



JOHN SPIROS
State Representative • 86th Assembly District

**Testimony on Assembly Bill 348
Assembly Committee on Substance Abuse and Prevention
Thursday, September 30, 2021**

Chairman James and members of the Assembly Committee on Substance Abuse and Prevention, thank you for allowing me the opportunity to testify today on Assembly Bill 348.

In December of 2019, the federal government passed a law increasing the minimum age for purchasing cigarettes, tobacco products, and nicotine products from 18 to 21. The federal law also set the minimum age for purchasing vapor products to 21 and expanded the definition of retailers to include those who sell without a license. Assembly Bill 348 aligns Wisconsin law with the federal law regarding the minimum age to purchase these products and the definition of a retailer.

We have reintroduced this bill this session for two primary reasons: 1) to begin to address the public health crisis caused by the use of vapor products by our youth, and 2) to provide our local law enforcement the ability to actually enforce the federal age requirements.

There has been significant research that shows that use of vapor products and cigarettes in adolescence can impact brain development in the parts of the brain most responsible for addiction, mood disorders, and lowering impulse control. This is important to take into account as a 2019 study from the Centers for Disease Control and Prevention reports a total of 50.1% of high school students had tried electronic vapor products at least once, and 24.1% had tried smoking a cigarette at least once. We want to ensure that our youth are setup with a base of healthy habits so that they don't enter adulthood already at risk for future health issues. With the current minimum age in Wisconsin to purchase these products at 18, students are either able to purchase the products themselves or borrow them from a friend or classmate. Increasing the smoking and vaping age to 21 will help get these products out of schools and ensure that students are not able to buy them for their friends.

In order to ensure that these products do not get in the hands of youth, law enforcement actually has to have the ability to enforce policy changes. Currently, local law enforcement do not have the authority to enforce the federal policy as it does not align with state law and therefore have asked for updates to Wisconsin law. As this committee is well aware, removing ambiguity and conflicting requirements allows officers to better perform their job.

In addition to the concerns for the health of our youth and needs of law enforcement, Wisconsin also needs to change the minimum age to purchase to 21 in order to ensure that we continue to receive federal funding for substance abuse grants. We risk losing about \$2.7 million annually if statutes are not updated to align with federal law.

Last session this bill passed the full Assembly and the Senate Committee on Health and Human Services, but never received a full Senate vote. 39 other states have already passed legislation to increase the tobacco age from 18 to 21, and I hope that we can follow their lead to help alleviate this public health crisis.

Thank you again for allowing me the opportunity to share testimony in support of this bill, and I welcome any questions.



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

September 30, 2021 Assembly Committee on Substance Abuse and Prevention Testimony on Assembly Bill 348

Good morning!

Thank you Chair James and committee members for hearing Assembly Bill 348 (AB 348), which raises the state minimum age requirements for sale, purchase, and possession of cigarettes, nicotine and tobacco products, including vapor products, from 18 to 21.

Federal law changed on December 20, 2019, prohibiting the sale of tobacco products to any person younger than 21 years of age. Federal law also requires states, within approximately three years, to annually conduct random, unannounced inspections to ensure that retailers do not sell tobacco products to individuals under the age of 21.

AB 348 simply updates state statutes to match the federal age of 21. Why does Wisconsin need to update our law, if Tobacco 21 is already the law of the land? State and local law enforcement cannot enforce federal law. Therefore, Wisconsin statutes must be updated to enable Wisconsin law enforcement to be able to enforce the law. Federal law requires compliance checks, or Wisconsin could lose funding from the Substance Abuse and Mental Health Services Administration (SAMHSA) substance abuse grants.

I recognize that there are two different camps when it comes to increasing the age for tobacco, nicotine and vaping products. I understand the rationale that a legal adult should be able to purchase these products when they turn 18. However, I am also extremely concerned about the proven fact that we have high school and even middle school kids accessing these products from friends and siblings. This law change may not entirely solve the problem, but it is a reasonable action to protect our kids.

Between 2017 and 2018, the use of vaping products increased by 78% for high school students and by 48% among middle school students, according to figures from the U.S. Food & Drug Administration (FDA). Studies have shown nearly 40% of 12th graders report using a vaping product in the past 12 months.

The vast majority of high school and middle school students obtain vaping products from social sources, such as a classmate, friend or sibling. Obtaining the products has proven far too easy for youth, in part because 80% of their classmates turn 18 before they graduate. Parents and educators across the state have passionately voiced their concerns about the prevalence of youth vaping at listening sessions and have urged lawmakers to take action.

The increase to age 21 will help ensure fewer social access points to the products in high schools, while aligning e-vapor and tobacco products with other adult products, including beer, wine and distilled spirits. It is true that in most circumstances, the age of 18 is accepted as the entry point to adulthood. However, I believe those concerns are outweighed by the public health consequences of youth vaping.

I am also very concerned about the potential for illegal drugs and narcotics to be added to vaping products with – or without – the consent and knowledge of a user. We are already seeing this issue manifest in emergency rooms and hospitals throughout the state. Teenagers, who acquire their vaping products from others, may be more subject to this type of threat to their health and well-being. With all that said, we should align Wisconsin law with federal law to enable our local law enforcement to enforce the law.

