



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 more than 400,000 people each year.² It is known to cause cancer, heart disease and respiratory diseases, among other health disorders, and costs the U.S. \$96 billion in health care expenditures each year.³ Nearly 1,000 kids under the age of 18 become regular, daily smokers each day; and almost one-third will die from it.⁴

In addition to high tobacco taxes, comprehensive smoke-free laws and comprehensive tobacco control and prevention programs, increasing the minimum legal sale age (MLSA) for tobacco products from 18 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.

Four states already have MLSAs that prohibit the sale of tobacco products to individuals under the age of 19: Alabama, Alaska, New Jersey and Utah.⁵ In New York, Nassau County, Onondaga County and Suffolk County require individuals to be at least 19 years of age to purchase tobacco.⁶ Several communities in Massachusetts, including Belmont, Brookline and Watertown, also have a MLSA of 19.⁷ In 2005, Needham, Massachusetts became the first city to implement a MLSA of 21.⁸

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 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 18.⁹ While nearly half of adult smokers become regular, daily smokers before age 18, more than 75 percent become regular, daily smokers before they turn 21.¹⁰ This means the 18 to 21 age range is a time when many smokers transition to regular use of cigarettes.¹¹

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.”¹²

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.¹³

Because of the addictive nature of nicotine, experimentation or initiation of tobacco use among youth and young adults is particularly troubling. These ages are a critical period of growth and development; as a result, young people are more susceptible and sensitive to nicotine's addictiveness and can often feel dependent earlier than adults.¹⁴ There is considerable variation in the amount of time young people report

it takes to become addicted to using tobacco, but key symptoms of dependence—withdrawal and tolerance—can be apparent after just minimal exposure to nicotine.¹⁵ 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.¹⁶ Moreover, evidence shows that smoking-related health problems are influenced by both the duration (years) and intensity (amount) of use. Individuals who start smoking at younger ages are more likely to smoke as adults; they also are among the heaviest users.¹⁷ 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.¹⁸

Nationally, 18.1 percent of high school students and 18.9 percent of young adults ages 18 to 24 currently smoke.¹⁹ According to one national survey, 31.6 percent of 18 to 20 year olds currently smoke.²⁰ In New York City, 8.5 percent of high school students and 12.6 percent of young adults ages 18 to 24 currently smoke.²¹

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

According to the 2012 Monitoring the Future Survey, 72.9 percent of 10th grade students and 50.7 percent of 8th grade students say it is easy to get cigarettes.²² This perception that getting cigarettes is easy exists despite the fact that fewer retailers are selling tobacco to underage youth than ever before. In FFY2011 (the most recent year for which data are available), the national retailer violation rate was 8.5 percent—the lowest in the history of the Synar program.²³ New York City also recently reported its lowest retailer violation rate to date—8 percent for FFY2012.²⁴ 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.²⁵ 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.²⁶

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.²⁷ 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.²⁸

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.²⁹

In New York City, the percentage of high school students who report getting cigarettes from someone else increased from 40 percent in 1997 to 52 percent in 2011, making it the most common source of cigarettes for New York City youth today.³⁰

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 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.³¹ It is also a time when the industry tries to deter cessation and recapture recent quitters.³²

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.³³ 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."³⁴

"...[t]he number one priority for 1990 is to obtain younger adult smoker trial and grow younger adult smoker share of market."³⁵

"To stabilize RJR's share of total smokers, it must raise share among 18-20 from 13.8% to 40%...ASAP."³⁶

*"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]³⁷*

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."³⁸

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:

- 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.³⁹
- 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.⁴⁰
- 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.⁴¹
- 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).⁴²

Campaign for Tobacco-Free Kids, April 30, 2013

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

² U.S. Centers for Disease Control and Prevention (CDC), "Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses – United States, 2000-2004," *Morbidity and Mortality Weekly Report (MMWR)* 57(45), November 14, 2008 <http://www.cdc.gov/mmwr/PDF/wk/mm5745.pdf>.

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- ⁵ American Lung Association, State Legislated Actions on Tobacco Issues (SLATI), <http://www.lungusa2.org/slati/>.
- ⁶ Nassau County Administrative Code, December 31, 2010, http://www.nassaucountyny.gov/website/GenericServices/docs/NassauCountyAdminCode_Dec2010.pdf. Onondaga Local Law Filing, January 12, 2009, <http://www.nysac.org/legislative-action/documents/ProhibitingSaleofTobaccoProductsforAnyoneUnder19Onondaga.pdf>. Suffolk County Code, January 3, 2005, <http://ecode360.com/14948475>.
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- ⁹ 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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- ¹¹ 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 1):i60 – i70, 2003.
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