

FISCAL NOTE
Requested by Legislative Council
01/07/2019

Bill/Resolution No.: HB 1236

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(35,400)			
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities		\$(2,600)	
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1236 raises the minimum legal age to purchase and use tobacco products from eighteen to nineteen.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, HB 1236 will increase the minimum legal age (MLA) for purchasing and using cigarettes and tobacco products to age nineteen. Studies indicate that approximately twelve percent of high school students are daily or occasional smokers. If this bill is enacted, some of the consumption of tobacco products by these individuals will cease, and some eighteen year-olds will delay smoking for one or more years. Others will find other means to purchase their cigarettes, including using older friends, or cross-border purchases in surrounding states with MLA's of eighteen.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Assuming 550 young adults stop purchasing cigarettes in the state, each consuming an average of 1.5 fewer packages per week, there would be an estimated drop in wholesale cigarette tax of \$38,000 for the 2019-21 biennium.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn Strombeck

Agency: Office of Tax Commissioner

Telephone: 701.328.3401

Date Prepared: 01/11/2019

2019 HOUSE HUMAN SERVICES

HB 1236

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB1236
1/14/2019
30749

- Subcommittee
 Conference Committee

Committee Clerk: Elaine Stromme by Caitlin Fleck

Explanation or reason for introduction of bill/resolution:

Relating to the prohibition of an individual under nineteen years of age from purchasing & using tobacco products: to provide a penalty.

Minutes:

A,B,C,D

Vice Chairman Rohr opened the Hearing on HB1236:

Representative Pam Anderson: (See attachment A)

Vice Chairman Rohr: Anyone else here to testify in favor of HB1236?

Dr. Randal Cooper, Third Year Resident at UND Medical Center: I am in favor of passing this bill. I would also like to see the age raised to 21, but I don't think that will happen. I am working with individuals who have chronic obstructive pulmonary disorder and other lung diseases. On the other hand, I do have a 16-year-old daughter that goes to Legacy High School, so I have been made aware. I work with a lot of youth that are smoking. It's not smoking actually it's vaping. These kids think that it's ok, it's just vapor. I am completely against that. I have come to find out that my own daughter has come to try vaping and I ask her where she got this from. She said that an older student bought it for her. These older 18-year-old students are buying these products for the younger students. I'm pushing for whatever I can get, if 19 is passed, then great.

Representative Skroch: An adult who is going to Rochester who is going to get a heart replacement, would you outlaw sugar then to 18 year olds?

Dr. Cooper: No, I wouldn't. I brought that fact up to say that people are making bad decisions. I know that we can't control everyone's decisions. But when it comes to the youth, I do take a stand to do more. I think that it is my duty as a doctor and a father to protect the youth. At some age you do have to be accountable.

Representative Skroch: I bring that up because there are states now that limit sugar. There is a line that at some point we have to stop dictating to people, and sugar may be a bad player too.

Vice Chairman Rohr: Anyone here to testify in opposition to HB1236?

(9.50) Deb Knuth, the Government Relations Director for the ND American Cancer Society Cancer Action Network: (see attachment B & C)

Representative Anderson: Do they have a restriction on military bases?

Ms. Knuth: I'm not away, I would assume that it is still age 18. When dealing with smoking and lung disease, smoking is the leading cause of death in ND. That is why I am here today. My main concern is anything that would keep the youth from starting and the adults quitting.

Mike Rud, President of the ND Petroleum Marketers Association: (see attachment D)

Vice Chairman Rohr: Any other testimony? Representative Anderson, is there any research out there about states that have raised the age from 18 to 19? And the exemption for the military at 18?

Representative Anderson: There isn't any other states, but many communities have increased it to 19.

Representative Porter: What happens on tribal lands?

Representative P. Anderson: I don't know what the rules are for that.

Representative Porter: Are there any states around us that are at a higher age?

Representative P Anderson: No. There are 5 states and the district of Columbia that are at 21.

Representative Porter: In your research have you gotten any indication from law enforcement of the health department who tracks juvenile citations, on the number of citations in a year for a law enforcer who has been in contact with someone who is already breaking the law?

Representative Anderson: I agree that we do a great job of not seeing to under 18.