This bipartisan legislation has broad support that includes the Altria Client Services; Association of Wisconsin School Administrators; Badger State Sheriffs' Association; Children's Hospital of Wisconsin; DCI Group AZ L.L.C.; JUUL Labs, Inc.; Kwik Trip Inc.; Metropolitan Milwaukee Association of Commerce; RAI Services Company; Wisconsin Association of Distributors; Wisconsin Association of School Boards; Wisconsin Association of School Business Officials; Wisconsin Association of School District Administrators; Wisconsin Association of School Personnel Administrators; Wisconsin Chiefs of Police Association; Wisconsin Council for Administrators of Special Services; Wisconsin Grocers Association; Wisconsin Petroleum Marketers & Convenience Store Association; Wisconsin Retired Educators Association; Wisconsin Sheriffs and Deputy Sheriffs Association.

Thank you again for hearing AB 348, I am proud to be part of the solution to this growing problem in our state and will continue to work with my colleagues to move the Tobacco 21 bill through the legislative process.



American
Heart
Association.

TO: Assembly Committee on Substance Abuse and Prevention
FROM: Nicole Hudzinski, Government Relations Director, American Heart Association
DATE: September 30, 2021
RE: Assembly Bill 348

Good morning, Chairman James and members of the committee. My name is Nicole Hudzinski, and I am the Government Relations Director here in Wisconsin for the American Heart Association. Thank you for having a hearing on Assembly Bill 348, raising the minimum legal sales age for tobacco products.

I want to start by sincerely thanking Representative Spiros and Senator Marklein for introducing this bill. Tobacco policy is complex and requires a lot of work, and both legislative authors have been great partners in this work over these last two sessions.

At the American Heart Association (AHA) we advocate for several policies aimed at combating the tremendous toll tobacco use has on this country, including raising the minimum sales age to 21. Other policies we encourage policymakers to consider are adequate funding for tobacco cessation and control programs; significant taxes on all products, including tax parity amongst the various products; comprehensive smoke-free air laws, and strong retail licensure. Regarding Assembly Bill 348 specifically, we support the bill as amended by Assembly Amendment 1 offered by Representative Spiros.

Tobacco use is a leading cause of preventable death and disease and a major risk factor in the development of cardiovascular disease, including stroke. Tobacco use kills 7,900 Wisconsinites each year, steals lives prematurely and significantly drives up health care costs.

While cigarette smoking rates have decreased in recent years, the number of youth and adolescents using new forms of tobacco, such as e-cigarettes, has skyrocketed placing decades of progress at risk. We must focus on reversing this trend, and we can do that by ensuring the next generation of youth do not become addicted to nicotine.

We've all seen the news and heard the statistics. Not only are more kids and young adults using e-cigarettes, they are using them more often. Many adolescents falsely believe these new products are safe, and some don't even realize they contain nicotine or understand how addictive they are. The reality is they can deliver much higher concentrations of nicotine than traditional cigarettes.

Raising the sales age for tobacco products, including e-cigarettes, will help eliminate tobacco use and addiction. Nearly 90 percent of adult smokers start smoking before age 21, and most 15 to 17-year-olds get their tobacco from friends who have turned 18. Raising the sales age to 21 will help remove tobacco from high schools altogether.

Additionally, adolescents' brains are still developing. Studies have shown nicotine can harm brain development and have adverse impacts on learning, memory, and attention. Nicotine exposure during adolescence can also cause addiction and increase risk for future addiction to other drugs.

In addition to the aforementioned reasons, we also need to raise Wisconsin's minimum sales age to ensure compliance with federal law. In late 2019, a policy was passed by Congress and signed by President Trump to increase the federal minimum sales age to 21. That law went into effect immediately and retailers all across the country began implementing the new requirements.

When news of the federal law spread, we were excited and thought our work was done. However, a few short weeks later we started to hear from local law enforcement and others regarding their enforcement limitations. Turns out local law enforcement in Wisconsin can enforce local ordinance and state law; they cannot enforce the federal prohibition on sales to 18-20-year-olds. To give them the authority to enforce this new federal policy, we must change state law to mirror federal law. Additionally, retail compliance checks can only be done on sales to 17-year-olds and younger until state law is changed.

Additionally, Wisconsin's Substance Abuse and Treatment block grant is tied to state compliance. States risk losing up to 10% of their block grant if compliance falls below 80%. In Wisconsin, 10% of our block grant would be approximately \$2.7 million annually.

For all these reasons, we support changing the minimum sales age for all tobacco, nicotine and vapor products in Wisconsin to 21. However, to ensure the law is comprehensive and enforceable, we need to amend the definition of "vapor products" in the bill. This is what Assembly Amendment 1 does.

The current definition of vapor products used in the bill references the definition from the tax statute. This definition of vapor products, used for tax purposes, as interpreted by the state Department of Revenue following the Wisconsin Supreme Court ruling, applies to the devices and not liquids or other substances unless sold together with a device, as one packaged item. As such, liquids sold separate from devices are not included in the definition. It also does not include parts or accessories, a key component of a comprehensive definition.

As it relates to this bill and the youth access law, liquids and other substances containing nicotine would be covered under the definition of "nicotine product" instead of "vapor product". That leaves liquids and other substances not containing nicotine, for example flavors and other additives, out of either definition. This is problematic for two reasons. First, e-cigarettes can contain other harmful substances besides nicotine, including vitamin E, diacetyl (chemical linked to serious lung disease), formaldehyde and acrolein. Inhaling any substance besides clear air is harmful to an adolescent's lungs, brain, and other developing organs. Second, law enforcement, teachers, and parents cannot visually tell the difference between a

product containing nicotine and one that is not. Youth can simply say “it doesn’t have any nicotine in it” and individuals trying to enforce the law would have their hands tied.

