

Testimony
House Bill 1078
Senate Judiciary Committee
March 17, 2015; 8:30 a.m.
North Dakota Department of Health

Good morning, Chairman Hogue and members of the Senate Judiciary Committee. My name is Krista (Headland) Fremming, and I am the Director of the Chronic Disease Division at the North Dakota Department of Health (NDDoH). I am here today to provide testimony on House Bill 1078.

HB 1078 addresses the sale and use of nicotine devices, or electronic smoking devices, by minors. The NDDoH is concerned about the rising use of electronic smoking devices, and particularly about the increase in use of these devices in children and teens. From 2011 to 2013, the rate of North Dakota high school students who reported trying electronic smoking devices nearly tripled, increasing from 4.5 percent to 13.4 percent. High school students who have tried electronic smoking devices are twice as likely to try conventional cigarettes.

Section 1 of the bill defines “nicotine devices” and adds them to the list of nicotine items that cannot be sold to minors. The NDDoH feels that nicotine devices should be defined in this bill as tobacco products because the nicotine contained in them is derived from tobacco plants. Defining nicotine devices as tobacco products would allow the state to treat and regulate the sale of these products to minors in the same way the state treats and regulates the sale to minors of other tobacco products, such as conventional cigarettes. This would include requiring stores to carry a tobacco retailer license to sell nicotine devices and other electronic smoking devices. Currently, 17 cities in North Dakota use a tobacco definition to define nicotine devices/electronic smoking devices.

The NDDoH also recommends that nicotine products approved by the Food and Drug Administration (FDA) for tobacco cessation, such as nicotine patches and gum, be excluded from the definition of nicotine devices.

Section 2 of the bill prohibits the sale of nicotine devices through vending machines and specifies that a salesperson must control the dispensation of nicotine devices if they are sold in a store that allows minors. Requiring salesperson-assisted sales, which occur when the products are behind the counter away from direct consumer access, is important because minors cannot readily see the trendy and appealing marketing and cannot handle the products prior to purchase. These

limitations on access and visual appeal have been shown in numerous studies to be a predictor of youth tobacco use.

The NDDoH recommends adding requirements for child-resistant packaging into this bill to help prevent nicotine-related poisonings. The candy-like flavors added to the fluid used in nicotine devices and other electronic smoking devices attract young children and make it more likely that children will consume the fluid. The fluid can be extremely toxic when consumed in fluid form instead of in vapor form. From 2012 to 2013, poison control centers in the United States reported a 219 percent increase in exposures to electronic smoking devices and liquid nicotine. More than half of the reported exposures occurred in children under age six.

In summary, the NDDoH supports the intent of House Bill 1078 to restrict sales of nicotine devices to minors and prohibit their sale through vending machines. The department has concerns, however, with the current definition of nicotine devices, as they should be classified as tobacco products. The department feels that FDA-approved nicotine products should be excluded from the definition because they are used as cessation aids and their safety and efficacy is proven. The NDDoH also feels it is important to require salesperson-assisted sales for nicotine devices in any store that allows minors, because it would limit the marketing of these products to youth. Finally, adding requirements for child-resistant packaging would help prevent nicotine-related poisonings.

This concludes my testimony. I will be happy to answer any questions you may have.