

My name is Patrick Wills. I am 19 years old.

I have a driver's License, a selective service card, and a concealed carry permit.

I am currently a full time college student as well as a full time manager for a company with 6 restaurants and a little over 400 employees. My long term goal is to be a law enforcement officer.

I currently utilize a vaping device (e-cigarette) with 0 or 3 mg of nicotine-

I do not understand nor do I support this law as I am currently a law abiding, voting citizen who resides in house district 33- which means I am a constituent of Representative Charles Postles . I would ask for an amendment which allows my peers and I to continue utilizing safer, non-combustible smoking alternatives.

This law is only going to hurt Delaware Businesses, as I can drive to surrounding states to purchase products and even order them online. Just today, I noticed I can buy Juul products on ebay or Amazon without any age verification even though they committed to only selling products to individuals 21 and older through a deal with the FDA last year.

In closing, I know this is a tough bill but 18-20 year olds who are your voting future are not going to approve. I also realize that each of you has probably made deals with your leadership on how to vote. I am sure the Governor is even adding pressure. I would simply ask that you take a moment, learn more about e-cigarettes, learn why the FDA has chosen to specifically leave these products on the market and allow access to these products for young adults like myself. Give us a safer alternative to smoking, don't outlaw it.

Thank you



Wayne A. Smith  
President & CEO

March 6, 2019

The Honorable Melissa Minor-Brown  
411 Legislative Avenue  
Dover, DE 19901

Dear Representative Minor-Brown,

*Alfred I. duPont Hospital  
for Children*  
Roy Proujansky, MD,  
Chief Executive of  
Nemours Delaware  
Valley Operations

Thank you for being the lead House sponsor on SB 25 to curb tobacco use in young adults by raising the tobacco sale age to 21 from 18. The Delaware Healthcare Association (DHA) supports this legislation and your efforts to reduce smoking, and smoking-related deaths in Delaware.

*Bayhealth*  
Terry Murphy,  
President & CEO

DHA represents hospitals and health care delivery systems in Delaware and advocates for policies that create an environment for enabling every Delawarean to be as healthy as they can be. Increasing the tobacco sale age aims to reduce the smoking rate and the incidence of smoking-related health conditions, producing a positive impact on the health of our state.

*Beebe Healthcare*  
Jeffrey M. Fried  
President & CEO

*Christiana Care Health  
System*  
Janice E. Nevin, M.D.  
MPH  
President & CEO

Smoking is the number one preventable cause of premature death and disease in the nation, killing more than 480,000 Americans, including 1,400 Delawareans annually. Smokers are more likely to develop heart disease, stroke, and lung cancer than non-smokers. Prevention is a key component in tackling any major health condition, including tobacco use. Since 95 percent of adults began smoking before age 21, there is a clear need to curb the initiation of tobacco use before they start down a potentially deadly path. Raising the tobacco sale age to 21 will reduce the number of teens and young adults that use tobacco, addressing the smoking problem before it begins. Studies have shown that such efforts may reduce the smoking rate by 12% and smoking-related deaths by 10% over time.

*Nanticoke Health Services*  
Steven A. Rose, RN, MN  
President & CEO

*Saint Francis Healthcare*  
Daniel Sinnott  
President & CEO

DHA is pleased to support SB 25 and looks forward to working with you and the members of the General Assembly to advance this important legislation.

*Delaware Healthcare  
Association*  
Wayne A. Smith  
President & CEO

Sincerely,

A handwritten signature in blue ink that reads "Wayne A. Smith". The signature is written in a cursive style with a large, prominent "W" and "S".

Wayne A. Smith  
President & CEO



American Cancer Society  
Cancer Action Network  
92 Reads Way, Ste. 205  
New Castle, DE 19720

## ACS CAN Supports Senate Bill (SB) 25 to Raise the Minimum Age of Sale of Tobacco Products to 21

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 supports SB 25 a bill that would raise the minimum age for the sale of tobacco products to 21 years old.

