


<b>Date:</b> February 18, 2014  <b>Staff:</b> Dan Sapienza Kathryn Southard	<p style="text-align: center;"><b>POLICY BRIEF</b></p> <p style="text-align: center;">PREPARED FOR THE BOARD OF DIRECTORS</p>	
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## **HB14-1263 – TOBACCO PRODUCTS TO PERSONS UNDER TWENTY-ONE YEARS**

Concerning the prohibition of tobacco transactions for persons under twenty-one years of age

### Bill Details

<b>Bill Title:</b>	Tobacco Products to Persons under Twenty-One Years- Concerning the prohibition of tobacco transactions for persons under twenty-one years of age.
<b>Bill Sponsors:</b>	House – Beth McCann (D), Cheri Gerou (R) Senate – Steve King (R), John Kefalas (D)
<b>Committee:</b>	House Health, Insurance, and Environment
<b>Bill History:</b>	Introduced in House- Assigned to Health, Insurance, and Environment Committee
<b>Next Action:</b>	Hearing- House Health, Insurance, and Environment Committee- Thursday, Feb. 20th

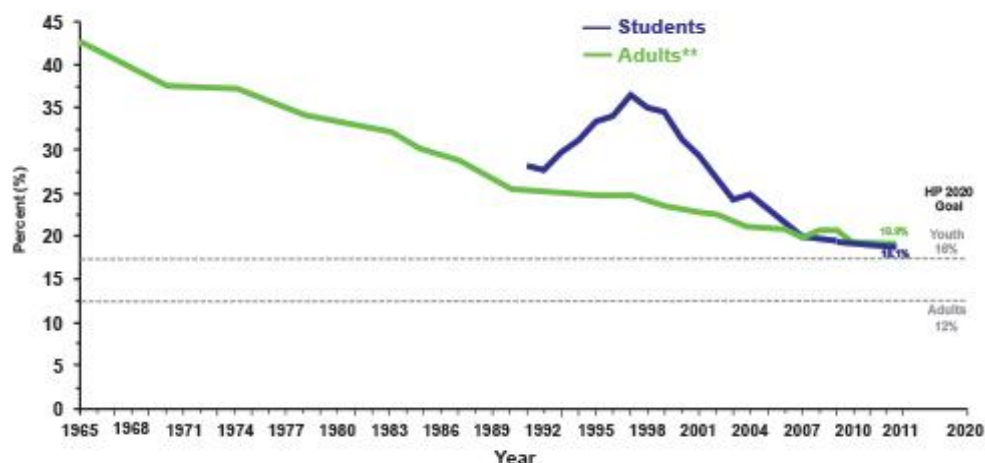
### Bill Summary

HB14-1263 increases the minimum sale of age of tobacco products from 18 to 21 years of age. A person cannot give, sell, or distribute cigarettes or tobacco products to those under the age of 21. A person under the age of 21 cannot purchase or possess tobacco products or cigarettes. This bill will grandfather in those born on or before June 30<sup>th</sup>, 1996.

### Background

Current state law allows the purchase of tobacco products by those 18 years and older. Legislation would increase the minimum legal age of purchase to 21 to deter adolescent and young adult tobacco use. Although rates have been falling, the decreasing rate of tobacco use by adolescents has recently stalled.<sup>1</sup> The continued decrease in tobacco use is important as smoking remains the leading cause of preventable death in the United States.<sup>2</sup>

**Trends in Current Cigarette Smoking by High School Students\* and Adults\*\* — United States, 1965-2011**



\*Percentage of high school students who smoked cigarettes on 1 or more of the 30 days preceding the survey (Youth Risk Behavior Survey, 1991-2011).  
\*\*Percentage of adults who are current cigarette smokers (National Health Interview Survey, 1965-2011).