Assembly Amendment 1 addresses our concerns with the definition in the bill. It creates a new, more comprehensive definition in the youth access laws (vs. referencing the definition in the tax statutes). We support this change and greatly appreciate the authors willingness to bring forth this amendment. Without a comprehensive definition, I worry this bill will not have the desired impact on youth use that we desire.

These products— whether it be cigarettes, cigars, chewing tobacco, or e-cigarettes— are not safe and do not belong in the hands of our youth. By raising the minimum sales age for all products, we can help reduce tobacco use, nicotine addiction and tobacco-related death and disease. Moreover, by mirroring federal policy, we can clear up confusion, allow for local enforcement, and help prevent loss of federal dollars.

In closing, I again want to thank the committee for taking testimony today. We ask you to adopt Assembly Amendment 1 and pass this bill through committee.

Thank you, and I’m happy to answer any questions you have.



TO: Assembly Committee on Substance Abuse & Prevention
FROM: Louella Amos, MD, Pediatric Pulmonologist, Children's Wisconsin
DATE: Thursday, September 30, 2021
RE: Comments regarding AB 348 – Raising the legal age for sale, purchase and possession of nicotine, tobacco and vapor products

Chairman James and members of the committee, thank you for considering my testimony today. My name is Dr. Louella Amos and I am a pediatric pulmonologist at Children's Wisconsin and Associate Professor of Pediatrics for the Division of Pulmonary and Sleep Medicine with the Medical College of Wisconsin.

Today, I want to share Children's Wisconsin's (Children's) perspectives on the Tobacco 21 legislation and share our support for Assembly Amendment 1. We appreciate the bill's authors, Senator Marklein and Representative Spiros, as well as the bipartisan cosponsors of this legislation for taking the lead on this crucial issue and I hope that together we can put forward this amended proposal that will be a positive step in addressing this public health crisis.

Let me first start by saying that at Children's, we strongly believe that e-cigarette and tobacco use is never appropriate, healthy or safe for kids and teens. My mantra is the only thing that should be inhaled into anyone's lungs is air. While the federal government passed a national law to raise the age to legally purchase tobacco and e-cigarette products from age 18 to age 21, passage of a state-focused bill is necessary. Stakeholders who receive their authority from state law, including law enforcement and retail partners, need this legislation to ensure they can help keep these harmful products out of the hands of our young people and out of our high schools. Strong, adequate compliance and enforcement is essential to limiting youth access to these products.

As we have all seen in the past few years, the vaping and tobacco industry is ever-evolving. This is why we want to ensure that this legislation is comprehensive in covering all products and is enforceable. Children's and our partners support Assembly Amendment 1 which would change "vapor products" to "electronic smoking devices". This definition, including the use of "substance" instead of just "liquid", better covers non-nicotine e-liquids, other substances or parts/accessories purchased and used by those who vape. While products that contain nicotine would be covered, we know that even liquids/substances without nicotine still contain harmful ingredients that contribute to EVALI, including vitamin E, diacetyl, formaldehyde and acrolein.

Let me share a couple reasons why we are concerned about youth tobacco and e-cigarette use:

- Traditional tobacco and many e-cigarette products contain nicotine. This highly addictive drug has a negative impact on brain development, which continues until the mid-20s. The adolescent brain is exquisitely sensitive to nicotine, which can cause problems with learning and memory, as well as long-term behavioral impairments including depression, anxiety and mood disorders.
- Studies have shown that high exposure to nicotine in children makes them more susceptible to nicotine addiction and puts them at risk for lifelong addiction to tobacco products and other drugs. While there are resources available for youth to quit using traditional tobacco products, there are limited resources addressing youth e-cigarette cessation. Some may turn to using

traditional tobacco products instead which also have significant health risks. As with most public health issues, prevention is critical.

- There is not sufficient data or research regarding both the short- and long-term health impacts of e-cigarette use among adults, let alone teens. We continue to learn about the effects of inhaling the aerosol produced by these products, which contains harmful chemicals, heavy metals and ultrafine particles. Importantly, these products are easy to use: vaping devices, pods/cartridges and disposable products come in appealing and pleasant flavors (even with the federal action targeting flavored products); they are easy to hide and have no residual odor; they are less expensive than traditional tobacco products; and they don't require a lighter.
- Based on Wisconsin 2019 Youth Risk Behavior Survey data, 6% of high schoolers use traditional combustible cigarettes, 5% use cigars or cigarillos and 3% use hookah and smokeless tobacco. In stark contrast, 21% of high schoolers use electronic vapor products. This effectively represents a new generation of nicotine addicts and potential future traditional tobacco users. These statistics are alarming and should concern parents, providers and policymakers.

As you may know, Children's has been on the forefront of the nationwide outbreak of severe lung injuries associated with vaping and use of e-cigarette products. Since first identifying the e-cigarette or vaping-use associated lung injuries (EVALI) in 2019, Children's continues to see teenagers admitted to our hospital with severe respiratory distress and lung injuries related to vaping. These previously healthy teens experienced weeks to months of fatigue, GI complaints, weight loss and ultimately chest pain, shortness of breath and acute respiratory failure leading to their hospitalization. Post-hospitalization follow-up, some teens have reported losing sports scholarships due to their illness, have objective evidence of residual lung disease, and despite their horrible ordeal, some are so addicted that they are physiologically and psychologically unable to quit vaping. We have seen teenagers admitted over the course of the last year, including one who was admitted twice due to relapse. Regardless of the contents being used in these devices, they have no place in the hands of our youth. All of this occurred because they had access to e-cigarettes.

