1999 SENATE JUDICIARY

SB 2125

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2125

Senate Judiciary Committee

❑ Conference Committee

Hearing Date January 18, 1999

Tape Number		Side A	Side B	Meter #
	1	x		0 - end
1-26-99	2	x		1845 - 2360
Committee Clerk Signature		Jackie Follman		

Minutes:

SB2125 relates to the purchase, possession, and use of tobacco by minors; and to provide a penalty.

SENATOR STENEHJEM opened the hearing on SB2125 at 9:00 A.M.

All were present except SENATOR C. NELSON.

SENATOR THANE, 25TH District, testified in support of SB2125. This bill is directed to solving the problems of the sale of tobacco to a person under the age of 19. A lot of 18 year olds are still in high school.

SENATOR KILZER, 47TH District, testified in support of SB2125. This is a very addictive substance. The choice to made about smoking should be made only in later life. The most severe consequence about smoking that I see is in pain relief of people who have chronic pain. A

proven fact is that nicotine occupies the pain receptor site that people who have chronic pain and their pain pills do not work as well. I support this bill because it essentially keeps smoking and cigarettes out of high schools.

MURRAY SAGSVEEN, State Health Officer, testified in support of SB2125. Testimony is attached. Proposed Amendment is also attached.

SENATOR TRAYNOR asked about the language in the bill reducing the penalty to an infraction from a misdemeanor.

MURRAY SAGSVEEN stated that through discussion the people thought that it would be better to reduce the first time penalty from a misdemeanor to an infraction because a fine is involved and not jail time. The repeat offenses the infraction becomes a misdemeanor.

SENATOR WATNE asked about the amount of dollars spent trying to get young people not to smoke and the statistics keep going up. Is our approach wrong? Is there any studies along this line?

MURRAY SAGSVEEN stated he was also baffled by this. Statistics show that younger people are smoking more than ever before. One answer may be the national advertising campaign. We are outspent on these advertising campaigns.

REPRESENTATIVE JENSEN, District 17, testified in support of SB2125.

SENATOR TRAYNOR asked about Grand Forks being one of the cities in the lead of attacking smoking by minors.

REPRESENTATIVE JENSEN stated that she had no statistics on this. The local merchants are enforcing this very diligently.

STEPHEN MCDONOUGH, Chief Medical Examiner, State Department of Health, testified in support of SB2125. Testimony attached.

ROSELLEN SAND, Attorney General's Office, testified in support of SB2125.

SENATOR STENEHJEM asked if there were any numbers on how many people have been prosecuted under the statute we have on the books now.

ROSELLEN SAND stated that she had no exact numbers on this question.

LINDA JOHNSON, Department of Public Instruction, testified in support of SB2125. Testimony attached.

SENATOR TRAYNOR asked what principals do when they catch someone under the age of 18 smoking on the school grounds.

LINDA JOHNSON stated that the schools have policy established that no one can smoke on school grounds. Some have suspension or in school suspension, depending on school policy.

RON NESS, North Dakota Petroleum Marketers Association, testified in support of SB2125. Testimony attached.

NANCY SAND, NDEA, testified in support of SB2125. This bill would assist schools as they attempt to work with the students through their discipline policies.

SENATOR WATNE asked when the minor is caught with tobacco, is there any followup to find out where they got the tobacco or if it is reported to the authorities.

NANCY SAND stated that she did not know.

SENATOR STENEHJEM asked that there is no smoking allowed on any school grounds in the state.

JEANNE PROM, State Health Department, stated that the Pro Kyds Act of 1994 stated that wherever children received federal funding education library or health services there cannot be smoking allowed. That doesn't extend to the grounds, however, in individual school districts statewide they have adopted stronger policies. 60% of our school districts have a policy that prohibits any tobacco use for anyone on the school and at school activities.

DAVID PESKE, Director of Governmental Relations for the North Dakota Medical Association, testified in support of SB2125.

VIVIAN SCHAFER, Children's Caucus, testified in support of SB2125.

JESS COOPER, Greater North Dakota Association, testified in support of SB2125 on the North Dakota Retailers on the proposed Amendment on line 15 to add "attempting to purchase."

SENATOR STENEHJEM stated that he thought our attempt statute already addresses that.

MURRAY SAGSVEEN agreed with Senator Stenehjem.

SENATOR LYSON stated that everyone is talking about children, this is making a law against an adult.

MURRAY SAGSVEEN stated that there is many children in school that are 18 years of age. This bill is to get at the 18 year olds in high school.

SENATOR STENEHJEM asked how he can tell his 18 year old constituents that they are wise enough to vote but not to do something foolish. Will this bill work?

MURRAY SAGSVEEN stated he is confident this will help curb smoking. If it could be proven it isn't working, it probably should be repealed next session.

SENATOR TRAYNOR stated that he thinks the Committee should take notice in the nature of judicial notice that we have had about 25 people in the hearing room and everyone is over the

age of 19 years of age. There has been a lot of publicity about this bill, what are the kyds saying on this bill.

SENATOR STENEHJEM CLOSED the hearing on SB2125.

January 19, 1999 3:00 p.m.

Discussion.

SENATOR LYSON made a motion for DO PASS, SENATOR TRAYNOR seconded.

3 - 3 Motion failed.

SENATOR TRAYNOR made a motion on AMENDMENTS, SENATOR LYSON seconded.

Motion carried.

SENATOR TRAYNOR made a motion for DO PASS AS AMENDED, SENATOR BERCIER seconded. Motion carried.

SENATOR STENEHJEM will carry the bill.

6 - 0 - 0

January 26, 1999 Tape 2

Discussion. We need to look at the Amendment about compliance.

SENATOR NELSON made a motion to reconsider, SENATOR WATNE seconded.

SENATOR WATNE made a motion on AMENDMENT, SENATOR NELSON seconded.

SENATOR NELSON made a motion for DO PASS AS AMENDED, SENATOR WATNE seconded. Motion carried.

6 - 0 - 0

SENATOR STENEHJEM will carry the bill.

Date: 1-19-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2125

Senate Judiciary Committee

☐ Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number

Action Taken Do PASS.

Motion Made By Lyson Seconded By Traynor

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem		X			
Senator Darlene Watne		X			
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier		X			
Senator Caroloyn Nelson	X				

Total (Yes) 3 No 3

Absent

Floor Assignment

Date: 1-19-99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2125

Senate Judiciary Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do PASS on Amendments

Motion Made By Traynor Seconded By Lyson

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier	X				
Senator Caroloyn Nelson	X				

Total (Yes) 6 No 0

Absent _____

Floor Assignment _____

Date: 1-19-99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2125

Senate Judiciary Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do PASS AS Amended

Motion Made By Traynor Seconded By Bercier

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier	X				
Senator Caroloyn Nelson	X				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Stenehjem

REPORT OF STANDING COMMITTEE

SB 2125: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2125 was placed on the Sixth order on the calendar.

Page 1, line 6, remove the overstrike over the first "~~**minors**~~", remove the overstrike over the second "~~**minors**~~", and remove "**persons under nineteen**"

Page 1, line 7, remove "**years of age**"

Page 1, line 8, remove the overstrike over "~~minor~~"

Page 1, line 9, remove "person under nineteen years of age", remove the overstrike over "~~minor~~", and remove "person under nineteen"

Page 1, line 10, remove "years of age"

Page 1, line 14, remove the overstrike over "~~minor~~" and remove "person under nineteen years"

Page 1, line 15, remove "of age"

Renumber accordingly

Date: 1-25-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2125

Senate Judiciary Committee

☐ Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number

Action Taken Amendment

Motion Made By Watne Seconded By Nelson

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier	X				
Senator Caroloyn Nelson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment

Date: 1-25-99
Roll Call Vote #: 3

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2175

Senate Judiciary Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As amended

Motion Made By Nelson Seconded By Watne

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier	X				
Senator Caroloyn Nelson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Stenehjen

REPORT OF STANDING COMMITTEE

SB 2125: Judiciary Committee (Sen. W. Stenehjem, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2125 was placed on the Sixth order on the calendar.

Page 1, line 6, remove the overstrike over the first "~~**minors**~~", remove the overstrike over the second "~~**minors**~~", and remove "**persons under nineteen**"

Page 1, line 7, remove "**years of age**"

Page 1, line 8, remove the overstrike over "~~minor~~"

Page 1, line 9, remove "person under nineteen years of age", remove the overstrike over "~~minor~~", and remove "person under nineteen"

Page 1, line 10, remove "years of age"

Page 1, line 14, remove the overstrike over "~~minor~~" and remove "person under nineteen years"

Page 1, line 15, remove "of age"

Page 1, line 17, after the period insert "However, a person under eighteen years of age may purchase and possess tobacco as part of a compliance survey program when acting with the permission of the person's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco retailer, or association of tobacco retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority."

Renumber accordingly

1999 HOUSE JUDICIARY

SB 2125

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. : 2125

House Judiciary Committee

❑ Conference Committee

Hearing Date : March 1, 1999

Tape Number	Side A	Side B	Meter #
1	X		33.5
Committee Clerk Signature			

Minutes:

(This bill was heard on March 1. The committee acted to amend and recommend "do pass" on March 3 and sent the bill to the floor. The amendments were adopted on the floor and then the bill was re-referred to Judiciary Committee. On March 16 the committee again heard testimony on the bill. Then, on March 23 the committee again amended the bill and sent it to the floor with a "do pass" recommendation.)

March 1, 1999

SEN. THANE I urge you to pass this bill as it is needed to do something about teen smoking. I ask that you make the age limit 19 rather than 18, though.

REP. JENSEN I too urge you to pass this bill which is aimed at getting law enforcement to start enforcing the laws on teenage smoking.

MURRAY SAGSVEEN (ST. Hlth. Ofcr.) Presented written testimony, a copy of which is attached.

DR. STEPHEN MCDONOUGH (Dept of Health) Presented written testimony, a copy of which is attached.

ROSELLEN SAND (Asst AG) The Attorney General supports this bill. It is hoped that if enforcement is made simpler it will become more common.

DAVID PESKE (ND Medical Assoc.) The Medical Association is in favor of this bill.

LINDA KOHLS (Am. Cancer Soc.) We are in favor of this bill, but feel it doesn't go far enough.

LINDA JOHNSON (DPI) Presented written testimony, a copy of which is attached.

BONNIE LARSON STAIGER Our organization urges you to see that this bill passes.

RON NESS (ND Retailers) Presented written testimony, a copy of which is attached.

COMMITTEE ACTION March 3, 1999

REP KOPPELMAN move that the bill be given a divided amendment, with division A being the age portion and division B the rest. Rep. Fairfield seconds and the motion failed on a voice vote.

REP HAWKEN moves that the bill be amended. Rep. Meyer seconded and that motion passed on a unanimous voice vote.

REP. HAWKEN move that the committee recommend that the bill DO PASS AS AMENDED. Rep. Gunter seconded the motion which passed on a roll call vote with 15 ayes, 0 nays and 0 absent. Rep. Sveen was assigned to carry the bill on the floor.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2125

House Judiciary Committee

❑ Conference Committee

Hearing Date 3-16-99

Tape Number	Side A	Side B	Meter #
Three SB 2125		x	20.0 to 34.0
Committee Clerk Signature Orlan Hanson			

Minutes:

Summary of bill:

Chairman DeKrey: We had your bill on floor of the House and it was about ready to die a sure and certain death the major problem was the tobacco compliance check where minors can go into the store under the auspices of some group and conduct a sting operation. Decided we'd better decide exactly what we are doing.

Murray Sagsveen: The compliance language was inserted in the bill to accomplish several purposes, first of all Federal Law requires compliance surveys and the goal is to achieve a 20% rate of the retailers would sell to minors on a state wide survey. The reason we can get compliance surveys is because the laws only outlaws smoking by minors. The bill would include purchasing and possession. So if the bill is passed then cannot go in under compliance surveys.

So that's why we added the language to specifically allow compliance surveys. We believe there is some confusion about compliance surveys because the issue came up two years ago and the language is very different this time because the compliance in the language now requires parental consent, supervision by an adult or law enforcement and it allows retail associations to do their own compliance survey.

Rep Koppelman: Current North Dakota Law does not have language in it for the so called Sting ring ?

Murray Sagsveen: That is correct.

Rep Koppelman: Could you explain to me how North Dakota participated in this without it being in the law? If so why is it necessary to put this in law now?

Murray Sagsveen: Under the existing law purchasing and possession is not illegal. If you pass the bill purchasing and possession wil be illegal and minors will be able to operate in the sting ring.

Chairman DeKrey: We talked about the fact the store owner can be charged with a misdemeanor if he sells to an underage offender can go from store to store until he finds someone who wil sell him the cigarettes and there is no ramifications whatsoever. We looked at South Dakota law where in fact that person can be ticketed for attempting to buy some tobacco when they are under age. They went from 84% noncompliance to 11% noncompliance with ability to fine the youthful offender. We talked about some language like that would the Dept. have any feelings on that aspect of it?

Murray Sagsveen: Anything that could be done to improve the situation the dept. would be for it.

Rep Hawkin: If we

Murray Sagsveen: If we make it illegal to purchase or possess then we have to have this in the law. If you leave that compliance survey language in the bill and it passes we will do compliance surveys. If you take the language out of the bill and take possession and purchasing out of the law we will still do compliance surveys. And the only way to do an effective compliance survey is to use minors, because if you use an 18 year old and they sell to them what have you proved.

Rep Koppelman: If we were to pass this bill the way it stands what would be the purpose of compliance surveys, would be to find people who are selling to minors or would it be to find minors who are purchasing the cigarettes. If so you are targeting retailers who are selling to minors is that correct?

Murray Sagsveen: Essentially yes, you are doing two things, you are complying with federal law that requires the survey to bring the compliance down to 20% in order to keep your ------- but at the same time it is a cooperative effort between the State retailers to try to keep the sales to minors at an absolute minimum. We believe most retailers out there are trying to minimize sales of tobacco products to minors.

Rep Koppelman: I personally like the language if they purchase and possess tobacco because I think one of the things we are trying to get at is youth tobacco use and if its not illegal to have it or possess it and its only illegal to use it, which apparently is current law. We are in a situation where a law enforcement officer as to physically see a someone using it to prosecute them. I can drive down any street within a 300 yard radius of a school in North Dakota and I would venture to say about 4:30 in the afternoon and see a cluster of minors lighting up on the street corner and

see a police officer drive by and wave at them. I ask myself what's wrong with that picture if youth using tobacco is an issue?

Murray Sagsveen: Yes the penalty is being reduced for the first offense but the penalty in also a misdemeanor for a second conviction on the same charge in a short period of time. I've asked several officials how many minors have been prosecuted as a class B Misdemeanor for smoking as a minor no one can remember a one. System not working, no one prosecuted need to change it.

Chairman DeKrey: Can a clerk be prosecuted for selling to a minor. If the Clerk and Minor both can be fined $25 this will make it more of deterrent.

Murray Sagsveen: Under state law if you sell or transfer tobacco products to a minor customer its an infraction so it would be a clerk or a retailer.

Chm DeKrey: In a sting operation a clerk committing the infraction could be prosecuted for the infraction too. This is an important part of the South Dakota law. We might have to add it to this bill. Quite a few 18 & 19 year olds are hired by these convenience stores and when their buddies come into buy they sell them out of the back door.

May Kay Harmon: Administrator of Fargo/Cass County youth committee. 200 kids have gone through the program over the last 4 years and the program is working. They go through a program we have set up in conjunction with the courts, its called "get international ?????" They are fined $50 and they go through the program then they are gone. If they come back as a repeat offender there is a repeat offender program for them to go through and its working.

Action delayed until Friday.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. :2125

House Judiciary Committee

❑ Conference Committee

Hearing Date : March 23, 1999

Tape Number	Side A	Side B	Meter #
1	X		0
Committee Clerk Signature			

Minutes:

COMMITTEE ACTION

REP. HAWKEN moved to amend the bill to return to the age issue and set it up so that the clerk who makes the sale gets fined and not the store owner. Rep. Delmore seconded and the motion passed on a unanimous voice vote.

REP. DELMORE moved that the committee recommend that the bill DO PASS AS AMENDED. Rep. Fairfield seconded and the motion was passed on a roll call vote with 15 ayes, 0 nays and 0 absent. Rep. Hawken was assigned to carry the bill on the floor.

Date: ~~3/25~~ 3/3
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2125

House JUDICIARY Committee

☐ Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number Do pass as amended.

Action Taken

Motion Made By Hawken Seconded By Gunter

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY	✓		REP. KELSH	✓	
REP. CLEARY	✓		REP. KLEMIN	✓	
REP. DELMORE	✓		REP. KOPPELMAN	✓	
REP. DISRUD	✓		REP. MAHONEY	✓	
REP. FAIRFIELD	✓		REP. MARAGOS	✓	
REP. GORDER	✓		REP. MEYER	✓	
REP. GUNTER	✓		REP. SVEEN	✓	
REP. HAWKEN	✓				

Total Yes 15 No 0

Absent 0

Floor Assignment Sveen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2125, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2125 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the second "and" and after "penalty" insert "; and to declare an emergency"

Page 1, line 14, replace "a person" with "an individual"

Page 1, line 16, replace "person's" with "individual's"

Page 1, after line 20, insert:

"3. A city or county may adopt an ordinance or resolution that deems a violation of subsection 2 a noncriminal violation with a fee of twenty-five dollars.

a. Any individual who has been cited for a violation that is designated a noncriminal offense may appear before a court of competent jurisdiction and pay the statutory fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the statutory fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the statutory fee. This subdivision does not allow a halting officer to receive the statutory fee or bond.

b. If an individual cited for a violation that is designated a noncriminal offense does not choose to follow any procedure provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation charged. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual charged shall deposit with the court an appearance bond equal to the statutory fee for the violation charged. The state must prove the commission of a charged violation at the hearing under this section by a preponderance of the evidence.

4. A law enforcement officer who cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Adopted by the Judiciary Committee
March 23, 1999

VR
3/24/99
1 of 2

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2125 **3/24/99** **Jud**

In lieu of the amendments adopted by the House as printed on page 724 of the House Journal and the amendments printed on pages 894 and 895 of the House Journal, Engrossed Senate Bill No. 2125 is amended as follows:

Page 1, line 2, remove the second "and" and after "penalty" insert "; and to declare an emergency"

Page 1, line 14, replace "a person" with "an individual"

Page 1, line 16, replace "person's" with "individual's"

Page 1, after line 20, insert:

"3. A city or county may adopt an ordinance or resolution regarding the sale of tobacco to minors and use of tobacco by minors which is more stringent than this section. Any ordinance or resolution adopted which deems a violation of subsection 1 or 2 a noncriminal violation must provide for a fee of not less than twenty-five dollars.

a. Any individual who has been cited for a violation that is designated a noncriminal offense may appear before a court of competent jurisdiction and pay the statutory fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the statutory fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the statutory fee. This subdivision does not allow a halting officer to receive the statutory fee or bond.

b. If an individual cited for a violation that is designated a noncriminal offense does not choose to follow any procedure provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation charged. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual charged shall deposit with the court an appearance bond equal to the statutory fee for the violation charged. The state must prove the commission of a charged violation at the hearing under this section by a preponderance of the evidence.

4. A law enforcement officer who cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 3/23
Roll Call Vote #:

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2125

House JUDICIARY Committee

☐ Subcommittee on

or

☐ Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as Am

Motion Made By Delmore Hawken Seconded By Fairfield Koppelman

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY	✓		REP. KELSH	✓	
REP. CLEARY	✓		REP. KLEMIN	✓	
REP. DELMORE	✓		REP. KOPPELMAN	✓	
REP. DISRUD	✓		REP. MAHONEY	✓	
REP. FAIRFIELD	✓		REP. MARAGOS	✓	
REP. GORDER	✓		REP. MEYER	✓	
REP. GUNTER	✓		REP. SVEEN	✓	
REP. HAWKEN	✓				

Total Yes 15 No 0

Absent 0

Floor Assignment Hawken

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2125, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2125 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on page 724 of the House Journal and the amendments printed on pages 894 and 895 of the House Journal, Engrossed Senate Bill No. 2125 is amended as follows:

Page 1, line 2, remove the second "and" and after "penalty" insert "; and to declare an emergency"

Page 1, line 14, replace "a person" with "an individual"

Page 1, line 16, replace "person's" with "individual's"

Page 1, after line 20, insert:

"3. A city or county may adopt an ordinance or resolution regarding the sale of tobacco to minors and use of tobacco by minors which is more stringent than this section. Any ordinance or resolution adopted which deems a violation of subsection 1 or 2 a noncriminal violation must provide for a fee of not less than twenty-five dollars.

a. Any individual who has been cited for a violation that is designated a noncriminal offense may appear before a court of competent jurisdiction and pay the statutory fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the statutory fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the statutory fee. This subdivision does not allow a halting officer to receive the statutory fee or bond.

b. If an individual cited for a violation that is designated a noncriminal offense does not choose to follow any procedure provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation charged. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual charged shall deposit with the court an appearance bond equal to the statutory fee for the violation charged. The state must prove the commission of a charged violation at the hearing under this section by a preponderance of the evidence.

