



Health Education Inc.

Preventing Tobacco Use in Nebraska

BILL SUMMARY AND ANALYSIS

LB 73, Introduced by Sen. Merv Riepe Referred to General Affairs Committee

Would increase to age 21 the legal age for use, consumption or obtaining of tobacco, vapor products and alternative nicotine products in Nebraska. Selling, giving, or furnishing cigarettes, cigarette paper, vapor products, or alternative nicotine products, to anyone under 21 would also be prohibited.

Public Health Implications

The Institute of Medicine in 2015 released a report studying the potential impact of raising the minimum legal access age (MLA) for tobacco. commissioned by the FDA. The report, “Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products,” found that increasing the MLA for tobacco products would likely prevent or delay initiation of tobacco use by adolescents and young adults.

According to the IOM analysis, if the MLA were raised at the time of the report (2015), by the time current teenagers were adults, there would be a 3 percent decrease in prevalence of tobacco use among those adults if the MLA were raised to 19, a 12 percent decrease if raised to 21, and a 16 percent decrease if raised to 25.

The committee concluded that raising the MLA will likely immediately improve the health of adolescents and young adults by reducing the number of those with adverse physiological effects such as increased inflammation and impaired immune functioning caused by smoking, as these could potentially lead to negative health consequences, including increased hospitalizations and lessened capacity to heal wounds. Adverse maternal, fetal, and infant outcomes—including preterm births, low birth weight, and sudden infant death—will also probably decrease as a result of reduced tobacco exposure in mothers and infants. The committee concludes that raising the MLA would also lessen the population’s exposure to secondhand smoke and its associated health effects, both now and in the future.

Over time, the committee concluded, raising the MLA would likely lead to substantial reductions in smoking-related mortality, though results from the models suggest that these results will not be observed for at least 30 years, assuming that the MLA increase occurs now.

Issue Commentary

The American Cancer Society Cancer Action Network (ACS CAN) supports raising the minimum age for sale of all tobacco products to age 21 with strong retailer compliance and active enforcement as part of its comprehensive strategy to reduce youth initiation. ACS CAN raises concern that such legislation not weaken restrictions on sales to youth, penalize youth, create carve outs for certain products or interfere with other effective tobacco control policies.

ACS CAN recommends the following provisions be included in any legislation to raise the minimum age of sale to 21:

- Covers all tobacco products, including electronic cigarettes.
- Provides public education and training and technical assistance to retailers.
- Does not create new categories of products, which would exempt them from other tobacco control laws.
- Does not penalize youth.
- Implements measures for active enforcement, such as retailer licensing and penalties, including license suspension and revocation.
- Does not preempt other jurisdictions from passing strong tobacco control laws.
- Most importantly, raising the minimum age of all tobacco products to age 21 must be a part of a strong, comprehensive tobacco control strategy to adopt evidence-based programs and policies.

Bill Notes

Section 1 and Page 5, lines 5 through 9, note violations and penalties for underage persons. Prohibiting the purchase, use and/or possession by underage persons has not been proven effective in reducing tobacco use. Recommendations by ACS CAN include language that prohibits the distribution of tobacco products to anyone under the age of 21 and holds *retailers* accountable.

Page 2, line 23 and 30: “tobacco-derived product” is currently an undefined term.

Page 3, lines 4 through 10 provides a definition of “vapor product” that seems limited to only products with nicotine. Some of these products claim to be nicotine-free but have been found to contain nicotine. This complicates enforcement as there is no way to verify which have nicotine and which do not.

Page 4, lines 17 through 23. This section provides for penalties for licensees who violate provisions of this law. Retailers who sell “vapor products,” however, are not currently required

to be licensed. Updating current statute to require retailers who sell these products to be licensed would address this issue.

Page 5, line 21, notes only tobacco products, without noting vapor products/electronic smoking devices and alternative nicotine products.

Fiscal Impact

An analysis of fiscal impact of this bill has not been reported. Fiscal impact of this bill may include the following:

Current federal law (the SYNAR amendment) requires the state to determine the rate at which individuals under 18 years of age can illegally purchase tobacco products. To comply with that law, the Nebraska State Patrol conducts random inspections at about 436 retail locations annually to determine a statewide average rate at which retailers are not in compliance with state and federal law. Federal law would continue to require the Nebraska State Patrol to conduct the existing survey. In addition, it is possible that under this bill the Nebraska State Patrol would expand the existing survey, to determine the rate at which individuals between 18 and 21 years of age are able to purchase tobacco products, which would be expected to entail additional cost.

If there were a reduction in sales, it can be expected that there would be a reduced total excise tax and sales tax revenue on tobacco products. Projections for how much that reduction would be have not been reported.

It's unknown what impact would be on health care costs. According to the Centers for Disease Control and Prevention, estimates of annual direct health care costs related to smoking are between \$130 billion and \$180 billion per year, nationally. Reductions in tobacco use lead to health savings, in the immediate term, and in the long-term.

You can follow this and other tobacco-related bills at healtheducation.org.