Our Children's primary care doctors see firsthand the prevalence of tobacco and e-cigarette use and are very concerned about the severe risks these products pose to kids' health. As a physician, it's frustrating that after years of progress in decreasing teen tobacco use, we have witnessed an alarming increase in the use of the next generation of harmful products. In talking with our patients, some describe fewer students vaping in their schools while others describe experiencing an increase in vaping among their peers. The key is prevention because right now, those who are hooked are having a hard time quitting, especially with the adolescent mental health crisis exacerbated by the pandemic. While it is very important to tackle the current e-cigarette crisis, we must also at the same time take action to reduce the harm and death toll caused by traditional tobacco use.

We are all familiar with the harmful risks associated with tobacco use including various cancers, lung disease, heart disease, stroke and more. In Wisconsin, approximately 7,000 people die each year from smoking-related causes with a direct health care cost of \$3 billion. And each year, teens begin the habit and risk becoming life-long tobacco users. We know that tobacco/nicotine habits start when you're young: 90% of adults who use tobacco started in their teen years and 99% started before age 26. The younger a person starts using tobacco, the faster they become addicted and the harder it is for them to stop. Preventing use in the first place is critical to reducing the number of youth who smoke or use e-cigarette products.

Importantly, three-quarters of high school students say it is easy to obtain tobacco products. 80% of kids turn 18 while in high school; unfortunately, this makes it easy to supply these products to their younger friends and classmates. Raising the purchase age to 21 will make it more difficult for kids to access these products. Younger teens and middle schoolers are not as likely to be friends with 21-year-olds. Adults should be doing what we can to make these products unappealing and as hard as possible for our kids to get their hands on them.

We appreciate the cross-sector cooperation and the work by the bill's authors on the amendment to help prevent e-cigarette possession among our young people. While a comprehensive strategy is needed to address youth tobacco and e-cigarette use, including making sure that there are addiction resources for teens and families, we believe that Tobacco 21, with the definition modifications in Assembly Amendment 1, would be a strong step in the right direction. We must do what we can to prevent kids from having easy access to these products and reduce their opportunities to try them in the first place.

Tobacco 21 is an important component of addressing this public health crisis among our youth. **I again ask for your support of this legislation with Assembly Amendment 1.** Please contact me with any questions you may have.

Dr. Louella Amos
lamos@mcw.edu

Children's Wisconsin (Children's) serves children and families in every county across the state. We have inpatient hospitals in Milwaukee and the Fox Valley. We care for every part of a child's health, from critical care at one of our hospitals, to routine checkups in our primary care clinics. Children's also provides specialty care, urgent care, emergency care, dental care, school health nurses, foster care and adoption services, family resource centers, child health advocacy, health education, family preservation and support, mental health services, pediatric medical research and the statewide poison hotline.



TO: Assembly Committee on Substance Abuse & Prevention
FROM: Christina Diaz, MD, Anesthesiology Physician, Children's Wisconsin
DATE: Thursday, September 30, 2021
RE: Comments regarding AB 348 – Raising the legal age for sale, purchase and possession of nicotine, tobacco and vapor products

Chairman James and members of the committee, thank you for considering my testimony today. My name is Dr. Christina Diaz and I am a Pediatric Anesthesiologist at Children's Wisconsin and Professor of Anesthesiology with the Medical College of Wisconsin.

I have been a pediatric anesthesiologist for 13 years and I have seen first-hand the negative impacts nicotine, tobacco, and vapor products have on our teens. The tobacco products being offered to our youth are rapidly changing and evolving. That is why we need your help and support on Assembly Amendment 1. We want to ensure that this legislation is comprehensive in covering all products and is enforceable. Our literature shows that 90% of adult smokers picked up this negative habit when they were adolescents. We need to stop the next generation from picking up a habit that will affect their health the rest of their lives. We are aware that e-cigarettes/vaping products can be at least as addictive, if not more, than the traditional cigarette.

I know that by moving this legislation forward with this amendment we will be taking a crucial step forward in addressing this public health crisis. It is our job to do our part to take care of Wisconsin kids and this legislation will help keep kids safe and healthy and protect them from these harmful products.

As many of you may recall, Children's Wisconsin had a collection of previously healthy patients that arrived in significant respiratory distress and were later diagnosed with EVALI (E Cigarette or Vaping product use Associate Lung Injury). Because the workup for this disease frequently includes diagnostic flexible bronchoscopy and bronchoalveolar lavage (fluid sample from the lungs for testing) which require general anesthesia, I took care of these patients in the operating room as part of their diagnosis. I can attest how detrimental vaping was to these children's lung function and how anesthesia was destabilizing to their condition. Normally, these diagnostic procedures are well-tolerated by patients, however for patients with EVALI, their airways were very reactive and resulted in coughing, wheezing needing additional support. We struggled with maintaining appropriate oxygen levels and these children acted like the most severe asthma attacks. They did not respond easily to our treatment and required us "pulling out all the stops". My colleagues and I had to work very hard to keep these children safe and help them recover. I feel that this collection of patients is the "canary in the coalmine" warning of the future dangers if we don't act now.

Tobacco 21 is an important component of addressing this public health crisis among our youth. **I again ask for your support of this legislation with Assembly Amendment 1.** Please contact me with any questions you may have.