4. A law enforcement officer who cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

1999 SENATE JUDICIARY

CONFERENCE COMMITEE

SB 2125

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2125

Senate Judiciary Committee

☒ Conference Committee

Hearing Date April 1, 1999

Tape Number	Side A	Side B	Meter #
1	x		0 - 1045
Committee Clerk Signature	Jackie Follman		

Minutes:

SB2125 relates to the purchase, possession and use of tobacco by minors; and to provide a penalty.

SENATOR STENEHJEM opened the Conference Committee hearing on SB2125.

Senator Stenehjem, Senator Watne, Senator Nelson, Representative DeKrey, Representative Hawken, and Representative Delmore were present.

REPRESENTATIVE DEKREY explained the House amendments. It was quite evident that the retailers and the health officer who came in and were not happy with what had come to us. It is illegal for the juveniles to smoke but not to possess or buy. We came up with this from South Dakota law. The health officer told us we had to get our noncompliance by juveniles below 30%, or we have a possibility of losing 1.2 million dollars of tobacco money. We took what they have done in South Dakota which is to put a $25 fine that a law enforcement officer can write

like a traffic ticket. A city or county can adopt this. We added in that a clerk who sells the tobacco to a minor can get ticketed.

REPRESENTATIVE HAWKEN stated that all groups were in agreement.

SENATOR WATNE asked what court would hear these violations.

ROSIE SAND answered the question that the juvenile court would hear this in the case of juveniles.

SENATOR STENEHJEM stated he thinks it should go into juvenile court because they get more services and they do a follow up.

REPRESENTATIVE HAWKEN stated that the law enforcement officer who cites a minor for the violation shall mail a notice to the parents.

SENATOR STENEHJEM stated that the juvenile court will notify the parents. We can amend this to say "law enforcement officer or the juvenile court."

REPRESENTATIVE DEKREY moved that the House recede to the House amendments and further amend. Representative Delmore seconded. Discussion. Motion carried. 6 - 0 - 0

==========

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420

07398

==========

(Bill Number) SB 2125 (, as (re)engrossed):

Your Conference Committee

For the Senate:	For the House:
Senator Stenehjem Y	Representative DeKrey Y
Senator Wayne Y	Representative Hawken Y
Senator Nelson Y	Representative Delmore Y

☒ recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from) the (Senate/House) amendments on (SJ/HJ) page(s) 908 - 909

725/726 — 723/H725

☐ and place _____ on the Seventh order.

727

☒ , adopt (further) amendments as follows, and place SB 2125 on the Seventh order:

☐ having been unable to agree, recommends that the committee be discharged and a new committee be appointed. 690/515

((Re)Engrossed) SB 2125 was placed on the Seventh order of business on the calendar.

==========

DATE: 4 / 1 / 99

CARRIER: _____

LC NO. _____ . _____ of amendment

LC NO. _____ . _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

==========

(1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE

SB 2125, as engrossed: Your conference committee (Sens. W. Stenehjem, Watne, C. Nelson and Reps. DeKrey, Hawken, Delmore) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 908-909, adopt amendments as follows, and place SB 2125 on the Seventh order:

That the House recede from its amendments as printed on pages 908 and 909 of the Senate Journal and 979 and 980 of the House Journal and that Engrossed Senate Bill No. 2125 be amended as follows:

Page 1, line 2, remove the second "and" and after "penalty" insert "; and to declare an emergency"

Page 1, line 14, replace "a person" with "an individual"

Page 1, line 16, replace "person's" with "individual's"

Page 1, after line 20, insert:

"3. A city or county may adopt an ordinance or resolution regarding the sale of tobacco to minors and use of tobacco by minors which is more stringent than this section. Any ordinance or resolution adopted which deems a violation of subsection 1 or 2 a noncriminal violation must provide for a fee of not less than twenty-five dollars.

a. Any individual who has been cited for a violation that is designated a noncriminal offense may appear before a court of competent jurisdiction and pay the statutory fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the statutory fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the statutory fee. This subdivision does not allow a halting officer to receive the statutory fee or bond.

b. If an individual cited for a violation that is designated a noncriminal offense does not choose to follow any procedure provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation charged. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual charged shall deposit with the court an appearance bond equal to the statutory fee for the violation charged. The state must prove the commission of a charged violation at the hearing under this section by a preponderance of the evidence.

4. A law enforcement officer or juvenile court that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Engrossed SB 2125 was placed on the Seventh order of business on the calendar.

1999 TESTIMONY

SB 2125

Statement of

Stephen McDonough MD
Chief Medical Officer
State Department of Health

on
Senate Bill No. 2125

Regarding
Change in Penalty and Age of Tobacco Use

Before the
Senate Judiciary Committee

January 18, 1999

Good morning, Mr. Chairmen, and members of the Committee. I am Dr. Stephen McDonough, Chief Medical Officer of the North Dakota Department of Health. Our Department supports SB 2125 which would change the age of legal tobacco use to age 19 and change the penalty.

Tobacco has a tremendous impact on public and personal health. Tobacco use is the single greatest cause of premature death in the United States and in North Dakota. In the past thirteen years since the North Dakota Department of Health first identified (1986) tobacco use as the most serious public health problem, thirteen thousand North Dakotans have died prematurely from tobacco use, more than the entire population of Barnes county in 1997.

Youth Smoking

Across the country in the 1990s, tobacco use among children increased significantly. This also occurred in North Dakota. In 1995, 19.8% of surveyed North Dakota students in grades 9-12 smoked cigarettes regularly, compared to 12.3% in 1992. In fact, when rates of any cigarette smoking were calculated by the Centers for Disease Control and Prevention, North Dakota teenagers had the third highest rate of 31 states with available information. (Appendices 1 and 2)

Accompanying the increase in tobacco use was an increase in marijuana use. The percentage of students smoking marijuana in the past 30 days increased to 14.9% in 1995, up from 5.9% in 1992.

Cigarettes are gateway drugs to marijuana smoking and other illegal drug use. It is a small step for a child to make from smoking cigarettes at age 13 or 14 to smoking marijuana at age 15 or 16 because the mechanism of drug delivery is the same.

Tobacco companies prey on vulnerable adolescents, young people under stress and with poor self esteem. Want to be sexy, macho and independent? Light up a Marlboro! The most heavily advertised product in the United States is the most widely available addictive drug-tobacco. The predatory marketing practices of the tobacco industry and the current unenforceable North Dakota Century Code have assisted in the increase in youth tobacco use.

Why Should SB2125 Be Passed?

Changing the penalty from a misdemeanor to an infraction will help with enforcement. Getting tobacco out of high schools with the age 19 will also help. SB2125 should help reduce access to tobacco, one of several necessary steps to curb youth tobacco use. The Centers for Disease Control and Prevention recommends the following prevention activities to reduce tobacco use:

- Increasing tobacco prices.
- Reducing the access to, and appeal of, tobacco products.
- Conducting mass media campaigns and school-based tobacco use prevention programs.
- Increasing provision of smoke-free indoor air.
- Decreasing tobacco use by parents, teachers, and influential role models.
- Developing and disseminating effective youth smoking cessation programs.
- Increasing support and involvement from parents and schools.

Two states, Massachusetts and California, with comprehensive tobacco control programs have not seen the great increases in youth tobacco use seen in other states.

Some would say that the current law is not being enforced so why increase the age to 19. That is why it is important to change the penalty to an infraction and avoid the burdens of a misdemeanor trial. Others would say that if you are old enough to enlist in the military, you should be able to smoke tobacco. You can't drink beer if you are under age 21. Increasing the age of alcohol use has decreased alcohol related motor vehicle fatalities. The benefits to youth and society have been tremendous. You don't hear a clamor to reduce the legal age of alcohol consumption to age 18. Age 19 tobacco laws have been discussed and encouraged by Republican Governors.

Mortality

In 1996, the North Dakota Department of Health estimated that 1,050 residents died prematurely to tobacco related illnesses. Although most deaths occurred among adults, an estimated three deaths were among infants, one from Sudden Infant Death Syndrome (SIDS) and two from low-birth-weight. Cancer deaths (332), heart disease deaths (449), respiratory deaths (265), and fire deaths (1) accounted for adult smoking-attributable mortality. (Appendix 3)

In 1985, the North Dakota Department of Health estimated that 974 residents died from smoking-attributable mortality. The change in mortality from 974 to 1050 deaths represents a 7.8 percent increase over a 12-year period. Substantial changes in mortality occurred among women. In 1985, an estimated 58 cancer deaths were smoking-attributable among women compared to 106 in 1996, an 81.0 percent increase. Female smoking-attributable lung cancer deaths (88) in 1996 were more than double (151.4 percent increase) the 35 deaths in 1985. Respiratory deaths also showed substantial increases among women. In 1985, there were 50 smoking-attributable female respiratory deaths compared to 94 such deaths in 1996, an 88.0 percent increase.

The increase in female smoking-attributable cancer and respiratory mortality resulted in more women dying of cigarette smoking in 1996 (344) compared to 1985 (247). Male smoking-attributable deaths remained largely unchanged with 727 deaths in 1985 and 706 deaths in 1996.

Economic Costs

Tobacco use has a significant negative impact on North Dakota's economy. In 1993, an estimated $180.1 million was spent on health care of tobacco related diseases in North Dakota with $42.5 million in outpatient care, $15.1 million in prescription drugs, $93.4 million in hospital services, $1.1 million in home health care, and $28.0 million in nursing home care. The $180.1 million spent in tobacco related diseases amounted to 11.2 percent of all health care expenditures in the state.

In 1993, North Dakota spent an estimated $16.9 million in Medicaid for tobacco related diseases. The tobacco industry has recently agreed to pay the state of North Dakota $717 million over 25 years, a dollar figure based on estimated Medicaid expenditures during the period for tobacco caused diseases.

North Dakota's elective representatives have a choice- to support either public health or the tobacco industry and their allies. We ask you to support public health and pass SB2125.

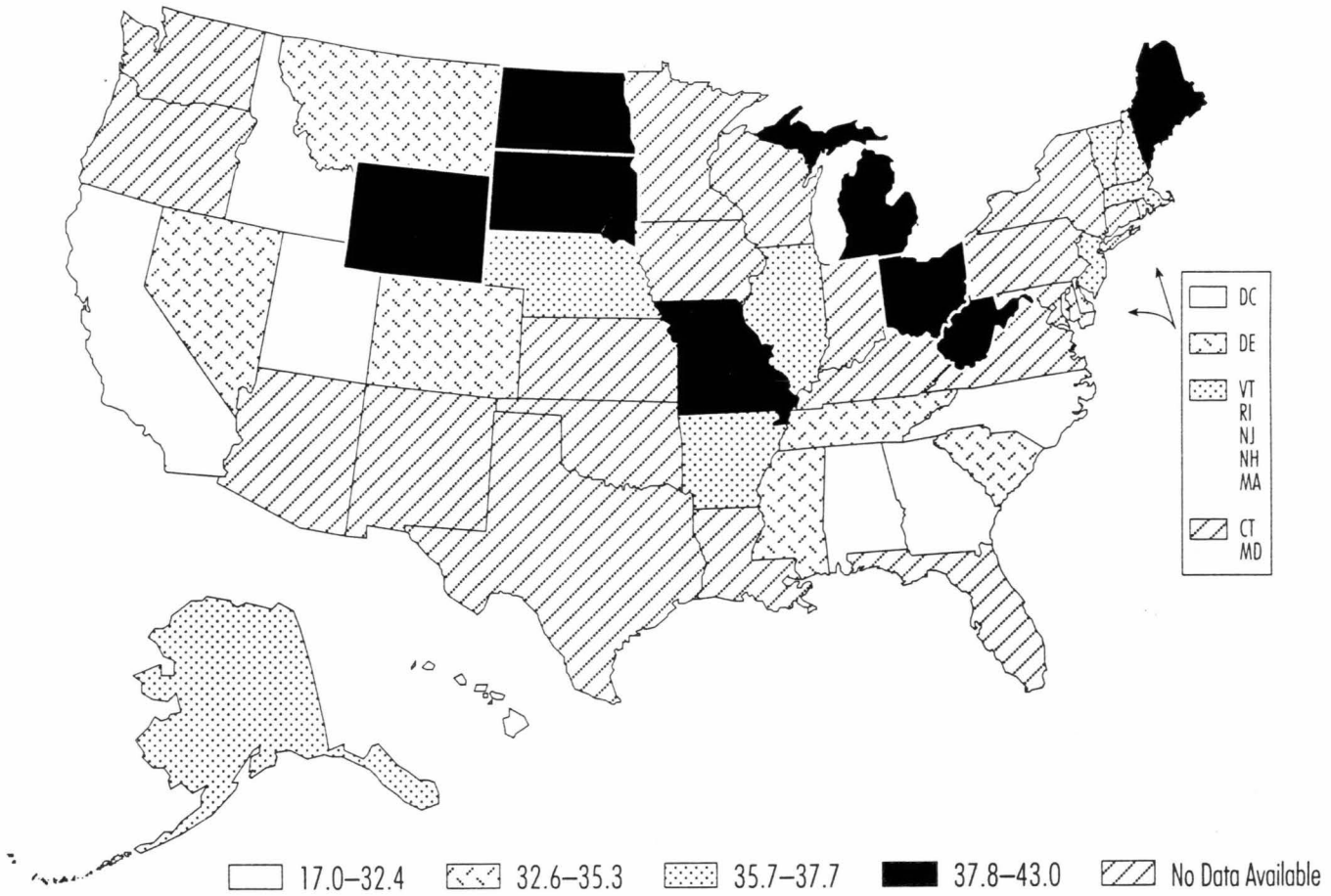
I will be happy to answer any questions.

United States: Cigarette Smoking Among High School Students

Almost all smokers begin smoking during their teenage years, and the prevalence of cigarette smoking among young people has increased since 1991. Thus, preventing tobacco use among young people is critical to the overall goal of reducing the prevalence of smoking. Factors associated with young people using tobacco include nicotine dependence, public attitudes about smoking, tobacco marketing, peer and parental influences, and adolescents' perceptions of the functional utility of cigarettes.

- Nearly 3,000 people younger than age 18 take up cigarette smoking every day.
- If current patterns continue, one in three adolescents who are regular smokers will eventually die of a smoking-related cause.
- In 1995, 35% of high school students had smoked cigarettes in the last month.
- Male and female high school students were equally likely to smoke cigarettes in 1995.
- The prevalence of smoking among high school students in the states reporting the behavior in 1995 ranged from 17% in Utah to 43% in West Virginia.

Percentage of High School Students Who Reported Cigarette Smoking,* 1995



* Smoked cigarettes on 1 or more of the 30 days preceding the survey.
Source: CDC, Youth Risk Behavior Surveillance System.

Percentage of High School Students Who Reported Cigarette Smoking,* 1995

Rank	State	Percent	Rank	State	Percent
1	West Virginia	43.0	16	Massachusetts	35.7
2	Missouri	39.8	18	Tennessee**	35.3
3	North Dakota	39.6	19	Mississippi	35.0
4	Wyoming	39.5	20	Montana	34.8
5	Michigan**	38.8	21	Delaware**	34.5
6	Ohio**	38.5	22	Colorado	33.7
7	South Dakota	38.0	23	Nevada	32.9
8	Maine	37.8	24	South Carolina	32.6
9	Vermont	37.7	25	Hawaii	32.4
10	Nebraska**	37.5	26	North Carolina	31.3
11	Arkansas	37.2	27	Alabama	31.0
12	Rhode Island**	37.1	28	Georgia**	28.4
13	Alaska	36.5	29	Idaho**	27.1
14	New Jersey	36.1	30	California**	22.2
15	New Hampshire	36.0	31	District of Columbia**	22.0
16	Illinois	35.7	32	Utah	17.0

*Smoked cigarettes on 1 or more of the 30 days preceding the survey.
** Unweighted data. These surveys did not have both an overall response rate of at least 60% and appropriate documentation. Thus, these data apply only to the students participating in the survey.
Source: CDC, Youth Risk Behavior Surveillance System. 1995 data are not available for Arizona, Connecticut, Florida, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Texas, Virginia, Washington, and Wisconsin.

January 8, 1999

Smoking-Attributable Mortality (SAM) by Cause of Death and Sex

North Dakota, 1996

Office of Chief Medical Officer

North Dakota Department of Health

Cause of Death (ICD-9-CM)	Male	Female	Total
Neoplasms			
Lip, Oral Cavity, Pharynx (140-149)	7	5	12
Esophagus (150)	14	3	17
Pancreas (157)	8	8	16
Larynx (161)	7	1	8
Trachea, Lung, Bronchus (162)	177	88	265
Cervix Uteri (180)	N/A	1	1
Urinary Bladder (188)	7		7
Kidney, Other Urinary (189)	6		6
Total	226	106	332
Cardiovascular Diseases			
Hypertension (401-404)	5	4	9
Ischemic Heart Disease (410-414)			
Persons Aged 35-64	46	19	65
Persons Aged 65+	110	58	168
Other Heart Disease (390-398, 415-417, 420-429)	61	26	87
Cerebrovascular Disease (430-438)			
Persons Aged 35-64	7	12	19
Persons Aged 65+	39	13	52
Atherosclerosis (440)	20	3	23
Aortic Aneurysm (441)	10	5	15
Other Arterial Disease (442-448)	9	2	11
Total	307	142	449
Respiratory Diseases			
Pneumonia, Influenza (480-487)	33	23	56
Bronchitis, Emphysema (490-492)	18	8	26
Chronic Airways Obstruction (496)	119	62	181
Other Respiratory Diseases (10-12, 493)	1	1	2
Total	171	94	265
Perinatal Conditions			
Short Gestation / Low Birth Weight (765)	1	1	2
Respiratory Distress Syndrome (769)			
Respiratory Conditions-Newborn (770)			
Sudden Infant Death Syndrome (798.0)	1		1
Total	2	1	3
Burn Deaths		1	1
Total	706	344	1,050

SAMMEC 3.0

TESTIMONY ON SB2125
JUDICIARY COMMITTEE
January 18, 1999
By Linda L. Johnson, Director of School Health Programs
328-4138
Department of Public Instruction

Mr. Chairperson and members of the committee:

My name is Linda Johnson and I am the Director of School Health Programs for the Department of Public Instruction. I am here to speak in favor of Senate Bill 2125 to raise the legal age for sale of tobacco to nineteen. By our estimates at least 18% of the high school population in North Dakota reaches the present legal age for smoking of 18 before they graduate. As the Director of the Safe and Drug Free programs in our schools I occasionally get a call from a principal asking what might be done about the student across the street smoking who has recently reached their 18th birthday. I must answer that other than pass a city ordinance to make it illegal by defining a drug free zone that includes property beyond the school there is not much the school personal can do legally. This solution is usually very frustrating for the educational leader.

Eighty nine percent of persons who ever smoked daily first tried a cigarette at or before age 18. Recent brain research reveals the brain continues to develop through childhood until the age of 20. We also know the young body reacts quite differently than the adult body to addictive chemicals and is more vulnerable to addiction. Three out of four teenage smokers have tried to quite at least once, but failed. Tobacco is widely considered the gateway drug for youth. There is high correlation between the numbers of youth smoking and alcohol consumption.

Currently 40% of our youth in 9^{th}-12^{th} grades respond they have smoked at least once in the past 30 days. This ranks near the top of states participating in this survey.

The longer we can keep our youth from behaviors that can cause them potential harm, the greater the chances they will be able to make intelligent decisions about their health that will promote them to reach their full potential to become nurturing, contributing members of their family and society. Raising the legal age of those who can smoke and strictly enforcing this law has the potential of reducing North Dakota youth smoking rates. We encourage a yes vote on this measure.

NORTH DAKOTA PETROLEUM MARKETERS ASSOCIATION

1025 N. 3rd St. • P.O. Box 1956 • Bismarck, ND 58502
Telephone 701-223-3370 • WATS 1-800-472-0512 • FAX 701-223-5004

PRESENTING:
Bulk Oil Jobbers
Convenience Stores
Service Stations
Truck Stops

SB2125
SENATE JUDICIARY
CHAIRMAN STENEHJEM

Mr. Chairman and members of the committee my name is Ron Ness, I am the President of the North Dakota Petroleum Marketers Association and the North Dakota Retail Association. I appear before you today in support of the majority of changes in SB2125.

The association in the past year has taken an aggressive role in working toward preventing access of tobacco products to minors. Owners and operators of retail locations require extensive training of all their clerks and use the "We Card" program. They have purchased many different types of software to aid employees in the identification process. In addition, the association has been involved in a task force to address the issue of teen smoking. Clerks who sell to minors are disciplined or fired, those whom refuse sales are rewarded. Retailers are not interested in selling tobacco to minors, the small profit made on a pack of cigarettes does not warrant the penalties and problems of violating the law. The association is having legislation sponsored this session that will require the color of a minor's drivers license to be a different color in order to discourage minors from attempting to purchase and providing sales clerks one more tool for identification of minors. The association is working on creating our own training programs and system of compliance checks against our members.

We support reducing the penalties on violations in hopes that more enforcement will result. It is extremely frustrating to see minors smoking in public or attempting to purchase tobacco in one store after another without repercussion. We would like to suggest adding language to line 15 that reads "attempting to purchase".

