



TO: Wisconsin Senators  
DATE: September 8, 2021  
RE: ACS CAN opposition to Senate Bill 355

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The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on Senate Bill 355, a bill that would raise the minimum age for the sale of tobacco products to 21 years old.

As the nonprofit, non-partisan advocacy affiliate of the American Cancer Society, ACS CAN advocates for public policies that reduce death and suffering from cancer which include policies targeted at reducing tobacco use.

**ACS CAN is opposed to Senate Bill 355. While SB355 raises the state tobacco sales age to 21, the bill doesn't go far enough to reduce tobacco use.**

There are several public health best practice components that make up a strong Tobacco 21 law:

- Covers all tobacco products, including electronic cigarettes.
- Provides public education and training and technical assistance to retailers.
- Implements measures for active enforcement, such as retailer licensing and penalties, including suspension and revocation.
- Does not create a new category of products, which would exempt them from other tobacco control laws.
- Does not penalize youth.
- Does not preempt local jurisdiction from passing strong tobacco control laws.

**Reasons this bill is not in line with public health best practice in Wisconsin:**

**Definitions and Licensing**

- The definition of “vapor product” excludes non-nicotine liquid sold separately from the devices, as well as parts, components, and accessories. There are strong public health reasons to restrict youth access to all of these products.
  - FDA regulates e-cigarettes as tobacco products, while this proposed policy regulates them separate. This gives youth the false impression that “vapor products” are safe and complicates future prevention efforts around all tobacco products.

- The unnecessary distinction between “vapor” and tobacco products creates an uneven playing field for retailers selling “vapor products” because they are not licensed as tobacco retailers.
- A more comprehensive definition including the full range of products, liquids, and parts would align with best practice recommendations and allow our existing laws to have greater impact by protecting the health of Wisconsin youth from all tobacco products.
- This bill does not include licensing retailers that sell e-cigarettes.
  - Without licensing retailers who sell e-cigarettes, there is no mechanism to track who sells these products, making it next to impossible to provide educational resources and training to these retailers to prevent sales to youth and enforce tobacco control laws and hold back actors accountable.

**Preemption and PUP (youth purchase, use, and possession)**

- This bill does not repeal preemption and penalties on youth for purchase, use and possession (PUP) language found in [Wisconsin State Statute § 254.92](#). PUP laws punish youth who use tobacco products instead of tobacco retailers, and enforcement of PUP laws tend to target youth and young adults of color and low-income youth and young adults which can introduce them into the judicial system.
- PUP laws are unlikely to reduce youth initiation and use. Some research suggests that they are counterproductive, increasing smoking rates among youth who seek to engage in behavior deemed as deviant or associated with adult behavior.<sup>1</sup> Enforcement of T21 policies should focus on retailers, rather than young consumers.
- Preemption blocks local governments from being able to pass and enforce their own laws that are stronger than the state law. Local governments are uniquely positioned to meet the needs of the people in their communities. They should be able to pass laws that are proven to promote good health, well-being, and support the ability for people to reach their full potential.

Senate Bill 355 must be strengthened to fully achieve its public health benefits. Laws prohibiting sales to youth have historically not been effective stand-alone measures to reduce tobacco use and we recommend a three-prong approach that includes regular and significant tax increases, enacting 100% smoke-free laws that include e-cigarettes, and fully funding sustainable, comprehensive tobacco control programs.

Sincerely,



Sara Sahli  
Wisconsin Government Relations Director  
American Cancer Society Cancer Action Network

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<sup>1</sup> Wakefield M, Giovino G. Teen penalties for tobacco possession, use, and purchase: evidence and issues. *Tobacco Control*. 2003;12(suppl 1):i6-i13.