



INCREASING THE MINIMUM LEGAL SALE AGE FOR TOBACCO PRODUCTS TO 21

“Raising the legal minimum age for cigarette purchaser to 21 could gut our key young adult market (17-20) where we sell about 25 billion cigarettes and enjoy a 70 percent market share.”¹
— Philip Morris report, January 21, 1986

Tobacco use remains the leading cause of preventable death in the United States, killing 480,000 people each year.² It is known to cause cancer, heart disease and respiratory diseases, among other health disorders, and costs the U.S. at least \$130 billion in health care expenditures each year.³ 700 kids under the age of 18 become regular, daily smokers each day; and almost one-third will eventually die from it.⁴ If current trends continue, 5.6 million of today’s youth will die prematurely from a smoking-related illness.⁵

In addition to high tobacco taxes, comprehensive smoke-free laws and comprehensive tobacco prevention and cessation programs, increasing the minimum legal sale age (MLSA) for tobacco products to 21 has emerged as another policy strategy to reduce youth tobacco use and help users quit. The concept of increasing the MLSA is not new, however.

In 2005, Needham, Massachusetts became the first city to implement a MLSA of 21.⁶ New York City became the first major city in the U.S. to raise its MLSA to 21 in November 2013.⁷ Hawaii County, Hawaii also raised its MLSA to 21 that same month.⁸ In addition to these locations, four states have MLSAs that prohibit the sale of tobacco products to individuals under the age of 19: Alabama, Alaska, New Jersey and Utah.⁹ In New York, Nassau County, Onondaga County and Suffolk County require individuals to be at least 19 years of age to purchase tobacco.¹⁰ Several communities in Massachusetts, including Belmont, Brookline and Watertown, also have a MLSA of 19.¹¹

Because it is a relatively new strategy, direct research on increasing the MLSA to 21 is somewhat limited; but the data that are available provide strong reason to believe that it will contribute to reductions in youth tobacco use. Central to the MLSA strategy are the facts that many smokers transition to regular, daily use between the ages of 18 and 21; many young adult smokers serve as a social source of tobacco products for youth; and tobacco companies have long viewed young adults ages 18 to 21 as a target market group.

Most Adult Smokers Start Smoking Before Age 21

National data show that 95 percent of adult smokers begin smoking before they turn 21, and a substantial number of smokers start even younger—more than 80 percent of adult smokers first try smoking before age 18.¹² While nearly half of adult smokers become regular, daily smokers before age 18, more than three-quarters become regular, daily smokers before they turn 21.¹³ This means the 18 to 21 age range is a time when many smokers transition to regular use of cigarettes.¹⁴ According to one national survey, 18-20 year olds are twice as likely as 16-17 year olds to be current smokers (31.6% vs. 15.4%, respectively).¹⁵

Tobacco companies have admitted in their own internal documents that, if they don’t capture new users by the age of 21, it is very unlikely that they ever will. In 1982, one RJ Reynolds researcher stated:

“If a man has never smoked by age 18, the odds are three-to-one he never will. By age 21, the odds are twenty-to-one.”¹⁶

Delaying the age when young people first experiment or begin using tobacco can reduce the risk that they transition to regular or daily tobacco use and increase their chances of successfully quitting, if they do become regular users.¹⁷

Adolescents are particularly vulnerable to the addictive effects of nicotine, and the U.S. Surgeon General has stated that “the potential long-term cognitive effects of exposure to nicotine in this age group are of great concern.”¹⁸ Because adolescence and young adulthood are critical periods of growth and

development, exposure to nicotine may have lasting, adverse consequences on brain development. As reported by the U.S. Surgeon General,

“This earlier age of onset of smoking marks the beginning of the exposure to the many harmful components of smoking. This is during an age range when growth is not complete and susceptibility to the damaging effects of tobacco smoke may be enhanced. In addition, an earlier age of initiation extends the potential duration of smoking throughout the lifespan. For the major chronic diseases caused by smoking, the epidemiologic evidence indicates that risk rises progressively with increasing duration of smoking; indeed, for lung cancer, the risk rises more steeply with duration of smoking than with number of cigarettes smoked per day.”¹⁹

