

**ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

April 3, 2023

1:32 p.m.

MEMBERS PRESENT

Senator Jesse Bjorkman, Chair
Senator Click Bishop, Vice Chair
Senator Elvi Gray-Jackson
Senator Kelly Merrick
Senator Forrest Dunbar

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 94

"An Act relating to the Board of Pharmacy; relating to the practice of pharmacy; relating to pharmacies; relating to prescription drug manufacturers; relating to prescriptions for epinephrine; relating to the administration of epinephrine; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 89

"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: SB 94

SHORT TITLE: PROFESSION OF PHARMACY

SPONSOR(s): SENATOR(s) GIESSEL BY REQUEST

03/08/23	(S)	READ THE FIRST TIME - REFERRALS
03/08/23	(S)	L&C, FIN

04/03/23 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 89

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

SPONSOR(s): SENATOR(s) STEVENS

03/01/23 (S) READ THE FIRST TIME - REFERRALS
03/01/23 (S) L&C, FIN
03/24/23 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/24/23 (S) Heard & Held
03/24/23 (S) MINUTE(L&C)
03/31/23 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/31/23 (S) Heard & Held
03/31/23 (S) MINUTE(L&C)
04/03/23 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR CATHY GIESSEL, District E
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 94.

REPRESENTATIVE JUSTIN RUFFRIDGE, District 7
Alaska State Legislature
Soldotna, Alaska

POSITION STATEMENT: Testified as the sponsor of the House companion bill in support of SB 94.

JANE CONWAY, Staff
Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Paraphrased the sectional analysis for SB 94.

BRANDY SEIGNEMARTIN, Executive Director
Alaska Pharmacists Association
Eagle River, Alaska

POSITION STATEMENT: Stated support for SB 94.

ASHLEY SCHABER, Chair
Board of Pharmacy
Anchorage, Alaska

POSITION STATEMENT: Gave a presentation on SB 94.

TIM LAMKIN, Staff

Senator Gary Stevens
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Offered a recap of SB 89.

JOE DARNELL, Chief Investigator
Tobacco Enforcement & Youth Education
Department of Health (DOH)
Anchorage, Alaska

POSITION STATEMENT: Answered questions about SB 89.

SYLVAN ROBB, Director
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community, and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions about SB 89.

MEGAN BOELTER, JD, Western Regional Director
Preventing Tobacco Addiction Foundation
Las Cruces, New Mexico

POSITION STATEMENT: Testified in support of SB 89.

JUNE ROGERS, representing self
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 89.

JASON JONES, Owner
Legion Vapor
Eagle River, Alaska

POSITION STATEMENT: During the hearing on SB 89, gave public testimony on the effects of a heavy tax burden on vape shops.

TABITHA BLADES, representing self
Soldotna, Alaska

POSITION STATEMENT: Testified in support of SB 89.

ACTION NARRATIVE

[1:32:00 PM](#)

CHAIR JESSE BJORKMAN called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Gray-Jackson, Dunbar, Merrick, and Chair Bjorkman. Senator Bishop joined the meeting thereafter.

SB 94-PROFESSION OF PHARMACY

[1:32:56 PM](#)

CHAIR BJORKMAN announced the consideration of SENATE BILL NO. 94 "An Act relating to the Board of Pharmacy; relating to the practice of pharmacy; relating to pharmacies; relating to prescription drug manufacturers; relating to prescriptions for epinephrine; relating to the administration of epinephrine; and providing for an effective date."

He asked the sponsor to introduce the bill.

[1:33:17 PM](#)

SENATOR CATHY GIESSEL, District E, Alaska State Legislature, Juneau, Alaska, sponsor of SB 94, stated that the goal of the bill is to protect the public by ensuring the safe practice of Alaskan pharmacists. This bill updates obsolete statutes. It is a multi-year collaboration between multiple organizations, multiple chairs of the Board of Pharmacy, and the Alaska Pharmacist's Association. Pharmacology students, retirees, and individuals from the Alaska Tribal Health System all support SB 94. She explained that the practice of pharmacology has evolved over the last couple of decades and through the COVID-19 pandemic, at which time pharmacists fulfilled critical public service roles. She described the changes SB 94 would make.

