



March 1, 2023

To: Senate Committee on Economic Development, Housing and General Affairs

From: Tina Zuk, Government Relations Director, American Heart Association

Re: S.19, eliminating penalties against youth for tobacco purchase, use and possession

Thank you very much for the opportunity to testify. I'm Tina Zuk, VT Government Relations Director for the American Heart Association.

Our organization, along with the Coalition for a Tobacco Free Vermont, urge you to pass S.19.

This coalition is comprised of such respected public health organizations as: the American Cancer Society-Cancer Action Network, Vermont Medical Society, American Lung Association, American Academy of Pediatrics-VT Chapter, Vermont Academy of Family Physicians, and the Campaign for Tobacco Free Kids.

We're asking you to pass this bill and lift the penalties on youth not because we want them to use tobacco but we want them to more easily be able to quit.

You've heard that law enforcement is not actually using these laws.

But kids believe they are.

That means that kids are not getting the counseling and help they need for addiction.

The question isn't about removing a punishment for kids who are vaping,

It's about removing a barrier for kids to get help.

That's what this is about.

What are we going to do to help our kids break addiction?

Youth Purchase, Use or Possession (PUP) laws are not effective public health prevention, because they:

- **Distract from more effective enforcement measures:** Penalizing kids is not an effective strategy to reduce youth tobacco use, a finding that is even more relevant when the behavior in question is addictive.
- **Make kids, many of whom are addicted to tobacco, the victims.** PUP laws unfairly punish and stigmatize kids, many of whom become addicted because of the tobacco industry's aggressive marketing to kids.

The tobacco industry spends \$15 million annually marketing its products in Vermont and kids are getting hooked.

We just learned this week that Vermont is second highest in the country in direct mail marketing by the industry.

- **Regarding the question that's come up in the committee about what the penalty to youth would be if we removed the fine?** The answer is they are already paying the penalty now.

-26% of Vermont high school students are vaping

-According to the Vermont YRBS, daily use by youth also increased from 9% in 2015 to 31% in 2019, indicating likely addiction

-As we heard in testimony last week before the Senate Health and Welfare Committee by 2022 CVU graduate Ryan Canty, his friend coughed up blood and continued to vape

-Rutland School nurse Justine Franko who will be testifying Senate Health and Welfare this morning, said vaping is a daily and very big problem at the school. Youth miss class 2 to 3X a day due to their vaping for 20-30 minutes at a time. Now, she says, students have digestive issues and acid reflux from the stress and "Tums are flying off the shelves."

-Youth are vaping to relieve anxiety and are finding more anxiety is caused by their vaping

-Third graders are sharing flavored vape products on the playground

- **PUP laws prevent youth from seeking counseling or cessation resources for fear of being fined. This is a critical point.**

While the laws don't serve as an effective deterrent to using tobacco, they do serve as an effective deterrent to youth seeking help to quit. We need to instead create an environment where students can quit.

Though addicted, they're punished even further by prolonging their addiction because they are afraid to come forward and get help.

It is providing youth with an environment where they have a sense of trust or comfort to come forward that is more successful in helping them quit.

As Sen. Cummings stated in yesterday's discussion of this bill, police in her district weren't going to enforce giving a ticket because they wanted to build relationships with youth.

We heard this same message during testimony last week before Senate Health and Welfare from the student Assistance Program counselor at CVU, Matt Meunier. He noted that the hassle of coming forward is too much for many youth and they choose to keep vaping instead.

Rutland cessation specialist Sarah Cosgrove said, "When we do education in schools we try to create an environment where open conversations are important." They learn from this the full picture of what the student is going through and where they are receiving their vape products.

- **PUP laws are not a proven measure for reducing youth smoking.** Tobacco companies have a history of supporting PUP laws as alternatives to tougher tobacco industry regulations, such as eliminating the sale of menthol and flavored tobacco, that would produce greater declines in youth smoking.

As Commissioner Knight testified yesterday, DLL's focus is on educating the stores on not selling to kids. That's where the emphasis should be, and taking action to prevent youth from getting hooked in the first place, not penalizing youth.

And we agree that the clerks should not be penalized. Line 10 of page 4 of S.19 places the fine solely on the retailer.

More effective strategies to reduce youth tobacco use are:

Passing legislation such as S.18 which would eliminate the sale of menthol and flavored tobacco products. 97% of youth e-cigarette users report using flavors. Cessation specialist Sarah Cosgrove noted in her testimony that 3rd graders are sharing flavored vaping products on the playground. Taking away the allure of tobacco, the flavors, would help.

And adequately funding Vermont's tobacco control program. The program reduced youth smoking rates from 33% when it began to 7% currently. But the advent of e-cigarettes has caused 26% of Vermont high school students to vape.

The tobacco program needs additional resources to tackle this including funding for media and education that helps to change norms and prevent kids from using tobacco.

- **The cost of not acting is high.** As Sen. Clarkson noted previously, Vermont is paying a high price tag for not acting further on tobacco prevention. For years, the annual cost of treating smokers in Vermont was \$348 million. It has now risen to \$404 million, \$93 million of which are direct Medicaid expenditures.

PUP laws are also inequitable because they disproportionately affect youth of color:

- **Youth of color are more likely to smoke because these populations have been targeted via advertising** and retailer placement by the tobacco industry.^{i ii}
- In addition to carrying a higher burden of tobacco-related harm, **African American and Hispanic youth report higher citation rates than their white peers** even after accounting for smoking frequency.ⁱⁱⁱ These findings mirror disparities recorded throughout criminal justice and school disciplinary systems.
- **Enforcement of PUP laws also disproportionately affects youth from low-income communities.** High smoking rates are correlated with low income, and there are more tobacco retailers and advertisements in less affluent areas.^{iv} Consequently, low-income youth are more likely to smoke and to be affected by PUP laws.

Request by Vermont Abenaki to eliminate penalties against youth for cultural reasons:

- We were contacted by Abenaki leader Joann Crawford to eliminate the penalties against youth for tobacco use because an unintended consequence of the Tobacco 21 legislation was that Abenaki youth felt ashamed of their culture in which they use tobacco for ceremonial purposes.

This legislation would eliminate that stigma and create a more welcoming environment for kids to come forward and quit. We hope you'll pass it. Thank you.

ⁱ Bach, L. Tobacco Company Marketing to Kids. Washington, DC: Campaign for Tobacco-Free Kids. www.tobaccofreekids.org/assets/factsheets/0008.pdf. Accessed on March 5, 2019.

ⁱⁱ American Lung Association, Campaign for Tobacco-Free Kids, American Cancer Society, et al. Achieving Health Equity in Tobacco Control. truthinitiative.org/sites/default/files/Achieving%20Health%20Equity%20in%20Tobacco%20Control%20-%20Version%201.pdf. Published December 8, 2015. Accessed on March 5, 2019.

ⁱⁱⁱ Gottlieb NH, Loukas A, Corrao M, McAlister A, Snell C, Huang PP. Minors' tobacco possession law violations and intentions to smoke: implications for tobacco control. *Tobacco Control*. 2004;13(3):237.

^{iv} American Lung Association, Campaign for Tobacco-Free Kids, American Cancer Society et al. Achieving Health Equity in Tobacco Control. truthinitiative.org/sites/default/files/Achieving%20Health%20Equity%20in%20Tobacco%20Control%20-%20Version%201.pdf.