

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

May 4, 2023

3:03 p.m.

MEMBERS PRESENT

Representative Mike Prax, Chair
Representative Justin Ruffridge, Vice Chair
Representative CJ McCormick
Representative Jesse Sumner
Representative Zack Fields
Representative Genevieve Mina

MEMBERS ABSENT

Representative Dan Saddler

COMMITTEE CALENDAR

HOUSE BILL NO. 176

"An Act relating to tobacco, tobacco products, electronic smoking products, nicotine, and products containing nicotine; raising the minimum age to purchase, sell, exchange, or possess tobacco, a product containing nicotine, or an electronic smoking product; relating to the taxation of electronic smoking products and vapor products; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 176

SHORT TITLE: AGE FOR TOBACCO/NICOTINE/E-CIG; TAX E-CIG

SPONSOR(S): REPRESENTATIVE(S) HANNAN

04/24/23	(H)	READ THE FIRST TIME - REFERRALS
04/24/23	(H)	HSS, L&C, FIN
05/04/23	(H)	HSS AT 3:00 PM DAVIS 106

WITNESS REGISTER

REPRESENTATIVE SARA HANNAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As the prime sponsor, introduced HB 176.

TIMOTHY CLARK, Staff
Representative Sara Hannan
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Hannan, prime sponsor, gave a PowerPoint presentation, titled "HB 176 Restricting Youth Access to Tobacco and E-Cigarettes."

MEGAN BOELTER, Western Regional Director
Preventing Tobacco Addiction Foundation
Clovis, New Mexico

POSITION STATEMENT: Provided invited testimony on HB 176.

KATIE STEFFENS, Deputy Program Manager
Tobacco Prevention and Control Program
Division of Public Health
Department of Health
Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony on HB 176.

JOE DARNELL, Chief Investigator
Tobacco Enforcement and Youth Education Program
Division of Behavioral Health
Department of Health
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 176.

SCHELL HAMMEL, Legislative Director
Smoke Free Alternatives Trade Association
Frisco, Texas

POSITION STATEMENT: Provided testimony on HB 176.

DAVID PARROTT, Owner, Member
5150 Vapes;
Smoke Free Alternatives Trade Association
Soldotna, Alaska

POSITION STATEMENT: Provided testimony on HB 176.

NANCY MEADE, General Counsel
Alaska Court System
Civil Division (Anchorage)
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 176.

BRANDON SPANOS, Deputy Director
Tax Division
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 176.

ACTION NARRATIVE

[3:03:02 PM](#)

CHAIR MIKE PRAX called the House Health and Social Services Standing Committee meeting to order at 3:03 p.m. Representatives Ruffridge, McCormick, Sumner, Mina, and Prax were present at the call to order. Representative Fields arrived as the meeting was in progress.

HB 176-AGE FOR TOBACCO/NICOTINE/E-CIG; TAX E-CIG

[3:04:32 PM](#)

CHAIR PRAX announced that the only order of business would be HOUSE BILL NO. 176, "An Act relating to tobacco, tobacco products, electronic smoking products, nicotine, and products containing nicotine; raising the minimum age to purchase, sell, exchange, or possess tobacco, a product containing nicotine, or an electronic smoking product; relating to the taxation of electronic smoking products and vapor products; and providing for an effective date."

[3:05:04 PM](#)

REPRESENTATIVE SARA HANNAN, Alaska State Legislature, as prime sponsor, introduced HB 176. She stated that the proposed legislation would protect children from nicotine addiction and restrict the sale of nicotine products to young people. She reported that the cigarette and nicotine industry has acknowledged the decline in usage of traditional cigarettes, which resulted in the new option of e-cigarettes. She suggested that e-cigarettes are marketed to appeal to a wide range of consumers, especially young consumers. She continued that nicotine companies have designed most e-cigarettes to be colored and flavored like fruit or candy, which makes it more appealing to young consumers and for easy covert consumption. She acknowledged that adults use e-cigarettes to reduce the use of nicotine; however, the Food and Drug Administration (FDA) has not approved e-cigarettes as a smoking cessation device. She

argued that instead e-cigarettes act as an attractive form of nicotine delivery.

REPRESENTATIVE HANNAN stated that HB 176 would prevent nicotine addiction from occurring in the first place by raising the legal age for the purchase and possession of tobacco products, including e-cigarettes, to 21. She stated that the proposed legislation would also introduce a state sales tax of 25 percent on electric nicotine. She reported that e-cigarettes are the only tobacco product not currently taxed by the state. She explained that taxes have been proven to reduce youth tobacco use. She expressed the hope that the tax would dissuade youth from initial use and inspire them to quit if already addicted. She said that HB 176 would make Alaska's tobacco laws consistent with the state's laws restricting alcohol and marijuana. It would also make the tobacco laws consistent with military policies, federal law, K-12 school policies, and the state's public health goal of reducing tobacco. She emphasized that this action is needed to protect young Alaskans from the potential of a lifelong nicotine addiction.

[3:08:58 PM](#)

TIMOTHY CLARK, Staff, Representative Sara Hannan, Alaska State Legislature, on behalf of Representative Hannan, prime sponsor, gave a PowerPoint presentation, titled "HB 176 Restricting Youth Access to Tobacco and E-Cigarettes." Comparing how cigarette and vaping products are marketed, he showed marketing campaigns for tobacco products on slide 2. He pointed out that there is an obvious focus on youthfulness in both kinds of marketing. He continued to slide 3 to discuss how vaping culture has become normalized across social media, and he showed examples from Instagram and YouTube, which he described as encouraging vaping among young people.