We are concerned that increasing the minimum age from 18 to 19 will only add another population to the current problem. We support the State Health Officer's efforts in reducing or eliminating teen smoking but we are concerned that this change will only make enforcement more of a problem for law enforcement, the Health Department, and retailers.

We all agree the problem of teen smoking must be addressed. This bill, without changing the legal smoking age, improves the laws currently in place. Now, we must enforce them.

I would be happy to answer any questions.

Testimony on Senate Bill 2125

before the

Senate Judiciary Committee

by

Murray G. Sagsveen, State Health Officer

January 18, 1998

Testimony

Appendix

Summary

Good morning. I am Murray G. Sagsveen, State Health Officer, State Department of Health. I am testifying in support of SB2125.

Senate Bill 2125 would raise the minimum age for purchasing, possessing, and smoking or chewing tobacco from 18 to 19. It would also reduce the penalty for a first-time violation from a misdemeanor to an infraction.

The Department of Health and several legislative sponsors pre-filed this bill in December. Governor Schafer later expressed support for the bill in his State of the State Message.

Senate Bill 2125 will be an important component of a continuing effort to reduce teenage tobacco use. Additional efforts will be necessary because:

- The surgeon General has determined that tobacco use is the single leading preventable cause of death in the United States.
- Tobacco use is responsible for about 18% of the annual deaths in the United States.
- Tobacco use injures the unborn children of smokers.
- Tobacco alone kills more people each year in the U.S. than AIDS, car accidents, alcohol, homicides, illegal drugs, suicides, and fires, combined.
- Smokers cut short their lives by an average of 12 years.
- Active smoking and exposure to cigarette smoke are associated with many illnesses and diseases.
- Smoking by high school age and college age students is increasing.
- Many young pregnant women are smoking.
- About one-fifth of high school students in North Dakota are smokers.
- The medical expenditures in the U.S. attributable to smoking is estimated to be 11.8% of the total medical expenditures.

For those reasons, I urge this committee to amend the bill to allow compliance surveys by underage teenagers and to vote a "do pass" as amended.

Background Information

Senate Bill 2125 has three components:

- increase the minimum smoking and chewing age from 18 to 19;
- provide a penalty for underage purchasing, possession, and smoking; and
- reduce the first-time penalty from a misdemeanor to an infraction.

The Department of Health (with the approval of Governor Schafer), along with five legislative sponsors, pre-filed this bill on December 10. Governor Schafer also referred to this bill in his State of the State Message on January 5 when he stated:

> To further enhance [tobacco] prevention efforts, we should make our laws more effective in our fight. I urge the Legislature to raise the state's minimum age for possession of tobacco from 18 to 19. At the same time, we should reduce the penalty for possession from a rarely prosecuted misdemeanor to a more appropriate infraction that police are more willing to enforce.

The bill has already generated some controversy – and a personal attack on me for supporting the bill. For example, Frederic Smith, the opinion editor for the Bismarck Tribune, wrote an editorial on January 10 that stated, in part:

> If it weren't so insulting to young adults, the proposal by State Health Officer Murray Sagsveen to raise the legal smoking age to 19 would be funny. Anti-tobacco zealots such as Sagsveen need to do some growing up themselves, or they would not expect a mature public to swallow a line like "tobacco use is killing kids."
>
> ***
>
> The target of Sagsveen's concern is high-schoolers who turn 18 before they graduate and, at present, can legally set a bad example for younger students. The possibility of contagion may be unfortunate, but does not justify involving other young adults who are off to college or jobs and otherwise engaging the world of grownups.

Sagsveen has no more business laying down the law to these on use of a legal product than they do to him, but his is a point that is long on nanny government. The only precedent is our new, Washington-driven threshold of age 21 for legal drinking, and it is a bad one. Piling a second wrong on top of it does not make a right.

What is really going on here is sneaking prohibitionism, the government itch that dares not speak its name. If the Legislature has any guts, it will smoke Sagsveen on this one.

I do not consider myself – or the other sponsors and supporters of Senate Bill 2125 – to be "anti-tobacco zealots." Instead, I believe it is my responsibility as State Health Officer to advise the Legislative Assembly of a growing problem **and** to recommend a solution.

The bill may have also prompted a letter to the editor in the Bismarck Tribune on January 16. Part of the letter stated:

Have you ever heard of a man or woman losing his or her job, family, self-respect or the trust of his or her children because he or she chose to smoke?

I have never heard of a man or woman divorcing their spouse because he or she smoked. But, each day, there are a multitude of broken marriages, abused and neglected children and bankruptcies in this country directly due to misuse of alcohol and the disease of alcoholism.

Anyone out there heard of a driver being charged with "driving while smoking"? LIkewise, I've never heard or read about an innocent victim being killed in a car accident caused by smoking.

It is obvious that the author of the letter, and her family, has been deeply hurt by alcohol – and not by tobacco – abuse. However, as I will briefly explain, tobacco use and abuse can cause similar grief to families.

Do I believe that Senate Bill 2125 is a "silver bullet" that will solve the tobacco problem? No. However, I believe that Senate Bill 2125 is a reasonable step toward solving this huge public health problem.

Governor Schafer appointed me State Health Officer last February 1. During the past year, I've learned many disheartening statistics about tobacco use in our society. For example:

The Forum recently recalled early tobacco industry advertisements that extolled the virtues of cigarettes. For example: in 1927, Lorillard Tobacco Co. claimed there was "not a cough in a carload" of Old Golds; in 1948, the R. J. Reynolds Tobacco Co. was proclaiming that "More doctors smoke camels than any other cigarette"; in 1953 Liggett & Myers boasted that its L&M cigarettes were "Just what the doctor ordered"; and also in 1953 Liggett & Myers advertised that "It's so satisfying to know that a doctor reports no adverse effects to the nose, throat and sinuses from smoking Chesterfield".[1] The disclosure of internal tobacco industry documents has revealed the industry suspected – or knew – at the time that cigarettes were hazardous to their customers' health.

Sixty two years after the "not a cough in a carload" advertisement, the Surgeon General determined that tobacco use is the single leading preventable cause of death in the United States.[2] Several years after the Surgeon General's report, the *Journal of the American Medical Association* (JAMA) report that tobacco use was responsible for about 18% of the approximately 2,148,000 annual deaths in the United States:

> Tobacco accounts for approximately 400 000 deaths each year among Americans. It contributes substantially to deaths from cancer (especially cancers of the lung, esophagus, oral cavity, pancreas, kidney, and bladder, and perhaps of other organs), cardiovascular disease (coronary artery disease, stroke, and high blood pressure), lung disease (chronic obstructive pulmonary disease and pneumonia), low birth weight and other problems of infancy, and burns. In a major effort that drew on analyses that had been commissioned to assess the mortality, morbidity, and financial burden imposed by each of 15 priority health problems, the Carter Center's *Closing the Gap* project attributed 17% (338 000) of all deaths in 1980 and 13% of all potential years of life lost from death before 65 years of age to tobacco. Other estimates have placed

> tobacco's contribution in the range of 11% to 30% of cancer deaths, 17% to 30% of cardiovascular deaths, 30% of lung disease deaths, 24% of pneumonia and influenza deaths, 10% of infant deaths, and 20% to 30% of low-birth-weight infants. Approximately 3000 lung cancer deaths annually among nonsmokers have been attributed to environmental tobacco smoke. The sum of the low and upper boundaries, respectively, for these estimates would yield an approximate range of 257 000 to 468 000 tobacco attributable deaths in 1990. Using a specially developed software package, the Centers for Disease Control and Prevention (CDC) estimated that 418 690 deaths were caused by tobacco in 1990, including approximately 30% of all cancer deaths and 21% of cardiovascular disease deaths. The CDC estimates have been widely accepted and provide the basis for the 400 000 figure...[3]

In addition to killing smokers (and nonsmokers who may inhale tobacco smoke), tobacco injures the unborn children of smokers. Dr. Stanley Glantz, a nationally-known critic of the tobacco industry, has explained:

> All the toxins from cigarette smoke that reach a pregnant woman's blood go to the developing baby and cause damage. Carbon monoxide prevents the fetus from getting enough oxygen: A two-pack-a-day pregnant smoker takes away the equivalent of one-fourth of her baby's oxygen supply
>
> The carcinogens in cigarette smoke also damage the genetic material – DNA – in placental and fetal cells. As a result, smoking (and passive smoking) by a pregnant woman increases the risk of birth defects in her baby and her chance of spontaneous abortion or stillbirth by about one-third.
>
> Unfortunately, 1 in 5 women in the United States smokes during pregnancy. A baby born to such a mother is twice as likely to be born at a lower birth weight than a baby of a nonsmoking mother. Babies with low birth weights are at a greater risk of many complications.
>
> One in 10 infant deaths is due to smoking. Also, of the children with low birth weights, 1 in 4's low weight is due to the mother's smoking during pregnancy. Tobacco's effects on infants is a much greater problem than that of "crack" babies.[4]

Five years ago, the Institute of Medicine reported that tobacco alone kills more people each year in the United States than acquired immunodeficiency syndrome (AIDS), car accidents, alcohol, homicides, illegal drugs, suicides, and fires, combined.[5] Two years ago, the Centers for Disease Control and

Prevention (CDC) concluded that smokers cut short their lives by an average of 12 years (Appendix at p. 17).

A steady stream of studies linking tobacco use to virtually every major disease, illness, and health problem has followed the 1993 JAMA article and subsequent reports. For example, in 1998:

- The authors of a 1998 JAMA article have determined that active smoking and exposure to cigarette smoke are associated with the progression of atherosclerosis.[6]
- The authors of an article in a AMA-related pediatrics magazine have concluded that environmental tobacco smoke is an important risk factor for middle ear disease in preschool-age children.[7]
- The authors of another 1998 JAMA article have completed studies involving adults aged 48 to 92 years which suggest that environmental tobacco smoke may play a role in age-related hearing loss.[8]
- A Colorado State University study even found that dogs whose owners smoke have a 50% greater risk of developing lung cancer.[9]

Although these scientific studies should be convincing evidence that tobacco use injures and kills, tobacco use is actually increasing among certain age and ethnic groups. The CDC recently reported that the "findings from the analysis [of self reported data from the national Household Survey on Drug Abuse] indicated that, during 1988 –1996 among persons aged 12-17 years, the incidence of initiation of first use increased by 30% and of first daily use increased by 50%, and 1,226,000 persons aged <18 years became daily smokers in 1996."[10] Similarly, the Office on Smoking and Health, CDC, reported its findings from a 1997 Youth Risk Behavior Survey:

> Findings indicate that among U.S. high school students in 1997, 70.2% had tried cigarette smoking. Among students who had ever tried cigarette smoking, 35.8% went on to smoke daily. Among those who had ever smoked daily, 72.9% had ever tried to quit smoking and 13.5% were former smokers.[11]

A high percentage of American Indians are also addicted to tobacco. The CDC estimates that, at 36.2% (37.3% of men and 35.4% of women), American

Indian/Alaskan Native adults have the highest tobacco use rates of all major racial or ethnic groups in America[12]

There is also more smoke on the campuses. A 1998 JAMA article recently reported that smoking jumped an alarming 28% among college students between 1993 and 1997.[13]

Despite the many and frequent warnings about smoking when pregnant, pregnant women continue to smoke. The CDC has reported that the "rates of smoking during pregnancy for women 15 – 19 years of age declined between 1990 and 1994 but increased in the last two years, and now they have the highest rates of all age groups."[14]

North Dakota teens are also smokers. The 1997 North Dakota Youth Risk Behavior Survey indicates that 5% of the 7th graders, 8% of the 8th graders, 13% of the 9th graders, 18% of the 10th graders, 20% of the 11th graders, and 22% of the 12th graders regularly smoke (i.e., has smoked on 20 or more of the past 30 days).[15]

The additional health costs to the nation and the state, because of tobacco use, is phenomenal. The authors of a recent article in *Public Health Reports* have estimated that the proportion of total medical expenditures attributable to smoking for the U.S. as a whole was 11.8% in 1993.[16] They also calculated the total 1993 medical expenditures, for people ages nineteen and older, attributable to cigarette smoking in several categories (in millions):

Type of Expenditure	United States	North Dakota
Ambulatory Care	$200,710	$483
Prescription Drugs	$67,778	$145
Hospital Care	$268,682	$760
Home Health Services	$21,616	$15
Nursing Home	$55,772	$205
All Types	$614,559	$1,607

To place the health issue in a global perspective, the World Health Organization estimates that "tobacco-related illnesses will be the world's leading cause of death by the year 2020" and that "the annual toll of tobacco-related

deaths worldwide will soon surpass deaths from AIDS, car accidents, tuberculosis, homicide, and suicide *combined.*"[17]

Accordingly, there should be no doubt that tobacco use, particularly tobacco use by teenagers, is a serious public health problem in the United States and North Dakota.

Proposed Amendment

To ensure that properly authorized compliance surveys by underage teenagers can be conducted in the state, we are proposing the following amendment:

Page 1, line 16, after the period insert "However, a person under nineteen years of age may purchase and possess tobacco as part of a compliance survey program when acting with the permission of the person's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco retailer, or association of tobacco retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority.

I am confident that SB2125 will be an important component of the overall statewide effort to curb teenage smoking. Therefore, I would have no objection if this committee added an amendment requiring the State Health Officer to report to the Legislative Assembly, prior to the next several sessions, concerning our efforts to curb teenage smoking and whether SB2125 measurably contributed to that effort.

Recommendation

For the reasons stated above, I urge this committee to amend the bill and vote a "do pass" as amended.

deaths worldwide will soon surpass deaths from AIDS, car accidents, tuberculosis, homicide, and suicide *combined*."[17]

Accordingly, there should be no doubt that tobacco use, particularly tobacco use by teenagers, is a serious public health problem in the United States and North Dakota.

Proposed Amendment

To ensure that properly authorized compliance surveys by underage teenagers can be conducted in the state, we are proposing the following amendment:

Page 1, line 16, after the period insert "However, a person under ~~nineteen~~ years of age may purchase and possess tobacco as part of a compliance survey program when acting with the permission of the person's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco retailer, or association of tobacco retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority.

I am confident that SB2125 will be an important component of the overall statewide effort to curb teenage smoking. Therefore, I would have no objection if this committee added an amendment requiring the State Health Officer to report to the Legislative Assembly, prior to the next several sessions, concerning our efforts to curb teenage smoking and whether SB2125 measurably contributed to that effort.

Recommendation

For the reasons stated above, I urge this committee to amend the bill and vote a "do pass" as amended.

Endnotes

[1] "Cigarette ads touted health benefits," *The Fargo Forum*, May 2, 1998 (p. C1).

[2] Center for Disease Control and Prevention. (1989). Reducing the health consequences of smoking: 25 years of progress – a report of the Surgeon General. Rockville, Maryland: U.S. Department of Health and Human Services (Publication No. CDC 89-8411).

[3] McGinnis, J. M. & Foege, W. H. (1993). Actual Causes of Death in the United States. Journal of the American Medical Association, 270, 2207-2212.

[4] Glantz, *Tobacco: Biology & Politics,* Waco, Tx: Health Edco (1992), p. 21.

[5] *Growing Up Tobacco Free: Preventing Nicotine Addiction in Children and Youths*, Lynch and Bonnie, editors (1994). Institute of Medicine.

[6] Howard, G., Wagenknecht, L. E., Burke, G. L., Diez-Roux, A., Evans, G. W., McGovern, P., Nieto, F. J., Tell, G. S., "Cigarette Smoking and Progression of Atherosclerosis: The Atherosclerosis in Communities (ARIC) Study," *Journal of the American Medical Association*, (1998) 279, 119-124.

[7] Adair-Bischoff, C. E. & Sauve, R. S., "Environmental Tobacco Smoke and Middle Ear Disease in Preschool-Age Children," *Archives of Pediatrics & Adolescent Medicine* [a publication of the American Medical Association], (1998) 152, 127-133.

[8] Cruickshanks, K. J. , Klein, R., Klein, B. E. K., Wiley, T. L., Nondahl, D. M., & Tweed, T. S., "Cigarette Smoking and Hearing Loss: The Epidemiology of Hearing Loss Study," *Journal of the American Medical Association*, (1998) 279, 1715-1719.

[9] "Chew on these health information bites," *The Bismarck Tribune*, November 29, 1998 (p. E1).

[10] Crump, C., Packer, L., & Gfroerer, J., "Incidence of Initiation of Cigarette Smoking – United States, 1965 – 1996," *Morbidity and Mortality Weekly Report* [Centers for Disease Control and Prevention, U.S. Department of Health and Human Services], (October 9, 1998) 47, 837-840.

[11] Office on Smoking and Health, "Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students – United States, 1997," *Morbidity and Mortality Weekly Report* [Center for Disease Control and Prevention, U.S. Department of Health and Human Services], (May 22, 1998) 47, 386-389.

[12] "Cigarette Smoking Among Adults – United States, 1995," *Morbidity and Mortality Weekly Report* [Centers for Disease Control and Prevention, U.S. Department of Health and Human Services], (December 26, 1997) 47, 1217-1220.

[13] Wechsler, H., Rigotti, N. A., Gledhill-Hoyt, J., & Lee, H., "Increased Levels of Cigarette Use Among College Students," *Journal of the American Medical Association*, (1998) 280, 1673-1678.

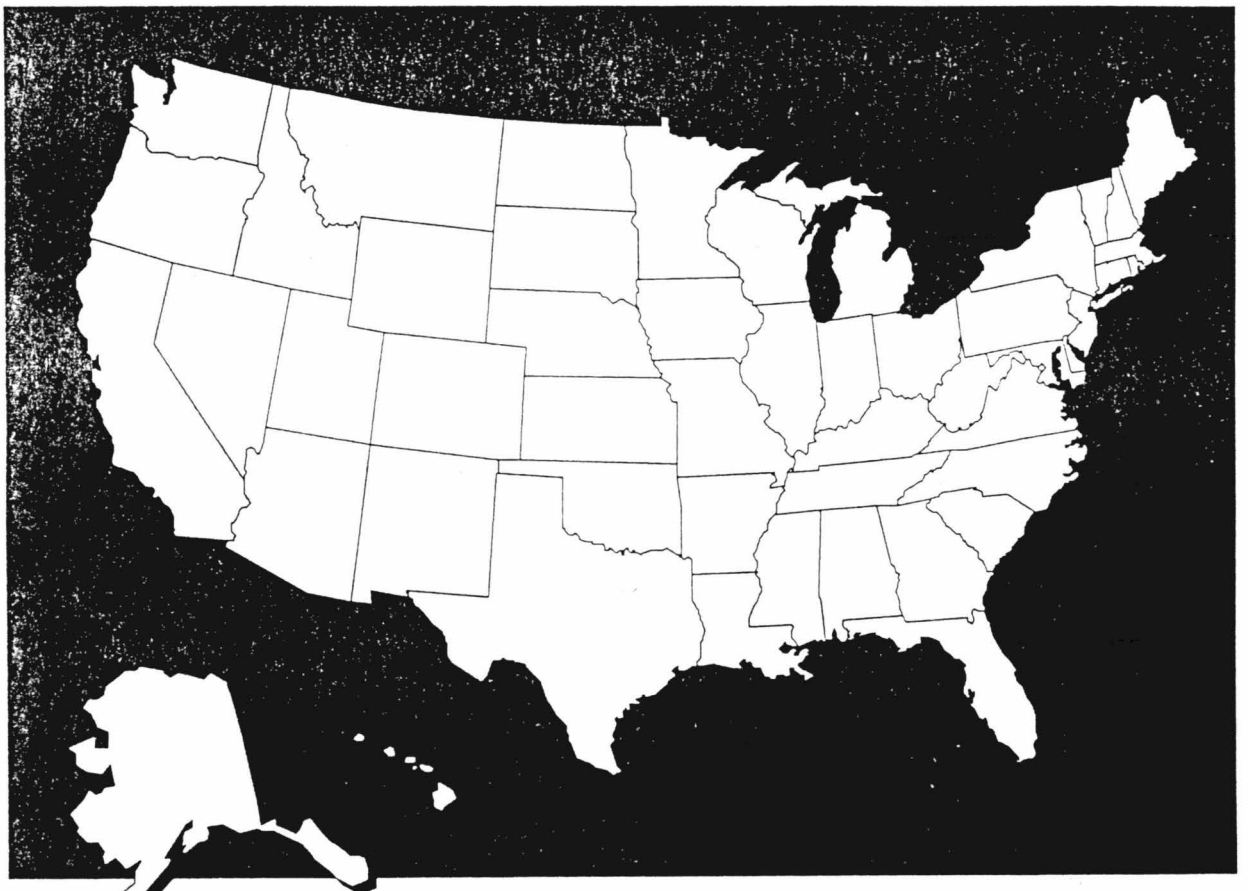
[14] Matthews, T. J., "Smoking During Pregnancy, 1990-1996," *National Vital Statistics Reports* [published by the National Center for Health Statistics, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services], (November 19, 1998) 47, 10.

[15] *1997 North Dakota Youth Risk Behavior Survey*. Bismarck, ND: ND Department of Health.