SENATOR GIESSEL spoke to the following sponsor statement:

[Original punctuation provided.]

Pharmacists and pharmacies are an integral part of Alaska's healthcare system. It is important that the Alaska statutes that guide them are updated and reflect the services provided by modern-day pharmacies.

Senate Bill 94 clarifies the Alaska Board of Pharmacy's powers and duties to align with the federal Drug Supply Chain and Security Act (DSCSA) related to licensing and oversight of manufacturers, out-of-state pharmacies, outsourcing facilities, and internet pharmacies who conduct business in Alaska. In doing so, these out-of-state entities will be held to the same high standard as those operating in the state of Alaska, helping to ensure Alaskans have access to medications that are safe, no matter where they originate.

SB 94 aligns Alaska's pharmacy board statutes with similar boards in other states. It allows for it to meaningfully recognize retired pharmacists and their contributions. Stressing the importance of public safety, SB94 would allow the board to institute a national criminal background check for Alaska pharmacists and pharmacy technicians. This would align the Alaska Board of Pharmacy with the National Association of Boards and Pharmacy Model State Pharmacy Act.

The Executive Administrator plays a critical role in the smooth functioning of the board and requires a high degree of competency and understanding of the complexities of pharmacy-related regulations and issues. This bill gives Alaska's Division of Professional Licensing flexibility to hire a qualified pharmacist for this administrative role should one apply.

The changes proposed in Senate Bill 94 reflect a dedicated collaboration between the Alaska Board of Pharmacy and the Alaska Pharmacists Association (AKPhA) to modernize pharmacy practice statutes.

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REPRESENTATIVE JUSTIN RUFFRIDGE, District 7, Alaska State Legislature, Juneau, Alaska, sponsor of the House companion bill to SB 94, testified in support of SB 94. He announced that he could answer questions as a pharmacist and former chairman of the Board of Pharmacy. This bill and its companion in the other body are the result of a collaboration of multiple chairs of the Board of Pharmacy for right-touch regulations. This included modernizing pharmacy regulations, repealing those that were out-of-date, and implementing updates in compliance with federal law. Many changes in the bill are a result of the Drug Supply Chain and Security Act as well as the need to update licensing requirements, especially for licensees of pharmacist and pharmacist technician practices. Additionally, this bill allows for changes to the Board of Pharmacy, such as allowing for pharmacy technicians to be seated in lieu of a public member. Finally, to increase access to the life-saving drug epinephrine, SB 94 includes the prescribing of auto-injectors, or EpiPens, by pharmacists trained in their use.

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JANE CONWAY, Staff, Senator Cathy Giessel, Alaska State Legislature, Juneau, Alaska, paraphrased the following sectional analysis for SB 94:

[Original punctuation provided.]

Section 1. Amends AS 08.08.010(a) Creation and membership of board; officers

Alters composition of the seven-member Board of Pharmacy by designating one member to be a licensed pharmacy technician, and one being an individual with no financial interest in the healthcare industry

Section 2. Amends AS 08.80.030 Powers and Duties of Board

(b)(10) Separates out the licensing/regulating entities relating to manufacturing and distributing of drugs and devices by use of the word "or"

(b)(12) adds an epinephrine auto-injector training program

(b)(14) Clarifies that only pharmacists who dispense federally scheduled controlled substances be required to register with the Prescription Drug Monitoring Program (PDMP)

(b)(16) Adds pharmacies and manufacturers from out-of-state to list of entities to be licensed and inspected

(b)(17) Adds internet-based pharmacies to list of entities to be licensed if they are servicing Alaskans

(b)(18) adds language allowing the board to adopt regulations pertaining to retired pharmacist status

Section 3. Amends 08.80.145 Reciprocity; license transfer

(3) removes character requirement - "of good moral character"

