

House Industry Business and Labor Committee
HB 1357
January 17, 2023

Chairman Louser and committee members:

Good morning.

For the record my name is Rep. Alisa Mitskog, I represent District 25-Wahpeton. I am the prime sponsor of HB 1357. Although I will defer to some of the folks who helped work on this bill to answer specific questions about the bill's details, I want to take a moment to explain my support for HB 1357.

Background

When North Dakota's youth are asked about how they get their tobacco products, particularly electronic smoking devices, they often respond that they "get them on the internet."

What the Bill Does

HB 1357 does two things. First, the bill defines "tobacco products" to include electronic smoking devices. Second, the bill prohibits the shipping of tobacco products to any consumer in the state and requires that all sales must be made by face-to-face retail sales transactions.

Why I Support the Bill

This bill is about public health and stopping a lifetime of addiction and tobacco related disease before it starts. I have worked on several bills over the past several years and I have watched a sharp incline in the number of high school students using e-cigarettes. The most recent numbers from 2022 show over 33.1% of high school students using e-cigarettes, 8.3% report using cigarettes, and 7.4% report using cigars.¹

E-cigarette use among youth is of dire concern. The critical development of cognitive function that occurs in children and adolescents can be disrupted by nicotine exposure. Some studies have shown a link to an earlier onset of drug use.

¹ https://www.tobaccofreekids.org/problem/toll-us/north_dakota, Last updated Oct. 19, 2022

²¹ JAMA Network November 7, 2022 a

More American youth than ever are so addicted to e-cigarettes that they vape within 5 minutes of waking up in the morning, a new analysis shows.

The intensity at which youths use the products and their addiction to them increased after companies began using protonated nicotine, which is created by adding acid to the e-cigarette liquid, according to the study. This makes the nicotine easier to inhale.

How are these teenagers obtaining these products?

Internet retailers of tobacco products often skirt laws designed to prevent brick-and-mortar retailers from selling to young people. While many online retailers claim to verify age by checking customers' IDs at purchase and delivery, effective compliance monitoring and enforcement is difficult.² Moreover, studies indicate that these age-verification systems are largely ineffective at curtailing youth access to tobacco products via the internet.³

Conclusion

A complete prohibition on all internet sales of tobacco products to consumers would be an effective way to substantially prevent such sales and protect the public health gains accomplished by age-of-sale laws that North Dakota ratified in 2021.

I ask you to seriously consider what's happening to our young people with the significant increase in use of e cigarettes.

Please give HB 1357 a "Do Pass" recommendation.

Thank you.

I will stand for questions.

² In a recent lawsuit filed by the state of California against Juul Labs, Inc., the state alleged that Juul's online age-verification processes contain significant flaws and failed to minimize sales to underage persons. According to the state, it allowed hundreds of thousands of tobacco product sales and deliveries to fictitious persons and addresses, some of whom may have been underage California residents, including deliveries to "Beer Can," "Patricia Juul," "John JUUL Kordahl," and "?zge FIRAT." These flaws, according to the state's Complaint, resulted from the company's intentional decisions, which prioritized maximizing the pass rate for the age-verification process over minimizing underage sales. Complaint at 41-63, *State of California v. Juul Labs, Inc.* (Cal. Super. Ct. Nov. 18, 2019), <https://oag.ca.gov/system/files/attachments/press-docs/91186258.pdf>.

³ Rebecca Williams et al., *Cigarette Sales to Minors via the Internet: How the Story has Changed in the Wake of Federal Regulation*, 26 *Tobacco Control* 415-20 (2016); Rebecca Williams et al., U. North Carolina, Response to Advance Notice of Proposed Rulemaking on Non-Face-to-Face Sale and Distribution of Tobacco Products and Advertising, Promotion, and Marketing of Tobacco Products, Docket No. FDA-2011-N-0467 (Feb. 14, 2012), <https://www.regulations.gov/#!documentDetail;D=FDA-2011-N-0467-0100>.