[16] Miller, L. S., Zhang, X., Rice, D. P., & Max, W., "State Estimates of Total Medical Expenditures Attributable to Cigarette Smoking, 1993," *Public Health Reports*, (1998) 113, 447-458. However, the authors have also cautioned that many public health studies do not factor in the savings that result when smokers prematurely die. He stated that smokers impose higher medical costs, group life insurance rates, and fire damage on nonsmokers, but "the costs that were avoided when dead smokers didn't need nursing homes or pensions offset most of that."

[17] Headden, "The Marlboro Man lives!," *U.S. News & World Report*, (September 21, 1998), 125, 58-59.

Chronic Diseases and Their Risk Factors: The Nation's Leading Causes of Death



1998

"We as a nation must give chronic diseases the attention they demand. These diseases are the nation's leading killers, responsible for more than 70% of all deaths. The real tragedy is that many of the 1.7 million deaths among Americans from chronic diseases each year are in large part preventable."

F. E. Thompson, Jr., MD, MPH
State Health Officer and Chief Executive
Mississippi State Department of Health

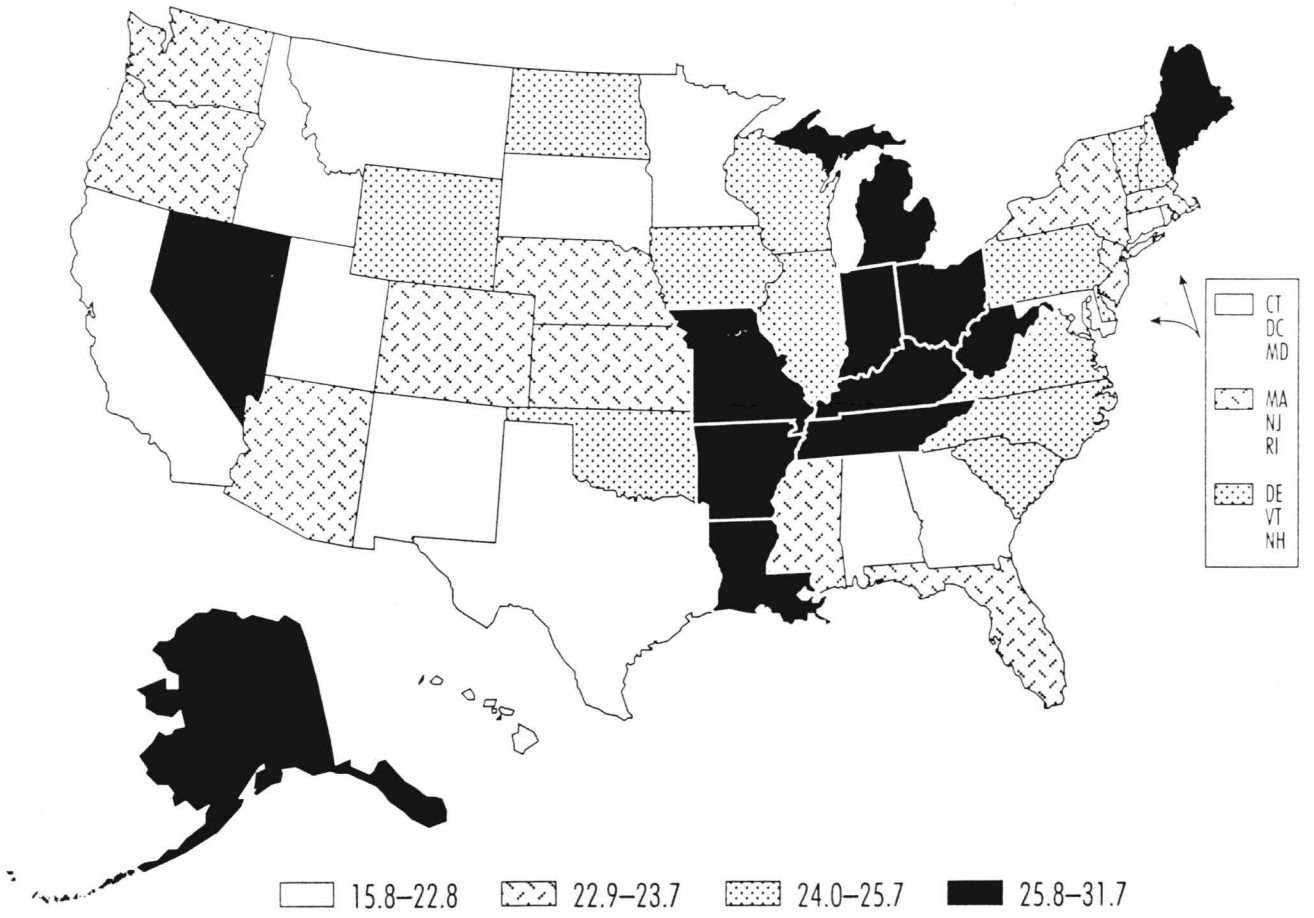
U.S. Department of Health and Human Services
Centers for Disease Control and Prevention

United States: Cigarette Smoking Among Adults

Tobacco use is the single most preventable cause of death and disease in the United States. Tobacco use increases the risk for lung and other cancers and for cardiovascular and respiratory diseases. Smoking cessation has major and immediate health benefits for men and women of all ages, regardless of whether they have smoking-related disease.

- Cigarette smoking is responsible for one of every five deaths in the United States, or more than 400,000 deaths each year.
- Cigarette smoking accounts for 87% of all lung cancer deaths, 82% of all deaths due to chronic obstructive pulmonary disease, 22% of all ischemic heart disease deaths, and 18% of stroke deaths.
- The age-adjusted prevalence of cigarette smoking in the United States in 1996 ranged from 16% in Utah to 32% in Kentucky.

Percentage of Adults Who Reported Cigarette Smoking,* 1996**



* Ever smoked at least 100 cigarettes and now smoke every day or some days.
** All data are age adjusted, 1970 total U.S. population.
Source: CDC, Behavioral Risk Factor Surveillance System (provisional data).

Percentage of Adults Who Reported Cigarette Smoking,* 1996**

Rank	State	Percent	Rank	State	Percent
1	Kentucky	31.7	26	Massachusetts	23.7
2	Ohio	29.5	28	New Jersey	23.6
3	Indiana	28.8	28	New York	23.6
4	Nevada	28.1	28	Oregon	23.6
5	Missouri	28.0	28	Washington	23.6
5	Tennessee	28.0	32	Colorado	23.5
7	West Virginia	27.0	33	Mississippi	23.1
8	Arkansas	26.5	33	Rhode Island	23.1
9	Alaska	26.2	35	Nebraska	23.0
10	Maine	26.1	36	Florida	22.9
11	Louisiana	25.8	36	Kansas	22.9
11	Michigan	25.8	38	New Mexico	22.8
13	New Hampshire	25.7	38	Texas	22.8
13	North Carolina	25.7	40	Alabama	22.6
15	Pennsylvania	25.3	41	Connecticut	22.2
16	Wisconsin	25.2	42	Montana	21.7
17	Illinois	25.1	43	South Dakota	21.5
18	Iowa	24.6	44	Idaho	21.3
18	Oklahoma	24.6	45	Minnesota	21.1
18	Virginia	24.6	46	District of Columbia	20.8
21	South Carolina	24.4	46	Maryland	20.8
22	Delaware	24.3	48	Georgia	19.9
22	North Dakota	24.3	49	California	18.7
24	Vermont	24.2	50	Hawaii***	17.5
25	Wyoming	24.0	51	Utah	15.8
26	Arizona	23.7			

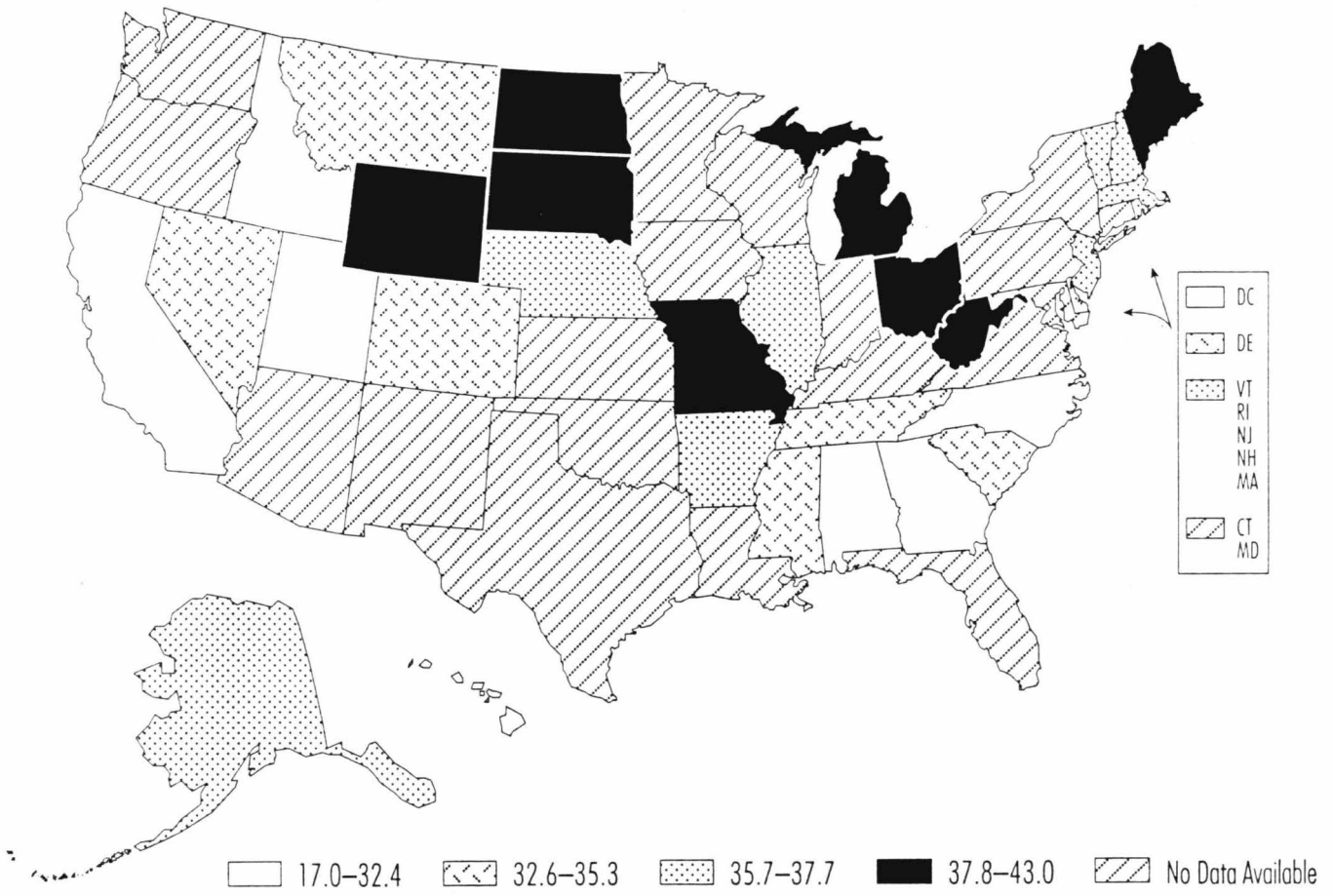
*Ever smoked at least 100 cigarettes and now smoke every day or some days.
**All data are age adjusted, 1970 total U.S. population.
***Hawaii data are from 1995.
Source: CDC, Behavioral Risk Factor Surveillance System (provisional data).

United States: Cigarette Smoking Among High School Students

Almost all smokers begin smoking during their teenage years, and the prevalence of cigarette smoking among young people has increased since 1991. Thus, preventing tobacco use among young people is critical to the overall goal of reducing the prevalence of smoking. Factors associated with young people using tobacco include nicotine dependence, public attitudes about smoking, tobacco marketing, peer and parental influences, and adolescents' perceptions of the functional utility of cigarettes.

- Nearly 3,000 people younger than age 18 take up cigarette smoking every day.
- If current patterns continue, one in three adolescents who are regular smokers will eventually die of a smoking-related cause.
- In 1995, 35% of high school students had smoked cigarettes in the last month.
- Male and female high school students were equally likely to smoke cigarettes in 1995.
- The prevalence of smoking among high school students in the states reporting the behavior in 1995 ranged from 17% in Utah to 43% in West Virginia.

Percentage of High School Students Who Reported Cigarette Smoking,* 1995



* Smoked cigarettes on 1 or more of the 30 days preceding the survey.
Source: CDC, Youth Risk Behavior Surveillance System.

Percentage of High School Students Who Reported Cigarette Smoking,* 1995

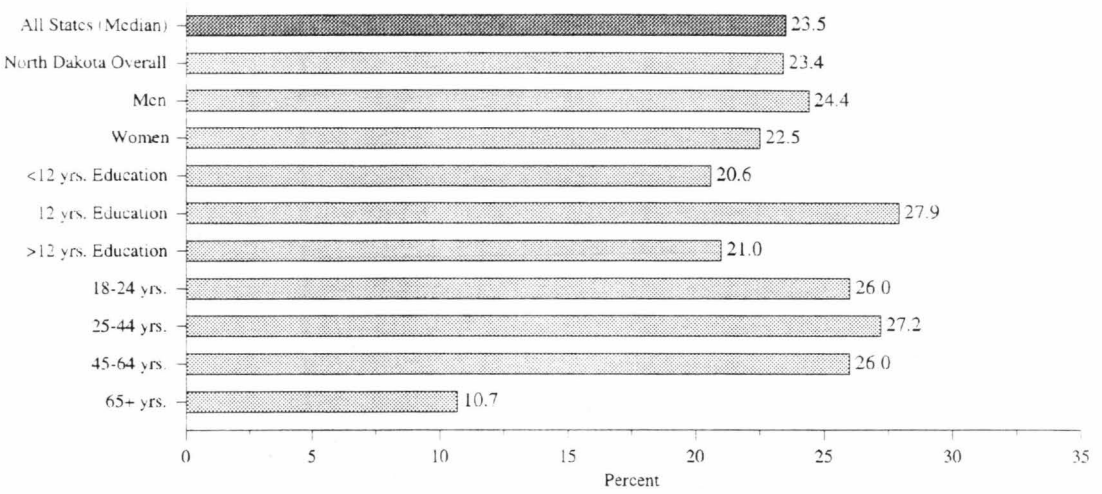
Rank	State	Percent	Rank	State	Percent
1	West Virginia	43.0	16	Massachusetts	35.7
2	Missouri	39.8	18	Tennessee**	35.3
3	North Dakota	39.6	19	Mississippi	35.0
4	Wyoming	39.5	20	Montana	34.8
5	Michigan**	38.8	21	Delaware**	34.5
6	Ohio**	38.5	22	Colorado	33.7
7	South Dakota	38.0	23	Nevada	32.9
8	Maine	37.8	24	South Carolina	32.6
9	Vermont	37.7	25	Hawaii	32.4
10	Nebraska**	37.5	26	North Carolina	31.3
11	Arkansas	37.2	27	Alabama	31.0
12	Rhode Island**	37.1	28	Georgia**	28.4
13	Alaska	36.5	29	Idaho**	27.1
14	New Jersey	36.1	30	California**	22.2
15	New Hampshire	36.0	31	District of Columbia**	22.0
16	Illinois	35.7	32	Utah	17.0

*Smoked cigarettes on 1 or more of the 30 days preceding the survey.
** Unweighted data. These surveys did not have both an overall response rate of at least 60% and appropriate documentation. Thus, these data apply only to the students participating in the survey.
Source: CDC, Youth Risk Behavior Surveillance System. 1995 data are not available for Arizona, Connecticut, Florida, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Texas, Virginia, Washington, and Wisconsin.

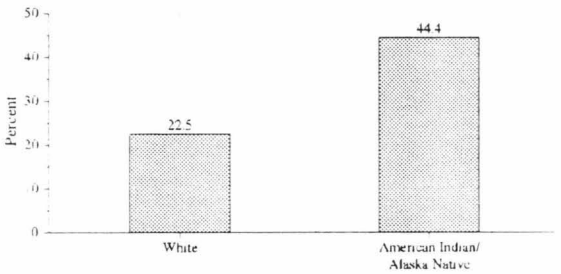
North Dakota

Adult Tobacco Use in North Dakota

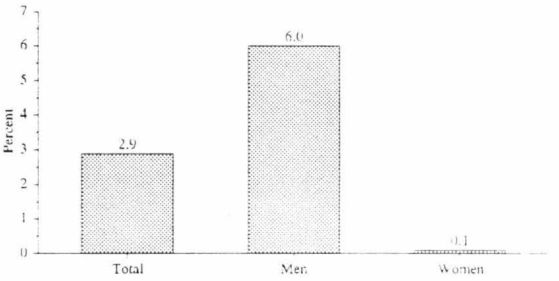
Current Cigarette Smoking Among Adults Aged 18 and Older, 1996



Current Cigarette Smoking Among Adults by Race/Ethnicity, 1995–1996



Current Smokeless Tobacco Use Among Adults Aged 18+, 1992–1993



Health Impact and Costs

Average Annual Deaths Related to Smoking, 1990–1994		*Average Annual Years of Potential Life Lost,* 1990–1994*	*Medicaid Costs Related to Smoking, 1993*
Overall	968	12,032 years or an average of 12.4 years for each death due to smoking.	$19,056,000
Men	721		
Women	247		
Death Rate	280/100,000		
Rank	3		
(No. 1 is lowest death rate)		*Calculated to life expectancy	

Youth Tobacco Use

Cigarette Smoking Among Youth, Grades 9–12, 1997			*Smokeless Tobacco Use Among Youth, Grades 9–12, 1997*
Past Month—smoked one or more days in the past month		Frequent—smoked 20+ days in the past month	Youth Risk Behavior Surveillance System (YRBSS) data not available.
Overall	45.0%	20.2%	
Boys	43.2%	19.5%	
Girls	46.8%	21.0%	

Number of North Dakota youth exposed to ETS in the home in 1996: 42,729

Tobacco Control Legislation, 1997

Minors' Access to Tobacco Products

Minimum age for sale: 18

Penalties: Any person who sells to a minor will be guilty of a class B misdemeanor and can be fined up to $500.

Illegal for minors to:

Purchase	No
Possess	No
Use	Yes

Restrictions on Vending Machines

None

Signage

None

Licensure

Retail license and vending machine license required.

Excise Tax

Cigarette tax per pack ..... 44¢

Rank = 17 (No.1 is highest tax)

Federal and state taxes as a percentage of retail price 35.0%

Annual net tax revenue from cigarettes $22,668,014

Smokeless tobacco tax:

28% of the wholesale purchase price.

Advertising

No restrictions

State Preempts Local Laws

No preemption

Smokefree Indoor Air

Site	Restrictions				Penalties	
	100% Smokefree	Designated smoking areas with separate ventilation	Designated smoking areas required or allowed	None	To businesses	To smokers
Government worksites			✓		✓	
Private worksites				✓		
Restaurants			✓		✓	
Day care centers	✓*				✓	✓
Home-based day care**						

*When children are present.

**Language does not specify home-based day care.

Tobacco Economy

Cigarette Sales, 1996

Number of packages sold and taxed, per capita 80.8

Tobacco Agriculture, 1996

None

Tobacco Manufacturing, 1994

None

Tobacco Use Prevention and Control Program

Funding: CDC IMPACT

Regional Network: Rocky Mountain Tobacco-Free Challenge

Contact

Jeanne Prom, North Dakota Department of Health, Tobacco Prevention and Control Program, 600 E Boulevard Avenue, Judicial Wing, 2nd Floor, Department 301, Bismarck, North Dakota 58505-0200
Phone: 701-328-3138 Fax: 701-328-1412 Internet Address: msmail.jeannep@ranch.state.nd.us

North Dakota

Report in PDF file (74K)

Adult Tobacco Use in North Dakota

Current Cigarette Smoking Among Adults Aged 18 and Older, 1996

	Percent
All States	23.5
North Dakota	23.4
Men	24.4
Women	22.5
White	22.5
American Indian/ Alaska Native	44.4
<12 yrs Education	20.6
12 yrs Education	27.9
>12 yrs Education	21.0

Current Cigarette Smoking Among Adults by Age, 1996

	Percent
18-24	26.0
25-44	27.2
45-64	26.0
65+	10.7

Smokeless Tobacco Use

Current Smokeless Tobacco Use Among Adults Aged 18 and Older, 1992-1993

	Percent
North Dakota	2.9
Men	6.0
Women	0.1

Youth Tobacco Use

Number of North Dakota youth projected to die prematurely from their smoking: 12,272

Cigarette Smoking Among Youth, Grades 9-12, 1997*

		Percent
North Dakota	Past Month Smokers	45.0
	Frequent Smokers	20.2
Boys-	Past Month Smokers	43.2
	Frequent Smokers	19.5
Girls-	Past Month Smokers	46.8
	Frequent Smokers	21.0

Note: Frequent smokers are individuals who smoked 20+ days in the past month.
*Unweighted data. May not apply to all youth (grades 9-12) in the state.

Smokeless Tobacco Use Among Youth, Grades 9-12, 1997

Youth Risk Behavior Surveillance System (YRBSS) data not availabe

Health Impact and Cost

Average Annual Deaths Related to Smoking, 1990-1994

North Dakota	968
Men	721
Women	247
Death Rate	280/100,000
Rank	3

(No.1 is lowest death rate)

Average Annual Years of Potential Life Lost*, 1990-1994

North Dakota	12,032
Average of 12.4 years for each death due to smoking.	