This is an important issue as nationally 95 percent of adults who smoke start before they turn 21.<sup>i</sup> This time period is when the brain is fully developing, including the parts responsible for decision making, impulse control, sensation seeking, and susceptibility to peer pressure.<sup>ii</sup> Adolescents and young adults are therefore a critical population to target with evidenced-based, tobacco control strategies.

Tobacco remains the leading preventable cause of death nationwide. In Delaware it is estimated that 1400 adults die from smoking every year.<sup>iii</sup> There are 17,000 children in Delaware who are alive now that will die prematurely due to smoking-related disease.<sup>iv</sup> It is the single largest preventable cause of death. The annual health care costs in Delaware directly caused by smoking are \$ 532 million.<sup>v</sup>

Increasing the sale age for tobacco products to 21, or Tobacco 21, is a promising intervention worthy of discussion as a complimentary part of a comprehensive tobacco control strategy that includes proven ways to reduce death and suffering from tobacco-related illnesses including regular and significant tobacco tax increases, comprehensive smoke-free workplace laws, and fully funded tobacco cessation and prevention programs reduce youth initiation and help tobacco users quit.

According to a March 2015 Institute of Medicine report- *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*<sup>vi</sup>, 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.

Increasing the sale age for tobacco products to 21 would be a significant step towards further reducing tobacco use in Delaware. 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.<sup>vii</sup> Raising the minimum age of sale to 21 with these additional interventions has the potential to reduce youth and young adult initiation.

It is important to note that it takes more than just changing 18 to 21 in existing statutes for the desired health benefits to be reached. An effective Tobacco 21 law will include all tobacco products, including electronic cigarettes, while not creating new categories of products. Finally, providing a comprehensive definition of “tobacco products”, as this bill does, can aid in compliance and enforcement by clearly specifying what exactly is being prohibited.

Laws prohibiting sales to minors have historically not been effective stand-alone measures. Compliance with the law should be the responsibility of the retailer, and penalties for violations should not fall on the youth attempting to purchase tobacco. As such, the focus should be on increasing the minimum age of sale, not the minimum age of purchase. Evidence does not support effectiveness of penalizing youth for use, possession and purchase of tobacco products. Penalties for youth for possession, purchase and use may divert attention from more effective tobacco control strategies and relieve the tobacco industry of responsibility for its marketing practices and retailer’s irresponsible sales to kids. For those adolescents who do smoke, what they need most is access to evidence-based cessation resources, not fines. What has been proven effective is a dedicated enforcement entity conducting active enforcement, including graduated fines for retailers when in violation with potential for license suspension and revocation, licensing of all retailers, one or two unannounced random compliance checks at each retailer per year with more checks for retailers found out of compliance, and signage.

Tobacco companies heavily target young adults ages 18 to 21 through a variety of marketing activities—sponsoring 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. Increasing the age for sale of tobacco products to 21 will help counter the tobacco industry’s efforts to target young people at a critical time when many move from experimenting with tobacco to regular smoking. It will also help keep tobacco out of high schools, where younger teens often obtain tobacco products from older students.

As of September 2018, six states, the District of Columbia, and at least 350 localities have already passed laws to raise the minimum age of sale of tobacco products to 21. It’s time for Delaware to join them.

SB 25 will make it harder for young adults and adolescents alike to access and become addicted to cigarettes and other tobacco products. This legislation is one part of a comprehensive tobacco control strategy that includes regular and significant tobacco tax increases, implementing comprehensive smoke-free laws, and fully funding best practice tobacco prevention and cessation programs to reduce youth initiation and help tobacco users quit. We urge your support.

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<sup>i</sup> 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,

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<http://iom.nationalacademies.org/Reports/2015/TobaccoMinimumAgeReport.aspx>. Retrieved August 3,2016 from  
<https://www.tobaccofreekids.org/research/factsheets/pdf/0376.pdf>

<sup>ii</sup> U.S. Department of Health and Human Services. Prevention Tobacco Use Among Youth and Young Adults: 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, 2012.