(4) removes internship details - this is a national standard among schools of pharmacy

Renumbering of statute items

Section 4. Amends AS 08.80.157 Licensing of facilities

(k) this adds out-of-state pharmacies and manufacturers to the list of entities that must be licensed

Section 5. Amends AS 08.80.159 Licensing and inspection of facilities outside the state

(a) Adds "distributor, pharmacy, manufacturer" to those out-of-state entities that must be licensed and inspected, under the Drug Supply Chain and Security Act

Section 6. Amends AS 08.80.159 Licensing and inspection of facilities outside the state

(c) adds "pharmacy and manufacturer" to list that may be inspected if located outside the state

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Section 7. Amends AS 08.80.160 Fees

(10) Removes the word "registration" since the bill mandates licensure of a facility

Section 8. Amends 08.80.168 and adds a new subsection - Administration of vaccines and related emergencies

(e) Allows a pharmacist to administer epinephrine to a person or prescribe an epinephrine auto-injector to someone who has completed the epinephrine auto-injector training

Section 9. Amends AS 08.80.270 Executive administrator of the board

(a) Adds an additional salary range option for the executive administrator, allowing flexibility for the Division to select a pharmacist for the role

Section 10. Amends AS 08.80.420 Certain advertising prohibited

(a) adds the term "apothecary" to list of those that cannot be used in media or advertising unless the store employs a licensed pharmacist with regular hours

Section 11. Amends AS 12.62.400 National criminal history record check

(a)(23) adds pharmacist and pharmacy tech to list of professions where a background check is required. Aligns with State of Alaska's nursing requirements and pharmacy requirements typical in other states. This adds a national level background check

Section 12. Amends AS 17.22.010 Prescription, purchase, administration of epinephrine by a trained individual

Allows anyone over 18 to purchase or be prescribed an epinephrine autoinjector, and to administer epinephrine shot in an emergency to another person if they have completed an epinephrine auto-injector training program approved by the board. It removes very outdated language from this section

Section 13. Amends AS 17.22.020(a) Approval of training programs

(a) Allows the board, rather than the department, to adopt standards for the epinephrine auto-injector training program and deletes outdated language

Section 14. Amends AS 17.22.020(b) Approval of training programs

(b) Allows the board, rather than the department, to approve an epinephrine auto-injector training program that meets the board's standards

Section 15. Amends AS 17.22.030 Applicability

States that this chapter does not apply to someone currently authorized under another law to administer epinephrine, such as a nurse or doctor, or some other authorized professional

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Section 16. Amends AS 17.22.040 Liability of certified individual

Outlines that a person may not be sued who administers epinephrine to another in an emergency, and in good faith, if he or she has completed the epinephrine auto-injector training program approved by the board

Section 17. Amends AS 17.22.090 Definitions

(3) defines the "board" as the Board of Pharmacy

Section 18. Repeals AS 08.80.110(2) Qualifications for licensure by examination

- Repeals (2) furnish the board with at least two affidavits from reputable citizens that the applicant has known for at least one year attesting to the applicant's good moral character. This is not required in medical, dentistry, or nursing statutes.
- Repeals 08.80.158 *Registration* of pharmacies located outside the state since this bill would now require licensure
- Repeals AS 17.22.020(c) which is the Department's epinephrine auto-injector training program
- Repeals AS 17.22.090(1) that defines the department as the Dept of Health, since it will no longer be the approving entity of the epinephrine auto-injector training program

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Section 19. TRANSITION LANGUAGE for currently registered pharmacies

A new section that would allow pharmacies previously registered to continue to ship, mail or deliver prescription drugs to its customers in Alaska until their registration expires. At that time, they will then have to apply for licensure.

Section 20. TRANSITION: REGULATIONS Allows the Board of Pharmacy and DCCED to adopt regulations to carry out the changes laid out in this legislation.