*calculated to life expectancy

Medicaid Costs Related to Smoking, 1993

North Dakota: $19,056,000

Tobacco Control Legislation, 1997

Minors' Access to Tobacco Products

Minimum age for sale: 18
Illegal for minors to Purchase: No **Possess:** No **Use:** Yes
Restrictions on Vending Machines: None
Signage: None
Licensure: Retail license and vending machine license required.
Penalties: Any person who sells to a minor will be fined up to $500.

Smokefree Indoor Air

Number of North Dakota youth exposed to ETS in the home in 1996: 42,729

State government worksites: Designated smoking areas required or allowed (Penalties: To businesses)
Private worksites: No restrictions
Restaurants: Designated smoking areas required or allowed (Penalties: To businesses)
Day care centers: 100% smokefree when children are present (Penalties: To businesses and smokers)
Home-based day care: Language does not specify home-based day care

Excise Tax

Cigarette tax per pack: 44 cents
Rank = 17 (No. 1 is highest tax)
Federal and state taxes as a percentage of retail price: 35.0%
Annual net tax revenue from cigarettes: $22,668,014
Smokeless tobacco tax: 28% of wholesale purchase price

Advertising: No restrictions

State Preempts Local Laws: No preemption

Tobacco Economy

Cigarette Sales, 1996
Number of packages sold and taxed, per capita.....80.8

Tobacco Agriculture, 1996
None

Tobacco Manufacturing, 1994
None

Tobacco Use Prevention and Control Program

Funding: CDC IMPACT
Regional Network: Rocky Mountain Tobacco-Free Challenge

Contact:
Jeanne Prom
North Dakota Department of Health
Tobacco Prevention and Control Program
600 E Boulevard Avenue, Judicial Wing, 2nd Floor, Department 301
Bismarck, ND 58505-0200
Phone: 701-328-3138
Fax: 701-328-1412
Internet Address: msmail.jeannep@ranch.state.nd.us

Office on Smoking and Health/National Center for Chronic Disease Prevention and Health Promotion

---

State & National Data- List of States

State & National Tobacco Control Highlights

United States

Report in PDF file (61K)

Adult Tobacco Use in the United States

Current Cigarette Smoking Among Adults Aged 18 and Older, 1995

	Percent
All States Overall	23.5
United States Overall	24.7
Men	27.0
Women	22.6
White	25.6
Black	25.8
Hispanic	18.3
Asian/Pacific Islander	16.6
American Indian/ Alaska Native	36.2
<12 yrs education	30.4
12 yrs education	29.5
>12 yrs Education	18.4

Current Cigarette Smoking Among Adults by Age, 1995

	Percent
18-24	24.8
25-44	28.6
45-64	25.5
65+	13.0

Smokeless Tobacco Use

Current Smokeless Tobacco Use Among Adults Aged 18 and Older, 1992-1993

	Percent
United States	2.1
Men	4.0
Women	0.4

Youth Tobacco Use

Number of United States youth projected to die prematurely from their smoking: 5,318,682

Cigarette Smoking Among Youth, Grades 9-12, 1997

		Percent
United States	Past Month Smokers	36.4
	Frequent Smokers	16.7
Boys-	Past Month Smokers	37.7
	Frequent Smokers	17.6
Girls-	Past Month Smokers	34.7
	Frequent Smokers	15.7

Note: Frequent smokers are individuals who smoked 20+ days in the past month.

Smokeless Tobacco Use Among Youth, Grades 9-12, 1997

	Percent
United States	9.3
Boys	15.8
Girls	1.5

Health Impact and Cost

Average Annual Deaths Related to Smoking, 1990-1994

United States	430,741
Men	278,699
Women	152,042
Death Rate	358/100,000

Average Annual Years of Potential Life Lost*, 1990-1994

United States	5,721,206
Average of 13.4 years for each death due to smoking.	

*calculated to life expectancy

Medicaid Costs Related to Smoking, 1993

United States: $12,892,507,000

Tobacco Control Legislation, 1997

Minors' Access to Tobacco Products

No retailer may sell cigarettes or smokeless tobacco to any person younger than 18 years of age. For individuals under 27 years of age, retailers shall verify age by means of photographic identification. (FDA regulation, section 897.14)

Section 1926 of the Public Health Service Act requires states to enact legislation restricting the sale and distribution of tobacco products to minors as a condition of receiving federal substance abuse prevention and treatment block grant funds. States are also required to enforce these laws in a manner "that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18." (42 USC 300x-26)

Federal agencies must establish regulations to prohibit the sale of tobacco products in vending machines placed in or around any facility maintained, leased or owned by the agency. Regulations also must cover distribution of free samples of tobacco products in or around agency facilities (40 USC 48[c]).

Smokefree Indoor Air

Persons that provide children's services funded by the Department of Health and Human Services, the Department of Education, or the Department of Agriculture in indoor facilities (e.g. schools, libraries, day care, health care, and early childhood development settings) are required to prohibit smoking in those facilities if they are regularly or routinely used for the delivery of such services to children. In addition, all Federal agencies that provide such services are also required to prohibit smoking in facilities used regularly or routinely for the delivery of children's services. (20 USC 6081-6084)

Smoking is prohibited on all flights that are no more than 6 hours in duration. (49 USC 41706)

Smoking is prohibited or restricted to separately ventilated areas in Federal facilities (Executive Branch only) (Executive Order 13058)

Excise Tax

Cigarette tax per pack: 24 cents
Federal and state taxes as a percentage of retail price: 30.5%
Annual net tax revenue from cigarettes (federal): $5,679,141,000

Smokeless tobacco tax:
Chewing tobacco: 12 cents/pound
Snuff: 36 cents/pound

Advertising:
Tobacco advertising is not allowed on television and radio (15 USC

1335). Health warnings are required on advertisements for all tobacco products, except billboards for smokeless tobacco products. (15 USC 1333, 4402)

Federal Preemption:
"No requirement or prohibition based on smoking and health shall be imposed under State law with respect to the advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of this chapter." [The Federal Cigarette Labeling and Advertising Act] (15 USC 1334)

Tobacco Economy

Cigarette Sales, 1996
Number of packages sold and taxed, per capita.....87.7

Tobacco Agriculture, 1996
Acres harvested: 732,690
Production in pounds: 1,517,334,000
Cash receipts from tobacco: $2,795,990,000
Tobacco as a percentage of cash receipts from crops and all farm commodities: 1.38%

Tobacco Manufacturing, 1994
Overall tobacco manufacturing: $22,005,000,000
Tobacco manufacturing as a percentage of gross domestic product: 0.34%

For further information:
Office on Smoking and Health
4770 Buford Highway, NE, MS K50
Atlanta, GA 30341
Phone: 770-488-5705
Fax: 770-488-5844
Internet Address: tobaccoinfo@cdc.gov

Office on Smoking and Health/National Center for Chronic Disease Prevention and Health Promotion

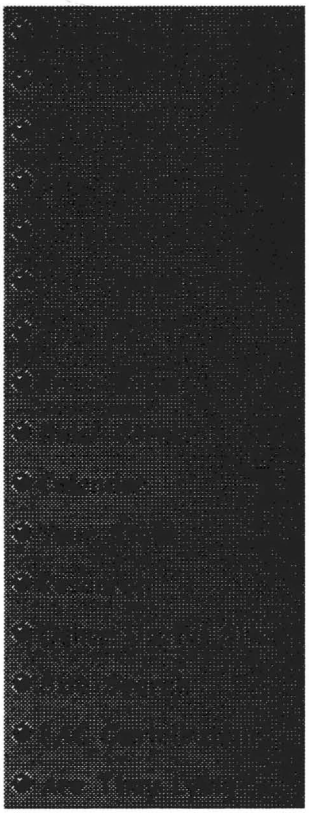
---

State & National Tobacco Control Highlights

CDC's Tobacco Information & Prevention Sourcepage

Home

CAMPAIGN for TOBACCO-FREE Kids



Toll Of Tobacco

Tobacco Use in North Dakota

- **High school students who smoke: 45%**
- **Number of kids (under 18) who become new daily smokers each year: 2,000**
- **Kids exposed to second hand smoke at home: 42,000**
- **Number of packs of cigarettes illegally sold to kids in North Dakota each year: 0.7 million**
- **Adults in North Dakota who smoke: 22%**

While adult smoking has generally been decreasing throughout the country in recent years, these declines have slowed or stopped. In contrast, smoking among kids increased steadily throughout much of the 1990s. Although national underage smoking rates finally dropped slightly from 1997 to 1998, they remain at historically high levels. Over the past ten years, the number of kids under 18 in the U.S. who become new daily smokers each year has risen by more than 70 percent.

Deaths in North Dakota From Smoking

- **Number of people who die each year in North Dakota from smoking: 900**
- **North Dakota kids alive today who will eventually die from smoking: 12,000 (if current trends continue)**

Smoking kills more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined -- and thousands more die from other tobacco-related causes -- such as fires caused by smoking (more than 1,000 deaths/year nationwide), exposure to second hand smoke (more than 40,000 deaths), and smokeless tobacco use. No good estimates are currently available, however, for the number of North Dakota citizens who die from these other tobacco-related causes, or for the much larger numbers who suffer from tobacco-related health problems each year without actually dying.

Tobacco-Related Monetary Costs

- **Annual health care expenditures in North Dakota directly related to smoking: $180 million**
- **Yearly North Dakota government Medicaid payments directly related to smoking: $10 million**
- **Additional annual expenditures in North Dakota for babies' health problems caused by mothers smoking or being exposed to second hand smoke during pregnancy: $3 to $10 million**

Additional health care expenditures caused by tobacco include the costs related to direct exposure to second hand smoke, smoking-caused fires, and smokeless tobacco use. Although these additional health expenditures certainly total in the tens of millions of dollars in North Dakota, and increase the North Dakota government's Medicaid burden, there are no good state estimates currently available. Other non-health costs caused by tobacco use include direct residential and commercial property losses from fires caused by cigarettes or cigars (more than $500 million nationwide); work productivity losses from work absences, on-the-job performance declines, and early termination of employment caused by tobacco-related health problems ($40+ billion per year nationwide); and the costs of the extra cleaning and maintenance made necessary by tobacco smoke, smokeless tobacco spit, and tobacco-related litter (about $4+ billion per year nationwide for commercial establishments alone). No good state-specific estimates of these non-health costs from tobacco are available, but North Dakota's pro-rata share, based on its population, is at least $100 million per year.

Tobacco Industry Advertising and Other Product Promotion

- **Annual tobacco industry advertising and promotional expenditures nationwide: $5.2 billion**
- **Estimated portion spent in North Dakota each year: $12 million**

Published research studies have found that kids are three times more sensitive to tobacco advertising than adults and are more likely to be influenced to smoke by cigarette marketing than by peer pressure, and that one-third of underage experimentation with smoking is attributable to tobacco company advertising.

Sources

For state-specific data on deaths caused by smoking, smoking and smokeless tobacco use rates, and other tobacco-related information, see Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, State Tobacco Control Highlights 1997 (1998) or see CDC's state-specific website pages [http://www.cdc.gov/nccdphp/osh/statehi/statehi.htm]. See also, CDC, "State-Specific Prevalence Among Adults of Current Cigarette Smoking and Smokeless Tobacco Use and Per Capital Tax-Paid Sales of Cigarettes, United States, 1997," Morbidity and Mortality Weekly Report (MMWR) 47(43): 922-926 (November 6, 1998); CDC, Surveillance Summaries, "Youth Risk Behavior Surveillance, United States, 1997," 47(SS-3): 10-12,15-17, 50-54 (August 14, 1998); CDC, "State-Specific Prevalence of Cigarette Smoking Among Adults, and Children's and Adolescents' Exposure to Environmental Tobacco Smoke, United States, 1996," MMWR 46(44): 1038-1043 (November 7, 1997); CDC, "Smoking Attributable Mortality and Years of Potential Life Lost, United States, 1984" [with editor's update for 1990-1994], MMWR 46(20): 444-451 (May 23, 1997); J. R. Hall, Jr., National Fire Protection Association, The U.S. Smoking-Material Fire Problem Through 1995 (September 1997). For projected smoking deaths among today's youth, see CDC, "Projected Smoking-Related Deaths Among Youth -- United States," MMWR 45(44): 971-974 (November 8, 1996). New underage daily smoker estimate based on data from CDC, "Projected Smoking-Related Deaths" (see above) and CDC, "Incidence of Initiation of Cigarette Smoking, United States, 1965-1996)," MMWR 47(39): 837-40 (October 9, 1998).

For data on kids exposed to second hand smoke, see CDC, "State-Specific Prevalence of Cigarette Smoking Among Adults, and Children's and Adolescents' Exposure to Environmental Tobacco Smoke, United States, 1996," MMWR 46 (44): 1038-1043 (November 7, 1997). State-specific data is not currently available regarding adult exposure to second hand smoke at their homes, or to the numbers exposed to ETS at workplaces, daycare centers, restaurants, or other public facilities.

For data on number of packs of cigarettes illegally sold to kids, see Cummings, et al., "The Illegal Sale of Cigarettes to US Minors: Estimates by State," American Journal of Public Health 84(2): 300-302 (February 1994). See also CDC, "Tobacco Use and Usual Source of Cigarettes Among High School Students, United States, 1995," MMWR 45(20): 413-418 (May 24, 1996).

For nationwide data on smoking trends see CDC, "Tobacco Use Among High School Students, United States, 1997," MMWR 447(12): 229-233 (April 3, 1998); Institute for Social Research, University of Michigan, Monitoring the Future Study, [http://www.isr.umich.edu/src/mtf/index.html]; CDC, "Incidence of Initiation of Cigarette Smoking, United States 1965-1996," MMWR 47(39): 837-40 (October 9, 1998).

For state-specific data on smoking-related health expenditures and smoking-related Medicaid expenditures, see L. Miller et al., "State Estimates of Total Medical Expenditures Attributable to Cigarette Smoking, 1993," Public Health Reports 113: 447-58 (September/October 1998). See also, L. Miller, et al., "State Estimates of Medicaid Expenditures Attributable to Cigarette Smoking, Fiscal Year 1993," Public Health Reports 113: 140-151 (March/April 1998).

For data on costs associated with smoking or exposure to second hand smoke during pregnancy, see E.K. Adams and C.L. Melvin, "Costs of Maternal Conditions Attributable to Smoking During Pregnancy," American Journal of Preventive Medicine 15(3): 212-19 (October 1998); CDC, "Medical Care Expenditures Attributable to Cigarette Smoking During Pregnancy," MMWR 46(44) (November 7, 1997); U.S. Department of the Treasury, The Economic Costs of Smoking in the U.S. and the Benefits of Comprehensive Tobacco Legislation (March 1998); J.J. Stoddard and B. Gray, "Maternal Smoking and Medical Expenditures for Childhood Respiratory Illness," American Journal of Public Health 87(2): 205-209 (February 1997); E. Dejin-Karlsson, et al., "Does Passive Smoking in Early Pregnancy Increase the Risk of Small-for-Gestational-Age Infants?" American Journal of Public Health 88(10): 1523-1527 (October 1998). State expenditures based on its pro rata share of the national estimates, with the pro rata calculations based on the state's portion of the nationwide population of kids exposed to second hand smoke.

For additional information on tobacco-related costs, see U.S. Department of the Treasury, The Economic Costs of Smoking in the U.S. and the Benefits of Comprehensive Tobacco Legislation (1998) [http://www.treas.gov/press/releases/docs/tobacco.pdf]; F.J. Chaloupka and K.E. Warner, "The Economics of Smoking," in J. Newhouse and A. Culyer (eds), The Handbook of Health Economics (in press); CDC, MMWR 46(44) (November 7, 1997); CDC, Making Your Workplace Smokefree: A Decision Maker's Guide (1996); D. Mudarri, The Costs and Benefits

of Smoking Restrictions: An Assessment of the Smoke-Free Environment Act of 1993 (H.R. 3434). U.S. Environmental Protection Agency report submitted to the Subcommittee on Health and the Environment, Committee on Energy and Commerce, U.S. House of Representatives (April 1994); P. Brigham and A. McGuire, "Progress Toward a Fire-Safe Cigarette," Journal of Public Health Policy 16(4): 433-439 (1995); J.R. Hall, Jr., National Fire Protection Association, The U.S. Smoking-Material Fire Problem Through 1995 (September 1997)

For data on tobacco industry advertising, see Federal Trade Commission (FTC), Report to Congress for 1996 Pursuant to the Federal Cigarette Labeling and Advertising Act (1998) [data for top five manufacturers' cigarette marketing only]; FTC, 1997 Smokeless Tobacco Report (1997) [1995 data from top five smokeless tobacco product manufacturers]. The state total is a prorated estimate based on its population compared to that of the entire country. Actual figures for 1998 are likely to be larger.

The referenced studies on cigarette advertising's influence on youth are R. Pollay, et al., "The Last Straw? Cigarette Advertising and Realized Market Shares Among Youths and Adults," Journal of Marketing 60(2):1-16 (April 1996); and N. Evans, et al., "Influence of Tobacco Marketing and Exposure to Smokers on Adolescent Susceptibility to Smoking," Journal of the National Cancer Institute 87(20): 1538-45 (October 1995). See also, J.P. Pierce, et al., "Tobacco Industry Promotion of Cigarettes and Adolescent Smoking," Journal of the American Medical Association (JAMA) 279(7): 511-505 (February 1998) [with erratum in JAMA 280(5): 422 (August 1998)].

December 31, 1998

CAMPAIGN for TOBACCO-FREE Kids™

1-800-284-KIDS info@tobaccofreekids.org

Best viewed with Internet Explorer 3.0 or Netscape 2.0 or higher.

Questions and Answers on Rationale and Background for SB 2125

1. Why raise the legal age for smoking from 18 to 19?

Tobacco products are dangerous drugs that when used as intended kill the user. Tobacco products are not safe to use in any quantity, or at any age. However, in 46 states including North Dakota, they are legal to use for those 18 and older. In three states – Utah, Alabama and Alaska, you must be 19 to legally use tobacco. In Pennsylvania, you must be 21 to use cigarettes.

The presumptive age for adulthood in our society is 18, except when we have a compelling reason to make an exception. For example, we set the minimum age for purchasing alcohol at 21 to reflect our compelling interest in reducing alcohol-related injuries and deaths on our highways. Every four days in North Dakota, someone dies in a traffic accident. Some of these accidents involve alcohol.

However, every day in North Dakota, three people die from tobacco use. Tobacco use costs North Dakota an estimated $180 million per year. As you can see, with tobacco use and the costly disease and death it causes, we have a compelling reason to raise the age of the use of a deadly substance to above the presumptive age of adulthood.

2. So why not raise the age from 18 to 21?

Raising the age from 18 to 19 will make tobacco use illegal for virtually all high school students. Statistics from past smoking trends show that if you haven't started smoking by age 19, you probably will never smoke.

3. If smoking is so bad, why not prohibit it altogether?

Tobacco contains nicotine, one of the most addictive drugs. Outlawing tobacco products is not practical, nor is it medically sound as a way to treat nicotine addiction and improve overall public health. Currently, one in five North Dakota adults are addicted to the nicotine in cigarettes. We can help ensure that in the future, fewer and fewer people are addicted by preventing tobacco initiation by youth, making smoke-free the social norm and offering compassionate cessation services for those wanting to quit. One step in preventing tobacco use is to raise the minimum age of use from 18 to 19.

4. So what's really behind raising the age from 18 to 19?

Raising the legal age for tobacco use from 18 to 19 is one step in an effort to prevent young people from becoming addicted to tobacco. Tobacco addiction is the leading cause of preventable sickness, disease and death in North Dakota, claiming 1,000 lives and costing us $180 million in healthcare each year. By preventing youth tobacco use, we can do more to improve our health and slow the rise in healthcare costs than any other single action.

5. How will raising the age from 18 to 19 affect local tobacco-control ordinances and enforcement?

These ordinances restrict vending machines, license retailers, place tobacco behind the counter and prohibit purchase and possession by minors.

Local ordinances can stand as written, and can continue to be enforced, providing we amend SB 2125 to allow underage buyers for compliance surveys.

6. Does this bill pre-empt local ordinances?

No. Cities, both home rule and non-home rule, would be able to continue to pass local ordinances to further control tobacco use.

7. What are the youth smoking rates in states with 19 or 21 as the minimum age?

Utah has the lowest youth smoking rate of 17 percent. Alabama's rate is 31 percent (6^{th} lowest rate among 32 states reporting in 1995). Alaska's rate was higher at 36.5 percent, likely reflecting the high rate among American Indian and Alaska Native population. Pennsylvania did not report.

8. What is North Dakota's youth smoking rate?

39.6 percent of North Dakota high school students smoked in the past 30 days. This is the third highest rate in the country.

9. Why is North Dakota's youth smoking rate the third highest in the county? I thought we had a program to address this problem?

Since 1992, the State Health Department has invested available federal funding into community efforts to prevent and control tobacco use. This program has achieved success commensurate with the investment. Since 1992, the per capita consumption of cigarettes has decreased 5 percent. In some cities we have realized a threefold increase in the number of smoke-free restaurants. In 60 percent of our schools, all tobacco use is banned for everyone in all buildings, on all grounds, and at all school events. Cities that enforce penalties against retailers for illegal tobacco sales record higher compliance with the law than other cities in statewide compliance surveys.

