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To: Senate Labor and Commerce
Subject: SB 24

Public Testimony SB 24

I am submitting this testimony regarding Alaska SB 24, which seeks to increase the minimum age for purchasing tobacco and nicotine products, implement taxes on certain smoking devices, and allocate funds to tobacco cessation programs. While the bill aims to improve public health outcomes, it presents several significant issues that need to be addressed to avoid unintended consequences, particularly in rural and remote Alaskan communities, marginalized groups, and small businesses.

1. Constitutional and Legal Concerns

The proposed legislation may face legal challenges on several grounds:

Overreach of State Powers: SB 24's increased restrictions on tobacco and nicotine use could conflict with personal freedoms. The state's broad regulatory powers must balance public health interests with individual rights. This could be challenged as unconstitutional if the law is seen as too restrictive (U.S. Const. Amend. XIV).

Commerce Clause Issues: The bill's tax provisions on electronic smoking devices could conflict with federal commerce regulations, especially if state laws impose burdens on interstate trade, which has been an issue in previous cases involving state tobacco taxes (Granholm v. Heald, 2005).

2. Loopholes and Ambiguities

Definition of Products: SB 24 lacks clarity in its definitions of "tobacco" and "nicotine products," which may lead to inconsistent enforcement and regulatory gaps. For example, if e-cigarettes and other nicotine products are not clearly defined, businesses could circumvent tax and age restrictions (FDA, 2019).

Federal vs. State Regulations: SB 24 may overlap with federal regulations, particularly those established by the FDA regarding electronic smoking products, creating a situation of conflicting laws. This could result in businesses facing challenges in compliance and confusion among consumers (FDA, 2020).

3. Disparate Impact on Marginalized Groups

Cultural Impact on Indigenous Communities: Many indigenous Alaskan communities use tobacco in traditional practices. Increasing the legal age for purchasing tobacco or implementing additional taxes may disproportionately affect these communities. Failure to engage with these groups during the legislative process could lead to cultural insensitivity (National Congress of American Indians, 2020).

Economic Burden on Low-Income Communities: Tobacco consumption is more prevalent in lower-income populations. The imposition of additional taxes could worsen financial disparities and lead to an increase in illicit trade, which tends to affect lower-income and rural communities most (Campaign for Tobacco-Free Kids, 2021).

4. Impact on Rural and Remote Communities

Access to Products: Rural communities in Alaska may already struggle with access to regulated tobacco products due to limited retail outlets. Raising the legal age or imposing higher taxes could exacerbate these access issues, making it harder for individuals to obtain products legally (Alaska Department of Health and Social Services, 2020).

Black Market Activity: Higher taxes and age restrictions could lead to a rise in black-market sales, particularly in remote areas where enforcement is difficult. This would undermine the bill's public health goals and introduce additional risks associated with unregulated products (Alaska State Troopers, 2021).

Enforcement Challenges: With fewer law enforcement resources in rural areas, SB 24's enforcement provisions may be difficult to implement effectively. This could result in uneven application of the law across the state (Alaska Department of Public Safety, 2021).

5. Economic Impact and Unintended Consequences

Small Business Impact: Small businesses in Alaska that sell tobacco and nicotine products may bear the brunt of compliance costs associated with SB 24. These businesses could experience increased operational costs, leading to reduced profitability or even closure (Alaska Small Business Development Center, 2021).

Administrative Burden: The bill introduces complex regulatory measures that could result in increased administrative burdens on both state agencies and businesses, particularly those that are already struggling to stay compliant with existing regulations (Alaska Legislative Finance Division, 2021).

6. Lack of Comprehensive Support Programs

Inadequate Cessation Programs: While SB 24 aims to reduce tobacco use, it does not sufficiently address smoking cessation programs. Alaskan residents, particularly those in rural areas, may lack access to support services that are essential for those wishing to quit smoking (American Lung Association, 2020). Without this support, the law's goals could fall short.

7. Cultural Sensitivity and Social Considerations

Cultural Insensitivity: The bill does not appear to consider the cultural practices surrounding tobacco use in Alaskan Native communities. Imposing these regulations without consultation with these communities could create social discord and contribute to a sense of alienation (Alaska Native Health Board, 2020).

8. Potential for Legal Challenges

Challenges to Constitutionality and Economic Viability: Given the complexity and potential conflicts with federal regulations, SB 24 could face legal challenges regarding its constitutionality and economic impact, particularly from businesses that rely on tobacco sales and consumers seeking affordable products (Tobacco Control Legal Consortium, 2021).

Conclusion

In conclusion, while SB 24's intent to improve public health is commendable, it faces significant challenges that could undermine its effectiveness. These challenges include potential legal concerns, negative economic impacts on marginalized communities and small businesses, enforcement difficulties in rural areas, and cultural insensitivity towards indigenous communities.

I urge the legislature to consider these issues carefully and engage with affected groups to ensure that the bill's objectives are met without exacerbating existing inequalities or legal conflicts. Focusing on health may be a better solution for our small businesses and public health in the long run.

Thank you for your consideration,
Susan Allmeroth
Two Rivers
Myself

References:

American Lung Association. (2020). The impact of tobacco use in rural America. Retrieved from <https://www.lung.org>

Alaska Department of Health and Social Services. (2020). Tobacco use in Alaska: A review of public health trends. Retrieved from <https://www.hss.state.ak.us>

Alaska Department of Public Safety. (2021). Annual report on law enforcement resources in rural Alaska. Retrieved from <https://www.dps.alaska.gov>

Alaska Legislative Finance Division. (2021). Fiscal analysis of SB 24: Projected impacts and enforcement costs. Retrieved from <https://www.legfin.akleg.gov>

Alaska Native Health Board. (2020). Health disparities and tobacco use in indigenous Alaskan communities. Retrieved from <https://www.anhb.org>

Campaign for Tobacco-Free Kids. (2021). The economic impact of tobacco taxes and youth access restrictions. Retrieved from <https://www.tobaccofreekids.org>

FDA. (2019). Regulation of e-cigarettes and other electronic nicotine delivery systems (ENDS). Retrieved from <https://www.fda.gov>

National Congress of American Indians. (2020). The intersection of tobacco use and indigenous culture. Retrieved from <https://www.ncai.org>

Tobacco Control Legal Consortium. (2021). Litigation risks in tobacco control regulation. Retrieved from <https://www.publichealthlawcenter.org>