Adding to the concern is the fact that young people can often feel dependent earlier than adults.²⁰ Though there is considerable variation in the amount of time young people report it takes to become addicted to using tobacco, key symptoms of dependence—withdrawal and tolerance—can be apparent after just minimal exposure to nicotine.²¹ According to the 2014 Report of the Surgeon General, “the addiction caused by the nicotine in tobacco smoke is critical in the transition of smokers from experimentation to sustained smoking and, subsequently, in the maintenance of smoking for the majority of smokers who want to quit.”²²

As a result of nicotine addiction, about three out of four teen smokers end up smoking into adulthood, even if they intend to quit after a few years.²³ As noted above, smoking-related health problems are influenced by both the duration (years) and intensity (amount) of use. Unfortunately, individuals who start smoking at younger ages are more likely to smoke as adults, and they also are among the heaviest users.²⁴ In addition to longer-term health risks such as cancer and heart disease, young people who smoke are at risk for more immediate health harms, like increased blood pressure, asthma and reduced lung growth.²⁵

Nationally, 18.1 percent of high school students and 17.3 percent of young adults ages 18 to 24 currently smoke.²⁶ According to one national survey, 31.6 percent of 18 to 20 year olds currently smoke.²⁷

Older Adolescents and Young Adults are a Source of Cigarettes for Youth

According to the 2013 Monitoring the Future Survey, 71 percent of 10th grade students and 50 percent of 8th grade students say it is easy to get cigarettes.²⁸ This perception that getting cigarettes is easy exists despite the fact that fewer retailers are selling tobacco to underage youth than ever before. In FFY2012 (the most recent year for which data are available), the national retailer violation rate was 9.1 percent—the second lowest in the history of the Synar program.²⁹ This suggests that youth are obtaining cigarettes from sources other than direct store purchases.

Research shows that youth smokers identify social sources, such as friends and classmates, as a common source of cigarettes. Although older and more established youth smokers are more likely to attempt to purchase their cigarettes directly than kids who smoke less frequently or are only “experimenting,” they are also major suppliers for kids who do not purchase their own cigarettes but instead rely on getting them from others.³⁰ And with more 18- and 19-year olds in high school now than in previous years, younger adolescents have daily contact with students who can legally purchase tobacco for them.³¹

A 2005 study based on the California Tobacco Survey found that 82 percent of adolescent ever smokers obtained their cigarettes from others, most of whom were friends. A substantial percentage (40.9%) of the people buying or giving the cigarettes were of legal age (18 years or older) to purchase them, with most (31.3%) being between 18 and 20 years of age. 16- to 17-year-olds were more likely to get their cigarettes from 18- to 20-year olds than were younger adolescents.³² Another study found that smokers aged 18 and 19 years were most likely to have been asked to provide tobacco to a minor, followed by smokers aged 20 to 24 years and nonsmokers aged 18 and 19 years, respectively.³³

Data from the National Survey on Drug Use and Health (NSDUH) show that nearly two-thirds (63.3%) of 12- to 17-year olds who had smoked in the last month had given money to others to buy cigarettes for

them. One-third (30.5%) had purchased cigarettes from a friend, family member or someone at school. In addition, six out of ten (62%) had “bummed” cigarettes from others.³⁴

Raising the MLSA would reduce the likelihood that a high school student will be able to legally purchase tobacco products for other students and underage friends.

Tobacco Companies Target Young Adults Ages 18 to 21

Tobacco industry advertising and promotional activities cause youth and young adults to start smoking, and nicotine addiction keeps people smoking past those ages.³⁵ Tobacco companies heavily target young adults ages 18 to 21 through a variety of marketing activities—such as music and sporting events, bar promotions, college marketing programs, college scholarships and parties—because they know it is a critical time period for solidifying tobacco addiction.³⁶ It is also a time when the industry tries to deter cessation and recapture recent quitters.³⁷

Tobacco companies realize that the transition into regular smoking that occurs during young adulthood is accompanied by an increase in consumption, partly because the stresses of life transitions during that time—going to college, leaving home, starting a new job, joining the military, etc.—invite the use of cigarettes for the effects of nicotine.³⁸ Statements obtained from the tobacco industry’s internal documents emphasize the importance of increasing consumption within this target market in order to maintain a profitable business:

“...eighteen to twenty-four year olds will be “[c]ritical to long term brand vitality as consumption increases with age.”³⁹

“...[t]he number one priority for 1990 is to obtain younger adult smoker trial and grow younger adult smoker share of market.”⁴⁰

“To stabilize RJR’s share of total smokers, it must raise share among 18-20 from 13.8% to 40%...ASAP.”⁴¹

