

MEMO TO: House Federal and State Affairs Committee
FROM: Thomas M. Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas
DATE: February 13, 2020
RE: HB 2563

Mr. Chairman and members of the House Federal and State Affairs Committee: My name is Tom Palace and I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA), a statewide trade association that represents over 250 independent petroleum marketers and convenience store retailers throughout Kansas.

PMCA Opposes portions of HB 2563.

Mr. Chairman, PMCA stands in opposition to several sections of this bill. With the recent push by local cities and counties establishing regulations for anyone purchasing tobacco products to be 21 have caused confusion in the marketplace. With the FDA coming out with the new regulation that requires anyone that purchases tobacco or E-cigarettes must be 21 adds consistency in the market.

PMCA have long been opponents of raising the age from 18-21 to purchase tobacco products for many reasons however, with the recent FDA actions Kansas is our position has changed.

Below are the key points in HB2563.

PMCA is neutral

- Makes changes to definitions using terms like electronic cigarettes and consumable material.
- Prohibits the use of cigarette vending machines.
- ABC Director may refuse to issue or renew a license if a person is not of good character in their community.
- ABC Director may refuse to issue or renew a license if a person has been convicted of a felony or crime involving moral turpitude.
- Raises the age to purchase or be in possession from 18-21.
- Requires notices at retail locations to be in conspicuous place and 6 feet of each register. Notice shall be a least 8 ½ by 11.

PMCA Opposes

- Requires two unannounced controlled buys annually.
- Retailer license fee increase from \$25 to \$100.
- NO penalties for minors in possession.

Raising Fees 400%

PMCA does not support raising the fees for tobacco licenses 400%. If there was a specific need to increase the fee the industry may respond differently. But to increase the fee “just because” it hasn’t been raised in years is not a good reason for a fee increase.

Kansas Compliance over 90%

Tobacco retailers in Kansas have worked hard making sure tobacco products do not get in the hands of minors. Retailers have added software that when tobacco products are scanned, they are alerted on the screen the legal birthdate to purchase. Retailers also use an array of their own training programs for clerks. The training is paying off because tobacco retailers have a compliance rate of over 90%.

FDA Changes in the Future

The E-cigarette flavor ban concerns us. FDA has banned the reusable flavored cartridges, except tobacco and menthol, but not the disposable flavors. FDA is has also stated that they will consider additional flavors in the future...only after they have been tested. HB 2563 would ban ALL E-cigarette flavors and not allow potential flavor alternatives approved by FDA in the future. **We believe we should amend the bill and include language that would allow flavored E-cigarette products as approved by FDA.**

Penalties for Minors/people under 21 Possessing Tobacco Products

HB 2563 does not require penalties for persons that are in possession of tobacco and E-cigarettes. This bill only puts the hammer on retailers. We feel this is wrong. Minors need to be responsible for their action. The penalties are substantial for a retailer and the clerk. This bill does nothing to prevent minors from possessing E-cigarettes and/or tobacco products...nothing more than a slap on the hand. We suggest that the committee consider adding a penalty similar the alcohol statute that if under the age of 21 a person is caught with E-cigarettes or tobacco products, they are issued an MIP.

Thank you.