MR. CLARK showed images on slide 4 of the many devices collected from recent school confiscations and emphasized their toy-like and colorful appearance. He stated that these devices are being cleverly designed to avoid detection, and he pointed to a picture of a vaping device disguised as a watch. On a series of images on slide 5, he compared the cost and number of hits of various e-cigarettes. He reported that even devices that cost less would deliver a substantial amount of nicotine. He explained a graphic on slide 6, which showed that each milligram of nicotine in a vaping device is equivalent to one traditional cigarette.

3:15:00 PM

MEGAN BOELTER, Western Regional Director, Preventing Tobacco Addiction Foundation, provided invited testimony on HB 176. She explained that over the past two decades the foundation has worked with many health and state agencies across the country to develop similar policies as HB 176, such as tobacco retail licensure and point of sale requirements. She pointed out that similar bills have been implemented in Alaska before, but the state is still 1 of 11 states that do not have a "Tobacco 21" law, which federally restricts tobacco usage for those under 21 years old. She explained that HB 176 would hold noncompliant retailers accountable for illegal tobacco sales, rather than the youth. She reported that many state and local school boards have lawsuits against the leading vape company, Juul, and these are associated with youth tobacco use. She explained that these lawsuits have revealed that predatory and deceptive marketing practices are used to target young people.

MS. BOELTER reiterated that HB 176 would align with existing federal law by raising the legal age of sale from 19 years old to 21 years old. She explained that the law also ties federal substance abuse treatment funds to meeting a compliance threshold. She warned that Alaska would have a high retail compliance rate to insure the continued receipt of these grants. She continued that the proposed bill would also be consistent with the Department of Defense's policy on military base sales of tobacco, and the state's policy, which prohibits selling tobacco and e-cigarettes to anyone under 21. She reported that studies have linked tobacco use to scholastic under performance and mental health issues, including depression. She stated that it has been repeatedly shown that if someone has not become addicted to nicotine before the age of 21, it would be very unlikely in the future.

MS. BOELTER argued that point of sale restrictions would be the most effective way to decrease tobacco use in youth, as a recent study has shown this reduces the use of vaping devices across all grade levels by almost 50 percent. She reported that surveys show Alaskan teenagers have increased vaping from 18 percent in 2016 to 26 percent in 2019, with the COVID-19 pandemic exacerbating the issue. She explained that a recent study shows that over 40 percent of youth procure e-cigarettes from retail stores, despite opponents to the bill claiming that the retail sources are not significant. She argued that because Alaska law still permits 18-year-olds to purchase e-cigarettes, it can be classified as a retail source when someone under 18

gets a vaping device from an of-age friend or colleague. She reiterated that FDA has never approved any electronic smoking device as a cessation method, as there is not enough evidence to support any industry claims that e-cigarettes help individuals to quit smoking; however, there is a growing amount of evidence to support the contrary. She reported that the Air Force Surgeon General has said that tobacco use degrades air force readiness and health and leads to preventable health care costs. She asserted that a license to sell harmful products is a privilege, not a right, and it comes with the responsibility to act in accordance with protections, including the restriction of sales to those under 21 years old.

[3:20:16 PM](#)

REPRESENTATIVE SUMNER questioned why the proposed age restriction is 21 years old.

MS. BOELTER responded that the brain continues to develop up to the age of 25 and is particularly vulnerable to nicotine while in development. She agreed that it would be beneficial to raise the legal age to 25; however, it is unlikely to happen since in significant portions of state and federal law, minors are defined as people under 21 years old.

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REPRESENTATIVE SUMNER, other than the age restrictions on alcohol and nicotine, asked which sections of federal law define a minor as under 21 years old.

MS. BOELTER stated that HB 176 would be dealing directly with the definition of a minor in respect to regulations for nicotine, and under federal nicotine restrictions, a minor is defined as someone younger than 21 years old. She noted this is true for alcohol as well.

[3:22:19 PM](#)

REPRESENTATIVE MCCORMICK asked when and why the legal age for purchasing tobacco products became 21 years old.

REPRESENTATIVE HANNAN reported that in 2019 [Tobacco 21] was signed into federal law to increase the age restriction.

[3:23:08 PM](#)

KATIE STEFFENS, Deputy Program Manager, Tobacco Prevention and Control Program, Division of Public Health, Department of Health (DOH), provided invited testimony on HB 176. She warned that the progress made to reduce tobacco use in Alaska has been threatened by the rising use of e-cigarettes by youth. She reported that one out of four high school students in Alaska use e-cigarettes, and this is in comparison to one out of twenty adults. She stated that while the national surveys have shown a decline in tobacco use in recent years, there are no current estimates for Alaska. She referenced that data shows students are being suspended from schools in Alaska for use or possession of tobacco or e-cigarettes while on campus, with 964 suspensions during the 2021-22 school year. She stated that this is an increase of 232 percent since the 2015-16 school year.