<sup>iii</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in DE. Updated 11/15/18. [https://www.tobaccofreekids.org/facts\\_issues/toll\\_us/de](https://www.tobaccofreekids.org/facts_issues/toll_us/de)

<sup>iv</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in DE. Updated 11/15/18. [https://www.tobaccofreekids.org/facts\\_issues/toll\\_us/de](https://www.tobaccofreekids.org/facts_issues/toll_us/de)

<sup>v</sup> Campaign for Tobacco-Free Kids. The Toll of Tobacco in DE. Updated 11/15/18. [https://www.tobaccofreekids.org/facts\\_issues/toll\\_us/de](https://www.tobaccofreekids.org/facts_issues/toll_us/de)

<sup>vi</sup> [http://iom.nationalacademies.org/~media/Files/Report%20Files/2015/TobaccoMinAge/tobacco\\_minimum\\_age\\_report\\_brief.pdf](http://iom.nationalacademies.org/~media/Files/Report%20Files/2015/TobaccoMinAge/tobacco_minimum_age_report_brief.pdf)

<sup>vii</sup> Guide to Community Preventive Services. Community mobilization with additional interventions to restrict minors' access to tobacco products. [www.thecommunityguide.org/tobacco/communityinterventions.html](http://www.thecommunityguide.org/tobacco/communityinterventions.html). June 2001.

Don Thompson

CEO, The Zen Vaper E-Liquids, LLC

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Claymont, DE 19703

[don@thezenvaper.com](mailto:don@thezenvaper.com)

215-470-4141

RE: DE House Health & Human Development Committee as pertaining to SS-1/SB25

Dear esteemed congressmen,

My name is Don Thompson. I am the CEO of Zen Vaper E-Liquids, LLC, a Delaware based small business that manufactures and distributes e-liquid via online retail sales as well as wholesale sales to vape shops within the state. I have been conducting this business since July 31, 2016. I want to specifically address some of the shipping language and age verification requirements stated on lines 239 – 303 of the current bill.

This bill would require:

- Receiving and maintaining government ID showing DOB to verify the person is over 21;
- A signed attestation regarding the persons understanding of the illegality and penalties for underage purchase
- Restricting delivery to the addressee or another adult living in the same household
- A statement on every invoice that sales to minors are illegal and forbidden.
- Requiring delivery service to check ID for persons signing for delivery who appear to be under the age of 30
- Submitting a monthly statement delineating every sale made within Delaware to either persons or businesses.

These requirements are both burdensome and redundant.

The current FDA mandated age verification method for online sales mirrors federal requirements for such sales (the definition of delivery sale within this regulation specifically includes sales by means of the Internet) of tobacco products as defined by the PACT act modifications to the Jenkins act, which reads in part:

“Obtaining the full name, birth date, and residential address of that person; and verifying the information provided through the use of a commercially available database or aggregate of databases, consisting primarily of data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication, to ensure that the purchaser is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery.”

I currently use a third party age verification service. They verify the age of every customer making a purchase from my website using customer info culled from diverse secure databases. My merchant services will decline the credit card of anyone attempting to use a shipping address that is different from the billing address for the card being used. The FDA requires specific warnings to be on the label of every bottle of e-liquid I sell. These warnings specifically say that my products are not intended for anyone under the legal smoking age and another warning that stated prominently the "Underage sales are prohibited".

Requiring me to keep redundant records on an unsecure laptop opens that info to all sorts of data breaches. I use a third party age verification service and merchant services that employ secure data centers where this sensitive customer information is kept well encrypted.

Regarding me to use a delivery service that can implement "adult signature required" upon delivery would cost an additional \$10 per order shipped. This means that a 1oz bottle of fluid that costs \$11.99 would cost \$13.35 to ship. This would cause profit erosion and loss of competitive market share when competing with other brands that can ship similar products without these burdensome requirements.

I currently have about 1500 regular customers. I am on a first name basis with about 90% of these customers. I know their stories of how they quit smoking by switching to vaping. I know their partners names, their struggles and victories in their life's journey. These shipping requirements would cause me to lose a large portion of my customer base as they went to competitors brands that charged appropriate shipping for their purchases.