Representative Porter: Is there any information that shows that there are citations being issued to those already illegally possessing a product that they shouldn't be? Or what happens to these 16 year olds and 18 year olds who are breaking the law?

Representative Anderson: The majority of what we have is the sale of the tobacco. I am not aware of someone going to a 15-year-old, they are breaking the law.

Representative Porter: That's my point, they are breaking the law. Is anyone enforcing it now?

Representative Anderson: I don't think the intent of my bill is to punish the 15 year olds, I just don't want them to sell the product. So if we raise the rate, they can't sell it.

Representative Tveit: Could you explain the fiscal note? It talks a lot about money, but I don't think it should be about saving money.

Representative P. Anderson: I think that would be the sales tax that we aren't going to get on selling cigarettes to 18 year olds.

Representative Tveit: It's showing a credit in the general fund, even though there is a loss?

Representative P. Anderson: I think that it is that we are going to lose the 38,000 in sales tax.

Representative Dobervich: Could we get some additional information on the age of sell on the tribal lands from the Indian Affairs Commission? And some information about the work of the tobacco free casino act is doing.

Vice Chairman Rohr: I can ask the intern to get that.

Representative Schneider: Even though there might small loss on tax on cigarettes, do you agree that there could be huge potentials on medical assistances or losses for people being hooked on cigarettes?

Representative P. Anderson: I think that if we can save just one life, I think that would be amazing.

No more questions or testimony. Meeting closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1236
1/16/2019
30931

- Subcommittee
 Conference Committee

Committee Clerk: Elaine Stromme by Caitlin Fleck

Explanation or reason for introduction of bill/resolution:

Minutes:

Representative Schneider: I move to do pass on HB1236.

Representative Anderson: I will second that.

Vice Chairman Rohr: Any discussion?

Representative Porter: I am going to oppose that motion. I think the sponsor has good intentions. I think that in our society we have set 18 as an adult. We have had a bill to outlaw all sell of all tobacco products because they were deemed dangerous. This measure really is the government protecting a segment of society that can legally use the products in surrounding states and tribal land. The law enforcement has no way of enforcing the law as it is now. You could change it to a lot of different things, but it isn't a law that can be enforceable. Nothing will change until parents and society change.

Representative Skroch: It's a fine line that we cross when we start taking over the responsibilities of people who are 18. Once someone is 18, they are emancipated. Unless they are in college or their parents are willing to keep them longer, they will have to start paying for their own health insurance and lots of other things. Because of this, I will have to agree with Representative Porter's assessment.

Representative Tveit: Yes, they are adults, but I also sympathize with the school systems because we are asking the schools to parents these children. There are students there that are 18 and we then have to separate them out from the rest of the student body. I think that we do need to take back our parenting roles and take it out of the school system. Because of that I will have to vote no on this.

Representative Dobervich: I am a yes on this. I don't think it's a matter of enforcement. I think that it is health policy. We already can't buy alcohol until 21, so why should other substances, like tobacco, not be bought until 21.

Representative Schneider: We have numerable laws that we don't enforce because we chose not to or we don't have the personnel to, that doesn't mean that they are not important for society. As Representative Dobervich has said, it is not applicable to everything. We have different ages to different things. I did note that the only opposition was to raise it to a higher level. From a state and parental perspective, I think that we need to raise the age.

Roll Call Vote: 5 Yes. 8 No. 1 Absent. Motion failed.

Representative Ruby: I would move a do not pass on HB1236.

Representative Porter: I second that.

Roll Call Vote: 8 Yes. 5 No. 1 Absent.

Representative Ruby will carry it on the floor.

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1236**

House Human Services 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 Rep. Schneider Seconded By Rep. D. Anderson

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	A		Gretchen Dobervich	X	
Karen M. Rohr – Vice Chairman		X	Mary Schneider	X	
Dick Anderson	X				
Chuck Damschen		X			
Bill Devlin		X			
Clayton Fegley		X			
Dwight Kiefert	X				
Todd Porter		X			
Matthew Ruby		X			
Bill Tveit		X			
Greg Westlind	X				
Kathy Skroch		X			

Total (Yes) 5 No 8

Absent 1

Floor Assignment _____

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

Failed

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1236**

House Human Services 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 Rep. M. Ruby Seconded By Rep. Porter