Dr. Christina Diaz MD FASA FAAP
Professor of Anesthesiology
cdiaz@mcw.edu

Children's Wisconsin (Children's) serves children and families in every county across the state. We have inpatient hospitals in Milwaukee and the Fox Valley. We care for every part of a child's health, from critical care at one of our hospitals, to routine checkups in our primary care clinics. Children's also provides specialty care, urgent care, emergency care, dental care, school health nurses, foster care and adoption services, family resource centers, child health advocacy, health education, family preservation and support, mental health services, pediatric medical research and the statewide poison hotline.



School Administrators Alliance

Representing the Interests of Wisconsin School Children

TO: Assembly Committee on Substance Abuse and Prevention
FROM: John Forester, Executive Director
DATE: September 30, 2021
RE: Support for Assembly Bill 348

Chairman James and members of the Assembly Committee on Substance Abuse and Prevention, thank you very much for the opportunity to submit testimony on this important legislation. My name is John Forester. I'm the Executive Director of the Wisconsin School Administrators Alliance (SAA). In that capacity, I represent the combined memberships of five professional associations of public school administrators: the Association of Wisconsin School Administrators (AWSA), the Wisconsin Association of School Business Officials (WASBO), the Wisconsin Association of School District Administrators (WASDA), the Wisconsin Association of School Personnel Administrators (WASPA), and the Wisconsin Council for Administrators of Special Services (WCASS). The SAA also represents the 10,000 members of the Wisconsin Retired Educators Association (WREA).

The SAA, and WREA, supports Assembly Bill 348, relating to raising the legal minimum sales age for cigarettes, tobacco products, or nicotine products from 18 to 21. I would like to begin by thanking Senator Marklein and Representative Spiros for bringing this legislation forward. Please consider the following in support of our position:

- Wisconsin schools are in the front lines in dealing with fallout from rising teen nicotine addiction.
- As e-cigarettes and vaping products have become more widely available, we have seen an explosion in the numbers of young people using these products.
- According to the most recent Wisconsin Youth Risk Behavior Survey from 2019, e-cigarette use among high school students was at 20.6%. Further, 45.5% of all Wisconsin high schoolers report having tried an e-cigarette at least once.
- Eighteen-year-olds are suppliers of these products to their younger peers. Raising the minimum sales age will reduce the number of high schoolers who can legally purchase these products for others in their social circles.
- Just like raising the legal drinking age from 18 to 21 helped remove alcohol from high school campuses, we hope this bill will produce similar results when it comes to e-cigarettes and other dangerous products that harm the health of young students and disrupts

learning environments in schools. School administrators get into the education profession to help students learn and affect the education of our youth. Unfortunately, they are spending way too much time tackling the vaping problem when they could be devoting that time to improvements in instruction and boosting educational performance for all students.

- In 2019, Congress passed, and President Trump signed into law, an increase in the minimum federal sales age to 21. However, we need to increase Wisconsin's minimum sales age to ensure compliance with federal law and to provide Wisconsin law enforcement with the authority to enforce the new federal policy. The current confusion surrounding the legal purchasing age in Wisconsin, as well as confusion over enforcement of the federal purchasing age law, allows youth continued access to tobacco products.
- We also strongly support Assembly Amendment 1 to AB 348, which replaces all of the references to "vapor product" within the bill with the term "electronic smoking device." If adopted, this definition of "electronic smoking device" would significantly strengthen the bill and clarify enforcement of its provisions should it become law. We urge the Committee to support Assembly Amendment 1.

While the SAA, and WREA, strongly supports raising the legal minimum sales age for cigarettes, tobacco products, or nicotine products from 18 to 21, we have one concern about the bill:

- Current state statutes punish tobacco users instead of the retailers and it could lead to enforcement action against low-income youth and youth of color disproportionately.

Thank you for your consideration of our views. If you should have any questions regarding our thoughts on AB 348, please call me at 608-242-1370.

**Wisconsin Assembly
Substance Abuse And Prevention Committee
Submitted Testimony Regarding AB 348
David Fernandez, Vice President, Government Affairs and Public Policy
Altria Client Services Inc.**

September 30, 2021

Chairman James and Members of the Committee, thank you for the opportunity to submit testimony today on the behalf of Altria and its affiliates Philip Morris USA, John Middleton, US Smokeless Tobacco Company, and Helix Innovations.

Altria Supports Prompt Enactment of Assembly Bill 348 to raise the minimum age to purchase tobacco products to twenty-one.

We support this legislation because we believe a minimum age of 21 is one of the most effective ways of reducing underage use of tobacco products – a goal we strongly support. We agree with others here that raising the minimum age under state law is essential for effective enforcement and for consistent practices among retailers selling tobacco products.

Reducing underage use of all tobacco products has been a critical policy goal for both public and private stakeholders over many years. Among other things, in 2009 Congress passed federal legislation we supported that empowered FDA to comprehensively regulate tobacco products – including provisions specifically intended to reduce underage use.¹ And over the years, the states have played a frontline role in building regulatory systems to ensure adults, and only adults, can purchase tobacco products.

The good news is that these policy changes are working. Underage use of traditional tobacco products – cigarettes, cigars, and moist snuff – has been steadily declining for decades. And according to the most recent U.S. government data, underage use of these products is the lowest in a generation (Figure 1a).