I love what I do. I have a passion for helping people to quit smoking and live a healthier lifestyle by switching to vaping. Please help me to stay in business by striking these burdensome and redundant shipping and age verification requirements from bill SS-1. Thank you for allowing my testimony.

Mr. Chairman and Distinguished Legislators,

Thank you for the opportunity to address this committee, my name is Brendan Styles. I am the president of Vapor Retailers and Manufacturers of Delaware and I represent a group of small businesses. For the uninitiated, there exists a dichotomy within the vapor industry. Open systems like the ones sold by the small businesses I represent let consumers chose hardware that suits their needs and grants access to a broad spectrum of flavors and nicotine dosage options. Closed systems, such as JUUL, represent an ecosystem more suited to convenience stores and gas stations where consumers buy into a brand of hardware and are limited to the flavors and nicotine dosage options offered only by that brand. I would like to bring to your attention a remark FDA commissioner Scott Gottlieb recently made on twitter:

"If teen e-cig use spikes again in 2019 FDA will revisit the continued marketability of pod based e-cigs as a category. Kids mostly abuse cartridge based systems. Against [a] backdrop of rampant teen use closed systems may have no redeeming public health value."

-Read If Time Allows-

Everyone in this room agrees that the practice of smoking combustible tobacco products is a detriment to public health. I would hope also, that everyone in this room agrees that all men and women are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. If this legislature wishes to take action against the scourge of tobacco harm, why not then, embrace the concept of tobacco harm reduction and recognize the massive public health benefit offered by vapor products? Let me say plainly that I believe human beings should not smoke or vape; our lungs are designed to run on air. However, if an American wants to use nicotine, a stimulant similar to caffeine, their inherent liberty gives them that right. In the interest of public health, governments should encourage nicotine users to switch to the safest form of ingestion available instead of hindering their access to it.

-Read If Time Allows-

Our group has been to Legislative Hall several times before, so we fully understand that political action involves compromise. We have been told by several legislators that Governor Carney wants this bill passed and there is a lot of pressure to "just get it done". There have been two amendments to this bill in the Senate. One of which helps protect small businesses and American consumers and the other fixes some legal definitions and greatly expands restrictive language on shipping tobacco products. If I were to ask a legislator, and believe me I will, for one change to this bill that I would like to see above all others, it would be amending that shipping language.

Section 12, lines 210-310, poses an unimaginably complex framework of regulations for shipping vapor products to consumers in Delaware. This language is overburdensome, redundant with federal regulations already in place and most importantly, will do absolutely nothing to stop unscrupulous retailers outside the state from shipping to whomever they want. This language then, will do nothing more than hurt small businesses in Delaware who ship vapor products to customers. To my knowledge, only 2 such businesses even exist and both of them already have FDA mandated 3<sup>rd</sup> party age verification services in place and neither has ever had enforcement actions taken against them for selling products to minors.

Vapor products have already saved countless lives, including my own. The open system market, which our group of small businesses represent, is not the origin of teen vaping yet this legislation will punish them as if it were. The closed system market, whose products have proliferated in far greater numbers into the hands of minors, stand to increase their market share substantially and utilize this legislature to impose their business model on their competitors to the detriment of public health. Please vote no on SB25 or at least be open to working with our group on concessions to protect the health AND liberty of all Delawareans. Thank you all for you time and consideration.

Hello, my name is Don, I am the owner of Maxed Out Vape in Dover.

I appreciate the opportunity to speak today in front of this committee about SB 25.

As background, I hate combustible smoking products as I was a 2-3 pack a day user for over 20 years.

I lost my father to cancer in 1991.

My shops goal is to provide a safer alternative to smoking and help people quit.

I would like to specifically call out section 11a and it's definition of tobacco substitute.

11a. " Tobacco substitute means an electronic smoking device employing a mechanic heating element battery or circuit to produce aerosol or vapor for inhalation into the body of an individual.