*“Our aggressive Plan calls for gains of about 5.5 share points of smokers 18-20 per year, 1990-93 (about 120,000 smokers per year). Achieving this goal would produce an incremental cash contribution of only about \$442MM during the Plan period (excluding promotion response in other age groups and other side benefits). However, if we hold these YAS [young adult smokers] for the market average of 7 years, they would be worth **over \$2.1 billion in aggregate incremental profit**. I certainly agree with you that this payout should be worth a decent sized investment.” [emphasis in original]⁴²*

In 2006, after reviewing the evidence against the tobacco companies in a civil racketeering case brought forth by the U.S. Department of Justice, U.S. District Court Judge Gladys Kessler made this conclusion about the industry’s marketing practices:

“From the 1950s to the Present, Different Defendants, at Different Times and Using Different Methods, Have Intentionally Marketed to Young People Under the Age of Twenty-one in Order to Recruit ‘Replacement Smokers’ to Ensure the Economic Future of the Tobacco Industry.”⁴³

And in 2014, the U.S. Surgeon General eliminated all doubt regarding the industry’s role in perpetuating our nation’s tobacco epidemic. He stated:

“...the root cause of the smoking epidemic is also evident: the tobacco industry aggressively markets and promotes lethal and addictive products, and continues to recruit youth and young adults as new consumers of these products.”⁴⁴

Benefits of Raising the MLSA to 21

Though a higher MLSA will not eliminate underage tobacco use, it would offer several benefits that could help reduce youth tobacco use and increase the likelihood that youth will grow up to be tobacco-free:

- Delaying the age when young people first begin using tobacco would reduce the risk that they will transition to regular or daily tobacco use and increase their chances of quitting, if they become regular users.⁴⁵
- Raising the MLSA to 21 would increase the age gap between adolescents initiating tobacco use and those who can legally provide them with tobacco products by helping to keep tobacco out of schools.⁴⁶
- Younger adolescents would also have a harder time passing themselves off as 21-year-olds than they would 18-year-olds, which could reduce underage sales.⁴⁷
- In addition, a MLSA of 21 may simplify identification checks for retailers, since many state drivers' licenses indicate that a driver is under the age of 21 (e.g. license format, color or photo placement).⁴⁸

Campaign for Tobacco-Free Kids, February 5, 2014 / Lorna Schmidt

¹ Philip Morris, "Discussion Draft Sociopolitical Strategy," January 21, 1986, Bates Number 2043440040/0049, <http://legacy.library.ucsf.edu/tid/aba84e00>.

² U.S. Department of Health and Human Services. *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, 2014.

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⁴ Substance Abuse and Mental Health Services Administration (SAMHSA), HHS, *Results from the 2012 National Survey on Drug Use and Health, NSDUH: Summary of National Findings*, 2013.

⁵ HHS. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. 2014.

⁶ Needham Public Health Department, Application for Permit to Sell Tobacco and Tobacco Products, <http://www.needhamma.gov/DocumentCenter/Home/View/4162>.

⁷ Caruso, DB, "Tobacco-Buying Age in NYC To Be Raised To 21 With New Legislation," *Huffington Post*, November 19, 2013, http://www.huffingtonpost.com/2013/11/19/tobacco-age-nyc_n_4301551.html.

⁸ PR Newswire, "Hawai'i County Council Increases Age of Sale for Tobacco Products to 21 – Bold Step Will Reduce Smoking and Save Lives," November 20, 2013, <http://www.prnewswire.com/news-releases/hawaii-county-council-increases-age-of-sale-for-tobacco-products-to-21---bold-step-will-reduce-smoking-and-save-lives-232736641.html>.

⁹ American Lung Association, State Legislated Actions on Tobacco Issues (SLATI), <http://www.lungusa2.org/slati/>.

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¹² Calculated based on data in the National Survey on Drug Use and Health, 2011, <http://www.icpsr.umich.edu/icpsrweb/SAMHDA/>.

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¹⁴ Calculated based on data in the National Survey on Drug Use and Health, 2011, <http://www.icpsr.umich.edu/icpsrweb/SAMHDA/>. See also: Hammond, D, "Smoking behaviour among young adults: beyond youth prevention," *Tobacco Control*, 14:181 – 185, 2005. Lantz, PM, "Smoking on the rise among young adults: implications for research and policy," *Tobacco Control*, 12(Suppl I):i60 – i70, 2003.

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