MS. STEFFENS asserted that implementing a comprehensive prevention plan has been proven to reduce consumption, and raising the cost of tobacco products has proven to be the single most effective strategy, as youth are two to three times more likely [than adults] to respond to price increases. She stated that the effectiveness of raising costs increases when combined with other strategies, such as raising the minimum legal age. She reported that raising the age to 21 years old is estimated to reduce youth smoking rates by 12 percent. She noted that most youth access tobacco through social sources and posited that increasing the legal age of possession would weaken the opportunities for access. She explained that HB 176 would apply these proven strategies, as well as a restriction on online sales and a requirement for age verification when shipping and transporting tobacco. She stated that HB 176 would lead to better health outcomes for Alaskans.

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REPRESENTATIVE SUMNER shared that statistics from the Center for Disease Control (CDC) indicate those who live under the poverty line with higher rates of smoking have an overall reduction in life expectancy. He inquired about the possible economic implications of the proposed bill, pointing out that the increase in cost could be a regressive tax, burdening the poorest in our society. He noted that the contributing factor with the strongest correlation for life expectancy is socioeconomic class. He posited that instituting a tax on cigarettes could cause those below the poverty level to become even poorer, which could in turn decrease life expectancy even more. He asked whether any economic analysis has been done on this impact.

MS. STEFFENS spoke to the issue from the public health perspective. She stated that tobacco use is regressive, with those most affected by the consequences of tobacco use being people in lower income categories. She reiterated that evidence has shown that higher costs of tobacco would lead to better health outcomes overall. She deferred to the Department of Revenue, Tax Division for an economic evaluation.

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REPRESENTATIVE SUMNER questioned the direct correlation between past tax increases on tobacco and increased life expectancy.

MS. STEFFENS referred to DOH's website about the correlation between the history of tax and price increases and the reduction in tobacco use in the state. She stated that she would report back to the committee with this information.

[3:29:35 PM](#)

REPRESENTATIVE MINA, concerning price increases being a deterrent to youth tobacco use, noted that the bill would create a fine for youth possession. She questioned any evidence which shows this would be successful at motivating tobacco cessation.

MS. STEFFENS reported that there is no strong evidence in research which shows this. She pointed out that another option could be having those caught with tobacco participate in an educational program. She explained that there are already many organizations in Alaska providing education and resources, which could include cessation programs to these students.

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REPRESENTATIVE MINA asked how much the current fine for underage smoking is and how frequently the fine is enforced.

REPRESENTATIVE HANNAN deferred the question to the head of the Tobacco Enforcement and Education Program.

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CHAIR PRAX asked whether the sale of vaping products to children under 18 is currently prohibited.

MS. STEFFENS replied that the sale of e-cigarettes to those 19 years old and younger is prohibited under current state law.

CHAIR PRAX asked whether the health effects associated with vaping are correlated at the same rate as tobacco, especially concerning the reduction in deaths seen from reduced use.

MS. STEFFENS replied that research is still being conducted on the health effects of vaping. She added that the high nicotine content in e-cigarettes is the main concern, and this is because of the physiology of nicotine use. She explained that when nicotine molecules enter the brain they connect to receptors [for creating neurotransmitters like serotonin]. She reported that as a person's nicotine usage increases, additional receptors are created, especially in still developing brains, and this makes the addiction stronger. She stated that the main health concern specific to vaping for youth is the amount of new neural pathways being developed by the nicotine, which sets up youth for long-term nicotine addiction.

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CHAIR PRAX asked whether there is any conclusive evidence on the health risks associated with vaping.

MS. STEFFENS offered to prepare a more in-depth report for the committee. She stated that there is evidence that vaping effects the cardiovascular system and mental capabilities associated with learning, like concentration and impulse control. She mentioned that data from the [Poison Hotline] indicates most calls received for nicotine poisoning are related to youth consumption. In response to a follow-up question, she confirmed that the calls were about nicotine poisoning from e-cigarettes.

CHAIR PRAX shared his concern about the health effects from the overuse of cell phones. He opined that this would be more negative than vaping. He argued that society may be focusing on the wrong thing. He inquired about any research into the negative health effects of cell phone usage.

MS. STEFFENS responded that there are many addictive things in our society; however, this focus is on nicotine. She offered to investigate the issue with DOH.

[3:37:24 PM](#)

REPRESENTATIVE FIELDS asked whether there was a distinction in nicotine addiction rates between rural and urban areas.

MS. STEFFENS replied that the data is broken down regionally and e-cigarette usage is fairly similar across the state. She noted that some tobacco products have a concentrated use in some regions.

REPRESENTATIVE FIELDS referenced Alaska Native Tribal Health Consortium's (ANTHC) robust tobacco cessation efforts. He questioned what could be taken from this effort about using e-cigarettes to reduce nicotine consumption.

MS. STEFFENS stated that the Tobacco Prevention and Control Program (TPCP) works closely with ANTHC, as it is one of TPCP's grantees. It also works with ANTHC's epidemiology team to review and compare data, which allows TPCP to make decisions on how to move forward on tobacco cessation issues for all of Alaska. She shared that TPCP has learned a great deal through its partnership with ANTHC.

REPRESENTATIVE FIELDS requested a follow-up to the committee on what exactly TPCP has learned from ANTHC's programming and data.

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REPRESENTATIVE RUFFRIDGE noted that the devices used to deliver nicotine can also be used to deliver tetrahydrocannabinol (THC), which is derived from cannabis. He questioned whether there is the same concern for controlling youth access to cannabis.