In 2018, however, underage use of e-vapor products sharply increased. This was clearly unacceptable, and raising the minimum age became an important component of turning this trend around. The data was clear. Youth under eighteen get tobacco products primarily from friends or siblings who can legally purchase them.² In fact, 80% of high school students in the U.S. turn 18 before they graduate.³ And, according to government data, 80% of youth access tobacco products through social sources.⁴

We joined a broad coalition – retailers, wholesalers, policy groups, and others – to advocate for raising the minimum age for all tobacco products to 21. In 2019, Congress passed, and

¹ U.S. Food and Drug Administration website, “Family Smoking Prevention and Tobacco Control Act – An Overview,” <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/family-smoking-prevention-and-tobacco-control-act-overview>.

² ALCS analysis of Population Assessment of Tobacco and Health (PATH) Study, Wave 3 data (2015-16). PATH is a joint project of the National Institutes of Health (NIH) and the U.S. Food and Drug Administration (FDA).

³ Tobacco 21 Fact Sheet, <https://tobacco21.org/wp-content/uploads/2019/01/T21-Fact-Sheet-1-2-2019.pdf>.

⁴ ALCS analysis of Population Assessment of Tobacco and Health (PATH) Study, Wave 4.5 data (December 2017 – December 2018).

the president signed, bi-partisan legislation setting the federal minimum age at 21, and that federal law is now fully in effect.

While that was an important step, it was not enough. Most minimum age enforcement happens in the states. Differences in federal and state minimum age laws lead to confusion and to inconsistent practices across retail.

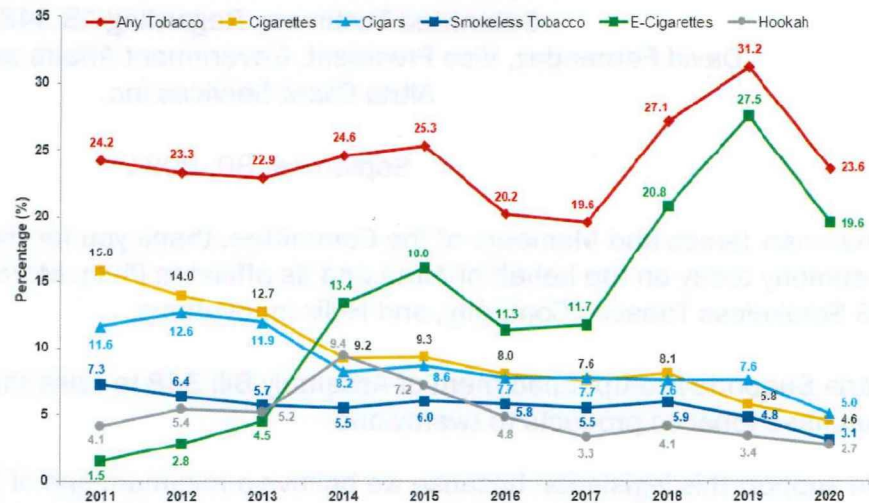
That's why we strongly support states moving to 21. To date, 39 states covering 84% of the U.S. population have made this change.

According to the government data, this policy appears to be helping. In 2020, use of e-vapor products among 12- to 17-year-olds declined from its high of 27.5 percent to 19.6 percent (Figure 1a).⁵ Recent research further supports the view that these laws are helping precisely because they limit social access.⁶ There is still more progress to be made, but these trends are encouraging.

We believe this policy change is also important for preserving the reduced harm potential of smoke-free technologies – heated tobacco products, oral nicotine products, and e-vapor – for adult smokers. A harm reduction framework means not only reducing underage use, but also helping adult smokers who don't quit move to FDA-authorized reduced harm products. While nicotine is addictive and not risk-free, as FDA says, it is the smoke from conventional cigarettes that leads to most tobacco-related harm.⁷ FDA's regulatory authority includes the tools to do both things – reduce underage use while supporting adult smokers moving to less harmful smoke-free products.⁸

For these reasons, we support a minimum age of 21 for all tobacco products, and we encourage enactment of Assembly Bill 348.⁹

**Figure 1a: Current Tobacco Product Use Among High School Students
National Youth Tobacco Survey, 2011-2020⁷**



⁵ Chart is ALCS rendering of National Youth Tobacco Survey data.

⁶ Sabia, Joseph, "Do State Tobacco-21 Laws Work?" <https://www.tobaccopolicy.org/seminars.html>

⁷ "[W]hat primarily causes death and disease from tobacco use isn't the nicotine in these products. It's the act of lighting tobacco on fire to free that drug for inhalation." Former FDA Commissioner Scott Gottlieb, Se also, Mitchell Zeller et al., *The Strategic Dialogue on Tobacco Harm Reduction: A Vision and Blueprint for Action in the US*, 18 Tobacco Control J. 324, 325 (2009); Dorothy K. Hatsukami et al., Developing the Science Base for Reducing Tobacco Harm, 9 Nicotine & Tobacco Res. S537, S546 (2007). <https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm620185.htm>.

⁸ U.S. Food and Drug Administration website, "Family Smoking Prevention and Tobacco Control Act – An Overview," id.

⁹ Importantly, setting the minimum age of purchase to 21 also ensures Wisconsin continues to receive up to \$6,790,99 in federal funding for state-run substance abuse programs funded by Substance Abuse and Mental Health Services grants. This money, about 10% of the state's total, is conditioned on Wisconsin enforcing the new federal Tobacco 21 law through existing youth tobacco prevention inspections. "SAMHSA Grant Awards by State, FY 2021," SAMHSA as of 10/09/2020, <https://www.samhsa.gov/grants-awards-by-state?year=2021>.