Section 21. Section 20 has an immediate effective date under AS 01.10.070(c)

Section 22: Effective date is set to coincide with the Drug Supply Chain and Security Act that will go into effect on November 26, 2023.

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BRANDY SEIGNEMARTIN, Executive Director, Alaska Pharmacists Association, Eagle River, Alaska, stated support for SB 94 and Senator Giessel and offered to answer questions.

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ASHLEY SCHABER, Chair, Board of Pharmacy, Anchorage, Alaska, gave a presentation on SB 94. She began on slide 3, and spoke to the following points:

Background of SB 94

- Result of multi-year, multi-chair review of statutes and regulations to ensure the Alaska Board of Pharmacy can continue to meet its mission
- SB 94 addresses changes by:
 - Streamlining licensure process while improving public safety
 - Compliance with the Drug Supply Chain and Security Act
 - Alignment with other professional boards in Alaska and pharmacy boards in other states
 - Clarification of pharmacists' roles in epinephrine access
- Collaborative effort between the Alaska Board of Pharmacy and the Alaska Pharmacists Association

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SENATOR BISHOP joined the meeting.

[1:50:23 PM](#)

MS. SCHABER advanced to slide 4, and spoke to the following points:

Goal: Streamline licensure process while improving public safety

- Eliminates unnecessary forms currently required in statute
- Clarifies that only pharmacists who dispense controlled substances are required to register with the Prescription Drug Monitoring Program (PDMP)
- Adds national criminal background check

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MS. SCHABER advanced to slide 5, and spoke to the following points:

Goal: Compliance with Drug Supply Chain and Security Act

- The federal Drug Supply Chain and Security Act (DSCSA) further secures the U.S. drug supply through a system to prevent harmful drugs from entering the supply chain, detect harmful drugs if they do enter, and enable rapid response when such drugs are found
 - Boards of Pharmacy play a key role in this process through appropriate licensing of drug distributors and pharmacies
- SB 94 ensures the AK Board of Pharmacy powers and duties support the DSCSA related to manufacturers, out-of-state pharmacies, and internet pharmacies to ensure Alaskans receive safe medications

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MS. SCHABER advanced to slide 6, and spoke to the following points:

Goal: Alignment

- Replaces one of the two public member seats with a pharmacy technician seat
- Allows the board to adopt language for retired pharmacist status
- Clarifies the board executive administrator's salary, allowing flexibility for a pharmacist to serve in this role in the future

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MS. SCHABER advanced to slide 7, and spoke to the following points:

Goal: Epinephrine Access

- Moves epinephrine training program under Board of Pharmacy oversight
- Clarifies that a pharmacist can administer epinephrine to a person or prescribe epinephrine auto-injectors to someone who has completed the training program
- Increases epinephrine access for Alaskans with anaphylactic emergencies

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MS. SCHABER advanced to slide 8, and spoke to the following points:

Support

- The Board of Pharmacy respectfully requests your support of SB 94, allowing us to further promote, preserve, and protect the public health, safety, and welfare of Alaskans by and through the effective control and regulation of the practice of pharmacy.
- Thank you for your time!

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CHAIR BJORKMAN thanked the presenter and held SB 94 in committee.

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At ease.

SB 89-AGE FOR TOBACCO/NICOTINE/E-CIG; TAX E-CIG

[1:57:15 PM](#)

CHAIR BJORKMAN reconvened the meeting and announced the consideration of SENATE BILL NO. 89 "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."

He asked Mr. Lamkin to give a brief recap of the bill.

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TIM LAMKIN, Staff, Senator Gary Stevens, Alaska State Legislature, Juneau, Alaska, offered a recap of SB 89. He reminded the community that the bill's mission is primarily about getting nicotine and e-cigarette products out of the hands of Alaska's youth. He refuted previous public testimony, stating:

- The statement that taxing e-cigarette products and increasing the legal age to 21 years will increase the burden on law enforcement is not true. These statutes have been around for decades and are tools that are available to law officers. It is not often that students are actually cited, though these cases are increasing. In Alaska there are different investigator classes, so each department can hire their own enforcement arm, focusing on areas such as licensing, tattoo parlors, and food stamp fraud.
- The statement that the tax rate is too high is not true. Vape products are inexpensive - he can provide receipts that show he purchased e-cigarette items for \$1. He can provide local photos of e-cigarette products. He said the pricing information on the internet shows that these products are cheap.