REPRESENTATIVE HANNAN responded that cannabis is already restricted to those who are 21 years old and under, and it is taxed. She explained that HB 176 would bring Alaska's nicotine laws into compliance with federal age restrictions and add a tax to vaping products, which are the only tobacco products currently not taxed. She stated that because vaping products are relatively new, they were not included in tax laws for nicotine. She explained that when cannabis was legalized in Alaska, all forms were put into tax code at the same time, including vaping; therefore, the preventative measures of age restriction and taxation already apply to cannabis.

REPRESENTATIVE RUFFRIDGE expressed the opinion that the age restriction and taxation do not appear to be preventing youth from using vaping devices for cannabis. He questioned any data

showing the correlation between these preventative measures and youth cannabis use.

REPRESENTATIVE HANNAN replied that she does not have data on youth cannabis use, as her focus of the proposed bill is to institute a tax on the area of tobacco not taxed. She stated that this would bring Alaska into compliance with federal age restrictions. She shared the belief that passing the law would not stop the behavior completely. She gave the example of alcohol, which has been illegal for youth for a long period of time, yet there is still underage consumption. She expressed confidence in the evidence that taxation would help deter or delay nicotine because of price sensitivity.

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REPRESENTATIVE SUMNER pointed out that one of the goals of HB 176 is to achieve taxing parity between e-cigarettes and other forms of tobacco. He questioned whether this could unintentionally influence product preference and cause people to choose conventional cigarettes, which are potentially more harmful than e-cigarettes.

REPRESENTATIVE HANNAN, based on a 30-year history of teaching teenagers, expressed the belief that making vaping more expensive would not cause youth to choose combustible cigarettes instead. She explained that the social perception of the dangers of smoking [combustible cigarettes] has changed overtime, as the correlation between cigarettes and health risks and disease have become more documented and widely publicized. She shared her belief that for most teenagers the risks associated with tobacco use are linked to combustible cigarettes rather than nicotine addiction. She contended that the nicotine industry shifted its marketing to take advantage of the fact vaping does not have the same stigma of association with disease. She argued that taxing e-cigarettes at the same rate as other tobacco products is not unreasonable and would not lead to youth choosing other forms of tobacco over vaping.

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REPRESENTATIVE SUMNER asked which would be more effective for cessation efforts - the social stigmatization of combustible cigarettes or taxation.

REPRESENTATIVE HANNAN shared her belief that it would be a combination of the two. She continued that the 50 years of

advocacy to counteract marketing campaigns, in combination with nationwide policies, have produced the steady decline in the consumption of traditional cigarettes. She posited that the increase in youth vaping rates is because it does not share the same stigma. She reiterated the belief that this is in part because how vaping is marketed. She emphasized that the government's response to the health risks from combustible cigarettes has included extensive education, campaigning, and increased taxation.

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REPRESENTATIVE SUMNER referenced the elevated rates of teenage binge drinking in the United States in comparison with Europe, even though Europe has a less restrictive age limit. He posited that age restriction and taxation may be taking the wrong approach. He suggested that with substances like alcohol and nicotine a sociological approach would be more effective.

REPRESENTATIVE HANNAN opined that this idea is looking at a broader issue, and she reiterated that the proposed legislation would only address a tobacco tax parity issue. She reiterated that e-cigarettes are the only form of tobacco not taxed, and Alaska is 1 of 11 states that has yet to comply with the federal Tobacco 21 law. She posited that the underlying question being asked is whether prohibition works. She expressed the opinion that it does not, but limiting access may reduce or change consumption habits. She emphasized that she is not trying to address all vices, and the focus is on e-cigarettes and the marketing. She posited that although the dangers of vaping are probably different than those associated with traditional cigarettes, e-cigarettes are not necessarily any safer, as they are fundamentally a tobacco product and should be taxed like all other tobacco products.

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REPRESENTATIVE RUFFRIDGE shared his reticence about using the tax structure as an incentive to stop smoking, and this is because data shows that 26 percent of high school students use tobacco products and 23 percent use marijuana products. He argued that whether taxed or not, youth will continue to gain access to prohibited substances. He opined that the bill would bring e-cigarettes in parity with other taxed products; however, it would most likely not reduce the usage rates.

REPRESENTATIVE HANNAN reported that there are repeated findings that show early consumers are price sensitive; therefore, increasing the cost of e-cigarettes by adding a tax would reduce attractiveness to children who have never smoked. She acknowledged that it is unclear if a price increase would be as effective to a person who is already addicted. She clarified that the intent of the bill concerns the parity with other tobacco products, not with alcohol or cannabis.

[3:52:56 PM](#)

CHAIR PRAX questioned whether federal law prohibits the taxation of any goods on military bases.

REPRESENTATIVE HANNAN confirmed that the state cannot impose a tax on military bases, so the tax proposed in HB 176 would not be in place at military installations.

CHAIR PRAX shared that when he was in high school, there was a more prominent youth smoking culture, and he witnessed many students procuring cigarettes through sources on military bases. He questioned whether the addition of a tax would encourage a "black market" procurement in Alaska.

REPRESENTATIVE HANNAN deferred the question to Joe Darnell.