To: Chairman James and Members of the Assembly Substance Abuse and Prevention Committee

From: Tim Sanborn, MD

Date: September 30, 2021

RE: Assembly Bill 348, raising the age to purchase all tobacco products to 21

Good morning Chairman James and members of the Assembly Substance Abuse and Prevention Committee. My name is Dr. Tim Sanborn. I'm the Chief of Cardiology for Froedtert Kenosha and Pleasant Prairie Hospitals, Clinical Professor of Medicine at the Medical College of Wisconsin, resident of Pleasant Prairie, and a longtime volunteer with the American Heart Association (AHA). I wholeheartedly support raising the age of sale for all tobacco products to 21, but we also must revise the definition of "vapor product" to be more comprehensive and enforceable.

In over 40 years of practice, I've seen the devastating consequences of tobacco use. In the recent past, I was consulted on patients with heart attacks, lung cancer spreading to the heart, a patient with COPD who died on a ventilator and the need for leg amputation, all related to long term smoking. We also had a 17-year-old student present to the ER after passing out in the school hallway after vaping.

Tobacco kills over 480,000 individuals each year. That's more than automobile crashes, gun violence and opioid overdoses combined. Students who start smoking or use e-cigarettes in high school are 6 times more likely to become chronic smokers.

For the past 15 years, I've been a voluntary advocate for the American Heart Association. Most of that time was spent working with the AHA team in Illinois. We worked on policies proven to impact tobacco initiation and use such as smoke free laws in public places, raising tobacco taxes in Cook County, and the statewide Tobacco 21 bill signed in April 2019. Illinois was the first state in the Midwest to pass Tobacco 21. There are now 39 states that have raised the minimum sales age to 21, as has the federal government.

I now volunteer with the AHA in Wisconsin, continuing to advocate for proven tobacco prevention policies. I'm also active locally, in Kenosha, Racine and Walworth counties, working with the schools and our youth on tobacco prevention education.

I'm sure you have all heard about the epidemic of e-cigarette use in our schools in Wisconsin. 1 in 5 high school students self-reported vaping, and 1 in 9 middle schoolers have reported trying e-cigarettes. Now we have an outbreak of serious lung illnesses related to vaping, and we still do not know what the long-term impact will be.

A recent Mayo Clinic report of 17 patients with serious lung disease after vaping described the pathology on lung biopsy to be a chemical burn like Agent Orange.

As a public health policy, Tobacco 21 can help eliminate this epidemic in our schools!

Since passage of Tobacco 21 in Chicago in 2016 there was a 36 % decrease in cigarette and e-cigarette use among residents 18-20 years-old. (15.2 % to 9.7 %)

Some may say, "If you're old enough to serve in the military, you're old enough to smoke." When Hawaii was the first state to pass Tobacco 21 legislation, all branches of the military services approved the measure as nicotine has been shown to affect a soldier's "readiness". Smoking is not a freedom, it's a bondage.

We must raise Wisconsin's minimum sales age for all tobacco products to 21, just as 39 other states and the federal government have done. However, we must also revise the definition of "vapor products" to be more inclusive and enforceable. Please adopt a stronger definition and then pass the bill through committee.

Thank you for considering my testimony.

Tim Sanborn MD, MS

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To: Assembly Committee on Substance Abuse and Prevention
From: Carrie Chapman, MD
Date: September 30, 2021
RE: Assembly Bill 348, raising the minimum sales age for tobacco products

Good morning Chairman James and committee members. I'm Dr. Carrie Chapman, a cardiologist in Appleton, WI, mother of three boys (in grades 4th, 6th and 8th), and volunteer with the American Heart Association. I want to share with you my perspectives of our tobacco crisis both as a physician and as a parent.

Everyday I counsel patients on smoking cessation, and I begin that conversation by stating "this will be one of the hardest things you ever do". Nicotine is as powerful as cocaine in its control as an addictive substance. Everyday I see patients regretting they ever took that first puff.

We had been making such great progress in our efforts to stomp out tobacco and then the vaping epidemic hit. Products marketed and sold to our children. Easy to buy and easy to hide. Each little flavor filled cartridge with the same amount of nicotine as a pack of cigarettes. And now the tobacco industry has a customer for life. 1 in 5 of our children are now vaping and are now addicted. It's in our elementary schools and we've only scratched the surface in identifying these products long and short-term harms. We must keep these products out of the hands of our children.

Here are a few examples of what I have personally seen locally in NE WI. At the last heart walk (prior to the pandemic), a second grade teacher approached me and told me a student brought her mom's vaping device into the classroom. A second grader! I've asked my own boys what they have seen. Of course my middle schooler tells me "mom I don't hang out with those kids" but he does tell me the grounds are littered with juul pods so he knows other kids are doing it. My husband has been a coach for baseball and football for years. Kids that are using these products— they never would have picked up a cigarette. But juuling, they think that's different, and now we have a whole new generation addicted.

I would also like to take a moment to address the counter argument that states if your old enough to fight for our country then you should have the right to purchase tobacco products. A patient of mine, marine corporal X, a 34- year-old man with extensive family history of heart disease saw me for a preventative cardiac wellness assessment a month ago. He started using nicotine during his time as a marine as he was told it would keep him alert during special operations missions. He comes to me for help now to deal with his addiction. He is ashamed. He wants to be healthy and be proactive in managing his cardiac risk factors, so he doesn't die like his father did of a heart attack at a young age. He wants his own son to have his dad around longer than he did. But he struggles, because nicotine is a such an addictive substance.

