

**2015 HOUSE JUDICIARY**

**HB 1078**

# 2015 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1078  
2/2/2015  
22989

Subcommittee

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the sale and use of nicotine devices by minors; and to provide a penalty.

## Minutes:

Testimony 1, 2, 3, 4, 5, 6

**Chairman K. Koppelman:** Opened the hearing with testimony in support.

**Rep. D. Larson:** (see testimony #1) Went through the bill. (1:00-5:42)  
My goal to create a definition for any cigarette or an e-cigarette so I could include it in law.

**Chairman K. Koppelman:** The way you described your intent is my intent so I think we are caught in the middle of a war here between industry and an organization that disposes of these devices.

**Rep. K. Wallman:** The handy table that the Attorney General's office provided shows a bill 1265 that we will heard later and it has two items that your bill doesn't. One is retail license suspend as a penalty and private action for injunctive leave. Are there any items that you would amend into your bill like that would spell out and provide a more specific or harsher penalty?

**Rep. D. Larson:** I have been asked by several people but my point is to keep it to one point. I would like to include two things that the AG suggested that my bill have that it doesn't. I did ask Attorney General Stenhjem for a comparison of the bills from his office. That comparison is what you have in front of you. I asked him about the definition of mine on the e-cigarettes and he said that is a good one. That was my reasoning for resisting adding other things. I would certainly be willing to amend to take care of the AG's concerns.

**Chairman K. Koppelman:** We probably will need a subcommittee on the three of these bills.

**Rep. D. Larson:** Students from Simle Middle School:

**Branden Will , Courtney Reinhardt, Ashti Ali, Laikyn Zietz :** (See testimony #2) All on one sheet. Each one read theirs. (10:13-12:11)

**Chairman K. Koppelman:** ND Legislature has a very open process and we want you to know that.

**Rep. D. Larson:** Can a couple of you tell me why you wanted to be involved in SADD.

**Ashti Ali:** I wanted to be involved because in SADD because I wanted to make a change in this world and I wanted to help other kids that can't do it themselves and maybe we can help them and I think it is very important that we make these things safer.

**Mandy Jordan, Advisor for Century SADD:** (see testimony #3) (13:49-16:00)

**TJ Jerke, Tobacco Free ND:** (See testimony #4) We support this committee.

**Chairman K. Koppelman:** The section you criticized referencing in the previous bill is the same section that is referenced in this bill. Is it better here now?

**TJ Jerke:** The purpose of this legislation is simply make sure the restrictions on e-cigarettes are out there and put in place. We want to put more teeth into legislation. We would love to work with a subcommittee.

**Chairman K. Koppelman:** What about the vending machines you questions earlier? I am not clear on this.

**TJ Jerke:** We support the intent of this legislation. We believe that this is no doubt an epidemic in the state of ND.

**Chairman K. Koppelman:** Section 12.1-31-03.1 of vending machines that is the same section that is referenced in both bills.

**Rep. D. Larson:** The vending machine is current language.

**Rep. L. Klemin:** When you testified on HB 1186 you mentioned the definitions in that bill had certain deficiencies. This bill has similar definitions of nicotine devices. What is your position on this particular definition?

**TJ Jerke:** We believe there needs to be a definition and look at e-cigarette regulation so we would like to work with the committee and subcommittee to make sure we have the best definition moving forward.

**Rep. L. Klemin:** What about the definition that is in here? Where are you at on those definitions?

**TJ Jerke:** We believe that we want the best definition and we believe the bill you will hear later has the best definition.

**Kristie Wolff, American Lung Association:** (see testimony #5) (21:27-22:18)

**Krista Headland Fremming, Director of the Chronic Disease Division, NDDoh:** (See Testimony #6)

Opposition: None

Neutral: None

Hearing closed

(HOUSE) (SENATE) BILL NO. \_\_\_\_\_ SUBCOMMITTEE OF THE

Judiciary STANDING COMMITTEE

Meeting location: Prairie Room

Date of meeting: 2/9/15

Time meeting called to order: 4:00 p.m.

Members present: Chair Karen Karls, Rep. Roger Brabandt  
Rep. Lois Delmore

Others present (may attach attendance sheet):  
\_\_\_\_\_  
\_\_\_\_\_

Topics discussed:  
Went through all 3 bills; discussed definitions,  
penalties, Clarified testimony. Agreed to meet  
again Tues  
Discussed proposed amendment  
Same as 1186 amendment #1

Motion and vote:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Time of adjournment: 4:22

Note: If a motion is made, a description of the motion must be provided along with the member seconding the motion. A recorded roll call vote must be taken and reported for any nonprocedural motion.

