

**Raising the Minimum Legal of Tobacco Sales to Age 21
Brief Readiness Assessment for North Carolina**

August 2, 2018

Tobacco use remains the number one preventable cause of early death and disease in North Carolina. Tobacco use is also a major concern among North Carolina's youth. According to the 2017 N.C. Youth Tobacco Survey (YTS), progress has been made in reducing cigarette smoking rates among youth in North Carolina, however youth tobacco use is still high because NC is confounded by a significant increase (894% between 2011 and 2017) in the use of electronic cigarettes by high school students. E-cigarettes are now the tobacco product that is most used by NC middle and high school students.

Increasing the minimum sale age for tobacco products to 21 is a promising strategy to reduce smoking and other tobacco use among youth to prevent initiation, addiction, and save lives. Raising the sale age to 21 complements other evidence-based strategies to reduce tobacco use. North Carolina has been a leader in the southeast in promoting, passing and implementing a successful smoke-free restaurants and bars law. North Carolina also is a national leader in smoke-free and tobacco-free college campuses. Refer to www.cdc.gov/mmwr/volumes/67/wr/mm6724a4.htm. Local governments in NC continue to make progress in making all government buildings, grounds and public indoor places smoke-free or tobacco free. North Carolina has recently made incremental steps toward well-funded, sustained tobacco prevention and cessation programs; however, tobacco prices (taxes) on cigarettes and other tobacco products remain among the lowest in the nation.

Nearly all smokers start as kids or young adults, and these age groups are heavily targeted by the tobacco industry. Increasing the tobacco age to 21 will help to prevent young people from ever starting to smoke and to reduce the deaths, disease and health care costs caused by tobacco use.

Brief Analysis of the Current State Law (G.S. 14-313) on Prohibiting Tobacco Sales to Underage Purchasers and Implications If the Age is Raised to 21.

A copy of G.S. 14-313 Youth access to tobacco products can be found at:
<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=14-313>

Are all tobacco products covered? Yes. This is critical to have all new and emerging tobacco products covered.

Are all electronic cigarettes and other electronic nicotine delivery devices defined as tobacco products? Yes. This is critical to have all new and emerging electronic tobacco products covered.

Is signage required? Yes. New signage is critical for public awareness and to encourage citizen complaints of violations, especially if a toll-free number and a website address are listed on the signs. The current state law signage requirement does not require a toll-free or website address.

Are there penalties for a retailer who does not post the required signs? Yes. Failure to post the sign will result in a fine of \$25 for the first violation and \$75 for each succeeding violation.

Does the state appropriate funding for signage? No. It is important to determine who will be responsible for printing and distributing signs, including the needed cost. Also, it is important to work with the enforcing agency ahead of time to discuss details for newly-required signs. Currently, Alcohol Law Enforcement (ALE) along with LME/MCOs distribute signs to retailers. The Division of Mental Health utilizes federal Substance Abuse Prevention Block Grant funds and limited state funding for printing and distributing signs through merchant education materials. Other jurisdictions in the U.S. have asked retailers to print specific language on an 8.5 x 11 sheet of paper to minimize any costs

Are all vending machines prohibited? No. All vending machines should be prohibited unless they are in an establishment which is open only to persons 21 years of age and older.

Is age verification defined? Yes.

Are customer access/self-service displays covered? No. Self-service displays should be limited to an establishment which is open only to persons 21 years of age and older.

Is an enforcement agency and protocols defined? Yes, in FY18-19---SECTION 16B.3.(a) G.S. 143B-928 reads as rewritten:

"§ 143B-928. Alcohol Law Enforcement Branch to remain separate and discrete component of the State Bureau of Investigation; retention of funds.; youth access to tobacco products.

(d) The Alcohol Law Enforcement branch has jurisdiction and primary responsibility to enforce G.S. 14-313 regarding youth access to tobacco products."