Cardiovascular disease remains the leading cause of death, and tobacco use remains one of the top risk factors. We have a responsibility to protect people from a lifetime of cardiac morbidity and addiction. I wholeheartedly support raising the minimum sales age for all tobacco products

to 21, just as almost every state and the federal government have done. However, we must make sure our policy is designed and implemented correctly. Please amend the definition of "vapor products" to be more comprehensive and enforceable.

Thank you for considering my testimony.

September 30, 2021

Good afternoon Chairman James and members of the Committee.

My name is Ann Dodge and I'm a Nurse Practitioner in Pediatric Cardiology at American Family Children's Hospital in Madison. I'm also a volunteer with the American Heart Association. I support raising the minimum sales age for all tobacco products to 21, but I ask that you also adopt a stronger definition of "vapor products" before moving the bill forward.

As part of my career, I help teens and their parents quit nicotine addictions. We know that there is a huge impact of nicotine on the developing adolescent body including the heart, lungs, and brain. Firsthand in my clinic, I have seen the extreme nicotine addiction that these young people are facing. Instead of reporting statistics to you, I want to share my experience from one of my patients from clinic. This patient's name has been altered to protect privacy.

Sarah is a junior in a Madison High School. She is a very good student. She started smoking cigarettes when she was a freshman in high school. She heard about vaping a few years ago and thought it would be a great way for her to quit cigarettes. She has now been vaping for 2 years. She has tried to quit vaping several times on her own but can't. She told her Mom she was desperate to get help so her mother made an appointment with me for Sarah.

I saw her alone so she could open up about her addiction. Sarah reports vaping 4 Juul pods per day. Each JUUL pod contains as much nicotine as a pack of cigarettes. She is spending \$40 per week on ecig supplies. She gets the money from her mom and her mom thinks this is for her lunches. She needs to vape within 30 minutes of waking up and has to vape at least once per hour to function during the school day. Without it she becomes irritable, stressed and gets headaches. She has started coughing most of the night.

She said she really doesn't care about the flavor because it is just the nicotine she needs so badly. Many of her friends are trying to switch to chewing tobacco to quit because they can still use that discretely in school. She tried it but felt "nic-sick", which is the term she and her friends use for the nausea feeling related to nicotine overdose. She told me she is desperate to quit, and just wants to be free. Sarah said 2 of her friends had seizures last year and another friend had a collapsed lung related to vaping. She states she is very worried about her nighttime cough. Sarah said she feels like this is holding her back in her goals.

This is Sarah's story but this could have been any of the 1/3 of our high school students that are using e-cigarettes.

We need to do everything we can to keep these addictive substances out of the hands of our youth, and if designed and implemented correctly, this bill will help do

that. Please adopt a stronger definition of "vapor products" before supporting the bill.

Thank you for considering my testimony.

Ann Dodge
Middleton, WI

September 30, 2021

Good morning Chairman James and members of the Committee. My name is Gabby Ralphe, and I'm a freshman at the University of Wisconsin - Madison. I'm here to offer my perspective on Assembly Bill 348. I recently completed high school and want to share my experience.

I began advocating against teen e-cigarette use when I was 14 years old. As a freshman in *high school*, I looked around at my classmates and friends and was concerned about their newfound relationships with Juul. At this time the vaping epidemic was in infancy and few adults had any sense of just how many kids owned a vape.

Now, as someone who is going into college, my perspective has developed from wary concern to disheartened grief. At the age of 14, my classmates began using Juuls. It was all about being "cool" "rebellious" and was primarily a social thing. These devices were bought from 18-year-old seniors at my high school. Now that we are the 18-year-olds, things are completely different. The Juuls and their candy flavors have been abandoned for brands such as Viewz who have a higher nicotine percentage, one that can keep up with their addiction, and the flavors are simply anything they can get their hands on no matter how much it stings or burns in their throats.

What was once a social activity has become isolating and even a point of conflict. Those who have run low on their own vape, or forgot theirs at home beg and plead to borrow a friend's. People become territorial and greedy with their pods, for they need every last drop. This habit is no longer cool or rebellious, or anything to think of at all, it is so ingrained into our lives. Whether you vape or not, in my generation, addiction is a simple fact of life.

Me and my peers have changed a lot over the last four years. We have matured, found ourselves, our passions, our people. Many of us are starting life in the real world with real jobs or are beginning college. We are no longer the 14-year-olds in the back of the bus being offered a Juul. With these changes the vast majority of 18-year-olds who vape today will assert without hesitation that they regret ever having started. How unfair it seems that now we are finally the legal age to make such a decision about our health and our bank accounts and it has already been made, already set in stone by our 14-year-old selves who knew nothing of the costs, who only desperately wanted to fit into an environment as fickle as high school.

As I look upon the younger generation in my community I see hope. I see the potential these kids have to not make the same mistake as so many of my peers. I don't want the 14-year-olds of today to wake up four years from now in the middle of the night feening for their vape. This is why we need these devices out of our high schools.

Raising the minimum age to legally buy tobacco products, including e-cigarettes, is one way to help prevent youth from developing nicotine addiction. However, the policy must be designed and implemented correctly. Please support the amendment introduced by Representative Spiros and the bill.

Thank you for considering my testimony.