(HOUSE) (SENATE) BILL NO. \_\_\_\_\_ SUBCOMMITTEE OF THE

Judiciary STANDING COMMITTEE

Meeting location: Pravice Room

Date of meeting: 2/10/15

Time meeting called to order: 4:15 pm

Members present: Chair Karen Karle, Rep Roger Brabant  
Rep Lois Delmore

Others present (may attach attendance sheet):  
\_\_\_\_\_  
\_\_\_\_\_

Topics discussed:  
amendments taken from 1265 and added to  
1186; Chair Karle will work with LC to craft the  
new language and present the amendments  
tomorrow to the subcommittee - the goal: to keep  
e-cigs away from young people

Motion and vote:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Time of adjournment: 4:30

Note: If a motion is made, a description of the motion must be provided along with the member seconding the motion. A recorded roll call vote must be taken and reported for any nonprocedural motion.

(HOUSE) (SENATE) BILL NO. \_\_\_\_\_ SUBCOMMITTEE OF THE

Judiciary STANDING COMMITTEE

Meeting location: Prairie

Date of meeting: 2/11/15

Time meeting called to order: 11:30

Members present: Chair K. Karls Rep Brabandt  
Rep Delmore

Others present (may attach attendance sheet):  
\_\_\_\_\_  
\_\_\_\_\_

Topics discussed:  
Amendment drawn up to address yesterday's  
discussion  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Motion and vote:  
Motion to recommend HB 1186 -w Karls  
amendment 15.0446.02002 to full Judiciary  
Committee 1. Brabandt 2. Delmore  
m/c unanimous

Time of adjournment: 11:45

Note: If a motion is made, a description of the motion must be provided along with the member seconding the motion. A recorded roll call vote must be taken and reported for any nonprocedural motion.

# 2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee  
Prairie Room, State Capitol

HB 1078  
2/11/2015  
#23681

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Beekie Strega*

## Explanation or reason for introduction of bill/resolution:

Relating to the sale and use of nicotine devices by minors; and to provide a penalty.

## Minutes:

Chairman K Koppelman opens hearing on HB 1078

Chairman K Koppelman: Representative Larson, remind us what this proposed amendment is about.

Rep D Larson: On page 3, line 13, replace the word "constituent" with "ingredient".

Chairman K Koppelman: Representative Larson moves an amendment to replace the word constituent with the word ingredient.

Rep Maragos: Seconded

Chairman K Koppelman: Is that just clarification?

Rep D Larson: I had said in my testimony that I felt "ingredient" would be a better layman's term.

## Voice Vote carries.

Vice Chair Karls: We studied this bill in the subcommittee, and recommended a DO NOT Pass.

Rep Maragos: Seconded

Representative D Larson: I feel the reason for this bill was to define a nicotine device and to put it into juvenile law, without adding all the other stuff to the bill. As a stand-alone bill, it does precisely what I wanted it to do.

Chairman K Koppelman: I will reiterate that everyone who has been part of this process has pure motives. Every legislator that has been involved should be commended.

**A roll call vote was taken. Yes: 7 No: 5 Absent: 1**

Motion carries.

Vice Chair Karls will carry the bill.

15.0096.03002  
Title.04000

Adopted by the Judiciary Committee

February 11, 2015

SJC  
2/11/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1078

Page 3, line 13, replace "constituent" with "ingredient"

Renumber accordingly

Date: 2-11-15  
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1078

House JUDICIARY Committee

Subcommittee  Conference Committee

Amendment LC# or Description: ~~15.0096.03002~~ 15.0096.03002

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Larson Seconded By Rep. Maragos

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
Dir 13 consent to ingredients

Date: 2-11-15  
 Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1078**

House JUDICIARY Committee

Subcommittee  Conference Committee

Amendment LC# or Description: 15.0096.03002

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Other Actions:  Reconsider

Motion Made By Rep Karls Seconded By Rep Maragos

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	✓		Rep. Pamela Anderson		✓
Vice Chairman Karls	✓		Rep. Delmore	✓	
Rep. Brabandt	✓		Rep. K. Wallman		✓
Rep. Hawken		✓			
Rep. Mary Johnson	✓				
Rep. Klemin	A				
Rep. Kretschmar		✓			
Rep. D. Larson		✓			
Rep. Maragos	✓				
Rep. Paur	✓				

Total (Yes) 7 No 5

Absent \_\_\_\_\_

Floor Assignment Rep. Karls

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

subcommittee recommended a DO NOT PASS.

**REPORT OF STANDING COMMITTEE**

**HB 1078: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (7 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1078 was placed on the Sixth order on the calendar.**

Page 3, line 13, replace "constituent" with "ingredient"

Renumber accordingly

**2015 SENATE JUDICIARY**

**HB 1078**

# 2015 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB 1078  
3/17/2015  
24990

- Subcommittee  
 Conference Committee

Committee Clerk Signature *Dozic & Peres*

**Minutes:**

1,2,3,4,5

**Ch. Hogue:** We will open the hearing on HB 1078.

**Rep Diane Larson**, District 30, sponsored this bill, attached testimony #1; the intent is to pass a law to prevent the sale or possession of e-cigarettes to juveniles. She wants language defining e-cigarettes put into the statute that prevents juveniles from having tobacco products. Nicotine device is defined in page 3. She read the rest of her written testimony.

