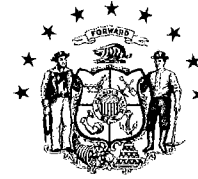




# SONDY POPE

STATE REPRESENTATIVE  
80TH ASSEMBLY DISTRICT



September 7, 2017

## Testimony on Assembly Bill 159

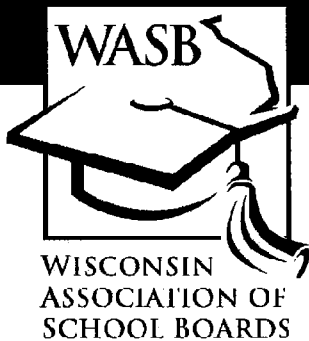
Thank you Chairman Thiesfeldt and members of the Committee for hearing this bill today. AB159 is a simple piece of legislation and does two things: First, it requires the Department of Public Instruction (DPI) to create a model policy regulating the use of electronic smoking devices or "e-cigs" on school district property and school sponsored events. Second, it requires each school board to adopt an electronic smoking device policy. This may be the policy developed by DPI or a separate policy created by the school board.

Currently, DPI lists 120 school districts that have updated their tobacco policies to include electronic smoking devices. This leaves roughly 300 districts that may not have addressed this issue in their district policies.

According to the Department of Health Services, tobacco is Wisconsin's leading cause of preventable death and costs the state more than \$4.5 billion annually in health care and lost productivity costs. Over the past ten years, the development of E-cigs have added to this problem and have posed an increased threat to public health. In addition, tobacco is not the only substance consumed by the use of e-cigs. A 2015 study by Yale University shows that nearly 30% of high school students have tried an e-cig at some point during their high school years and that nearly 20% of those students have used an e-cig to inhale marijuana. Because the smell of vaping marijuana and tobacco is not nearly as strong as smoking it, it gives students a more inconspicuous way of using these substances.

The ease of using e-cigs makes the most vulnerable population of smokers even more vulnerable. The Center for Disease Control estimates that nine out of ten smokers try smoking for the first time before the age of 18. Many of the products are flavored and are clearly marketed toward young people – 73% of high school and 56% of middle school students who used tobacco within the last 30 days reported using a flavored product. E-cig use is steadily rising with 1 in 10 high school students reporting they have used one in the last 30 days. As the legislature, we can do our part to make sure that these actions do not happen on school grounds and that our kids can be educated in a clean-air and drug free environment.

By ensuring that each of our school districts address this growing problem, we are promoting healthier students and safer school environments. I ask for the support of the committee on this simple commonsense bill that promotes public health and safety, while still maintaining local control.



"Leadership in Public School Governance"

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

122 W. WASHINGTON AVENUE, MADISON, WI 53703  
PHONE: 608-257-2622 FAX: 608-257-8386

TO: Members, Assembly Committee on Education  
FROM: Dan Rossmiller, WASB Government Relations Director  
DATE: September 7, 2017  
RE: **SUPPORT for ASSEMBLY BILL 159**, relating to regulating the use of electronic smoking devices on school district property

The Wisconsin Association of School Boards (WASB), on behalf of all 422 public school boards in the state of Wisconsin, **supports** Assembly Bill 159 in the interest of promoting healthy students.

This bill would require the Department of Public Instruction (DPI) to develop a model policy regulating the use of electronic smoking devices on school district property. It would also require each school board to adopt an electronic smoking policy, which may be the same as the model electronic smoking policy developed by DPI. Nothing in current law precludes a local school board from adopting such a policy.

The bill defines "electronic smoking devices" as electronic devices containing or delivering nicotine, or any other substance, that an individual may use to simulate smoking by inhaling vapor or aerosol from the device. Vapes, vaporizers, vape pens, hookah pens, electronic cigarettes (e-cigarettes or e-cigs) and e-pipes are just some of the names used to describe electronic nicotine delivery systems currently sold in the marketplace. According to the U.S. Food and Drug Administration, these devices use a liquid "e-liquid" that may contain nicotine, as well as various compositions of flavorings, propylene glycol, vegetable glycerin and other ingredients. The liquid is heated into an aerosol that the user inhales. Often, these devices are manufactured to look like conventional cigarettes, cigars or pipes.

WASB members long ago adopted a WASB resolution in support of tobacco-free school environments.