These are small-scale, targetted efforts that change the local landscape in a handful of cities. These efforts will not immediately result in lower tobacco use rates statewide. To affect our rates, we need large-scale policy change. The only time we have achieved this was in 1987, when the N.D. Legislature passed the Clean Indoor Air Act. In the three years after the law was enacted, we experienced a steady decrease in adult tobacco use.

10. What is the current tobacco prevention and control program?

Since 1993, the State Health Department administered an annual federal grant for primary tobacco use prevention and control. This grant totaled $281,000/year from 1993 to 1997, before increasing to $358,000 in 1997. Of these funds, three-fourths are invested in training and

materials available to schools statewide, or contracted to the 12 largest cities -- nearly half of the state's population. Local school and universities, public health departments, healthcare providers, businesses and citizen volunteers invest local public and private funds and in-kind services in a coordinated local program.

The program focuses on keeping young people from beginning to use tobacco, and establishing no tobacco use as expected social behavior by youth and adults. The program goal is to reduce tobacco use and thus reduce the tremendous healthcare costs caused by tobacco addiction, disease and death. To accomplish this goal, the program works through community coalitions (1) to promote policies that reduce illegal tobacco sales and purchases and (2) to make public places smoke-free.

This program is not large or comprehensive enough to fund all communities and schools, provide needed systems to make it easier for people to get help quitting, provide resources to law enforcement, conduct statewide paid mass media campaigns to educate the public, or fund statewide professional health, education and law associations to conduct training programs.

11. Shouldn't the state invest general funds into tobacco prevention and control?

Yes. Governor Schafer has requested that 10% of all tobacco settlement payments, which could total $617 million over the first 25 years, be directed to community-based public health programs that focus on tobacco and other priority issues.

12. What is a comprehensive tobacco prevention and control program?

According to the Centers for Disease Control and Prevention (CDC), effective state tobacco prevention and control programs that are comprehensive contain the following elements:

a. Community programs to reduce tobacco use (primary prevention)
b. Community programs to reduce the burden of tobacco-related diseases (treatment and cessation)
c. School programs (including education, tobacco-free zones at all school functions, student assistance programs to address student tobacco use, and cessation for students and staff)
d. Enforcement
e. Partnership grants (with state healthcare, education, law and law enforcement associations to provide professional education on tobacco as it applies to different professions)
f. Counter-marketing (effective paid ads that counteract the messages from tobacco industry ads)
g. Cessation programs (affordable and accessible to everyone through changes in our healthcare system that result in systematic identification of and treatment with all tobacco users every time they visit a healthcare provider; specialized programs for youth and American Indians)
h. Surveillance and evaluation (identification of smoking status on all healthcare utilization reports so we can collect actual costs of treating tobacco diseases, instead of relying on statistical model estimates; adapt current data collection systems to gather

information on smoke-free worksites; and conduct ongoing surveillance to determine success of the tobacco prevention and control program)

i. Administration and Management (adequate infrastructure at the state and local level to ensure comprehensive program reaches all citizens)

13. In laymen's terms, what would a comprehensive program do?

A comprehensive program should result in lower adult and youth smoking rates.

14. How much does a comprehensive statewide tobacco prevention and control program cost?

The CDC has recommended a comprehensive program for North Dakota. The CDC recommends a $7 to $33 per capita expenditure per year (this amounts to $9 to $18 million per year).

For additional information, contact:

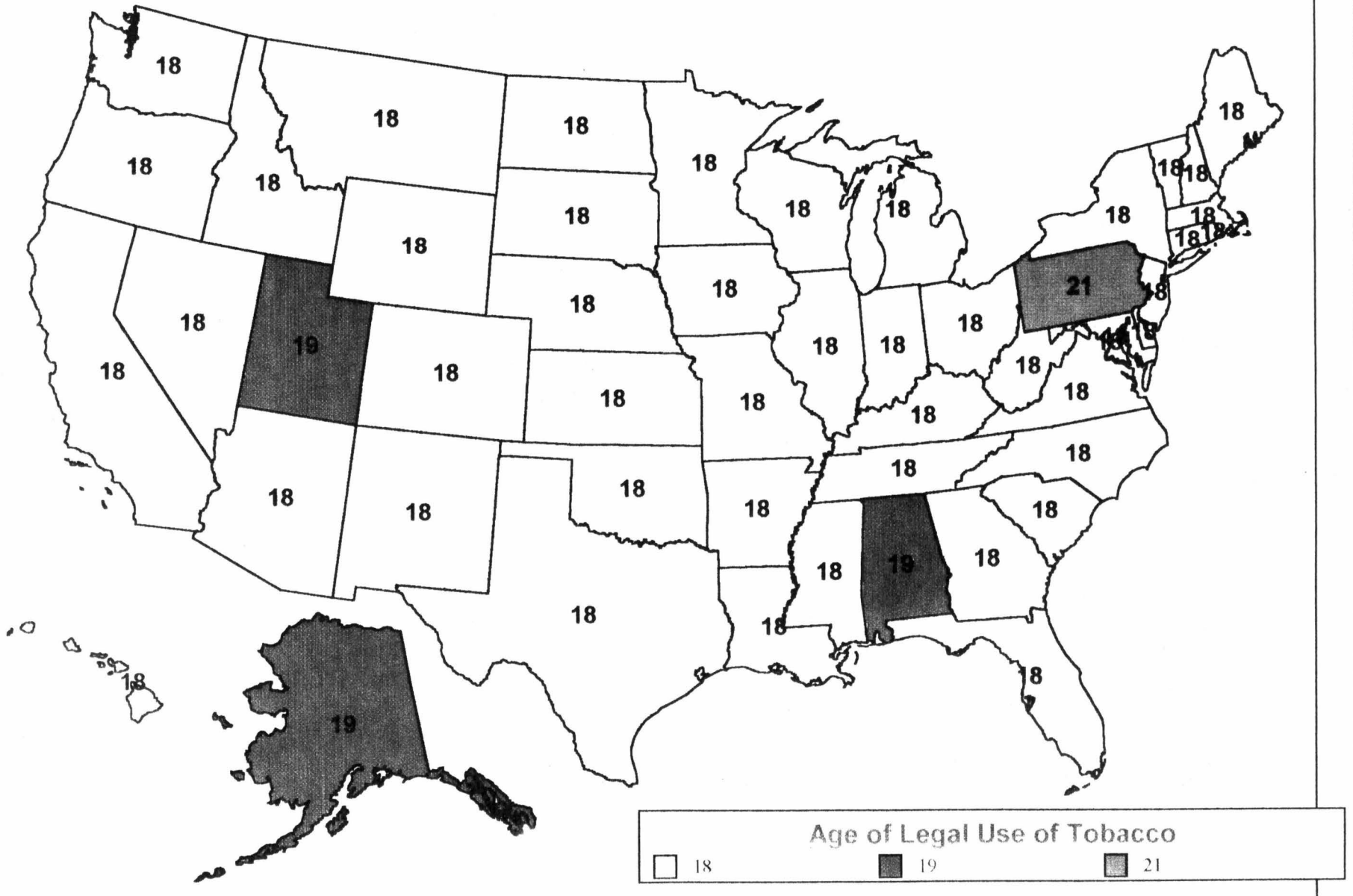
Sandy Adams
Director, Division of Health Promotion and Education
Department of Health
Telephone ~ 328-2367
E-mail ~ sadams@state.nd.us

Jeanne Prom
Tobacco Prevention and Control Program
Division of Health Promotion and Education
Department of Health
Telephone ~ 328-2367
E-mail ~ jprom@state.nd.us

January 18, 1999

Age of Legal Tobacco Use

United States 1998



PENDING LOCAL ORDINANCES

Ordinance	City
Vending Machines Restriction	
Licensing	
Self-Service Restrictions	
Clean Indoor Air	

Tobacco Control City	Purchase by Youth Prohibited	Possession by Youth Prohibited	Restricted Authorization for Compliance Surveys
Bismarck	X	X	
Devils Lake	X	X	
Fargo	X	X	X
Grand Forks	X	X	X
Jamestown	X	X	
Langdon	X	X	
Mandan	X	X	
Minot		X	X
Turtle Mt Band of Chipppewa Indians	X	X	
Valley City	X	X	X
Wahpeton	X	X	
West Fargo		X	
Williston	X	X	X

1-98 sites\ordinanc.lst

North Dakota
Local Tobacco Ordinances (27)

Ordinance Provisions	1990 (1)	1991 (1)	1992 (6)	1993 (8)	1994 (10)	1995 (13)	1996 (23)	1997 (27)
Vending Machine Restrictions	1 Grand Forks	1 Grand Forks	6 Grand Forks Bismarck Mandan Jamestown Valley City Fargo	7 Grand Forks Bismarck Mandan Jamestown Valley City Fargo Devils Lake	8 Grand Forks Bismarck Mandan Jamestown Valley City Fargo Devils Lake Minot	9 Grand Forks Bismarck Mandan Jamestown Valley City Fargo Devils Lake Minot Williston	12 Grand Forks Bismarck Mandan Jamestown Valley City Fargo Devils Lake Minot Williston Langdon West Fargo Wahpeton	13 Grand Forks Bismarck Mandan Jamestown Valley City Fargo Devils Lake Minot Williston Langdon West Fargo Wahpeton Turtle Mt.
Licensing	0	0	0	1 Jamestown	2 Jamestown Valley City	4 Jamestown Valley City Grand Forks Williston*	8 Jamestown Valley City Grand Forks Williston* Fargo* West Fargo* Minot Wahpeton	9 Jamestown Valley City Grand Forks Williston* Fargo* West Fargo* Minot Wahpeton Turtle Mt.
Self-Service Restrictions	0	0	0	0	0	0	3 Bismarck Langdon Wahpeton	5 Bismarck Langdon Wahpeton Devils Lake Turtle Mt.
Clean Indoor Air	0	0	0	0	0	0	0	0

Source: North Dakota Department of Health, Tobacco Prevention & Control Program
* Authority to sell, not a tangible license

Authority to regulate tobacco products locally

	May Regulate Sale	May Regulate Marketing	May Regulate Use
Home-rule City	Yes	Yes	Yes
Non-home-rule City	Yes	Yes	Yes
Home-rule County	No – because activity is regulated by state law	Yes- because activity is not regulated by state law	No – because activity is regulated by state law
Non-home-rule County	No	No	No
Local Board of Health	No – but may recommend ordinances to cites or counties with authority to regulate	No – but may recommend ordinances to cities or counties with authority to regulate	No – but may recommend ordinances to cities or counties with authority to regulate

Source: Tobacco Prevention & Control Program, North Dakota Department of Health, from Attorney General's Opinions 94-15 and 97-05
1-99

1997 North Dakota Youth Risk Behavior

SB 2125

"Health risk behaviors, which contribute to the leading causes of death, injury and social problems among youth and adults, often are established during youth, extend into adulthood, and are interrelated."

MMWR, Aug. 14, 1998

Tobacco

Alcohol and Drug Use

Drinking & Driving

Dietary

Physical Activity

Body Image

Suicide

Violence

Seat Belts

For more information contact:
North Dakota Department of Public Instruction
(701) 328-2753
North Dakota Department of Health
Division of Health Promotion and Education

"Few will have the greatness to bend history itself; but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation."

--Robert F. Kennedy

Primary Research Study

North Dakota Youth Risk Behavior Survey, North Dakota Department of Public Instruction and North Dakota Department of Health, Spring 1997.

Other Sources

1. Monitoring the Future Study, U-M Institute for Social Research, University of Michigan, 1997.

2. PRIDE Survey, National Parents' Resource Institute for Drug Education (PRIDE, Inc.), Atlanta, GA, 1997.

3. Morbidity and Mortality Weekly Report, Centers for Disease Control and Prevention, Atlanta, GA, 1998.

4. North Dakota Vital Statistics on the Web (www.health.state.nd.us), Division of Vital Records, North Dakota Department of Health.

5. U.S. Bureau of Health & Human Service, National Center for Health Statistics, *Vital Statistics of the United States* (Washington D.C. USGPO, 1991) Vol. 2, Part A, 1988.

6. Sexually Transmitted Disease Report, Division of Disease Control, North Dakota Department of Health, 1996.

7. "Youth and HIV/AIDS: An American Agenda," White House Office of National AIDS Policy, March 1996.

During the Spring of 1997, the North Dakota Department of Public Instruction and the North Dakota Department of Health conducted the third [redacted]h Risk Behavior Survey (YRBS). Survey data [redacted] obtained from 4,022 seventh and eighth grade students and 5,647 high school students (grades nine through 12).

The 1997 survey data for North Dakota is not weighted. The responses included in this brochure represent **only** the students who were sampled. These responses do not represent all North Dakota youth. Students from the Red River Valley are underrepresented in the survey data because of the 1997 floods.

[redacted]ational data were obtained from a [redacted] presentative sample of students in grades nine through 12 representing both public and private schools. [3]

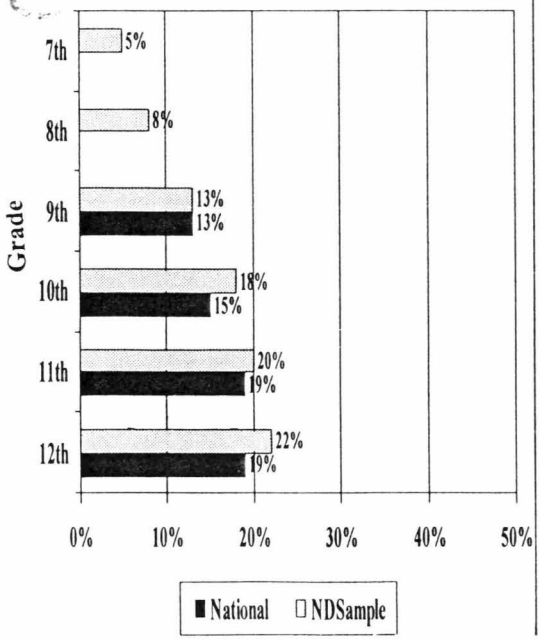
North Dakota Department of Public Instruction
Dr. Wayne G. Sanstead, State Superintendent
600 East Boulevard Avenue, Dept. 201
Bismarck, N.D. 58505-0440

North Dakota Department of Health
Murray G. Sagsveen, State Health Officer
600 East Boulevard Avenue, Dept. 301
Bismarck, N.D. 58505-0200

Support provided by
Centers for Disease Control & Prevention
Cooperative Agreement No. U87CCU808975-06
PHHS Block Grant No. 98-B1-ND-PRVS

Tobacco Use

[redacted]eens who regularly smoke



Nationwide, 90 percent of 15- and 16-year-olds said they could get cigarettes "fairly" or "very easily." [1]

Percentage of regular smokers under age 18 who reported purchasing their own cigarettes at a store, even though it is illegal to sell tobacco to minors:

ND 7&8 Grade	**25%**
ND 9-12 Grade	**21%**

Regular Smoker: A person who smoked on 20 or more of the past 30 days.

Other Tobacco

Used chewing tobacco and/or snuff during the past 30 days:

	1997
ND 7&8 grade	
Males	14%
Females	5%
ND 9-12 grade	
Males	27%
Females	7%
National 9-12 grade	
Males	16%
Females	2%

"Cigarette smoking constitutes the single largest health threat to the health and longevity of this generation of young Americans." [1]

[redacted]

Tobacco

Alcohol and Drug Use

Drinking & Driving

Dietary

Physical Activity

Body Image

Suicide

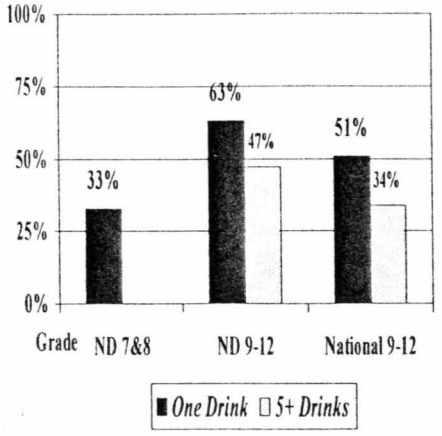
Violence

Seat Belts

Alcohol Use

In 1997, 30 percent of North Dakota sampled 7&8 grade students and 20 [redacted] of 9-12 grade students reported they had never consumed alcohol.

Alcohol use during 30 days prior to the survey:



Drinking and Driving

Percentage of students who rode with a driver who had been drinking alcohol or drove after drinking alcohol during the 30 days prior to the survey :

	Rode with a driver who had been drinking	Drove after drinking
7th Grade	46%	--
8th Grade	56%	--
9th Grade	47%	22%
10th Grade	53%	34%
11th Grade	61%	44%
12th Grade	66%	53%
ND Sample 9-12	**56%**	**37%**
National 9-12	37%	17%

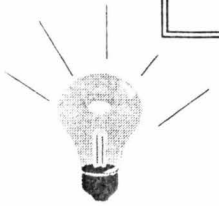
The percentage of North Dakota 9-12 grade students who drink and drive is higher than in any other state.

In 1997, 10 percent of North Dakota sampled 9-12 grade students reported they had gotten into trouble with the police within the past year because of drinking.

Other Drugs

Students reported using the following substances at some time in their lives:

	ND 7&8	ND 9-12	National 9-12
Used a needle to inject drugs	3%	2%	2%
Took steroids	4%	3%	3%
Tried cocaine	5%	5%	7%
Used other illegal drugs (heroin, PCP, LSD)	--%	9%	17%
Inhaled any substance to get high	23%	19%	16%



"Annual use of any illicit drug by students who are warned 'a lot' by their parents is lower (26%) than students who 'never' get parental warnings (37%)." [2]

Marijuana Use

Eight-six percent of 7&8 grade and 75 percent of North Dakota sampled 9-12 grade students have never tried marijuana; this compares to 53 percent nationally.

Percentage who smoked marijuana during past 30 days:

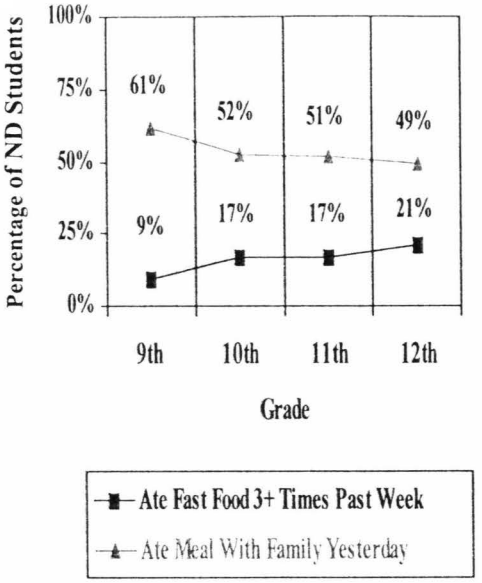
ND 7&8 grade	9%
ND 9-12 grade	14%
National 9-12	26%

"When young people come to see a drug as more dangerous, or more disapproved by their peers, they are less likely to use it." [1]

In 1997, 21 percent of the North Dakota sampled 9-12 grade students had been offered, sold or given illegal drugs on school property during the preceding 12 months.

Dietary Behaviors

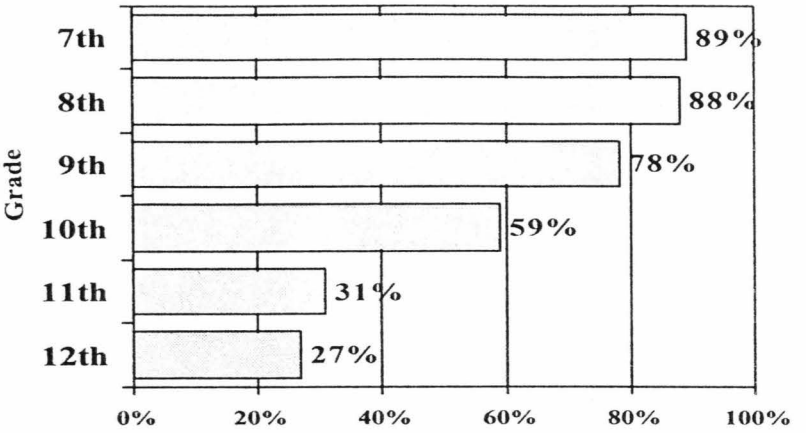
Eating with family and eating fast food



Physical Activity

Physical education class participation drops significantly between grades 7 and 12 -- from 89 percent of 7th graders to 27 percent of 12th graders attending one or more times per week.

Percentage of North Dakota sampled students attending physical education class at least once a week



ND Sampled Students:

7&8 Grade: 73 percent were involved in a sport team run by the school or other organization.

9-12 Grade: 66 percent of males and 60 percent of females were involved in a sport team run by the school.