**Braden Will**, 7<sup>th</sup> grader, Simle Middle School, in support of HB 1078, attached testimony #2

**Courtney Reinhardt**, Simle Middle School student, in support of HB 1078, attached testimony #2-1

**Ashti Ali**, Simle Middle School student, in support of HB 1078, attached testimony, attached testimony #2-2

**Laikyn Zietz**, Simle Middle School student, in support of HB 1078, attached testimony #2-3

**Whitney Klym**, senior St. Mary's High School, in support of this bill, attached testimony #3, on behalf of St. Mary's High School, SADD (Students Against Destructive Decisions).

**Senator Luick**, how young a person you have seen with an e-cigarette?

**Whitney Klym:** I would say 13-14 years old

**Senator Nelson:** does Bismarck have an age restriction?

**Whitney Klym:** I believe it does.

**Doug Barr**, Director, Civil Litigation Division, Office of the Attorney General, As tobacco counsel I enforce the Master Settlement Agreement and we support this bill. Passed out

comparison chart between HBs 1078 and 1186 (attachment # 4-1) The difference between the bills is that 1186 also includes alternative nicotine products which would include gums, candy and other products used to introduce youth into the use of nicotine and prohibits self-service displays. The Attorney General does not take a position regarding which bill should be passed; he does encourage that the bill be as broad as possible. If this one passes he encourages the definition to be expanded to include alternative nicotine products or something similar, so that youth don't have access to other nicotine products.

**Chairman Hogue:** why did the House pass both bills over, any idea?

**Mr. Barr** I don't know

**Senator Casper:** Could you explain the age 14 deal?

**Mr. Barr:** I believe you mean when they become an unruly child, if a 14yr old uses the product they are deemed as unruly child.

**Rep. Larson** I can answer the questions. Over age 14 a police officer can pull somebody over that is smoking and give them a ticket which would require them to just pay it and attend a smoking cessation class whereas an unruly juvenile would have to appear with their parents. We passed both bills because a subcommittee preferred HB 1186; it had strong lobbying by the anti-tobacco folks and the tobacco industry. This one wasn't discussed in subcommittee, it came to the floor as Do Not Pass, I explained how this came to be and it doesn't define the nicotine device as tobacco, after hearing my explanation they also passed this bill.

**Krista Fremming**, Director, Chronic Disease Division, ND Dept. of Health. Attached testimony #5, stating the department's concern with the increased use of electronic smoking devices in children and teens. Addressed section 1 of the bill, nicotine devices should be defined as tobacco products. Recommends that tobacco use cessation nicotine products approved by the FDA be excluded from the definition and adding requirements for child resistant packaging into the bill.

**Senator Casper:** what is the #1 cause of death for minors in ND? (was told she will find out)

**Senator Grabinger:** which bill would you choose?

**Krista Fremming:** The Dept. would support the more comprehensive bill, HB1186 although we have some concerns about it.

**Senator Hogue:** Mr. Barr, both bills say that political subs can adopt ordinances; do we have to make clear under either bill that state law should be the controlling law?

**Mr. Barr:** the law that passed would control and political subs could pass a stronger law which would add additional protection

No further testimony. Hearing closed.

# 2015 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB 1078  
3/23/2015  
25292

- Subcommittee  
 Conference Committee

Committee Clerk Signature



**Minutes:**

Ch. Hogue: Let's take a look at HB 1078. This bill appears to address permutation issue which the Attorney General wanted addressed. Then somebody gave us amendments as well as I recall.

Sen. Casper: What was the other bill?

Ch. Hogue: HB 1186 and HB 1078.

Sen. Casper: My sense from the hearing was that HB 1186 is the more comprehensive of the two. If we're going to go with one of these, I think we should go with HB 1186 and if we need to amend it, then we would make them to HB 1186.

Ch. Hogue: Does everybody concur with that. (Assent) We should kill HB 1078 and we can pass that out, and then decide whether we want to put the amendments on HB 1186.

Sen. Grabinger: I move a Do Not Pass on HB 1078.

Sen. Casper: Second the motion.

**5 YES 0 NO 1 ABSENT**  
**CARRIER: Sen. Grabinger**

**DO NOT PASS**

Date: 3/23/2015

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTE

BILL/RESOLUTION NO. 1078

Senate JUDICIARY Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:
- Adopt Amendment
  - Do Pass  Do Not Pass  Without Committee Recommendation
  - As Amended  Rerefer to Appropriations
  - Place on Consent Calendar

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Sen. Grabinger Seconded By Sen. Casper

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	ABSENT	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Sen. Grabinger

**REPORT OF STANDING COMMITTEE**

**HB 1078, as engrossed: Judiciary Committee (Sen. Hogue, Chairman) recommends DO NOT PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1078 was placed on the Fourteenth order on the calendar.**

**2015 TESTIMONY**

**HB 1078**

# 1  
HB 1078  
2-2-15  
RJ 1

Testimony on HB 1078

Mr. Chairman and members of the Judiciary committee, for the record, my name is Diane Larson and I represent District 30 in Bismarck. I urge your support of this bill.

