



## Tobacco: No Minor Issue

### Raising the Minimum Sale to Age 21

#### OVERVIEW

Tobacco use continues to be a significant public health concern and a leading cause of preventable death in the US and across the globe.<sup>1</sup> Though we have made some great strides, the recent spike in youth and adolescent use of e-cigarettes is alarming. During 2017–2018 alone, e-cigarette use rose by 78% in high school students and 48% in middle school students.<sup>2</sup> The Monitoring the Future Survey showed that in 2018, e-cigarette use nearly doubled in high school students, the largest one-year increase seen for any substance in the history of the survey.<sup>3</sup>

The US Surgeon General has estimated that nearly 6 million children will die prematurely in adulthood if current trends continue.<sup>4</sup> Nearly 9 out of 10 cigarette smokers first try smoking by age 18, and 95% by age 21.<sup>5</sup> The 18 to 21 age range is also a time when many smokers transition to regular use of cigarettes.<sup>6</sup>

Because of the addictive nature of nicotine, experimentation or initiation of tobacco use among youth and young adults is particularly troubling. This is a critical period for growth and development, one during which the brain may be especially susceptible and sensitive to the effects of nicotine.<sup>7</sup> Increasing the minimum legal sale age (MLSA) for all tobacco products reduces youth access to and use of tobacco products, lowers health care costs, and improves overall life expectancy.<sup>8,9</sup>

#### UNDER 21: NO TOBACCO

Setting the MLSA at 21 would prohibit retailers from selling any tobacco product to anyone under that age. As of February 2019, six states and 425 cities and counties in 23 states have passed Tobacco 21 Laws, covering 90,743,391 people in the United States.<sup>10</sup> There has also been federal legislation introduced in Congress that would raise nationwide the minimum legal sale age for tobacco to 21. Raising the MLSA to 21 would target the age range at which many habitual smokers consume their first cigarette and the age at which older kids are often the social source for the youngest smokers.<sup>11</sup> Further, it would combat the tobacco industry's desire to attract a new, loyal generation of users and to re-engage those who have already quit.<sup>12</sup>

#### TOBACCO KILLING OUR FUTURE

Tobacco has deadly consequences for our youth:

- Early signs of heart disease and stroke are found in young people who smoke.<sup>4</sup>
- If current smoking rates continue, 5.6 million of today's Americans younger than 18 years of age are expected to die prematurely from a smoking-related illness. This represents about one in every 13 Americans aged 17 years or younger who are alive today.<sup>4</sup>
- Total economic costs of smoking are more than \$300 billion per year including nearly \$170 billion in direct medical care for adults and \$156 billion in lost productivity due to premature death and exposure to second hand smoke.<sup>4</sup>

#### WHY 21? THE EVIDENCE:

Evidence shows that nicotine dependence and smoking intensity are strongly correlated with younger ages of smoking initiation.<sup>13</sup> In other words, the younger people are when they smoke their first cigarette, the more likely they will be a smoker for life. Furthermore, some research suggests that adolescent smokers may experience more difficulty in quitting compared with adult smokers.<sup>14</sup>

In 2015, the National Academies of Sciences, Engineering, and Medicine released a report<sup>5</sup> that modeled the myriad of public health benefits for raising the MLSA. Notably, the report concluded that raising the MLSA to 21 would decrease tobacco use by 12% and lead to:

- Nearly 225,000 fewer premature deaths.
- Nearly 50,000 fewer deaths from lung cancer.
- Almost 300,000 fewer pre-term births.
- 4.2 million fewer years of life lost for those born between 2000 and 2019.
- Less of a likelihood that adolescents will have peer group members who are over the MLSA.

Tobacco sales to those younger than 21 years account for just 2% of total tobacco sales, yet, produce 90% of new smokers.<sup>15</sup>

Tobacco 21 is one of the most popular retail-based policy approaches<sup>16</sup> – one poll showed 60% of smokers and 69% of non-smokers support<sup>16</sup>. Another survey showed that among all adults, 50.4% strongly and 24.6% somewhat favored raising the age to 21 years; 77.5% of never smokers, 74.6% of former smokers, and 69.9% of current smokers strongly or somewhat favored it.<sup>17</sup>

A study in Massachusetts<sup>18</sup> showed that local Tobacco 21 initiatives can have a significant impact:

- 30-day smoking rates decreased in Needham where Tobacco 21 was passed, from 13% to 7%, and this was significantly greater than comparison communities (15% to 12%). This decline was consistent for both genders, Caucasian and non-Caucasian youth, and all grades surveyed. Cigarette purchases among current smokers also declined significantly more in Needham than in the comparison communities.

## ENFORCEMENT

Although passing Tobacco 21 laws has some effect on youth purchasing, there is significantly more reduction in adolescent smoking when sufficient enforcement that disrupts sales to minors is implemented.<sup>19</sup> Retailers are a major source of tobacco products for minors, especially in low-income, segregated neighborhoods with more black and Latino residents.<sup>20</sup>

Primary enforcement should focus on retailer compliance with not selling to minors rather than on illegal purchases or youth possession. Research has shown that there is differential enforcement of tobacco purchasing and possession laws – Black and Hispanic youth have a higher probability of being cited than their white peers.<sup>21</sup> One of the reasons that the tobacco industry focuses on criminalizing youthful purchasers of tobacco is to make it difficult or impossible to research and monitor merchant compliance programs.<sup>22</sup> Criminalizing youthful purchases may also help shield alcohol and tobacco producers from civil liability claims.<sup>22</sup>

Best practices for retailer enforcement include having an articulated plan for enforcement, giving enforcement responsibility to a single agency, conducting ongoing compliance check inspections, allocating funding for enforcement inspections, prosecuting violators, setting high penalties for violations, and practicing effective merchant education.<sup>19</sup>

## THE ASSOCIATION ADVOCATES

The American Heart Association advocates for policies at the federal, state and local levels that prohibit the sale of all tobacco products, including e-cigarettes, to anyone under the age of 21. Those laws should include effective enforcement mechanisms, including compliance checks, to ensure retailers comply with the law and not place the punishment or burden on youth.

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