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	A		Gretchen Dobervich		X
Karen M. Rohr – Vice Chairman	X		Mary Schneider		X
Dick Anderson		X			
Chuck Damschen	X				
Bill Devlin	X				
Clayton Fegley	X				
Dwight Kiefert		X			
Todd Porter	X				
Matthew Ruby	X				
Bill Tveit	X				
Greg Westlind		X			
Kathy Skroch	X				

Total (Yes) 8 No 5

Absent 1

Floor Assignment Rep. M. Ruby

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

REPORT OF STANDING COMMITTEE

HB 1236: Human Services Committee (Rep. Weisz, Chairman) recommends **DO NOT PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1236 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1236

Testimony of HB 1236 House Human Services Committee

Representative Pamela Anderson, District 41

January 14, 2019

HB 1236
1/14/2019
A

Good Afternoon Chair Weisz and Committee Members. I am back again with my "you have to be out of high school to buy cigarettes" bill. Only this time I fixed the one opposition point that if you can fight for your country, you should be able to buy cigarettes.

HB 1236 states you have to be nineteen to buy tobacco products, unless the individual is eighteen years of age, is an active duty member of the armed forces, and has a valid military identification card. This provision is also in the states that have increased the age of purchase to 21.

With many families, rightly so, holding back their children to start school if they have summer birthdays, close to 90% of North Dakota high school seniors are 18 when they graduate. I don't want to drive by high schools and see our kids across the street using tobacco. If you are in school activities, especially sports, you can't smoke in high school. I want that for all our kids. Another year older may mean some do not start smoking at all and wouldn't that be great.

The anti- smoking groups will not testify in support of this bill. They want the age to be 21. I get that, but let's be the first state to have the age at 19.

The opposition to this bill will come from the gas station/ convenience stores. I say if your business needs to sell tobacco to high schoolers, then you need a new business plan. The other group in opposition will be big tobacco. Their business plan is to sell as much tobacco as they can, as early as they can to our children.

Thanks for your time and consideration of a Do Pass on HB 1236.



HB 1236
1/14/2019
B

American Cancer Society
Cancer Action Network
2401 46th Ave SE, Ste. 102, Mandan,
ND
701.471.2859
Deb.knuth@cancer.org

Testimony in Opposition to HB 1236
North Dakota House Human Service Committee
Robin Weisz, Chairman

My name is Deb Knuth and I am the Government Relations Director for the North Dakota American Cancer Society Cancer Action Network.

The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, non-partisan advocacy affiliate of the American Cancer Society advocates for public policies that reduce death and suffering from cancer including policies targeted at reducing tobacco use. ACS CAN opposes HB 1236, a bill that would raise the minimum age for the sale of tobacco products to 19 years old. We support 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.

This is an important issue as nationally 95 percent of adults who smoke start before they turn 21. If the sale age requirement is opened in North Dakota, then we should increase the age to 21, not 19. Importantly, raising the minimum age of sale for tobacco products to age 21 must be a part of a strong, comprehensive tobacco control strategy to adopt evidence-based programs and policies. Selling tobacco products to active military at age 18 is not doing them any favors. I am distributing a fact sheet, "Raising the Age of Sale of Tobacco Products and the Military," that speaks to that concern. We owe it to members of the military - particularly younger members - to protect them from a lifetime of addiction, diseases that could adversely affect their fitness and readiness, and premature death from tobacco use. Raising the minimum age for tobacco sales from 18 to 21 would help our military remain healthy and ready for duty.

Tobacco remains the leading preventable cause of death nationwide. In North Dakota, it is estimated that 1,000 adults die from smoking every year.ⁱ There are 14,000 North Dakota children who are alive now that will die prematurely due to smoking-related disease.ⁱⁱ It is the single largest preventable cause of death. The annual health care costs in North Dakota directly caused by smoking are \$326 million.ⁱⁱⁱ

According to a March 2015 Institute of Medicine report- *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*^{iv}, raising the national minimum legal sale age to 21 is predicted to reduce smoking prevalence by about 12 percent and smoking-related deaths by nearly 10 percent for future generations.

The report authors predicted that raising the national minimum age of sale for tobacco products, including electronic cigarettes, will prevent tobacco use, reduce suffering and death from tobacco-related diseases and save lives among the next generation of Americans. Furthermore, the IOM report concluded that active enforcement of minimum age laws can reduce underage sales, and additional measures, such as targeted retail education, community education and mobilization, and mass media campaigns can improve retailer compliance.