On March 17<sup>th</sup> 2014 I received an envelope containing cards from Simle Middle School students that were in the SADD program. Some of those students and others are here today. SADD is a student organization that stands for Students Against Destructive Decisions. This is an excellent program where students gather to try to impact their fellow students to make better decisions.

These students asked me to pass a law to prevent the sale or possession of e cigarettes for juveniles. Since I had worked as a youth worker at the Police Department for 23 years and have even talked to students every year about the dangers of drugs and alcohol, including cigarettes, I was certainly in favor of supporting this request.

I went to their next meeting and brought my friend and classmate, Dorothy with me to that meeting who pulled her oxygen tank behind her as she came because her lungs are permanently damaged due to smoking. She spoke to the students and thanked them for their work against smoking and told them that her condition was a result of her starting to smoke as a juvenile. In that classroom, I called legislative council on my cell phone and put it on speaker and asked Della to let me talk to an attorney because I wanted a law against e cigarettes for juveniles. I then commended the students for beginning the process of creating a law that would help youth.

Next I met with Dave Schaible from the Attorney General's office to draft the legislation. I told him that all I want is language to define an e cigarette and to put it into the statutes that prevent Juveniles from having tobacco products. We talked about a couple different ideas and we came up with the bill that you have before you. The bill defines a "nicotine device" on page 3 and inserts that language into the law to prevent the sale to or possession of nicotine devices to juveniles.

HB1078  
2-2-15  
mg 2

I would like to amend one word in the definition on page 3 line 13 cross over the word constituent and insert the word ingredient. This is better layman's language.

On page 1 nicotine devices is inserted 3 times to be included with tobacco as items that can't be sold to a minor, and can't be possessed by a minor, but it does allow the possession when used in connection with law enforcement as part of a compliance program.

Page 2 includes nicotine devices with other tobacco products that prohibits using false ID to purchase those items, and includes it with those tobacco products that can, by ordinance be cited as a noncriminal offense carrying a \$25 fine.

Page 3 has the definition that we believe best describes the product that we commonly refer to as an e cigarette and the separate parts of that product as a "nicotine device" and then prohibits its sale in vending machines.

On page 4 on lines 3 and 21 it simply points to the definition previously stated as what a nicotine device is, and says that for a juvenile 14 and under buying or possession these devices it is an unruly offense. Then it prohibits the sale of nicotine products to juveniles, even by mail.

The last page again just refers to the previous definition of the nicotine device to be used in this section too.

As you can see, all of the sections mentioned in my testimony are already in statute regarding juveniles and other tobacco products, and just defines what an e cigarette is and adds it to those items prohibited along with tobacco products.

There are others who want to testify in support of this bill, but I will be happy to answer any questions that you may have. I am only sponsoring 2 bills and one resolution this session and I am passionate about this bill and request that the committee supports this important legislation.

TESTIMONY SUPPORT OF Bill 1078

Simle Middle School SADD Students

Names: Laikyn Zietz

Ashti Ali

Braden Will

Courtney Reinhardt

Chairman and members of the Committee,

My name is Braden Will; I am in 7th grade at Simle Middle school. We are speaking on behalf of the Simle Middle School SADD chapter. We are here to provide testimony and support for House Bill 1078.

Last year, my SADD chapter contacted Representative Diane Larson about the need for a state wide age restriction on e-cigarettes; this is a topic that we as a student group feel very strongly about. We are grateful that Representative Larson listened to our concerns and decided to take action.

Chairman and committee members my name is Courtney Reinhardt. We believe that there needs to be a state wide age restriction on e-cigarettes, because kids are being easily fooled by the tobacco companies slick marketing tactics with e-cigarettes. They are colorful, high tech, and they also come in flavors that are very attractive to kids. We are the ones that go into convenience stores to buy bubble gum, orange pop, and cotton candy; they have e-cigarettes flavored in the same items we like to buy. More and more kids are using e-cigarettes which could lead to kids becoming addicted to Nicotine.

Chairman and committee members my name is Ashti Ali. E-cigarettes are just another version of cigarettes. We cannot let kids be fooled. Only 11 major cities in North Dakota have a city ordinance with an age restriction. What about the kids in cities who do not have one? They need to be protected too, and it is important that we protect the kids in all communities from becoming addicted to e-cigarettes by putting a statewide age restriction on them.

Chairman and committee members my name is Laikyn Zietz. Please support Bill 1078 because my peers and I want to grow up in a safe and healthy community, and having an age restriction on e-cigarettes will prevent my peers from purchasing these products and having a lifelong addiction to nicotine.

College

TESTIMONY SUPPORT OF BILL 1078

Name: Mandy Jordan

#3  
HB1078  
2-2-13  
PJ'

Chairman Koppelman, and members of the Judiciary Committee.

My name is Mandy Jordan, I am an advisor for Century SADD. I am speaking on behalf of the Century High School students. I am here to provide testimony in support for House Bill 1078.

I've never personally used e-cigarettes, but I have watched my peers and friends fall for the lies that the tobacco companies tell us about their "safety." These are kids who would never think to smoke an actual cigarette, but because the e-cigarettes are so cleverly disguised and portrayed, they think that they are completely safe. They strictly smoke them for something to do, not realizing they can become addicted to it.