SECTION 16B.3.(b) G.S. 18B-500(b) reads as rewritten:

"(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an alcohol law-enforcement agent shall have authority to arrest and take other investigatory and enforcement actions for any criminal offense. The primary responsibility of an agent shall be enforcement of the ABC and lottery laws, and G.S. 14-313 regarding youth access to tobacco products."

SECTION 16B.3.(c) This section becomes effective July 1, 2018, and applies to offenses committed on or after that date.

Does the state appropriate funding for enforcement? Yes, FY-2018-19 -state budget appropriated \$300,000 recurring funding to DHHS/DMHDDSAS to be transferred to Alcohol Law Enforcement (ALE) to perform compliance checks regarding minors attempting to purchase tobacco products and issue citations for consumed sales of tobacco products to minors.

Does the state law appropriate funding for retailer education? No. The Community Preventive Services Task Force recommends Community mobilization with additional interventions. These are community-wide interventions aimed at focusing public attention on the issue of youth access to tobacco products and mobilizing community support for additional efforts to reduce that access. They may include stronger local laws, active enforcement of state retailer sales laws, and retailer education with reinforcement. Retailer education will prevent inadvertent non-compliance due to ignorance of the new age limit, as well as laying the groundwork for successful enforcement actions.

Does the state law require a separate license for retailers to sale of tobacco products? No. A tobacco retailer licensing system is important in enhancing enforcement. Not only does a license fee provide a stable and reliable source of funding for enforcement, but also the threat of license suspension and revocation can be a powerful incentive for compliance.

Are there penalties for retailers selling to a minor? Yes. The person shall have committed a Class 2 misdemeanor. (Note: currently in NC the penalty is for the clerk, not the store owner).

Are there penalties for purchase of tobacco products by a minor? Yes. The person shall be guilty of a Class 2 misdemeanor.

Are sales of single cigarettes prohibited? No. The state law prohibits all tobacco sales to persons under 18, but in general, the law does not make it illegal to sell single cigarettes to persons of legal age. Single cigarette sales are prohibited by federal law. State law should be consistent with existing federal law.

What is the Public Health Impact? The Institute of Medicine (IOM/ now called the National Academy of Medicine) published a 2015 report called Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products.

The full report can be seen at:

www.iom.nationalacademies.org/Reports/2015/TobaccoMinimumAgeReport.aspx. Raising the minimum legal age (MLA) from 18 to 21 years has been suggested by the Institute of Medicine as an effective public health intervention to help achieve national health objectives to reduce tobacco use. The long-term effect of raising the MLA to 21 years across the United States has the potential to lead to a decrease in cigarette smoking prevalence. As of July 2018, 5 states and 340 or more localities have raised the tobacco age to 21. To-date, most of the evaluation has been applied to the implementation of the law in states and communities, with California reporting retailer awareness of their law seven months after the effective date, and a statistically significant decline in retailer violation rates.

What is the Political feasibility? In July of 2015 the CDC released a study concluding that an astounding 75% of adults favor raising the tobacco age to 21, including 70% of current smokers and 65% of those aged 18-24. These results were consistent in all regions of the country. *Source: King, Brian et al: Attitudes Toward Raising the Minimum Age of Sale for Tobacco Among U.S. Adults. American Journal of Preventive Medicine. October 2015.* However, except for the 2009-10 smoke-free restaurants and bars law, political feasibility of tobacco control initiatives in NC are generally low. Nationally, polls have found Tobacco 21 to have bipartisan support. In NC, a 2017 bill to increase the legal age to 21 was introduced in the House. It did not receive support from health groups due to weak bill language and lack of funding for enforcement. For 2019, a strong Tobacco 21 bill probably has greater feasibility than other policy options such as increasing the cigarette or other tobacco tax or large appropriations requests. NC's public/voter support could be tested if a NC legislator requests this by a reputable poll such as the Elon Poll. The Tobacco 21 website (<https://tobacco21.org/>) states: ***There is no panacea for preventing youth tobacco use. Increased taxes, counter-marketing and school programs all play a role. However, funding has shriveled and tax increases face mounting opposition causing fewer and fewer to be enacted. There is now growing interest in another tool: access restriction to age 21.***