11b. tobacco substitute also means liquid used in a device under paragraph 11a. of this section including liquids that contain nicotine and liquids that do not contain nicotine.

Let's talk for a moment about aromatherapy diffusers or even the common humidifier. Both of those devices are electronic smoking devices that produce aerosol or vapor. Are the essential oils or even the water added now restricted to age 21+

I would also like to call out SB 24 currently in the Senate Health and services committee. This bill even lowers the age of someone under 18 to gain access to marijuana oils (which is vaped with an e-cigarette device).

I understand the premise behind this bill and the reasoning, but I feel the language is very broad and when we start trying to include non-nicotine liquids which are not tobacco, we can easily get confused. What are we trying to accomplish? What is the danger of allowing an 18-20 year old to utilize an e-cigarette with no nicotine? Isn't that a win by all accounts?

Thank You!

Remarks For House Health Committee

2019-03-27

David Eisenhower – Owner Delmar Vapor Lounge

First I'd like to thank the committee for the opportunity to speak today. My name is David Eisenhower I own Delmar Vapor lounge and have 5 stores throughout Delaware and Maryland. I share this body's concerns over the use of tobacco products my minor children and understand the dangers of smoking being myself a former smoker and having lost 2 family members 2 the use of tobacco.

That being said if I were to leave my home tomorrow morning with a handgun walk into my local bank and rob them of all the money in the building and then went to pay for surgeries and medicines for sick children saving their lives. I cannot believe that any one of you would consider my actions just. It is because we recognize as a people that theft by use of force is wrong regardless of its motivation.

Yet that's exactly what we're discussing here today our Governor and the Senate have decided to steal the rights away from 18 to 20 year old legal adults. These very same adults have the right to serve in our armed forces, elect to have surgery, get married, get tattoos, buy a house, gamble, jump out of a perfectly good airplane with a parachute, and to make their own medical decisions that will affect them for the rest of their lives. Yet by virtue of this legislation we are saying these young adults are not responsible enough to make the decision to smoke a cigarette, chew tobacco, or use a vape pen. We are further justifying this theft of their rights by saying they are the cause of minor children procuring tobacco products. This my friends is wrong on so many levels and should be struck down that by this body without a second thought.

Our God given freedoms are highly cherished by each and every American and in this body it should be only with the greatest confidence in the results that you should ever consider robbing a single man or woman of their right to be free and make their own choices

So what is this evidence we've heard a lot about. Well it from information gathered during the CDC's national youth risky behavior survey. And yes overall the use of e-cigarettes by high school students has increased. But let's take a moment to dig a little deeper.

In 2015 & 2017 high school students were asked if they were current frequent users a vapor products In 2015 2.4% of 9th graders reported daily use and in 2017 1.8% reported day Daily use. Whereas 12th graders reported an increase in use a vapor products from 3.2% two 5% during the same period. The only problem with that data is that many are already adults.

So let's look at the large numbers the past 30 days use on the high school population as a whole we will even be capturing data from adults in this data. From the same survey in 2017 29.8% of high school students used alcohol a product already restricted for purchase for those over 21 years. 19.8% reported marijuana use a product you cannot purchased legally in the state of Delaware without a prescription. And 19.5% used a tobacco product in the same 30 days. To think by changing the rules when it comes to how old you are when you can purchase these products is foolish and the data simply does not support it.

Do not forget Delaware is a small state simply hop in the car and ride 10 minutes down the road and you can buy your cigarettes legally at age 18 . Or pick up your mouse go to the Internet and you can order any vapor products you want from all over the world and have them delivered directly to your house. This law does very little to address that.

Again I extend my offer if you really want to make a difference in youth access to vapor products contact us in the vapor industry we can help most of us are former smokers who never want youth uptake of deadly combustible cigarettes or even use use of addictive chemicals.

So I ask Please Strike down this proposal and if you can not find it in your hearts not to steal these rights from young adults please at least consider not taking the rights from those who have already reached the age of consent before this bill was passed.

Thank you for your time today I have the statistics from the national youth risk behavior survey to submit.