It is no secret that the tobacco companies are targeting today's youth. They do this through making smoking easier to cover up, making it smell better or taste better, and making it more appealing to the eye. Most people think that actual cigarettes are disgusting, but because of the appearance of an e-cigarette and the fact that it doesn't smell, they are much more satisfied with allowing youth to smoke them, and tobacco companies spend a lot of money to do so. In 2010 tobacco companies reported spending \$5.6 million on advertising for e-cigarettes, but as they spent more money on marketing these products their popularity among consumers grew. In 2013 tobacco companies spent \$82.1 million dollars, that's huge increase in spending over the last 3 years on e-cigarettes alone.

We need to have an age restriction at a state level because these products are harming our youth. They are creating an addiction to nicotine that could last a kids lifetime. If we develop a restriction right now we are more likely to put an end to this epidemic that could become an addiction.

Many of my peers in high school smoked e-cigarettes, because they could not get their hands on traditional cigarettes. This product is cleverly disguised and it is much easier for a minor to get away with smoking an e-cigarette than with a traditional cigarette. If there is an age restriction, these teens will not be able to get e-cigarettes so easily.

Please support Bill 1078 because a statewide age restriction on e-cigarettes will prevent youth from being able to purchase this product and prevent the social norm from becoming youth using electronic cigarettes just because they can.

,

The logo for Tobacco Free North Dakota features a blue outline of a cloud on the left side. To the right of the cloud, the words "Tobacco Free" are written in a bold, black, sans-serif font, and "North Dakota" is written below it in a black, cursive script font.

# Tobacco Free North Dakota

#4  
HB 1078  
2-2-15  
pyl

TJ Jerke  
Subject: Support of House Bill 1078  
N.D. House Judiciary Committee  
February 2, 2015

Chairman Koppelman and members of the Judiciary Committee, my name is TJ Jerke. I stand here as an Education & Advocacy specialist for Tobacco Free North Dakota in support of House Bill 1078.

Tobacco Free North Dakota is an expansive coalition of healthcare organizations throughout the state.

Tobacco Free North Dakota's mission is to improve and protect the public health of all North Dakotans, by reducing the serious health and economic consequences of tobacco use, the state's number one cause of preventable disease and death.

I first want to thank the sponsors of this legislation. It's imperative that North Dakota restricts the sale of e-cigarettes to minors; particularly as we continue to see the harmful affects of these terrible products that have flooded the North Dakota market in the past few years. I am excited to see, and hear, from local students who are passionate about this issue, and want to create better communities for their peers and families.

As we spend this morning hearing testimony regarding e-cigarettes, I implore you to consider all aspects of the language and definitions you will hear. I know you will create the best, most comprehensive tobacco product legislation, to ensure our youth are kept safe and free from the harmful vapors emitted from e-cigarettes, Nicotine, and the addiction that ensues. Thank you.



#5  
HB 1078  
2-2-15  
pg 1

212 North Second Street  
Bismarck, ND 58501  
Phone: 701-223-5613  
Fax: 701-223-5727

800-LUNG USA  
www.LungND.org

**Kristie Wolff – Program Manager, American Lung Association in North Dakota**  
**Support for HB 1078**  
**North Dakota House Judiciary Committee**

February 2, 2015

Chairman Koppelman and members of the House Judiciary Committee, my name is Kristie Wolff, I am the Program Manager for the American Lung Association in North Dakota.

Based on the American Lung Association's mission to save lives by improving lung health and preventing lung disease through Education, Advocacy and Research I am here to testify in support of HB 1078.

I would like to thank the sponsors of this bill for addressing this important issue. As these products infiltrate the market, it is crucial to protect our youth. I would also like to thank the youth who are lending their voice to help protect not only their generation, but future generations from a lifelong addiction to nicotine.

We believe that North Dakotans wants to set a high standard for our youth, therefore we feel it is critical to restrict the sale of e-cigarettes to minors with policy based on the strongest possible health standards.

Thank you.

**Testimony**  
**House Bill 1078**  
**House Judiciary Committee**  
**February 2, 2015; 9:30 a.m.**  
**North Dakota Department of Health**

#6  
HB 1078  
2-2-15  
Pg 1

Good morning, Chairman Koppelman and members of the House Judiciary Committee. My name is Krista (Headland) Fremming, and I am the Director of the Chronic Disease Division at the North Dakota Department of Health (NDDoH). I am here today to testify in support of House Bill 1078.

HB 1078 concerns the sale and use of nicotine devices by minors. Section 1 of the bill adds “nicotine devices” to the list of those that cannot be sold to minors and defines “nicotine device.” Section 2 of the bill prohibits their sale through vending machines. Sections 3 and 4 of the bill add “nicotine devices” to tobacco product use by truants or sales other than those made in person.

The NDDoH is concerned about the rising use of e-cigarettes, and particularly about the increase in use of these devices in children and teens. From 2011 to 2013, the rate of North Dakota high school students who reported trying electronic smoking devices nearly tripled, increasing from 4.5 percent to 13.4 percent. High school students who have tried electronic smoking devices are twice as likely to try conventional cigarettes.