Body Image

Percentage who considered themselves 'slightly' or 'very' overweight

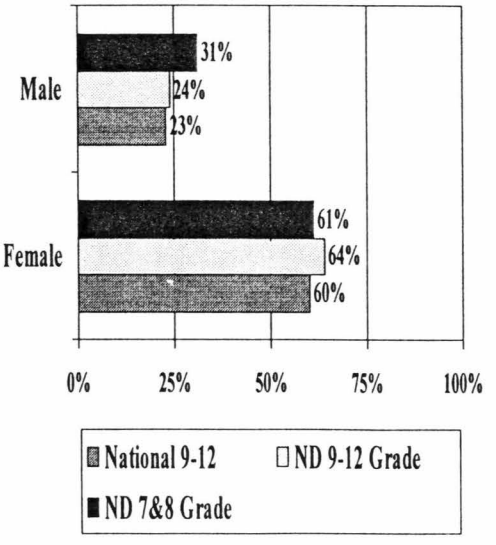
ND 7&8 Grade	Males	27%
	Females	34%
ND 9-12 Grade	Males	24%
	Females	40%

In a national survey conducted by The Centers for Disease Control and Prevention, one-third of the girls considered themselves overweight; 46 percent were on a diet. [3]

In 1997, students from the North Dakota sampled schools reported using the following methods to maintain their current weight or lose weight in the 30 days prior to the survey:

Grade	7&8 Males	7&8 Females	9-12 Males	9-12 Females
Exercise	49%	80%	30%	67%
Diet	21%	51%	11%	47%
Laxative /Vomit	3%	14%	3%	10%
Diet Pill	3%	13%	4%	12%

Students who have tried to lose weight



Violence

In 1997, 16 percent of North Dakota sampled 9-12 grade students reported carrying a weapon other than for hunting during the previous 30 days; among 7&8 grade students, 34 percent have carried a weapon other than for hunting at some time. A weapon is defined as a knife, gun, or club.

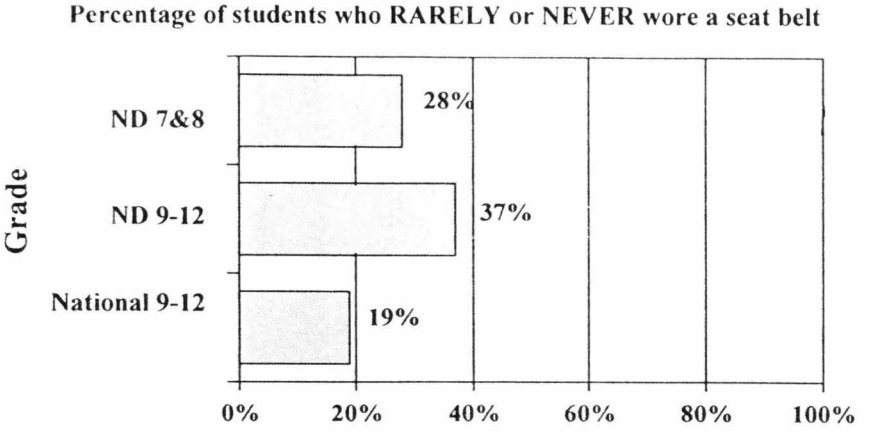
9-12 grade students involved in a physical fight during the preceding 12 months:

	Males	Females
ND Sample	41%	24%
National	46%	37%

7&8 grade students ever involved in a physical fight :

	Males	Females
ND Sample	71%	40%

Seat Belts / Helmets



ALWAYS wore a helmet:
Bicycle (7-12 grade) 1%
Skateboard (7&8 grade) <1%
Motorcycle (9-12 grade) 7%

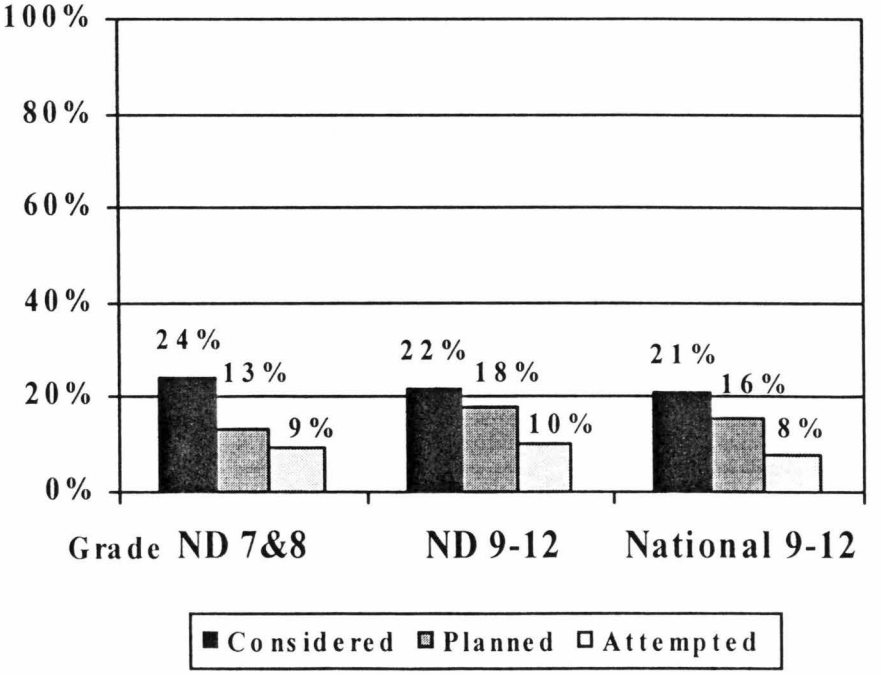
Suicide

In 1997, there were 11 reported suicides among people under age 20 in North Dakota; 10 were males and one was a female.[4]

Nationally, boys are more likely to commit suicide than girls. It is believed this is due to the method of choice: firearms for males and pill ingestion by females. [5]

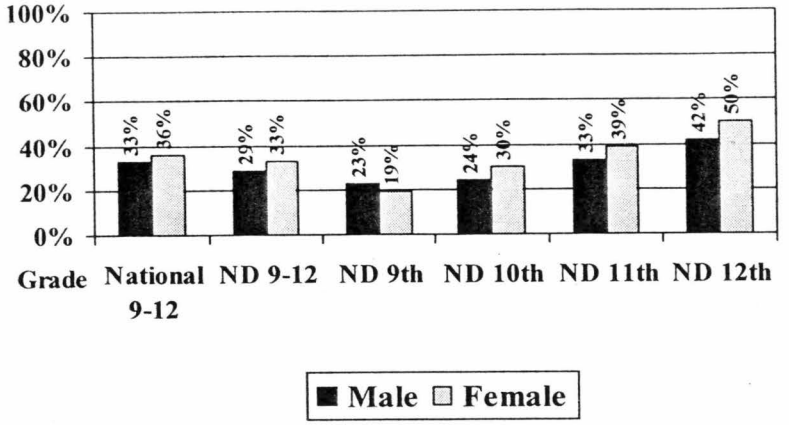
Age	Comparison[5]
10-14	Boys twice as likely to commit suicide as girls
15-19	Boys four times as likely to commit suicide as girls

Seriously considered, planned or attempted suicide:



Sexual Behavior

Percentage of 9-12 grade students who reported intercourse in the three months prior to the survey



Less than one-half (46%) of the sexually active North Dakota sampled 9-12 grade students used condoms the last time they had intercourse; 16 percent used birth control pills, 13 percent used withdrawal and 17 percent used no birth control.

In 1997, 36 percent of sexually active North Dakota sampled students reported drinking alcohol or using drugs before engaging in sexual intercourse; this compares to 25 percent nationally.

1997 North Dakota Statistic: [4]
There were 946 teen pregnancies and 759 live births among 12-19 year olds.

Sexually Transmitted Diseases / Infections

In North Dakota, nearly one-half of all [illegible]ally transmitted diseases occur in 20-[illegible] year-olds; 30 percent of the cases occur in 15- to 19- year-olds. [6]

STD Reported in 15- to 19- year-olds [6]

	Chlamydia	Gonorrhea
1992	298	13
1993	254	9
1994	339	9
1995	320	10
1996	304	11
1997	**276**	**26**

In 1997, 11 percent of North Dakota sampled 9-12 grade students reported involvement in a dating situation where emotional or physical control was used to have sex. This was reported by 7 percent of the males and 13 percent of the females.

Abstinence was very or quite important to 32 percent of North Dakota sampled 9-12 grade students.

"George Bernard Shaw said that youth is wasted on the young. That may be so, but unless we stop the spread of AIDS, too many of our young will never experience the peculiar delight of such squander."

Deborah Prothow-Stith,
Journal of Adolescence Health Care

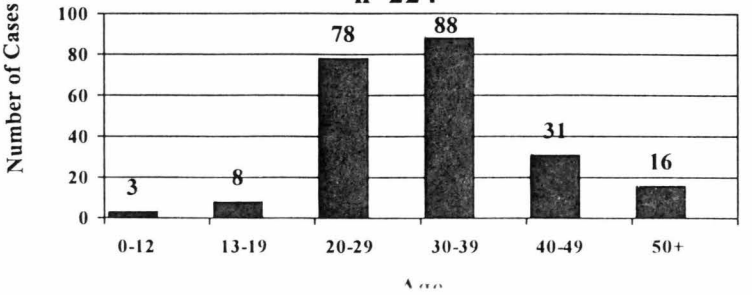
HIV/AIDS

One in four new HIV infections in the U. S. occurs among people under age 20. It is estimated that two people under age 20 are infected with HIV every hour in the United States.[7]

Eighty-seven percent of 9-12 grade students and 79 percent of 7&8 grade students were taught about AIDS and HIV in North Dakota sampled schools.

Teens infected with HIV often are not diagnosed until years later.

Age at HIV Diagnosis in North Dakota [8]
June 30, 1998
n=224



Testimony on Senate Bill 2125

before the

House Judiciary Committee

by

Murray G. Sagsveen, State Health Officer

March 1, 1998

Testimony

Appendix

Summary

Good morning. I am Murray G. Sagsveen, State Health Officer, State Department of Health. I am testifying in support of SB2125.

Senate Bill 2125 would prohibit underage purchasing, possessing, and smoking or chewing tobacco. It would also reduce the penalty for a first-time violation from a misdemeanor to an infraction and permit minors to participate in survey programs. The bill, as introduced, would have raised the minimum smoking age to 19, but this provision was deleted in the Senate.

The Department of Health and several legislative sponsors pre-filed this bill in December. Governor Schafer later expressed support for the bill in his State of the State Message.

Senate Bill 2125 will be an important component of a continuing effort to reduce teenage tobacco use. Additional efforts will be necessary because:

- The surgeon General has determined that tobacco use is the single leading preventable cause of death in the United States.
- Tobacco use is responsible for about 18% of the annual deaths in the United States.
- Tobacco use injures the unborn children of smokers.
- Tobacco alone kills more people each year in the U.S. than AIDS, car accidents, alcohol, homicides, illegal drugs, suicides, and fires, combined.
- Smokers cut short their lives by an average of 12 years.
- Active smoking and exposure to cigarette smoke are associated with many illnesses and diseases.
- Smoking by high school age and college age students is increasing.
- Many young pregnant women are smoking.
- About one-fifth of high school students in North Dakota are smokers.
- The medical expenditures in the U.S. attributable to smoking is estimated to be 11.8% of the total medical expenditures.

For those reasons, I urge this committee to amend the bill to allow compliance surveys by underage teenagers and to vote a "do pass" as amended.

Background Information

Senate Bill 2125 now has three components:

- provides a penalty for underage purchasing, possession, and smoking;
- reduces the first-time penalty from a misdemeanor to an infraction; and
- permits minors to participate in properly supervised survey programs.

The Department of Health (with the approval of Governor Schafer), along with five legislative sponsors, pre-filed this bill on December 10. Governor Schafer also referred to this bill in his State of the State Message on January 5 when he stated:

> To further enhance [tobacco] prevention efforts, we should make our laws more effective in our fight. I urge the Legislature to raise the state's minimum age for possession of tobacco from 18 to 19. At the same time, we should reduce the penalty for possession from a rarely prosecuted misdemeanor to a more appropriate infraction that police are more willing to enforce.

The bill has generated some controversy – and a personal attack on me for supporting the bill. For example, Frederic Smith, the opinion editor for the Bismarck Tribune, wrote an editorial on January 10 that stated, in part:

> If it weren't so insulting to young adults, the proposal by State Health Officer Murray Sagsveen to raise the legal smoking age to 19 would be funny. Anti-tobacco zealots such as Sagsveen need to do some growing up themselves, or they would not expect a mature public to swallow a line like "tobacco use is killing kids."
>
> ***
>
> The target of Sagsveen's concern is high-schoolers who turn 18 before they graduate and, at present, can legally set a bad example for younger students. The possibility of contagion may be unfortunate, but does not justify involving other young adults who

are off to college or jobs and otherwise engaging the world of grownups.

Sagsveen has no more business laying down the law to these on use of a legal product than they do to him, but his is a point that is long on nanny government. The only precedent is our new, Washington-driven threshold of age 21 for legal drinking, and it is a bad one. Piling a second wrong on top of it does not make a right.

What is really going on here is sneaking prohibitionism, the government itch that dares not speak its name. If the Legislature has any guts, it will smoke Sagsveen on this one.

I do not consider myself – or the other sponsors and supporters of Senate Bill 2125 – to be "anti-tobacco zealots." Instead, I believe it is my responsibility as State Health Officer to advise the Legislative Assembly of a growing problem **and** to recommend a solution.

The bill may have also prompted a letter to the editor in the Bismarck Tribune on January 16. Part of the letter stated:

Have you ever heard of a man or woman losing his or her job, family, self-respect or the trust of his or her children because he or she chose to smoke?

I have never heard of a man or woman divorcing their spouse because he or she smoked. But, each day, there are a multitude of broken marriages, abused and neglected children and bankruptcies in this country directly due to misuse of alcohol and the disease of alcoholism.

Anyone out there heard of a driver being charged with "driving while smoking"? LIkewise, I've never heard or read about an innocent victim being killed in a car accident caused by smoking.

It is obvious that the author of the letter, and her family, has been deeply hurt by alcohol – and not by tobacco – abuse. However, as I will briefly explain, tobacco use and abuse can cause similar grief to families.

Do I believe that Senate Bill 2125 is a "silver bullet" that will solve the tobacco problem? No. However, I believe that Senate Bill 2125 is a reasonable step toward solving this huge public health problem.

Governor Schafer appointed me State Health Officer last February 1. During the past year, I've learned many disheartening statistics about tobacco use in our society. For example:

The Forum recently recalled early tobacco industry advertisements that extolled the virtues of cigarettes. For example: in 1927, Lorillard Tobacco Co. claimed there was "not a cough in a carload" of Old Golds; in 1948, the R. J. Reynolds Tobacco Co. was proclaiming that "More doctors smoke camels than any other cigarette"; in 1953 Liggett & Myers boasted that its L&M cigarettes were "Just what the doctor ordered"; and also in 1953 Liggett & Myers advertised that "It's so satisfying to know that a doctor reports no adverse effects to the nose, throat and sinuses from smoking Chesterfield".[1] The disclosure of internal tobacco industry documents has revealed the industry suspected – or knew – at the time that cigarettes were hazardous to their customers' health.

Sixty two years after the "not a cough in a carload" advertisement, the Surgeon General determined that tobacco use is the single leading preventable cause of death in the United States.[2] Several years after the Surgeon General's report, the *Journal of the American Medical Association* (JAMA) report that tobacco use was responsible for about 18% of the approximately 2,148,000 annual deaths in the United States:

> Tobacco accounts for approximately 400 000 deaths each year among Americans. It contributes substantially to deaths from cancer (especially cancers of the lung, esophagus, oral cavity, pancreas, kidney, and bladder, and perhaps of other organs), cardiovascular disease (coronary artery disease, stroke, and high blood pressure), lung disease (chronic obstructive pulmonary disease and pneumonia), low birth weight and other problems of infancy, and burns. In a major effort that drew on analyses that had been commissioned to assess the mortality, morbidity, and financial burden imposed by each of 15 priority health problems, the Carter Center's *Closing the Gap* project attributed 17% (338 000) of all deaths in 1980 and 13% of all potential years of life lost from death before 65 years of age to tobacco. Other estimates have placed

> tobacco's contribution in the range of 11% to 30% of cancer deaths, 17% to 30% of cardiovascular deaths, 30% of lung disease deaths, 24% of pneumonia and influenza deaths, 10% of infant deaths, and 20% to 30% of low-birth-weight infants. Approximately 3000 lung cancer deaths annually among nonsmokers have been attributed to environmental tobacco smoke. The sum of the low and upper boundaries, respectively, for these estimates would yield an approximate range of 257 000 to 468 000 tobacco attributable deaths in 1990. Using a specially developed software package, the Centers for Disease Control and Prevention (CDC) estimated that 418 690 deaths were caused by tobacco in 1990, including approximately 30% of all cancer deaths and 21% of cardiovascular disease deaths. The CDC estimates have been widely accepted and provide the basis for the 400 000 figure...[3]

In addition to killing smokers (and nonsmokers who may inhale tobacco smoke), tobacco injures the unborn children of smokers. Dr. Stanley Glantz, a nationally-known critic of the tobacco industry, has explained:

> All the toxins from cigarette smoke that reach a pregnant woman's blood go to the developing baby and cause damage. Carbon monoxide prevents the fetus from getting enough oxygen: A two-pack-a-day pregnant smoker takes away the equivalent of one-fourth of her baby's oxygen supply
>
> The carcinogens in cigarette smoke also damage the genetic material – DNA – in placental and fetal cells. As a result, smoking (and passive smoking) by a pregnant woman increases the risk of birth defects in her baby and her chance of spontaneous abortion or stillbirth by about one-third.
>
> Unfortunately, 1 in 5 women in the United States smokes during pregnancy. A baby born to such a mother is twice as likely to be born at a lower birth weight than a baby of a nonsmoking mother. Babies with low birth weights are at a greater risk of many complications.
>
> One in 10 infant deaths is due to smoking. Also, of the children with low birth weights, 1 in 4's low weight is due to the mother's smoking during pregnancy. Tobacco's effects on infants is a much greater problem than that of "crack" babies.[4]

Five years ago, the Institute of Medicine reported that tobacco alone kills more people each year in the United States than acquired immunodeficiency syndrome (AIDS), car accidents, alcohol, homicides, illegal drugs, suicides, and fires, combined.[5] Two years ago, the Centers for Disease Control and

Prevention (CDC) concluded that smokers cut short their lives by an average of 12 years (Appendix at p. 17).

A steady stream of studies linking tobacco use to virtually every major disease, illness, and health problem has followed the 1993 JAMA article and subsequent reports. For example, in 1998:

- The authors of a 1998 JAMA article have determined that active smoking and exposure to cigarette smoke are associated with the progression of atherosclerosis.[6]
- The authors of an article in a AMA-related pediatrics magazine have concluded that environmental tobacco smoke is an important risk factor for middle ear disease in preschool-age children.[7]
- The authors of another 1998 JAMA article have completed studies involving adults aged 48 to 92 years which suggest that environmental tobacco smoke may play a role in age-related hearing loss.[8]
- A Colorado State University study even found that dogs whose owners smoke have a 50% greater risk of developing lung cancer.[9]

Although these scientific studies should be convincing evidence that tobacco use injures and kills, tobacco use is actually increasing among certain age and ethnic groups. The CDC recently reported that the "findings from the analysis [of self reported data from the national Household Survey on Drug Abuse] indicated that, during 1988 –1996 among persons aged 12-17 years, the incidence of initiation of first use increased by 30% and of first daily use increased by 50%, and 1,226,000 persons aged <18 years became daily smokers in 1996."[10] Similarly, the Office on Smoking and Health, CDC, reported its findings from a 1997 Youth Risk Behavior Survey:

> Findings indicate that among U.S. high school students in 1997, 70.2% had tried cigarette smoking. Among students who had ever tried cigarette smoking, 35.8% went on to smoke daily. Among those who had ever smoked daily, 72.9% had ever tried to quit smoking and 13.5% were former smokers.[11]

A high percentage of American Indians are also addicted to tobacco. The CDC estimates that, at 36.2% (37.3% of men and 35.4% of women), American

Indian/Alaskan Native adults have the highest tobacco use rates of all major racial or ethnic groups in America[12]

There is also more smoke on the campuses. A 1998 JAMA article recently reported that smoking jumped an alarming 28% among college students between 1993 and 1997.[13]

Despite the many and frequent warnings about smoking when pregnant, pregnant women continue to smoke. The CDC has reported that the "rates of smoking during pregnancy for women 15 – 19 years of age declined between 1990 and 1994 but increased in the last two years, and now they have the highest rates of all age groups."[14]

North Dakota teens are also smokers. The 1997 North Dakota Youth Risk Behavior Survey indicates that 5% of the 7th graders, 8% of the 8th graders, 13% of the 9th graders, 18% of the 10th graders, 20% of the 11th graders, and 22% of the 12th graders regularly smoke (i.e., has smoked on 20 or more of the past 30 days).[15]

The additional health costs to the nation and the state, because of tobacco use, is phenomenal. The authors of a recent article in *Public Health Reports* have estimated that the proportion of total medical expenditures attributable to smoking for the U.S. as a whole was 11.8% in 1993.[16] They also calculated the total 1993 medical expenditures, for people ages nineteen and older, attributable to cigarette smoking in several categories (in millions):

Type of Expenditure	United States	North Dakota
Ambulatory Care	$200,710	$483
Prescription Drugs	$67,778	$145
Hospital Care	$268,682	$760
Home Health Services	$21,616	$15
Nursing Home	$55,772	$205
All Types	$614,559	$1,607

To place the health issue in a global perspective, the World Health Organization estimates that "tobacco-related illnesses will be the world's leading cause of death by the year 2020" and that "the annual toll of tobacco-related

deaths worldwide will soon surpass deaths from AIDS, car accidents, tuberculosis, homicide, and suicide *combined*."[17]

Accordingly, there should be no doubt that tobacco use, particularly tobacco use by teenagers, is a serious public health problem in the United States and North Dakota.