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There is some precedent for raising the minimum purchasing age for tobacco in the United States. Needham, MA (in 2005) and New York City (in 2013) have already implemented laws increasing the minimum purchasing age of tobacco products to age 21. In early 2014, other states are considering legislation to increase the minimum sale age to 21, including Utah and Maryland.<sup>4</sup>

### **Why is it important?**

According to the Centers for Disease Control and Prevention, 443,000 people die each year from tobacco use. Each day, over 1,000 youth under age 18 become regular daily smokers and one-third will eventually die from their tobacco use.<sup>5</sup> Smoking costs \$96 billion annually in direct medical costs and \$97 billion in lost productivity.<sup>6</sup> In 2013, nearly one-sixth of all high school seniors (16.3%) are current smokers that have smoked one or more cigarettes in the past 30 days and nearly 40 percent of high school seniors have ever tried smoking.<sup>7</sup>

Youth use of tobacco can predict adult tobacco addiction. Although many deaths from tobacco use happen in later adulthood, nicotine dependence begins earlier. Most people who are daily smokers began in adolescence. One-third to one-half of all teenagers who try smoking become regular smokers in adulthood.<sup>8</sup> In fact, According to the Surgeon General's report on *Preventing Tobacco Use Among Youth and Young Adults*, 88% of adults who smoke every day began smoking before they were 18 years of age.<sup>9</sup> Those who begin smoking at a younger age smoke longer and tend to have more difficulty quitting.<sup>10 11</sup>

The Office of the Surgeon General reports that, "People who begin to smoke at an early age are more likely to develop severe levels of nicotine addiction than those who start at a later age."<sup>12</sup> Although addiction symptoms differ between adolescents and adults, youth can become addicted to nicotine quickly. Symptoms of nicotine addiction have been observed in adolescents a few weeks after a youth begins to intermittently smoke, or has smoked at least two cigarettes in a two month period.<sup>13</sup> In addition, there is some evidence to suggest that since adolescent brains are still developing, adolescents may be more susceptible to nicotine addiction than adults.<sup>14</sup>

Adolescents who smoke suffer from immediate and long-term health consequences. Since their bodies are still developing, adolescent smokers may reduce their lung growth and capacity. Young smokers are more likely than nonsmokers to experience wheeze symptoms in adolescence and to be diagnosed with asthma. Early abdominal atherosclerosis has been seen in young smokers, which can lead to higher cardiovascular morbidity and mortality. In addition, smoking longer or more total lifetime cigarettes may put one at increased risk for cardiovascular disease and chronic obstructive pulmonary disease. Thus, smokers who begin in adolescence may be at a higher risk for developing these long-term chronic conditions.<sup>15</sup>

Nationally, cigarettes remain the most used tobacco product by youth under the age of 18. While use of cigarettes has been slowly declining, there have been recent increases in youth usage of e-cigarettes and hookah. From 2011-2012, the prevalence of youth who had ever used an e-cigarette doubled for those in grades 6-12 from 3.3 percent to 6.8 percent and youth who had used hookah in the past thirty days increased from 4.1 percent to 5.4 percent.<sup>16</sup>

In Colorado, 5,300 youth become smokers every year. In Larimer County in 2008, 11.6 percent of adolescents were current smokers, meaning they smoked one or more cigarettes in the past 30 days. The number was much higher for Hispanic youth; 16.3 percent were current smokers.<sup>17</sup>

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## Bill Details

HB14-1263 prohibits a person from giving, selling, distributing, or offering for sale a tobacco product or cigarettes to a person under 21 years of age, unless the person was born on or before June 30, 1996. A person under the age of 21 cannot purchase, attempt to purchase, or possess tobacco products or cigarettes, unless the person was born on or before June 30, 1996. This bill will grandfather in those born on or before June 30<sup>th</sup>, 1996.

The bill changes current law to reflect the new age of 21. Thus:

- Before selling cigarettes or tobacco products, a person must request a government-issued photographic identification that shows an individual is 21 years of age
- A person under the age of 21 who purchases or attempts to purchase tobacco products or cigarettes commits a class 2 petty offense
- Warning signs in businesses and on vending machines will be revised to reflect this age change
- Those under the age of 21 cannot possess cigarettes or tobacco products as of July 1, 2014
- Exceptions are made for those under 21 who are purchasing or attempting to purchase tobacco products if they were doing so under the direction on a governmental agency for a compliance check
- Municipalities may enact stricter ordinances