Elimination of vending machine sales is important because youth would not be exposed to the trendy and appealing marketing that is used by tobacco companies to promote these devices. Numerous studies show the causal relationship between tobacco marketing and youth smoking initiation. The last section of the bill would prevent minors from ordering these devices online and gaining access in that manner.

The NDDoH supports prohibiting the sale of e-cigarettes, or “nicotine devices,” to minors.

This concludes my testimony. I will be happy to answer any questions you may have.

February 11, 2015

#1 1186  
2-9-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1186

Page 1, line 1, after "Act" insert "to create and enact section 12.1-31-03.2 of the North Dakota Century Code, relating to child-resistant packaging for liquid nicotine containers;"

Page 1, line 3, replace "vapor products" with "electronic smoking devices"

Page 1, line 3, remove the second "and"

Page 1, line 4, after "penalty" insert "; and to provide an expiration date"

Page 1, line 8, replace "vapor products" with "electronic smoking devices"

Page 1, line 12, replace "vapor products" with "electronic smoking devices"

Page 1, line 17, replace "vapor products" with "electronic smoking devices"

Page 1, line 24, replace "vapor products" with "electronic smoking devices"

Page 2, line 1, remove "vapor"

Page 2, line 2, replace the first "products" with "electronic smoking devices"

Page 2, line 5, replace "vapor products" with "electronic smoking devices"

Page 2, line 6, replace "vapor products" with "electronic smoking devices"

Page 2, line 13, replace "vapor products" with "electronic smoking devices"

Page 2, line 15, replace "vapor products" with "electronic smoking devices"

Page 2, line 15, remove the second "vapor"

Page 2, line 16, replace the first "products" with "electronic smoking devices"

Page 3, line 28, replace "vapor product" with "electronic smoking device"

Page 4, line 1, after "b." insert "\"Electronic smoking device\" means any electronic product that delivers nicotine or other substances to the individual inhaling from the device, including, an electronic cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a product, whether or not sold separately. Electronic smoking device does not include drugs, devices, or combination products approved for sale by the United States food and drug administration, as those terms are defined in the federal Food, Drug and Cosmetic Act [52 Stat. 1040; 21 U.S.C. 301 et seq.].

c."

Page 4, line 3, replace "vapor products" with "electronic smoking devices"

Page 4, line 8, replace "c." with "d."

Page 4, line 11, replace "vapor products" with "electronic smoking devices"

Page 4, remove lines 15 through 25

Page 5, line 1, replace "vapor products" with "electronic smoking devices"

Page 5, line 8, replace "vapor products" with "electronic smoking devices"

Page 5, line 12, replace "vapor products" with "electronic smoking devices"

Page 5, line 15, replace ""vapor products"" with ""electronic smoking devices""

Page 5, after line 16, insert:

"**SECTION 3.** Section 12.1-31-03.2 of the North Dakota Century Code is created and enacted as follows:

**12.1-31-03.2. (Contingent expiration date - See note) Child-resistant packaging for liquid nicotine containers.**

1. Any nicotine liquid container that is sold at retail in this state must satisfy the child-resistant effectiveness standards set forth in title 16, CFR, part 1700, section 15(b)(1), when tested in accordance with the method described in title 16, CFR, part 1700, section 20.
2. As used in this section, "nicotine liquid container" means a bottle or other container of a liquid or other substance containing nicotine in which the liquid or substance is sold, marketed, or intended for use in an electronic smoking device. The term does not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed, or intended for use in an electronic smoking device, provided that the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.
3. Any person that engages in retail sales of liquid nicotine containers in violation of this section is subject to a civil penalty of not more than five hundred dollars for each separate violation of this section, to be recovered by any enforcement authority designated by the city or political subdivision in which the violation occurred."

Page 5, line 30, replace "vapor products" with "electronic smoking devices"

Page 6, line 2, replace ""vapor products"" with ""electronic smoking devices""

Page 6, line 6, replace "**vapor products**" with "**electronic smoking devices**"

Page 7, line 23, replace "vapor products" with "electronic smoking devices"

Page 7, line 24, replace "a vapor product" with "an electronic smoking device"

Page 7, line 25, replace "vapor products" with "electronic smoking devices"

Page 7, line 30, replace "vapor product" with "electronic smoking device"

Page 8, line 4, replace "vapor product" with "electronic smoking device"

Page 8, line 6, replace ""vapor products"" with ""electronic smoking devices""

Page 8, after line 7, insert:

"**SECTION 6. EXPIRATION DATE.** Section 3 of this Act is effective until the date the attorney general certifies to the legislative council that final regulations issued by the United States food and drug administration or another federal agency are in effect which mandate child-resistant effectiveness standards for liquid nicotine containers, and after that date is ineffective."

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## Testimony on HB 1078

Mr. Chairman and members of the Judiciary committee, for the record, my name is Diane Larson and I represent District 30 in Bismarck. I urge your support of this bill.

