

Opposition testimony – HB 2563
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Chairman Barker and members of the Committee:

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on HB 2563 a bill that would raise the minimum age for the sale of tobacco products to 21 years old and restrict the sale of certain flavored electronic cigarette products. As the nonprofit, non-partisan advocacy affiliate of the American Cancer Society, ACS CAN advocates for public policies that reduce death and suffering from cancer which include policies targeted at reducing tobacco use. **ACS CAN is opposed to HB 2563 because it falls short in adequately protecting young Kansans from a lifelong addiction to tobacco products and electronic cigarettes.** Namely, HB 2563 contains a provision to restrict the sale of some flavored electronic cigarettes but leaves all other flavored tobacco products and all menthol flavored products, including menthol flavored e-cigarettes on the market.

Flavors are a marketing weapon the tobacco manufacturers use to target youth and young people to a lifetime of addiction. Altering tobacco product ingredients and design, like adding flavors, can improve the ease of use of a product by masking harsh effects, facilitating nicotine uptake, and increasing a product's overall appeal. Candy, fruit, mint and menthol flavorings in tobacco products are a promotional tool to lure new, young users, and are aggressively marketed with creative campaigns by tobacco companies. Products with flavors like cherry, grape, cotton candy, and gummy bear are clearly not aimed at established, adult tobacco users and years of tobacco industry documents confirm the intended use of flavors to target youth. Furthermore, youth report flavors a leading reason they use tobacco products and perceive flavored products as less harmful. The use of any flavored tobacco product among youth is concerning because it exposes them to a lifetime of tobacco addiction, disease, and premature death. ACS CAN recommends ending the sale of all flavored tobacco products, including but not limited to menthol cigarettes, flavored e-cigarettes, flavored cigars, smokeless tobacco, and hookah.

Along with restricting the sale of all flavored tobacco, there are several components that make up a strong Tobacco 21 law:

- Covers all tobacco products, including electronic cigarettes
- Provides public education and training and technical assistance to retailers
- Implements measures for active enforcement, such as retailer licensing and penalties, including suspension and revocation.

- Does not create a new category of products, which would exempt them from other tobacco control laws
- Does not penalize youth
- Does not preempt local jurisdiction from passing strong tobacco control laws

We are pleased that many of the components of a strong law are included in HB2563. The removal of the penalty for youth found in possession and an increase to the retail license fee are both critical pieces to the overall success of Tobacco 21 legislation.

In previous iterations of this legislation, advocates worked with the KS Dept. of Revenue to calculate the cost of full enforcement with two controlled buys for \$25/2yrs to approximately \$145/2 years. This bill increases the retail license fee to \$100/2 years, which is short of the KDOR estimate and may consequently leave enforcement underfunded. We recommend the retail license fee be increased to at least the amount outlined in KDOR's estimate.

Laws prohibiting sales to minors have historically not been effective stand-alone measures. Compliance with the law should be the responsibility of the retailer, and penalties for violations should not fall on the youth attempting to purchase tobacco or minimum wage clerks behind the counter. Studies have shown that "Purchase, Use, and Possession" laws do not curb teen use of these deadly products. This is a concern as it could lead to targeting of the youth as well as profiling in rural and minority neighborhoods where tobacco retailers tend to be more densely populated. This can also serve as a distraction for stopping retailers who are illegally selling tobacco to those under 21 in the first place who are profiting from the sales. It is better to focus the efforts of enforcement on retailer compliance checks. Many youths are addicted due to marketing tactics by the industry, making it difficult for them to quit, and research shows that penalizing youth could deter them from seeking support for cessation services.

HB 2563 would have the greatest public health impact if:

1. The retail license fee is increased to at least \$145/2 years to fully fund enforcement efforts by the Kansas Dept. of Revenue
2. The legislation included ending the sale of all flavored tobacco products, including menthol cigarettes.
3. The penalty for youth currently in statute be struck, as is done in the current form of this bill

HB 2563 in current form takes some positive steps forward, but includes an exemption for menthol and other flavored tobacco products which ACS CAN cannot support.