## Discussion

### Arguments in favor

Raising the minimum purchasing age has been proven effective in decreasing smoking prevalence, especially in adolescents. In England, when the minimum purchase age increased from 16 to 18 years, there was a 30 percent decrease in prevalence of smoking among those aged 16-17. This decrease in prevalence was significantly more than in older age groups who could still legally purchase cigarettes.<sup>18</sup> In addition, increasing the minimum purchase age in England also affected younger adolescents regardless of socioeconomic status. There was a significant reduction in smoking prevalence among those eligible for free lunches aged 11-15 from 13.1 percent in 2003 to 10.6 percent in 2008. For other students, rates fell from 8.8 percent in 2003 to 5.7 percent in 2008.<sup>19</sup>

In the United States in 2005, Needham, Massachusetts raised the minimum purchasing age of tobacco to 21. The city saw a decline in high school students who are current smokers from 13.5 percent in 2005 to 5.5 percent in 2012. In comparison, neighboring towns that did not increase their sale age saw their tobacco rates fall from 14.7 percent in 2006 to only 9.9 percent in 2012.<sup>20</sup> Complementing their raising of the minimum sale age for tobacco, Janice Berns, the Director of Public Health in Needham, cites their strong health education programs and quarterly compliance checks as additional reasons for the decline in adolescent smoking rates.<sup>21</sup>

Proponents argue that making cigarettes harder to obtain decreases adolescent tobacco use. Studies have found that youth are less likely to purchase tobacco if they perceive these products as more difficult to access.<sup>22</sup> In order to acquire cigarettes, many youth under the age of 18 use their social networks to obtain tobacco products. 25 percent of smokers under 18 borrowed from peers, 30 percent gave money to others, and only 20 percent acquired cigarettes by purchasing them at stores.<sup>23</sup> 90 percent of people purchasing cigarettes for minors were 18-20 years old.<sup>24</sup> With an increase in minimum purchase age, 18-20 year olds would not be able to purchase tobacco, limiting youth access to these products as well.

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Research has demonstrated that raising the minimum purchase age of tobacco would be cost-effective. Through modeling, a 2005 study showed that increasing the national minimum legal purchasing age to 21 could reduce prevalence of smoking in all age categories, save money, and increase quality-adjusted life years (QALYs). The model predicted that if youth smoking initiation was on average three years later, in 50 years prevalence would drop from 20 percent to 6.6 percent for 14-17 year olds, 26.9 percent to 12.2 percent for 18 to 20 year olds, and 21.8 percent to 15.5 percent for those over 21. There would be a cost-savings of \$212 billion, due to reduced medical costs, and an increase of 13 million QALYs.<sup>25</sup>

### **Arguments in Opposition**

Some opponents argue that smoking prevalence is already declining without the efforts to raise the minimum age to legally purchase tobacco and that excise taxes may be a more effective way of curbing adolescent use of tobacco products. Some who oppose measures to increase the purchase age believe that resources could be better directed toward enforcing proven techniques like tax increases and smoke-free laws.<sup>26</sup> When Washington State increased the price per pack of cigarettes by 60-cents, the smoking prevalence the next year fell from 22.6 to 19.7 percent.<sup>27</sup> While excise taxes may be effective, in Colorado efforts to increase excise taxes are subject to TABOR and could be difficult to pass.

By excluding 18-20 year olds from purchasing tobacco legally, the black market may prosper. As mentioned previously, 30% of smokers under the age of 18 acquire their cigarettes from friends or peers. In light of the new law, current smokers may rely more heavily on these sources increasing black market activity and decreasing the profits made from the taxes on tobacco products. In 2006, New York City Mayor Michael Bloomberg and Assistant Health Commissioner Sarah Perl opposed raising the smoking age, arguing that by making tobacco more illicit it would become more appealing to the city's youth.<sup>28</sup>

Another argument against raising the sale age of tobacco to 21 is that such laws infringe on adults' rights to make decisions about their personal health. They contend that 18-20 year olds are old enough to join the military, serve on a jury, and vote, so they should be allowed to make their own decisions regarding tobacco consumption.<sup>29</sup>

By decreasing the customer base for cigarettes, some argue that businesses that sell cigarettes will experience decreased revenue. Convenience stores and gas stations may be wary about the impact that decreasing their sales base will have on their profits. During the 2013 debates in New York City, Convenience store unions in New York City strongly opposed the proposal. James Calvin of the New York Association of Convenience Stores stated that thousands of jobs would be lost because of the decrease not only in tobacco sales, but also in the loss of incidental sales of other products, like coffee or lottery tickets.<sup>30</sup>

### **About this Summary**

This summary was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. For more information about this summary or the Health District, please contact Dan Sapienza, Policy Coordinator, at (970) 224-5209, or e-mail at dsapienza@healthdistrict.org.