He commented on out-of-state individuals that maintain that Alaska doesn't have a problem with e-cigarette products in schools. He related that he has been working on a database that is comprised of a series of questions and answers between himself and the schools:

- Are you seeing e-cigarettes in schools? Overwhelmingly yes.
- Are e-cigarettes on the rise in schools? Overwhelmingly yes.

- Do you believe that vape products and e-cigarettes are safe? Overwhelmingly no.
- As with alcohol, do you support raising the legal age to buy/sell/possess e-cigarettes to age 21? Overwhelmingly yes.
- Do you support establishing a 25 percent retail sales tax on e-cigarettes as a way to deter youth initiation? Overwhelmingly yes.

MR. LAMKIN reiterated that youth vaping is a problem that needs to be addressed.

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SENATOR DUNBAR expressed concern that 19-year-olds and 20-year-olds may lose employment opportunities. He asked whether the sponsor had looked into the potential impacts of the 25 percent tax, noting that some testifiers believed it might create a black market. He asked whether vape products would still be substantially cheaper than cigarettes after the 25 percent tax was imposed.

MR. LAMKIN answered that it depends on who answers those questions. Dr. Frank J. Chaloupka IV, a research professor and arguably the nation's leading tobacco economist, has no problem with the 25 percent retail tax and finds that it is at parity with tobacco products.

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SENATOR DUNBAR asked whether he researched the impact the tax might have had in Anchorage.

MR. LAMKIN replied that he is not sure that information was available yet, but information from the Center for Disease Control (CDC) historically has indicated that taxing tobacco and cigarettes is the single most effective way to reduce consumption of those products.

SENATOR DUNBAR focused his question. He said Anchorage has a substantial vape tax that raises a lot of annual revenue. He asked whether the changes Anchorage made actually increase tobacco use or if it drove people to the black market. He surmised that it would be prudent to consider potential negative effects.

MR. LAMKIN said that kind of information would be highly anecdotal; he wasn't aware of any empirical information. He

noted that it is difficult to obtain data on the black market, but he was willing to pursue that question for the committee.

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SENATOR GRAY-JACKSON recalled that the tax used to be 50 percent, so the 25 percent rate was a compromise.

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CHAIR BJORKMAN asked whether it would be challenging to enforce the bill.

[2:06:30 PM](#)

JOE DARNELL, Chief Investigator, Tobacco Enforcement & Youth Education, Department of Health (DOH), Anchorage, Alaska, answered questions about SB 89. He expressed that he did not see any added workload for the department if this bill were to pass.

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SYLVAN ROBB, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development, Juneau, Alaska, answered questions about SB 89. She replied that the division is currently enforcing the age 21 tobacco law and would not see any change if the bill were to pass.

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CHAIR DUNBAR reminded the public that they could submit written testimony to slac@akleg.gov.

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CHAIR BJORKMAN opened public testimony on SB 89.

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MEGAN BOELTER, JD, Western Regional Director, Preventing Tobacco Addiction Foundation, Las Cruces, New Mexico, testified in support of SB 89. She stated that she is a public health law attorney practicing in the area of tobacco control and related disease for the past 18 years. For more than two decades the foundation has worked with multiple state and health advocates to raise the age for all tobacco and nicotine products to 21, including supporting the similar bill that passed last year in hopes of keeping cigarettes and dangerous nicotine products away from vulnerable youth.

MS. BOELTER stated that this bill is a step to hold retailers accountable for illegal sales of these products and not the

youth who have been captured by deceptive and predatory sales tactics.