[3:55:40 PM](#)

JOE DARNELL, Chief Investigator for the Tobacco Enforcement and Youth Education Program, Division of Behavioral Health, Department of Health, deferred the question to the Department of Revenue (DOR), as it would be better suited to answer questions about the effectiveness of tax increases. He reported that for tobacco retailers, the federal age limit is 21 years old, and FDA does compliance checks on this; however, in Alaska the age limit is 19 years old, so state enforcement agencies and retailers are responsible for checking licenses for those under this age. He explained that when a retailer is found by FDA to be in violation, a warning letter is issued. In contrast, he explained when a retailer is in violation of the state law, a citation is issued, which then goes to court. If the court finds the retailer guilty, the Division of Corporations, Business and Professional Licensing could revoke the retailer's endorsement to sell nicotine for up to 20 days. He suggested that while most retailers are ensuring compliance with both federal and state laws, there are some who choose not to comply with federal law in order to "pick up" the market of 19- to 20-

year-olds. This is because if they are caught by FDA, there would be no additional consequences after the warning letter is issued. He expressed the belief that raising the state's age limit to be federally compliant would level the playing field for retailers. This would make checking identifications (IDs) easier since the age limit would be the same for all age restricted substances. He added that Alaska IDs are formatted to have a visual distinction between those above and below the age of 21 years old.

MR. DARNELL, in regard to Representative Mina's previous question, stated that the current fine for youth tobacco possession is set at \$500. He expressed the opinion that this is too high. He explained that HB 176 would clean up this section of law by lowering the fine and allowing the offender to complete an educational program in lieu of the fine. He stated that there are many opinions about the effectiveness of fines, but he opined that even if the fine does not directly change the behavior, it could cause the parent of the offender to be more involved and motivated to help the child. He reiterated that the bill is intended to protect Alaskan youth. He acknowledged that the data on the long-term side effects of vaping is still being researched and definitive answers are slow to come. He posited that if the data in 20 years shows there are no long-term side effects, the state will not have lost anything; however, if future data shows the effects of vaping are even worse than traditional smoking, and no protections were put into place, this would be a big loss.

[4:00:40 PM](#)

REPRESENTATIVE FIELDS asked what the average price that youth are paying for e-cigarettes.

MR. DARNELL responded that the average price is between \$10 to \$15 for disposable vaping units. He reported that buying "e-liquid" [for a reusable unit] can be between \$5 and \$40, depending on the size of the cartridge and the percentage of nicotine.

REPRESENTATIVE FIELDS questioned how underage people are getting products and what the market for youth consumption looks like.

MR. DARNELL reported that the COVID-19 pandemic stopped his department's ability to conduct compliance checks; therefore, there is a two year "black hole" of data. He explained that prior to the pandemic, in 2019, there was talk about adding

vaping products to the same restriction schedule as other nicotine forms. At that time, he conducted an informal study in Anchorage to see how easy it was for underage people to buy vapes, and if it was an issue. He stated that he had 16- and 17-year-olds go into shops and attempt to buy a vaping product, and it was reported that 50 percent of retailers made the sale. He reported that after the initial study in Anchorage, the department implemented statewide level study and found a 35 percent sell rate for vape shops. He reiterated that this study was conducted prior to COVID-19 but it is the most recent data available.

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REPRESENTATIVE SUMNER asked how many 19- and 20-year-olds may lose their jobs if the age limit is raised because they are currently working in businesses selling tobacco.

REPRESENTATIVE HANNAN expressed uncertainty. She explained that the bill has a mechanism to raise the age of legal employees over time, and this is so current employees are grandfathered in, and no one would lose their job.

REPRESENTATIVE SUMNER restated the question.

REPRESENTATIVE HANNAN reiterated that she does not have this data. She explained that vendors who have a federal tobacco endorsement to sell products, such as combustible cigarettes, are already required to employ 21-year-olds to comply with federal law. She posited that there are vape shops that only sell vape products and do not have the federal tobacco endorsement; therefore, these shops do not have this requirement.

[4:05:28 PM](#)

REPRESENTATIVE RUFFRIDGE asked how many tobacco retailers in Alaska transitioned quickly to the new age limit when the law changed in 2019, and he asked how many are still selling to those [below the age of 21].

MR. DARNELL reported that most major national retailers immediately switched policies to reflect the new federal age limit. He added that it has taken about a year for local retailers to fully comply. He stated that he works closely with retailers to implement site inspections and ID training for both owners and employees. He expressed the understanding that there

are only 10 to 15 retailers statewide that continue to sell tobacco to people under 21. He reiterated that the stores in violation of the federal law will only receive a warning letter from the FDA and are not in danger of being shut down by the state unless they sell to someone under 19 years old.

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REPRESENTATIVE RUFFRIDGE expressed the opinion that there seems to be a "rush" for the state to comply with the federal age limit for tobacco; however, marijuana is still illegal federally, and the state has chosen to follow its own laws in the sale of cannabis. He questioned what makes tobacco different from marijuana in this respect.

MR. DARNELL stated that marijuana was legalized through a public vote. This is different than tobacco; therefore, they are regulated differently. He emphasized that the focus should be on the intent of HB 176, which is to protect children from nicotine addiction. He added that other state agencies would address the separate issue of marijuana use in youth.

[4:09:11 PM](#)

CHAIR PRAX referred to testimony on another bill where people from the marijuana industry had expressed the believe that the high tax rate for marijuana renewed the demand for "black market" marijuana. He posited that increasing taxes on vaping products would encourage an increase in "black market" nicotine sales. He asked whether Mr. Darnell had any experience with the marijuana tax conversation.

MR. DARNELL replied that his only experience with marijuana regulations is when vaporizers are used for cannabis. He added that in a prior version of this vaping bill marijuana dispensaries would have required to also have a tobacco endorsement and be inspected by the state. He asserted that because HB 176 would omit this requirement, he no longer has had any interaction with marijuana regulations.