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<sup>1</sup> U.S. Department of Health and Human Services. (2012). *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

<sup>2</sup> Health effects of cigarette smoking. (2014). *Centers for Disease Control and Prevention*. Retrieved from [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/health\\_effects/effects\\_cig\\_smoking/index.htm#definition](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/index.htm#definition)

<sup>3</sup> Centers for Disease Control and Prevention. Trends in current cigarette smoking among high school students and adults, United States, 1965-2011. *Smoking and Tobacco Use*. Retrieved from [http://www.cdc.gov/tobacco/data\\_statistics/tables/trends/cig\\_smoking/index.htm](http://www.cdc.gov/tobacco/data_statistics/tables/trends/cig_smoking/index.htm)

<sup>4</sup> Bartels, L. (2014, January 28). Colorado lawmakers look to outlaw tobacco use for those under 21. *The Denver Post*. Retrieved from [http://www.denverpost.com/politics/ci\\_25006278/colorado-lawmakers-look-outlaw-tobacco-use-those-under](http://www.denverpost.com/politics/ci_25006278/colorado-lawmakers-look-outlaw-tobacco-use-those-under)

<sup>5</sup> U.S. Department of Health and Human Services. (2012). *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

<sup>6</sup> Centers for Disease Control and Prevention. (2012, November 9). Cigarette smoking among adults- United States, 2011. *Morbidity and Mortality Weekly Report (MMWR)*. Retrieved from [http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6144a2.htm?s\\_cid=%20mm6144a2.htm\\_w](http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6144a2.htm?s_cid=%20mm6144a2.htm_w)

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<sup>8</sup> Riggs, N., Chous, C., Li, C., and Pentz, M.A. (2007). Adolescent to emerging adulthood trajectories: when do smoking trajectories diverge, and do they predict early adulthood nicotine dependence? *Nicotine & Tobacco Research*, 9(11), 1147-1154.

<sup>9</sup> U.S. Department of Health and Human Services. (2012). *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

<sup>10</sup> Ahmad, S. (2005). Closing the youth access gap: the projected health benefits and cost savings of a national policy to raise the legal smoking age to 21 in the United States. *Health Policy*, 75, 74-84.

<sup>11</sup> Children and Teen Tobacco Use. (2013). *American Cancer Society*. Retrieved from <http://www.cancer.org/acs/groups/cid/documents/webcontent/002963-pdf.pdf>

<sup>12</sup> Office of the Surgeon General. (1994). *Youth and tobacco: preventing tobacco use among young people. A report of the Surgeon General*. United States: Public Health Service. Office on Smoking and Health.

<sup>13</sup> DiFranza, J.R., Rigotti, N.A., McNeill, A.D., Ockene, J.K., Savageau, J.A., St Cyr, D., & Coleman, M. (2000). Initial symptoms of nicotine dependence in adolescents. *Tobacco Control*, 9, 313-319.

<sup>14</sup> U.S. Department of Health and Human Services. (2012). *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

<sup>15</sup> U.S. Department of Health and Human Services. (2012). *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

<sup>16</sup> U.S. Department of Health and Human Services. (2014). *The health consequences of smoking-50 years of progress. A report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

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<sup>18</sup> Fidler, J. A. & West, R. (2010). Changes in smoking prevalence in 16-17 year-old versus older adults following a rise in legal age of sale: findings from an English population study. *Addiction*, 105, 1984-1988.

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<sup>20</sup> Tobacco Use. *Metrowest Adolescent Health Survey*. Retrieved from <http://www.needhamma.gov/documentcenter/view/8554>

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