MS. BOELTER refuted the claims from some opponents. She stated that a study published last year indicated that "Tobacco 21" laws sizably reduced twelfth grade cigarette use, with a similar impact across the lower grades. She stated that e-cigarettes have not been FDA approved as cessation devices. The FDA had to include a disclaimer on its website to refute misinformation based on fraudulent industry claims, and advise that the use of e-cigarettes tends to prolong the process of quitting smoking. She said that SB 89 is consistent with federal law, Alaska's Tobacco Enforcement and Youth Education Program, and military policy.

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JUNE ROGERS, representing self, Fairbanks, Alaska, testified in support of SB 89. She said she supports the age change to conform to federal law. She has contacted legislators over the years regarding health issues her family has undergone as a result of tobacco use. She expressed her gratitude to people who support the bill and suggested that it would be a step towards a healthier community.

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JASON JONES, Owner, Legion Vapor, Eagle River, Alaska, gave public testimony on the effects of a heavy tax burden on vape shops. He commented that the age 21 rule has already been enforced for the last three years.

He contended that a heavy tax burden was not a deterrent to underage vapers; minors continued buying from black market sources. He claimed that vape products can be purchased for as little as \$1 on a Chinese website.

MR. JONES differentiated vape shops from cannabis dispensaries and other smoke shops, clarifying that he refers to vape-only shops in that no other paraphernalia is in the inventory. He noted that numerous vape shops have gone out of business while stores that had varied inventory, such as gas stations and headshops, had started to carry vape products. He lamented the weight of having a high tax on everything in his shop. He noted the loss of jobs and family businesses.

He mentioned that he is a father and shares the concerns of parents and others who do not want to see youth smoking or using vape products.

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SENATOR MERRICK asked whether his shop is exclusively a retail shop or if it includes on-site vaping.

MR. JONES responded that Legion Vapor is a retail shop, but vaping is permitted in the shop. He has been in business eight years, so his shop was grandfathered.

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TABITHA BLADES, representing self, Soldotna, Alaska, testified in support of SB 89. She said that in her role as assistant principal she has daily contact with over 700 Alaskan teenagers. It is her job as disciplinarian to administer consequences for violations to school district policy, including every school vaping incident. She spends at least an hour each school day investigating vaping incidents and contacting parents regarding their use. The school invested thousands of dollars to install HALO vape detectors that provide real time detection alerts.

Most students who are caught vaping are between 14 and 16 years of age. Over 80 percent of students that she speaks to have been using e-cigarettes for over a year unbeknownst to their parents. Sales occur "by the puff" so that addicted students can get through their day. Students who own vape devices use about a cartridge a week and aspire to different models. Many devices connect to apps and provide a puff score inciting competition among friends leading to gamified addiction amongst children.

MS. BLADES said that students who do not vape feel unsafe in school restrooms, because they are frequently pressured to participate with, purchase from, or cover for students who vape. Many students report that they are addicted and can't stop. There is a school program that offers strategies on how to remain nicotine free

MS. BLADES posited that raising the legal age to 21 would drastically affect the availability of vape products to minors. Most high school kids do know a 19-year-old, but rarely is a 21-year-old still hanging out with first-year high school students. Imposing a tax will help reduce availability to children with limited income. Students tell her that she is only aware of the tip of the iceberg.

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SENATOR BISHOP asked whether she knows the cost for the added enforcement technology tools and smoking cessation classes for students.

MS. BLADES answered that the HALO vape detectors cost \$1200 each and her school has installed ten. She said the school is interested in installing more, as the detectors are helpful in monitoring vaping incidents. She said a staff member is running the vape cessation support group.

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SENATOR BISHOP commented that these mitigation efforts are taking money from the Base Student Allegation (BSA) to enforce.

[2:21:08 PM](#)

CHAIR BJORKMAN closed public testimony on SB 89 and held the bill in committee.

[2:21:49 PM](#)

There being no further business to come before the committee, Chair Bjorkman adjourned the Senate Labor and Commerce Standing Committee meeting at 2:21 p.m.