative Haas, and Human Services Committee Members:

As the Executive Director and legal counsel of the National Association of Tobacco Outlets, Inc. (NATO), a national retail tobacco trade association, I am submitting this letter on behalf the association and the member retail stores located in Vermont. Please consider these comments as testimony in opposition to House Bill H.93, which would increase the legal age to the purchase and sale of tobacco products from 18 to 21.

FDA Study Confirms Minors Rely on Social Sources for Tobacco Products

The just released initial findings of the long-term Population Assessment of Tobacco and Health (PATH) study sponsored by the U.S. Food and Drug Administration and the National Institute of Health confirm that a significant majority of underage youth relies on social sources for cigarettes and other tobacco products. Generally, social sources include adult-aged older siblings, friends, parents and even strangers. Unfortunately, H.93 does not address the underlying issue of social sources, which means that the bill would not achieve its stated goal of reducing underage tobacco use.

According to the PATH study, 86% of 15 to 17 year olds obtained cigarettes by giving someone else money to buy cigarettes, asking someone else for cigarettes, being offered cigarettes from someone, buying cigarettes from another person, or taking cigarettes from someone or from a store, or obtaining cigarettes from some other non-retail source. For electronic cigarettes, the 15 to 17 year olds reported that 89% of the time they relied on social sources to obtain e-cigarettes.

The PATH study findings are virtually the same as a study published in August of 2014 in the Journal of School Health titled "Usual Source of Cigarettes and Alcohol Among US High School Students." This earlier study found that 85.9% of underage youth obtained cigarettes from sources other than buying cigarettes in a retail store.

Age 21 Will Not Prevent Minors From Obtaining Tobacco through Social Sources

Raising the legal age to 21 to purchase tobacco products as proposed in H.93 will not solve the problem of reducing access to tobacco through social sources. How does H.93 prevent underage youth from asking someone else for tobacco products, being offered cigarettes from someone, buying cigarettes from another person, or taking cigarettes from someone such as a parent? According to the PATH study, these are some of the primary sources that minors rely on to obtain tobacco products and H.93 does not contain any

provisions that will effectively curtail youth from obtaining tobacco products from these sources.

In the preamble to H.93, there is a claim that “Persons 18 through 20 years of age are responsible for 90% of the cigarettes purchased on behalf of minors less than 18 years of age.” This claim has no attribution or a citation to a study or other scientific data. The veracity of this claim needs to be examined, which cannot be done without a reference to its origin. Moreover, this claim overlooks the other ways that minors rely on social sources for tobacco products such as bumming tobacco products from a person, accepting tobacco products offered by another person, or resorting to taking cigarettes from others.

A Leadership Role on Social Sources

As state elected officials, I urge the members of the Human Services Committee to consider a leadership role by working with advocates and retailers to combat the real source of tobacco products for minors. Until the issue of social sources is recognized as the main problem with underage access to tobacco products and appropriate steps are taken to reduce the availability of tobacco through complicit adults, H.93 will only serve to penalize law-abiding retailers by reducing the sale of legal tobacco products to adults of legal age. What is needed is a change in societal attitudes that it is not permissible to serve as a source of tobacco products for minors. This change in society’s attitude will occur if lawmakers support an educational campaign that urges adults not to be a social source.

Moreover, since H.93 focuses on retailers and prohibits them from selling tobacco products to anyone under the age of 21, the bill is based on a false presumption that retailers routinely violate the law and sell tobacco products to youth under the age of 18. This false presumption should not serve as the basis for passing legislation aimed at protecting the health of underage individuals. Rather, NATO and its Vermont retail members urge each of you to refocus these commendable legislative efforts by taking action to educate the public not to serve as a social source of tobacco products. The problem of social sources has been around a long time and the retail community should not continue to be the target of legislation to further reduce youth tobacco use when retailers need to be acknowledged as part of the solution rather than part of the problem.

Adults Should Be Allowed to Purchase and Use Legal Products

Since tobacco products are legal under federal and state law, the personal liberties of all adults, regardless of age, need to be considered because government and society impose responsibilities and duties on those who have reached the age of 18 such as voting, military service, marriage, payment of income taxes, health insurance requirements, and candidacy for public office. The magnitude of these rights and responsibilities demonstrate that 18 years is the age at which a person becomes an adult and they should be afforded the right to make decisions as an adult.

Again, we respectfully request that you not support H.93 and in the alternative that other solutions be pursued to begin to solve the problem of social sources of tobacco products.

Thank you for your time and consideration.

Sincerely,

National Association of Tobacco Outlets, Inc.

Thomas A. Briant

Executive Director and Legal Counsel