As nicotine delivery technology has evolved, the WASB has extended its support for tobacco-free school environments beyond simply banning tobacco products in schools. The sample policies and the model employee handbooks we provide to school boards address both the use of tobacco products and the use of electronic smoking devices by students and staff. Many Wisconsin school boards, although probably not most, already address electronic smoking devices through their board policies. Many districts already have policies in place that prohibit other forms of nicotine delivery systems that are not part of a smoking cessation program, so, for example, nicotine lollipops and gum are also prohibited unless part of them are being used as part of a smoking cessation program.

A look at current law and the arc it follows may be helpful in addressing the bill before you.

School boards are required by section 120.12(20) of the state statutes to prohibit the use of tobacco products on premises owned, rented by or under the control of the school district. This applies to any use of tobacco products, not just smoking, and applies to everyone, not just students and staff. The only exception a school board may make is to allow the use of tobacco products on premises owned by the district and rented to another person for non-educational purposes. Although school boards have authority to make this exception, they could choose not to as a matter of local policy. When making any exception under section 120.12(20), school officials must keep in mind other applicable laws related to tobacco use.

Other state and federal laws that include tobacco prohibitions include, for example, the following:

- Wisconsin's Clean Indoor Air Act ([section 101.123](#) of the state statutes), which prohibits smoking in enclosed places, including educational facilities and public conveyances (including school buses). The person in charge of these places is responsible for making reasonable efforts to prohibit persons from illegally smoking. If the person in charge fails to take any required action to stop illegal smoking, he/she is subject to penalties outlined in state law.
- The federal [Pro-Children Act of 2001](#), which prohibits any person from permitting smoking within any indoor facility that is used to provide regular kindergarten, elementary or secondary education to children and is funded directly by the federal government or funded through state or local governments as part of a federal grant.
- [Section 254.92](#) of the state statutes, which prohibits minor children from purchasing, attempting to purchase, or possessing any cigarette, nicotine product or tobacco product, except under limited circumstances. Retailers are also specifically prohibited by [section 134.66](#) of the state statutes from selling cigarettes, nicotine products or tobacco products to any person under the age of 18. A "cigarette" includes any roll of tobacco or other substance rolled in paper. A "tobacco product" includes, for example, chewing tobacco, cigars, and snuff. A "nicotine product" means any product that contains nicotine and is not a tobacco product, a cigarette, or a product that has been approved by the U.S. Food and Drug Administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purchase (i.e., nicotine gum, nicotine skin patches). Nicotine products covered by this prohibition might include, for example, **electronic cigarettes (e-cigarettes)** with nicotine, nicotine vaporizers, and nicotine lollipops. While these statutory prohibitions only apply to persons under the age of 18, nothing would preclude a school board from prohibiting the use and/or possession of nicotine products (including e-cigarettes) by other persons on school premises as a matter of local policy.

As noted earlier, many Wisconsin school boards already address electronic smoking devices through their board policies. Most schools that have adopted such policies do so as part of their tobacco use policies. School boards and school administrators have authority to discipline students for violating tobacco use policies. This bill would lend additional support to school authorities with regard to policies on the use of electronic smoking devices.

As we observed, the bill would require the DPI to develop a model electronic smoking policy. We note that the DPI has several electronic smoking-related (or e-cigarette related) resources on its [website](#), including a [sample comprehensive tobacco-free schools policy](#) that includes e-cigarette prohibitions.

Although Assembly Bill 159 would impose a mandate on school boards to adopt a local board policy within 270 days after the effective date of the new law it would create, the bill does not specify the content of the local board policy, leaving it up to local boards to decide that that policy would contain. Because the bill maintains this element of local control, we support the bill.