CHAIR PRAX restated his question about the possibility of a tax on vaping resulting in a demand for products to be sourced from military bases. He expressed the concern that taxing vapes at the retail level would almost double the tobacco tax.

MR. DARNELL posited that most teenagers could find out which stores would sell them age prohibited items, like alcohol and

tobacco, without going to military bases. He shared that when he was Air Force Security there were not many instances of tobacco or alcohol being bought on base and then resold. He added that there were higher rates of this outside of the United States.

[4:13:14 PM](#)

SCHELL HAMMEL, Legislative Director, Smoke Free Alternatives Trade Association, provided invited testimony on HB 176. [This testifier was not invited by the bill sponsor.] She testified in opposition to HB 176. She shared her appreciation for the advocacy for the prevention of youth addiction, but she opined that the bill's parameters would do little to meet this goal. Instead, she expressed the opinion that smokers would be punished for using a less harmful smoking alternative. She reported that CDC has found that 18 percent of Alaskans, or almost 132,000 people, use combustible cigarettes, and the Royal Council of Physicians has found that e-cigarettes are 98 percent less harmful than combustible cigarettes. She posited that the tax on vaping products would directly impact Alaskans who are attempting to use a less harmful form of nicotine. She stated that there is evidence that 80 percent of teens in the United States procured vaping products from friends or family, and she hypothesized that adding a tax to these products would not lower the percentage, but it would negatively affect adults who purchase e-cigarettes.

MS. HAMMEL shared that according to FDA there have been no inspections of vapor retailers for youth purchases in Alaska since 2020. She argued that if there is an issue with underage access to nicotine, then the state should use the \$10 million it receives for education and prevention to carry out more inspections. In further reference to FDA's inspection reports, she stated that 95 percent of vape sales to minors occur in convenience stores. She suggested that another alternative to a sales tax would be requiring vape products to be sold only in age restricted stores. She posited that this would lower enforcement costs, as there would be less stores to inspect. She brought forth several of her concerns with language in the bill, opining that the ID requirements for delivery would open communities up to identity fraud. She continued that the restrictions on how to market e-cigarettes would be too broad, as it is unclear who would be in charge. She compared the psychology of a smoker to that of a person who struggles with weight loss. She asked the committee to think of e-cigarettes like diet food. She posited that people who choose to vape

rather than use other forms of nicotine should be encouraged, as it could have a positive change to a person's overall wellbeing. She emphasized that an alternative method for preventing youth use should be found instead of a tax on "well intentioned people."

[4:18:27 PM](#)

DAVID PARROTT, Owner, 5150 Vapes; member of the Smoke Free Alternatives Trade Association, provided invited testimony on HB 176. [This testifier was not invited by the bill sponsor.] He expressed agreement with the intent of HB 176 but testified against the bill. He expressed the belief that protecting youth from addiction is important; however, it would not be fair to punish others for a crime committed by youth. He expressed the understanding that vaping has been proven to be less harmful than combustible cigarettes, so increasing the cost through a tax would be a disservice to the community. He reported that some vapes are being sold for \$40 because of the municipal taxes already in place. He pointed out that vape shops across the state have had to shut down because of the high cost to customers. He stated that the national average for a disposable vape is \$23, but if HB 176 were to pass, these prices could increase to \$50 in Alaska. He reported that most people who are choosing to vape as an alternative to cigarettes have a tight budget, as 23 percent of nicotine users live under the poverty level. He argued that this makes the proposed tax highly regressive, dissuading people from making a safer choice. He asserted that the amount of nicotine in the typical disposable vape is equivalent to a pack of cigarettes, but with the proposed tax, it would be three times the cost. He shared that many of his customers and friends have confided that they are already struggling with being able to afford vaping as an alternative to smoking. He posited that if there is an additional tax, many of these people would return to smoking traditional cigarettes.

MR. PARROTT argued that moving all nicotine substances to an age prohibited location would help prevent underage purchases, rather than a tax. He explained that a clerk in a convenience store would be ill equipped to properly insure a customer is not purchasing nicotine for a younger person. In contrast, he reported that as the owner of a vape-only establishment, he can give more attention to observing behavior and turning suspect people away. He spoke about a previous bill that had successfully passed the legislature [but was vetoed by the governor] with a 35 percent wholesale tax. He argued that the

proposed legislation is different because all the tax burden would be put on the consumer. He posited that the likelihood of a bill with a higher tax getting signed by the governor would be low, as the previous bill with less of a consumer burden was vetoed. He stated that pursuing other options, like limiting nicotine to age restricted shops, would help lower smoking rates by offering current smokers less harmful products. This would also ensure that the products are only sold to legal adults. He shared his belief that the legislature and e-cigarette retailers could work together to help fight smoking related illnesses. He stated that he has personally seen the benefits of vaping in his own life and asked the committee not to discourage more adults from switching to a safer option.

[4:23:02 PM](#)

REPRESENTATIVE MCCORMICK noted that the committee is hearing invited testimony and questioned whether the last two testifiers had been invited by the bill sponsor.

REPRESENTATIVE HANNAN replied that she had not invited the last two speakers.

[4:23:35 PM](#)

REPRESENTATIVE FIELDS questioned why these products are marketed to children if the intent of the product is to help adults switch from traditional cigarettes.

MR. PARROTT stated that he personally does not sell products that are targeted towards youth. He stated that he has made the point to not carry large brands like Juul, as they are owned by "big tobacco."