Proposed Amendment

We urge the committee to reinsert the 19-year-old provision in the bill, as follows:

Page 1, line 8, replace the words "minor" with "~~minor~~ person under nineteen years of age"

Page 1, line 12, replace "minor" with "~~minor~~ person under nineteen years of age"

Page 1, line 15, replace "eighteen" with "nineteen"

I am confident that SB2125 will be an important component of the overall statewide effort to curb teenage smoking. Therefore, I would have no objection if this committee added an amendment requiring the State Health Officer to report to the Legislative Assembly, prior to the next several sessions, concerning our efforts to curb teenage smoking and whether SB2125 measurably contributed to that effort.

Recommendation

For the reasons stated above, I urge this committee to amend the bill and vote a "do pass" as amended.

Murray Sagsveen

State Health Officer
North Dakota Department of Health

Senate Bill 2125

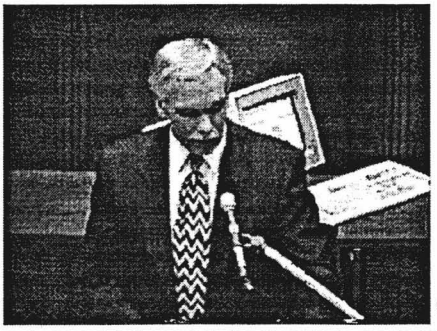
Testimony by
Murray G. Sagsveen
State Health Officer

The Marlboro Man?

Senate Bill 2125, as introduced, would:

- Raise the minimum age for smoking and chewing tobacco from 18 to 19 (amended)
- Provide a penalty for underage purchase, possession and smoking of tobacco
- Reduce the first-time penalty from a misdemeanor to an infraction

Governor Ed Schafer



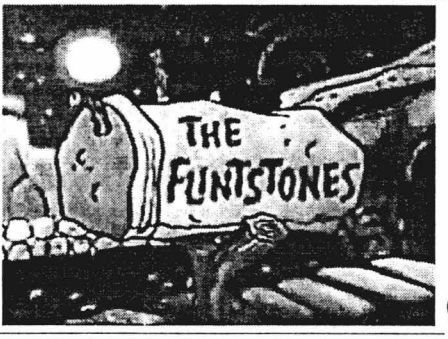
Reactions

- Editorial, *The Bismarck Tribune* Jan. 10, 1999
- Letter to the editor, *The Bismarck Tribune* Jan. 16, 1999

Truth in Advertising?

- "... not a cough in a carload."
- "More doctors smoke camels than any other cigarette."
- "Just what the doctor ordered."
- "... a doctor reports no adverse effects to the nose, throat and sinuses from smoking ..."

Playing With Fire



Tobacco use, especially by teenagers, is a serious public health problem.

SB2125
will help curb
teenage smoking.

Tobacco use is the single leading preventable cause of death in the United States.

–Surgeon General of the United States

Tobacco is responsible for 18 percent of annual deaths in the United States.

– Journal of the American Medical Association

Smoking Injures the Unborn

- Prevents the fetus from receiving sufficient oxygen
- Damages DNA
- Lowers birth weight
- Causes one in 10 infant deaths

Tobacco

Kills more people each year in the U.S. than

AIDS
Alcohol
Combined
Suicides
Illegal Drugs
Fires
Homicide
Car Accidents

Smokers' lives are cut short by an average of 12 years.

–Centers for Disease Control and Prevention

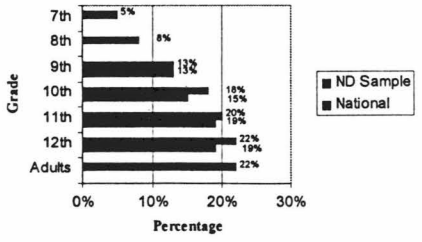
Despite the Evidence, Tobacco Use Is Increasing

- **U.S. Young People Age 12 to 17**
  - About 1,200,000 became smokers in 1996
  - In 1997, 70.2 percent tried smoking
- **Native Americans**
  - Over 36 percent use tobacco

Despite the Evidence, Tobacco Use Is Increasing

- **College Students**
  - Smoking increased 28 percent from 1993 to 1997
- **Pregnant Women**
  - Ages 15 to 19 have highest rates of all age groups

North Dakota Smokers



Sources: 1997 North Dakota Youth Risk Behavior Survey; CDC

Cost of Health Care Attributed to Tobacco Use

11.8 percent of total medical expenditures

Tobacco will be the world's leading cause of death by the year 2020.

--World Health Organization

Tobacco

Soon will kill more people worldwide than

Tuberculosis

AIDS

Combined

Homicide

Suicides

Car Accidents

TESTIMONY ON SB 2125
HOUSE JUDIARY COMMITTEE
March 1, 1999
By Linda L. Johnson, Director of School Health Programs
328-4138
Department of Public Instruction

Mr. Chairperson and members of the committee:

My name is Linda Johnson and I am the Director of School Health Programs for the Department of Public Instruction. I am here to speak in favor of Senate Bill 2125 if amended as reintroduced by the State Health Department to raise the legal age for sale of tobacco to nineteen. By our estimates at least 18% of the high school population in North Dakota reaches the present legal age for smoking of 18 before they graduate. As the Director of the Safe and Drug Free programs in our schools I occasionally get a call from a principal asking what might be done about the student across the street smoking who has recently reached their 18th birthday. I must answer that other than pass a city ordinance to make it illegal by defining a drug free zone that includes property beyond the school there is not much the school personnel can do legally. This solution is usually very frustrating for the educational leader.

Eighty nine percent of persons who ever smoked daily first tried a cigarette at or before age 18. Recent brain research reveals the brain continues to develop through childhood until the age of 20. We also know the young body reacts quite differently than the adult body to addictive chemicals and is more vulnerable to addiction. Three out of four teenage smokers have tried to quite at least once, but failed. Tobacco is widely considered the gateway drug for youth. There is high

correlation between the numbers of youth smoking and alcohol consumption. Currently 40% of our youth in 9th-12th grades respond they have smoked at least once in the past 30 days. This ranks near the top of states participating in this survey.

Raising the legal age for smoking to 19 would be a part of a comprehensive approach needed to promote fewer North Dakota youth from beginning to smoke. Education that is long enough in duration to make a difference and given at the appropriate age along with this change in law will work together to lower the number of youth who smoke.

The longer we can keep our youth from behaviors that can cause them potential harm, the greater the chances they will be able to make intelligent decisions about their health that will promote them to reach their full potential to become nurturing, contributing members of their family and society. Raising the legal age of those who can smoke and strictly enforcing this law has the potential of reducing North Dakota youth smoking rates. We encourage a yes vote on this measure.

EXECUTIVE SUMMARY

Economic Cost of Tobacco to the State of North Dakota

- $180 Million Annually Health Care Expenditures directly related to smoking

Current Revenue Received by the State from Tobacco

- $44 Million Biennially through cigarette sales tax
- $40+ Million Year 2000 Estimated Tobacco Settlement Funds

State Revenue Spent on Tobacco Education and Quit Smoking Programs

- $0 Currently
- $0 Proposed

Recommended CDC Comprehensive Program:

- $8 - $18 Million

Long Term Financial Picture – 25 years

- $717 Million Total Estimated Tobacco Settlement Funds
- $4.5 Billion in Health Care Expenditures

Statewide Poll Results*

- Eighty-nine percent of the individuals polled favored the use of the settlement on efforts to reduce smoking among children.
- Nearly seven of every ten North Dakotans "strongly favor" using the funds for reducing tobacco use.
- More than six of every ten respondents feel at least half of the settlement funds should be spent towards these efforts.

* according to a poll commissioned by the Tobacco Free North Dakota coalition, in partnership with the North Dakota Medical Association, American Cancer Society, American Lung Association and the American Heart Association.

Statement of Representative Roxanne Jensen
On
Senate Bill No. 2125.

March 1, 1999

Mr. Chairman, as a sponsor of Senate Bill 2125, I am pleased to testify in support this legislation.

As introduced, the bill increased the legal age at which a young person may purchase, possess, or smoke cigarettes to age 19. It also clarified the law by prohibiting not only the *smoking* of cigarettes, but making it unlawful for a person under age 19 to ***purchase or possess*** cigarettes or other tobacco products.

I support this legislation because the health hazards of tobacco are well-known and we should take reasonable steps to discourage young people from becoming at addicted to cigarettes until they reach a level of maturity at which they can begin to understand the serious health risks related to cigarettes and other tobacco products.

As the testimony presented by the Department of Health this morning will show: cigarette use increases in each grade level of our schools. I think we should do everything reasonable to postpone the legal right of youths to begin smoking cigarettes. And by setting the legal age at 19, we can assure that almost no high school students will be legally smoking cigarettes or purchasing cigarettes for themselves or their younger classmates.

You will hear an argument that a person can join the military at age 18; they can vote at age 18; so why shouldn't they be able to purchase and use cigarettes. Well for a very simple reason: at that age they think they're invisible, they don't fully appreciate the health risks and the **addictive** nature of cigarettes. Moreover, we have wisely established age 21 as the legal age for drinking because experience has taught us that that youths under the age of 21 are not capable of handling alcoholic beverages.

And, you know, when we increased to be drinking age to 21, the taverns and liquor stores did not suffer any significant hardship. Similarly, I don't think our grocery stores and convenience stores will suffer any great hardship if we raise the legal age for purchasing cigarettes to age 19.

So I hope you'll give this bill a favorable recommendation.

Questions and Answers on Rationale and Background for SB 2125 as part of a comprehensive tobacco control program in North Dakota

1. Why raise the legal age for smoking from 18, the age of majority, to 19?

Tobacco products are dangerous drugs that when used as intended kill the user. Tobacco products are not safe to use in any quantity, or at any age. However, in 46 states including North Dakota, they are legal to use for those 18 and older. In three states – Utah, Alabama and Alaska, you must be 19 to legally use tobacco. In Pennsylvania, you must be 21 to use cigarettes.

The presumptive age for adulthood in our society is 18, except when we have a compelling reason to make an exception. For example, we set the minimum age for purchasing alcohol at 21 to reflect our compelling interest in reducing alcohol-related injuries and deaths on our highways. Every four days in North Dakota, someone dies in a traffic accident. Some of these accidents involve alcohol.

However, every day in North Dakota, three people die from tobacco use. Tobacco use costs North Dakota an estimated $180 million per year. As you can see, with tobacco use and the costly disease and death it causes, we have a compelling reason to raise the age of the use of a deadly substance to above the presumptive age of adulthood.

2. So why not raise the age from 18 to 21?

Raising the age from 18 to 19 will make tobacco use illegal for virtually all high school students. Statistics from past smoking trends show that if you haven't started smoking by age 19, you probably will never smoke.

3. If smoking is so bad, why not prohibit it altogether?

Tobacco contains nicotine, one of the most addictive drugs. Outlawing tobacco products is not practical, nor is it medically sound as a way to treat nicotine addiction and improve overall public health. Currently, one in five North Dakota adults are addicted to the nicotine in cigarettes. We can help ensure that in the future, fewer and fewer people are addicted by preventing tobacco initiation by youth, making smoke-free the social norm and offering compassionate cessation services for those wanting to quit. One step in preventing tobacco use is to raise the minimum age of use from 18 to 19.

4. Isn't the "legal age," the "age of majority," or the "presumptive age of adulthood" a matter of personal, constitutional rights?

No. The law determines what actions are legal or illegal by persons of all ages. The U.S. Constitution and Bill of Rights list the protected rights of citizens, but tobacco use is not one of these.

5. So what's really behind raising the age from 18 to 19?

Raising the legal age for tobacco use from 18 to 19 is one step in an effort to prevent young people from becoming addicted to tobacco. Tobacco addiction is the leading cause of preventable sickness, disease and death in North Dakota, claiming 1,000 lives and costing us $180 million in healthcare each year. By preventing youth tobacco use, we can do more to improve our health and slow the rise in healthcare costs than any other single action.

6. How will raising the age from 18 to 19 affect local tobacco-control ordinances and enforcement?

These ordinances restrict vending machines, license retailers, place tobacco behind the counter and prohibit purchase and possession by minors.

Local ordinances can stand as written, and can continue to be enforced, providing we amend SB 2125 to allow underage buyers for compliance surveys.

7. Does this bill pre-empt local ordinances?

No. Cities, both home rule and non-home rule, would be able to continue to pass local ordinances further preventing and controlling tobacco use. However, to ensure that this bill does not become pre-emptive, we should amend it to include specific language stating the law does not pre-empt cities from passing local ordinances. Again, this bill presents only one step in the effort to prevent youth tobacco use and the resulting tobacco-related disease, death and healthcare costs. We need to ensure that our cities also take action to further reduce tobacco use and its costs to society.

8. What is the legal age for tobacco use in other states?

Forty-six states including North Dakota set 18 as the legal age for tobacco use. Alabama, Alaska and Utah have set the age at 19. Pennsylvania is 21 for the purchase of cigarettes.

9. What are the youth smoking rates in states with 19 or 21 as the minimum age?

Utah has the lowest youth smoking rate of 17 percent. Alabama's rate is 31 percent (6^{th} lowest rate among 32 states reporting in 1995). Alaska's rate was higher at 36.5 percent, likely reflecting the high rate among American Indian and Alaska Native population. Pennsylvania did not report.

10. What is North Dakota's youth smoking rate?

39.6 percent of North Dakota high school students smoked in the past 30 days. This is the third highest rate in the country.

Statement of

Stephen McDonough MD
Chief Medical Officer
State Department of Health

on
Senate Bill No. 2125

Regarding
Change in Penalty and Age of Tobacco Use

Before the
House Judiciary Committee

March 1, 1999

Good morning, Mr. Chairmen, and members of the Committee. I am Dr. Stephen McDonough, Chief Medical Officer of the North Dakota Department of Health. Our Department supports SB 2125.

Tobacco has a tremendous impact on public and personal health. Tobacco use is the single greatest cause of premature death in the United States and in North Dakota. In the past thirteen years since the North Dakota Department of Health first identified (1986) tobacco use as the most serious public health problem, thirteen thousand North Dakotans have died prematurely from tobacco use, more than the entire population of Barnes county in 1997.

Youth Smoking

Across the country in the 1990s, tobacco use among children increased significantly. This also occurred in North Dakota. In 1995, 19.8% of surveyed North Dakota students in grades 9-12 smoked cigarettes regularly, compared to 12.3% in 1992. In fact, when rates of any cigarette smoking were calculated by the Centers for Disease Control and Prevention, North Dakota teenagers had the third highest rate of 31 states with available information. (Appendices 1 and 2)

Accompanying the increase in tobacco use was an increase in marijuana use. The percentage of students smoking marijuana in the past 30 days increased to 14.9% in 1995, up from 5.9% in 1992.

Cigarettes are gateway drugs to marijuana smoking and other illegal drug use. It is a small step for a child to make from smoking cigarettes at age 13 or 14 to smoking marijuana at age 15 or 16 because the mechanism of drug delivery is the same.

Tobacco companies prey on vulnerable adolescents, young people under stress and with poor self esteem. Want to be sexy, macho and independent? Light up a Marlboro! The most heavily advertised product in the United States is the most widely available addictive drug-tobacco. The predatory marketing practices of the tobacco industry and the current unenforceable North Dakota Century Code have assisted in the increase in youth tobacco use.

Why Should SB2125 Be Passed?

Changing the penalty from a misdemeanor to an infraction will help with enforcement. Amending SB 2125 to set the legal age of tobacco use to 19 years will also help. SB2125 should help reduce access to tobacco, one of several necessary steps to curb youth tobacco use. The Centers for Disease Control and Prevention recommends the following prevention activities to reduce tobacco use:

- Increasing tobacco prices.
- Reducing the access to, and appeal of, tobacco products.
- Conducting mass media campaigns and school-based tobacco use prevention programs.
- Increasing provision of smoke-free indoor air.
- Decreasing tobacco use by parents, teachers, and influential role models.
- Developing and disseminating effective youth smoking cessation programs.
- Increasing support and involvement from parents and schools.

Two states, Massachusetts and California, with comprehensive tobacco control programs have not seen the great increases in youth tobacco use seen in other states.

Some would say that the current law is not being enforced so why increase the age to 19? That is why it is important to change the penalty to an infraction and avoid the burdens of a misdemeanor trial. Others would say that if you are old enough to enlist in the military, you should be able to smoke tobacco. You can't drink beer if you are under age 21. Increasing the age of alcohol use has decreased alcohol related motor vehicle fatalities. The benefits to youth and society have been tremendous. You don't hear a clamor to reduce the legal age of alcohol consumption to age 18.

Mortality

In 1996, the North Dakota Department of Health estimated that 1,050 residents died prematurely to tobacco related illnesses. Although most deaths occurred among adults, an estimated three deaths were among infants, one from Sudden Infant Death Syndrome (SIDS) and two from low-birth-weight. Cancer deaths (332), heart disease deaths (449), respiratory deaths (265), and fire deaths (1) accounted for adult smoking-attributable mortality. (Appendix 3)

In 1985, the North Dakota Department of Health estimated that 974 residents died from smoking-attributable mortality. The change in mortality from 974 to 1050 deaths represents a 7.8 percent increase over a 12-year period. Substantial changes in mortality occurred among women. In 1985, an estimated 58 cancer deaths were smoking-attributable among women compared to 106 in 1996, an 81.0 percent increase. Female smoking-attributable lung cancer deaths (88) in 1996 were more than double (151.4 percent increase) the 35 deaths in 1985. Respiratory deaths also showed substantial increases among women. In 1985, there were 50 smoking-attributable female respiratory deaths compared to 94 such deaths in 1996, an 88.0 percent increase.

The increase in female smoking-attributable cancer and respiratory mortality resulted in more women dying of cigarette smoking in 1996 (344) compared to 1985 (247). Male smoking-attributable deaths remained largely unchanged with 727 deaths in 1985 and 706 deaths in 1996.

Economic Costs

Tobacco use has a significant negative impact on North Dakota's economy. In 1993, an estimated $180.1 million was spent on health care of tobacco related diseases in North Dakota with $42.5 million in outpatient care, $15.1 million in prescription drugs, $93.4 million in hospital services, $1.1 million in home health care, and $28.0 million in nursing home care. The $180.1 million spent in tobacco related diseases amounted to 11.2 percent of all health care expenditures in the state.

In 1993, North Dakota spent an estimated $16.9 million in Medicaid for tobacco related diseases. The tobacco industry has recently agreed to pay the state of North Dakota $717 million over 25 years, a dollar figure based on estimated Medicaid expenditures during the period for tobacco caused diseases.

North Dakota's elected representatives have an opportunity to support the efforts of the public health community to reduce underage use of tobacco. We urge you to support Senate Bill 2125

I will be happy to answer any questions.

NORTH DAKOTA PETROLEUM MARKETERS ASSOCIATION

1025 N. 3rd St. • P.O. Box 1956 • Bismarck, ND 58502
Telephone 701-223-3370 • WATS 1-800-472-0512 • FAX 701-223-5004

REPRESENTING:
Bulk Oil Jobbers
Convenience Stores
Service Stations
Truck Stops

SB2125
HOUSE JUDICIARY

Mr. Chairman and members of the committee my name is Ron Ness, I am the President of the North Dakota Petroleum Marketers Association and the North Dakota Retail Association. I appear before you today in support of SB2125.

The association in the past year has taken an aggressive role in working toward preventing access of tobacco products to minors. Owners and operators of retail locations require extensive training of all their clerks and use the "We Card" program. They have purchased many different types of software to aid employees in the identification process. In addition, the association has been involved in a task force to address the issue of teen smoking. Clerks who sell to minors are disciplined or fired, those whom refuse sales are rewarded. Retailers are not interested in selling tobacco to minors, the small profit made on a pack of cigarettes does not warrant the penalties and problems of violating the law. The association is having legislation sponsored this session that will require the color of a minor's drivers license to be a different color in order to discourage minors from attempting to purchase and providing sales clerks one more tool for identification of minors. The association is working on creating our own training programs and system of compliance checks against our members.

We support reducing the penalties on violations in hopes that more enforcement will result. It is extremely frustrating to see minors smoking in public or attempting to purchase tobacco in one store after another without repercussion.

We all agree the problem of teen smoking must be addressed. This bill improves the laws currently in place. Now, we must enforce them.

I would be happy to answer any questions.

Proposed Amendments to Senate Bill 2125

Proposed by
Ron Ness, ND Retail Association
Murray G. Sagsveen, State Health Officer
March 22, 1999

Page 1, line 22, after "that" insert "is more stringent than this section, except that an ordinance or resolution may include a provision that"

Page 1, line 23, replace "subsection" with "subsections 1 and"