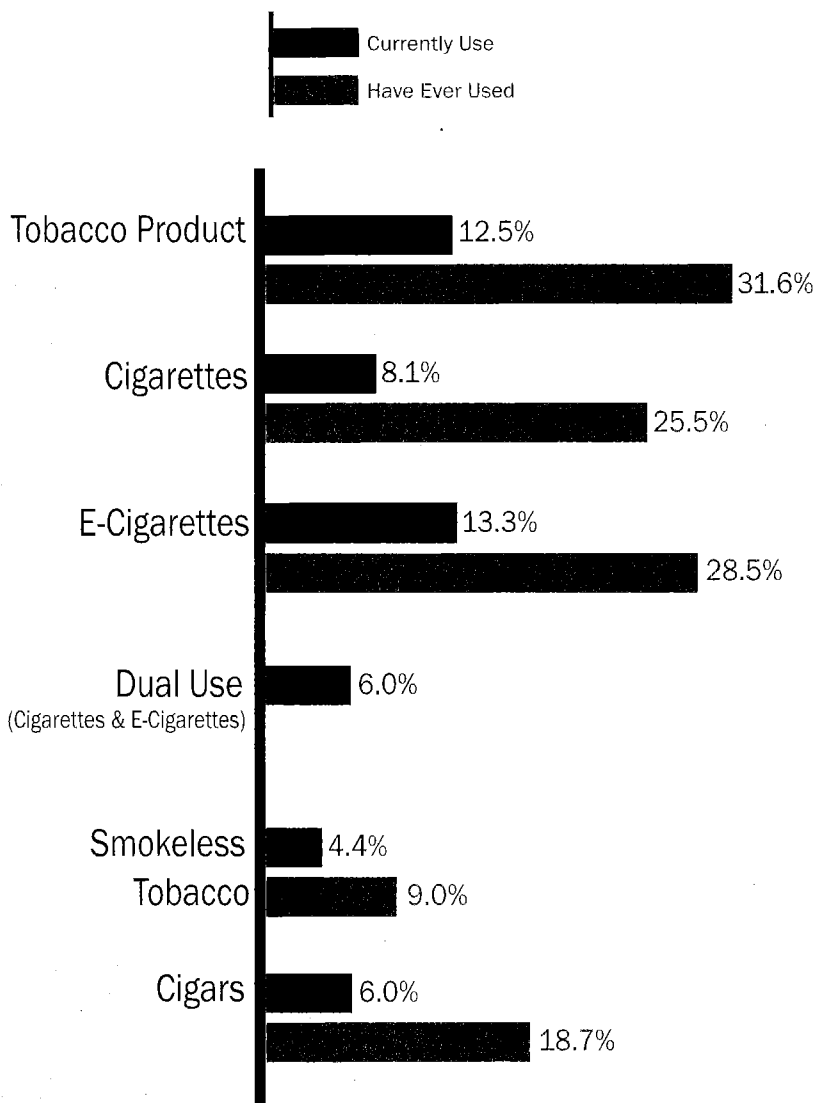
Thank you for the opportunity to testify before you today.

# 2016 YOUTH TOBACCO SURVEY



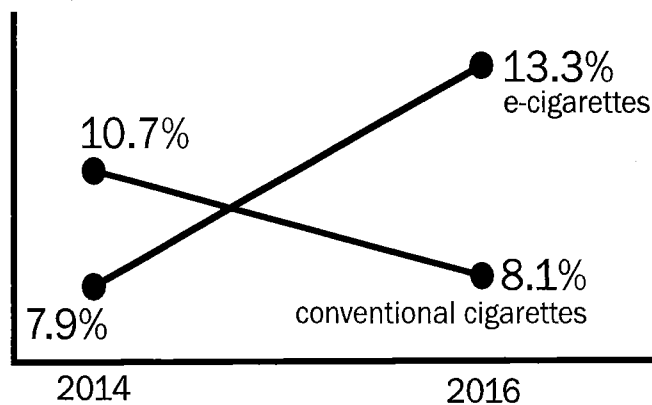
## High School Fact Sheet

The Wisconsin Youth Tobacco Survey (YTS) is a comprehensive measure of youth awareness, attitudes, and behaviors related to tobacco use. The purpose of this survey is to monitor trends of these attitudes and behaviors to assist in improving youth programs and initiatives. The Wisconsin YTS is a school-based survey of students in grades 9-12, conducted during the spring semester of every even academic year since the 1999-2000 school year. Fifty schools were randomly selected in 2016 to participate in this survey. Classrooms in the selected schools were also randomly selected. The overall high school response rate for the 2016 YTS was 60.62%. A total of 1,190 of the 1,492 sampled students completed the survey.



### E-Cigarette Use is Surpassing Conventional Cigarette Use

Although the use of conventional cigarettes has been steadily declining, e-cigarettes have been gaining in popularity.



### The Appeal of Flavors

**87.9%** think they probably would not or definitely would not try an e-cigarette if it did not have any flavor such as mint, candy, fruit, or chocolate.

## Other Findings

### Cessation

- 33.1% want to stop smoking
- 55.5% attempted to quit smoking at least once during the past 12 months

### Second-Hand Smoke Exposure

- 20.8% live in homes where others smoke
- 31.3% rode in a vehicle or were in the home with someone who smoked tobacco products in the past seven days