[4:25:11 PM](#)

The committee took a brief at-ease.

[4:26:17 PM](#)

CHAIR PRAX sought clarification on the statement that nicotine can cause depression. He opined that other life stressors linked to depression could push a person to want to smoke.

REPRESENTATIVE RUFFRIDGE replied that there is long existing evidence within the medical field that nicotine use over time can cause the further decline of preexisting mental health

issues; however, why this happens is not fully understood. He expressed the understanding that one of the primary concerns for medical professionals when helping patients to stop smoking, is the depression that can accompany the withdrawal from nicotine. He pointed out the twofold occurrence of depression involving the use of nicotine and getting off nicotine. He stated that this has been well established in medical literature.

[4:28:19 PM](#)

REPRESENTATIVE MINA questioned how often the current fines on youth are enforced.

MR. DARNELL responded that youth possession and use of nicotine is primarily enforced by school resource officers, at the request of the school. He explained that when a school administrator has an issue with underage nicotine possession, it is reported to a resource officer who would then write the ticket. He expressed the understanding that there are multiple vice principals from across the state who would speak to the committee during the upcoming public testimony. He suggested that these testifiers would have more information on the exact process and its frequency.

[4:29:45 PM](#)

REPRESENTATIVE MINA noted that HB 176 includes an option for enforcement between the fine or sending the defendant to court. She asked how tobacco offences are currently enforced. She also questioned how often youth would be referred to the tobacco education program instead of being issued a fine.

MR. DARNELL replied that the only enforcement tool currently in law is a fine of \$500; he reiterated this is higher than it needs to be. He shared his belief that the proposed bill could do a good job of bringing down the fine and providing an alternative to the fine. He reiterated that referrals to education as an enforcement tool do not currently exist.

[4:31:00 PM](#)

REPRESENTATIVE MINA redirected her questions about enforcement to Nancy Meade of the Alaska Court System.

[4:31:24 PM](#)

NANCY MEADE, General Counsel, Civil Division, Alaska Court System, Department of Law, replied that she does not have data on how many underage tobacco charges are filed and convicted. She reported that the conviction rate for youth possession cases has hovered between 30 to 60 per year, and she described this as an uncommon conviction. She stated that underage possession cases are enforced by state troopers and local law enforcement, while DOH officers would enforce cases on negligent selling and vending of nicotine to youth, as these officers have the authority to issue citations directly to offending businesses. She explained that the underage minor citations filed by law enforcement currently include a mandatory court appearance. She stated that HB 176 would change these citations to be mail-in tickets, similar to a parking ticket.

[4:33:02 PM](#)

REPRESENTATIVE RUFFRIDGE inquired whether these charges are typically singular charges or add-ons to a larger set of charges.

MS. MEADE replied that the charges are generally standalone from other charges, but they will often happen in batches. For example, she explained that a principal will contact law enforcement to do a "sting" for instances of underage smoking or possession at the school, and the officers will charge many students at one time. She reported that the 47 convictions last year happened on one of three different days, exemplifying that the data shows these charges are not enforced in the typical fashion.

[4:34:20 PM](#)

MS. MEADE clarified that in current statute the possession [by youth] of nicotine products is a violation punishable with a fine of up to \$500; however, this would not mean the fine is always \$500. She explained that the violations require a mandatory court appearance, during which the judge can use discretion in assigning a lesser fine. She stated that she does not have the exact data on the average fine, but she posited that when discretion is available to judges, it is often exercised.

[4:35:09 PM](#)

REPRESENTATIVE MINA asked whether the committee could access the data on what the actual fine amounts end up being.

MS. MEADE replied that the data on fines is not currently compiled in any way and going through every court case to make this data accessible would be difficult.

[4:35:37 PM](#)

CHAIR PRAX ask for clarification on the 20 to 40 individual convictions a year on minor possession of tobacco or vaping products.

MS. MEADE mentioned that current law refers to the violation as the sale of any nicotine products, including e-cigarettes, to a minor. She stated that the language in HB 176 would only change this to those under 21 years old. She reiterated that the convictions have ranged from 10 in 2018 to 60 in 2019. She expressed the belief that the numbers fluctuate depending on the year and how often law enforcement is asked to respond to instances of minor possessions in schools.

CHAIR PRAX inquired about the statistics for illegal selling violations.

MS. MEADE explained that there are very few cases of negligent vending, and the citations are given by DOH officers instead of law enforcement. She reported that over the last seven years there have been between 2 and 31 cases a year of negligent selling of nicotine to a minor. She explained that when these cases are convicted, the offenders are referred to the licensing board through the Department of Commerce, Community, and Economic Development, and it would then take further action either on the license itself or through civil penalties.

CHAIR PRAX referred to previous testimony that stated over 900 students had been suspended from school for smoking [in a single year] and questioned whether any further action was taken for these students.

MS. MEADE stated that the data shows that 900 charges were not filed, as the total number of charges filed for a year ranged between 15 and 80. She explained that there were more charges filed than convictions because some charges get dismissed or dropped.

[4:39:03 PM](#)

CHAIR PRAX asked Mr. Darnell to address the discrepancy between the number of school suspensions and the number of legal citations for possession of nicotine by a minor.