On March 17<sup>th</sup> 2014 I received an envelope containing cards from Simle Middle School students that were in the SADD program. Some of those students are here today. SADD is a student organization that stands for Students Against Destructive Decisions. This is an excellent organization where students meet to discuss strategies to try to impact their fellow students to make positive decisions.

These students asked me to pass a law to prevent the sale or possession of e cigarettes for juveniles. Since I had worked as a youth worker at the Police Department for 23 years and have in that capacity talked to students every year about the dangers of drugs and alcohol, including cigarettes, I was certainly in favor of supporting this request.

I went to their next meeting and brought my friend and classmate, Dorothy with me to that meeting who pulled her oxygen tank behind her as she came because her lungs are permanently damaged due to smoking. She spoke to the students and thanked them for their work against smoking and told them that her condition was a result of her starting to smoke as a juvenile. In that classroom, I called legislative council on my cell phone and put it on speaker and asked Della to let me talk to an attorney because I wanted a law against e cigarettes for juveniles. I then commended the students for beginning the process of creating a law that would help youth.

Next I met with Dave Schaible from the Attorney General's office to draft the legislation. I told him that all I want is language to define an e cigarette and to put it into the statutes that prevent Juveniles from having tobacco products. We talked about a couple different ideas and we came up with the bill that you have before you. The bill defines a "nicotine device" on page 3 and inserts that

language into the law to prevent the sale to or possession of nicotine devices to juveniles.

On page 1 nicotine devices is inserted 3 times to be included with tobacco as items that can't be sold to a minor, and can't be possessed by a minor, but it does allow the possession when used in connection with law enforcement as part of a compliance program.

Page 2 includes nicotine devices with other tobacco products that prohibit using a false ID to purchase those items, and includes it with those tobacco products that can, by ordinance be cited as a noncriminal offense carrying a \$25 fine.

Page 3 has the definition that we believe best describes the product that we commonly refer to as an e cigarette and the separate parts of that product as a "nicotine device" and then prohibits its sale in vending machines.

On page 4 on lines 3 and 21 it simply points to the definition previously stated as what a nicotine device is, and says that for a juvenile 14 and under buying or possession these devices it is an unruly offense. Then it prohibits the sale of nicotine products to juveniles, even by mail.

The last page just refers to the previous definition of the nicotine device to be used in this section too.

As you can see, all of the sections mentioned in my testimony are already in statute regarding juveniles and tobacco products; this bill just defines what an e cigarette is and adds it to statute to prohibit its use by juveniles.

I confirmed with Vonette Richter in Legislative Council and Tom Trenbeath from the Attorney General's office that the definition on page 3 does not get into the discussion about whether an e cigarette is considered tobacco or if it is defined as not tobacco. I was assured that this definition only defines an e cigarette without either designation. That is my intention with this bill.

There are others who want to testify in support of HB1078, but I will be happy to answer any questions that you may have.

Middle School

TESTIMONY SUPPORT OF Bill 1078

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Simle Middle School SADD Students

Names: Laikyn Zietz

Ashti Ali

Braden Will

Courtney Reinhardt

Chairman and members of the Committee,

My name is Braden Will; I am in 7th grade at Simle Middle school. We are speaking on behalf of the Simle Middle School SADD chapter. We are here to provide testimony and support for House Bill 1078.

Last year, my SADD chapter contacted Representative Diane Larson about the need for a state wide age restriction on e-cigarettes; this is a topic that we as a student group feel very strongly about. We are grateful that Representative Larson listened to our concerns and decided to take action.

Chairman and committee members my name is Courtney Reinhardt. We believe that there needs to be a state wide age restriction on e-cigarettes, because kids are being easily fooled by the tobacco companies slick marketing tactics with e-cigarettes. They are colorful, high tech, and they also come in flavors that are very attractive to kids. We are the ones that go into convenience stores to buy bubble gum, orange pop, and cotton candy; they have e-cigarettes flavored in the same items we like to buy. More and more kids are using e-cigarettes which could lead to kids becoming addicted to Nicotine.

Chairman and committee members my name is Ashti Ali. E-cigarettes are just another version of cigarettes. We cannot let kids be fooled. Only 11 major cities in North Dakota have a city ordinance with an age restriction. What about the kids in cities who do not have one? They need to be protected too, and it is important that we protect the kids in all communities from becoming addicted to e-cigarettes by putting a statewide age restriction on them.

Chairman and committee members my name is Laikyn Zietz. Please support Bill 1078 because my peers and I want to grow up in a safe and healthy community, and having an age restriction on e-cigarettes will prevent my peers from purchasing these products and having a lifelong addiction to nicotine.

TESTIMONY SUPPORT OF Bill 1078

Name: Whitney Klym

Chairman Hogue and members of the Judiciary committee,

My name is Whitney Klym, I am a senior at St. Mary's High School. I am speaking on behalf of St. Mary's High School SADD group. I am here to provide testimony in support of House Bill 1078.