HB 1236
1/14/2019
B

Increasing the sale age for tobacco products to 21 would be a significant step towards further reducing tobacco use in North Dakota. Restricting youth and young adult access to tobacco products can be a critical component to a comprehensive strategy to reduce initiation and a lifelong addiction. Laws aimed to restrict youth commercial access to tobacco products are only effective when combined with interventions to educate retailers, mobilize the community, and actively enforce the laws.^v Raising the minimum age of sale to 21 with these additional interventions has the potential to reduce youth and young adult initiation.

As of September 2018, six states, the District of Columbia, and more than 380 localities have already passed laws to raise the minimum age of sale of tobacco products to 21. It's time for North Dakota to join them. There is no data showing raising the age of sale to 19 is an effective intervention to reduce tobacco use. In fact, the IOM report predicts raising the age to 19 will not have much of an impact on reducing social sources of tobacco for those in high school. Neither will exempting members of the military. Therefore, we oppose HB 1236.

Thank you for allowing me to testify. Are there any questions?

ⁱ Campaign for Tobacco-Free Kids. The Toll of Tobacco in North Dakota. Updated November 15, 2018.

[https://www.tobaccofreekids.org/facts_issues/toll_us/North Dakota](https://www.tobaccofreekids.org/facts_issues/toll_us/North%20Dakota)

ⁱⁱ Campaign for Tobacco-Free Kids. The Toll of Tobacco in North Dakota. Updated November 15, 2018.

[https://www.tobaccofreekids.org/facts_issues/toll_us/North Dakota](https://www.tobaccofreekids.org/facts_issues/toll_us/North%20Dakota)

ⁱⁱⁱ Campaign for Tobacco-Free Kids. The Toll of Tobacco in North Dakota. Updated November 15, 2018.

[https://www.tobaccofreekids.org/facts_issues/toll_us/North Dakota](https://www.tobaccofreekids.org/facts_issues/toll_us/North%20Dakota)

^{iv}http://iom.nationalacademies.org/~media/Files/Report%20Files/2015/TobaccoMinAge/tobacco_minimum_age_report_brief.pdf

^v Guide to Community Preventive Services. Community mobilization with additional interventions to restrict minors' access to tobacco products. www.thecommunityguide.org/tobacco/communityinterventions.html. June 2001.

Raising the Age of Sale of Tobacco Products and the Military



Military leaders recognize the negative impact tobacco use has on the health of military personnel and on mission readiness. Unfortunately, smoking rates are higher among active duty military than among civiliansⁱ and tobacco companies consider members of the military to be an important and lucrative target market.ⁱⁱ Roughly 95 percent of adults who smoke started smoking before the age of 21, therefore young adults are a critical population to target with evidence-based tobacco control strategies.ⁱⁱⁱ Raising the age of sale of tobacco products to 21 can also help support existing efforts to prevent tobacco use and encourage cessation among members of the military.

Tobacco Use Affects Military Readiness

During the past 50 years, the U.S. Department of Defense's (DoD's) stance on tobacco has shifted markedly as evidence of the immediate health and readiness consequences of tobacco use has emerged. An Institute of Medicine (IOM) report on smoking in the military and veteran populations cited extensive research in its conclusion that tobacco negatively affects military readiness. Tobacco use reduces soldiers' physical fitness and endurance and is linked to higher rates of absenteeism and lost productivity.^{iv} The DoD estimated that 175,000 current active duty service members will die from smoking unless they are able to quit.^v In addition, the IOM report stated that the DoD spends more than \$1.6 billion per year on tobacco-related medical care, increased hospitalizations, and lost days of work.^{vi}

Military Leaders Support Tobacco Prevention and Cessation

Awareness of the impact of tobacco on mission readiness continues to drive expanded tobacco control policies within the DoD. The DoD and the Army, Navy, Marines, and Air Force have each set goals to become tobacco-free. In April 2016, Secretary of Defense Ash Carter issued a memorandum with plans to reduce tobacco use across the military including increasing the price of tobacco sold on military bases and widening smoke-free zones. After Hawaii raised its tobacco sale age to 21, Hawaii's military bases opted to comply with the higher age in recognition of its benefits to readiness, health and finances.^{vii} Retired military leaders support legislation in Illinois to raise the age of sale for tobacco to 21.^{viii}

"We see it as a fitness and readiness issue. When we can prevent sailors from smoking or using tobacco, if we can get them to quit, then that improves their fitness and readiness, and it saves them a ton of money too," Bill Doughty, spokesman for the Navy Region, Hawaii.