MR. DARNELL responded that the discrepancy exists because of each school's individual policies for handling nicotine possession. He reported that schools do not always bring in law enforcement, as this would result in more suspensions than written citations. He deferred the question to Ms. Steffens for more detailed data and to the vice principals who will be providing public testimony. He offered the understanding that the vice principals would be able to highlight the issue of protecting youth.

[4:40:44 PM](#)

REPRESENTATIVE RUFFRIDGE noted that the committee has seen data on consumer habits that show as the price of tobacco increase, sales decrease. However, he pointed out that the data is only collected on persons who can legally access age prohibited products. He speculated whether the price curve is as effective on youth. He expressed the assumption that being more fiscally responsible and concerned about spending habits would come with age, and a 16-year-old may not care as much about the high cost of nicotine as an adult does. He inquired about the existence of any consumer data collected from youth rather than adults.

[4:42:26 PM](#)

BRANDON SPANOS, Deputy Director, Tax Division, Department of Revenue, responded that in developing the fiscal note for HB 176, the Tax Division looked at the price elasticity for nicotine. After consulting with an expert, it was found that price elasticity was greater for youth than adults in the nicotine market. In response to a question from Representative Ruffridge on the meaning of "price elasticity," he deferred the question to Ms. Steffens.

[4:44:40 PM](#)

MS. STEFFENS stated that TPCP has tracked data on the effects of price on the rates of nicotine usage in minors since the 1990s. She reported that around 1994 to 1995, 37 percent of youth smoked tobacco, and it was not until 1997 that single packs of cigarettes were included in tax law. She reiterated that a combination of national anti-smoking campaigns, along with

addition of taxes, have caused the youth smoking rate to drop from 37 percent to 8 percent.

[4:45:39 PM](#)

REPRESENTATIVE MINA pointed out the distinction between youth that give someone of legal age their own money to purchase a vape for them and those who have access to a vape by borrowing or using products a family member purchased. She inquired whether this data has been tracked.

MS. STEFFENS reported that statewide data shows the majority of Alaska youth get vaping products through social sources. Although the state data is not broken down to the specific sources, she stated that the National Youth Tobacco Survey from 2021 found that 33 percent of students receive their product from a friend, 31 percent bought the product themselves, 29 percent had someone buy the product for them, and 26 percent had someone offer the product to them for free. She noted that students receive their product in multiple ways and were able to denote all these ways in the survey.

[4:47:14 PM](#)

REPRESENTATIVE FIELDS noted that in 2009 there was a substantial federal tax hike on nicotine products which allowed academics to extensively study youth and adult behavior in regard to nicotine usage. He reported that a significant price elasticity of demand for nicotine was found for youth, meaning that the rates of youth who smoked decreased, while those who smoked before the tax smoked less. He shared that the studies also showed an increase in cessation efforts. He offered to circulate copies of these studies to the committee members.

[4:48:02 PM](#)

REPRESENTATIVE RUFFRIDGE expressed the opinion that looking at the national tax implementation makes it easy to see how youth have behaved on a larger scale. He asked whether there is any data that tracks Alaskan youth behavior since the Municipality of Anchorage started taxing e-cigarettes several years ago.

REPRESENTATIVE HANNAN responded that she does not have this data, but she would work to obtain this.

[4:49:29 PM](#)

REPRESENTATIVE FIELDS shared his interest in seeing any data that compares youth nicotine usage between neighboring states that are similar in socioeconomic factors, with the difference being one has a high tax rate on nicotine, while the other does not.

[4:49:58 PM](#)

REPRESENTATIVE MINA shared her understanding that HB 176 would bring tax parity between e-cigarettes and other tobacco products. She questioned whether there are any other states that do not tax e-cigarettes.

REPRESENTATIVE HANNAN replied that she would investigate whether any other states specifically do not tax e-cigarettes. She expressed the understanding that Alaska's tax code is different than other states. She explained that all states regulate cigarettes separately because of federal guidelines, but most states use the category of "tobacco" to include all tobacco products, so any nicotine product would fall under the same tax rate and citation. She suggested that this allows other states to include e-cigarettes as a type of tobacco and tax them accordingly. In comparison, she reported that Alaska has specified each type of product in the state tax code. She explained that when e-cigarettes were invented, because they were not on the list, the industry claimed that e-cigarettes could not be automatically taxed at the same rate as other products.

[4:51:35 PM](#)

CHAIR PRAX questioned Mr. Spanos whether raising the tax on e-cigarettes could create an underground market and whether there is a tax threshold that would cause a rise in underground sales of e-cigarettes.

MR. SPANOS reported that the tax division has not done research on the black-market possibilities of the proposed e-cigarette tax; however, it is aware of an existing black market for tobacco products. He explained that when the division finds products being sold "on the street" the tax still applies. He anecdotally stated that it makes sense that when tax goes up the demand for black market product increases, and the division had similar conversations about how a tax would affect the black market when marijuana was being legalized.

[4:53:09 PM](#)

CHAIR PRAX questioned whether DOR could research how the proposed tax rate would affect the black market for e-cigarettes.

MR. SPANOS responded that it would need to hire a contractor to do this type of research.

[4:54:06 PM](#)

REPRESENTATIVE HANNAN thanked the committee for their consideration of HB 176 and reiterated that the goal would be protecting youth from developing unhealthy habits. She expressed the belief that an e-cigarette tax, along with the Tobacco 21 law, would accomplish the goal.

[4:54:44 PM](#)

CHAIR PRAX announced that HB 176 was held over.

[4:55:09 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 4:55 p.m.