I am concerned about the need for an age restriction on electronic cigarettes, because as youth we don't know the long-term effects of smoking these products. I have seen them used at school, parties, and other events. Kids are choosing to use them because they look cool and their peers are doing it. It is becoming a dangerous social norm among youth.

According to the 2013 National Youth Tobacco Survey the amount of teens trying e-cigarettes in North Dakota has more than doubled. In 2011 4.5% of teens were recorded having tried e-cigarettes, the most recent survey taken in 2013 recorded that the amount of teens trying these products has jumped drastically to 13.4%.

It is not hard to believe that e-cigarettes are being marketed towards youth when the rate of teens trying them continues to increase. E-cigarettes are easy to purchase, because youth can get them in cities that do not have an age restriction in their city ordinance.

Please support Bill 1078 because a statewide age restriction for the sale and use of e-cigarettes to minors will protect the youth in North Dakota who do not have an age restriction on these products in their city ordinance.

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<b>REGULATES:</b>	Nicotine Devices	Alternative Nicotine Products/Vapor products
Inhalable	✓ Nicotine Device	✓ Electronic Smoking Device
Non-inhalable		✓ Alternative Nicotine Product
<b>LIMITATIONS ON SALES</b>		
Prohibits vending sale	✓ except as permitted under § 12.1-31-03.1(2)	✓ except as permitted under § 12.1-31-03.1(2)
Restricts mail or internet sale	✓	✓
Prohibits self-service display		✓ except in tobacco specialty store and as permitted under § 12.1-31-03.1
Prohibits sale to minors	✓	✓
<b>PENALTIES:</b>		
Infraction	✓	✓
Retail license suspension		
Private action for injunctive relief		
Juvenile – non criminal offense	✓	✓
14 or older, \$25 fee	✓	✓
Unruly if under 14	✓	✓

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**Testimony  
House Bill 1078  
Senate Judiciary Committee  
March 17, 2015; 9:00 a.m.  
North Dakota Department of Health**

Good morning, Chairman Hogue and members of the Senate Judiciary Committee. My name is Krista (Headland) Fremming, and I am the Director of the Chronic Disease Division at the North Dakota Department of Health (NDDoH). I am here today to provide testimony on House Bill 1078.

HB 1078 addresses the sale and use of nicotine devices, or electronic smoking devices, by minors. The NDDoH is concerned about the rising use of electronic smoking devices, and particularly about the increase in use of these devices in children and teens. From 2011 to 2013, the rate of North Dakota high school students who reported trying electronic smoking devices nearly tripled, increasing from 4.5 percent to 13.4 percent. High school students who have tried electronic smoking devices are twice as likely to try conventional cigarettes.

Section 1 of the bill defines “nicotine devices” and adds them to the list of nicotine items that cannot be sold to minors. The NDDoH feels that nicotine devices should be defined in this bill as tobacco products because the nicotine contained in them is derived from tobacco plants. The ingredients found in electronic smoking devices have been shown to contain carcinogens. Defining nicotine devices as tobacco products would allow the state to treat and regulate the sale of these products to minors in the same way the state treats and regulates the sale to minors of other tobacco products, such as conventional cigarettes. This would include requiring stores to carry a tobacco retailer license to sell nicotine devices and other electronic smoking devices. Currently, 17 cities in North Dakota use a tobacco definition to define nicotine devices/electronic smoking devices.

The NDDoH also recommends that nicotine products approved by the Food and Drug Administration (FDA) for tobacco cessation, such as nicotine patches and gum, be excluded from the definition of nicotine devices.

Section 2 of the bill prohibits the sale of nicotine devices through vending machines and specifies that a salesperson must control the dispensation of nicotine devices if they are sold in a store that allows minors. Requiring salesperson-assisted sales, which occur when the products are behind the counter away from direct consumer access, is important because minors cannot readily see the trendy

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and appealing marketing and cannot handle the products prior to purchase. These limitations on access and visual appeal have been shown in numerous studies to decrease youth tobacco use.

The NDDoH recommends adding requirements for child-resistant packaging into this bill to help prevent nicotine-related poisonings. The candy-like flavors added to the fluid used in nicotine devices and other electronic smoking devices attract young children and make it more likely that children will consume the fluid. The fluid can be extremely toxic when consumed in fluid form instead of in vapor form. From 2012 to 2013, poison control centers in the United States reported a 219 percent increase in exposures to electronic smoking devices and liquid nicotine. More than half of the reported exposures occurred in children under age six.

In summary, the NDDoH supports the intent of House Bill 1078 to restrict sales of nicotine devices to minors and prohibit their sale through vending machines. The department has concerns, however, with the current definition of nicotine devices, as they should be classified as tobacco products. The department feels that FDA-approved nicotine products should be excluded from the definition because they are used as cessation aids and their safety and efficacy is proven. The NDDoH also feels it is important to require salesperson-assisted sales for nicotine devices in any store that allows minors, because it would limit the marketing of these products to youth. Finally, adding requirements for child-resistant packaging would help prevent nicotine-related poisonings.

This concludes my testimony. I will be happy to answer any questions you may have.