Raising the Age of Sale of Tobacco to 21 Will Help Our Military Remain Healthy

Permitting military exemptions to age 21 laws exposes our heroes to a deadly and costly addiction. Tobacco products cause disease and premature death when used as intended. We owe it to members of the military - particularly younger members - to protect them from a lifetime of addiction, diseases that could adversely affect their fitness and readiness, and premature death from tobacco use. Raising the minimum age for tobacco sales will help our military remain healthy and ready for duty.



ⁱ Department of Defense. Department of Defense Health Related Behaviors Survey of Active Military Personnel. 2011. Institute of Medicine. Combating Tobacco Use in Military and Veteran Populations. June 2009. http://www.murray.senate.gov/public/_cache/files/889efd07-2475-40ee-b3b0-508947957a0f/final-2011-hrb-active-duty-survey-report.pdf

ⁱⁱ U.S. Department of Health and Human Services. The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Office on Smoking and Health, 2014

ⁱⁱⁱ United States Department of Health and Human Services. Substance Abuse and Mental Health Services Administration. Center for Behavioral Health Statistics and Quality. National Survey on Drug Use and Health, 2014. ICPSR36361-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2016-03-22. <http://doi.org/10.3886/ICPSR36361.v1>; see also Institute of Medicine, *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*, Washington, DC: The National Academies Press, 2015, <http://iom.nationalacademies.org/Reports/2015/TobaccoMinimumAgeReport.aspx>

^{iv} Institute of Medicine. Combating Tobacco Use in Military and Veteran Populations. June 2009

^v Department of Defense, Memorandum re: Reducing Tobacco Use in the Armed Forces and Department of Defense, March 14, 2014.

^{vi} Institute of Medicine. Combating Tobacco Use in Military and Veteran Populations. June 2009.

^{vii} Bussewitz, Cathy. Associated Press. "Hawaii Raises Smoking Age to 21; Military Supports New Law." December 31, 2015.

^{viii} Mission: Readiness, Military Leaders for Kids, *Letter in support of IL SB3011 to raise the tobacco sale age to 21*, April 19, 2016



ND Petroleum Marketers Association ND Retail Association



Testimony - HB 1236

January 14, 2019- House Human Services

HB 1236
1/14/2019
D

Chairman Weisz and Members of the House Human Services Committee:

For the record, I'm Mike Rud, President of the North Dakota Petroleum Marketers Association. On behalf of NDPMA I urge a **“DO NOT PASS” recommendation on HB 1236.**

There are over 700 convenience stores in ND on the front lines when it comes to tobacco sales. Retailers take the sale of tobacco products very seriously, especially when it comes to minors. ND retailers continue to score high marks nationally when it comes to preventing minors from purchasing tobacco. Changing the age limit from 18 to 19 will do very little to stop minors from obtaining products. There are certainly more sources than a retail outlet for minors to obtain tobacco.

Furthermore, shouldn't personal responsibility trump social engineering? When does it become the responsibility of an individual to make the right and legal decision?

Supporters of this proposal argue in favor of raising the age from 18 to 19 for the purchase of tobacco products. However, this proposal cannot be easily squared with how federal and state law treats adulthood for virtually many other purposes such as: Voting, Paying taxes, Owning a long-gun, Driving, Marrying, Signing a contract, Inheritance, Buying/Selling property or consenting to medical treatment.

When Congress granted FDA the authority to regulate tobacco products in 2009, it specifically fixed 18 as the minimum age under federal law. Congress reserved to itself the power to alter the federal legal age of purchase, but required FDA to conduct a study and submit it to Congress for evaluation. That process is currently under way.

Congress is now in a position to consider all of these materials and deliberate on the policy implications.

Support this process of developing a national policy on this issue, instead of a patchwork of inconsistent state and local laws.

NDPMA asks for a “DO NOT PASS” recommendation.