



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

Capitol Update By Senator Howard Marklein September 17, 2021

Continuing to Protect Our Kids from the Dangers of Tobacco and Vaping

For the second session in a row, I introduced legislation with a strong list of bi-partisan co-authors to increase the age for sale, purchase, and possession of cigarettes, nicotine and tobacco products, including vapor products, from 18 to 21. The bill has been nicknamed Tobacco 21.

I reintroduced this bill this session because Wisconsin must pass a law similar to recently enacted Federal law so that our local law enforcement is able to actively enforce the law. Federal law changed on December 20, 2019, prohibiting the sale of tobacco products to any person younger than 21 years of age. Federal law also requires states, within approximately three years, to annually conduct random, unannounced inspections to ensure that retailers do not sell tobacco products to individuals under the age of 21.

Senate Bill (SB) 355 simply updates state statutes to match the federal age of 21. Why does Wisconsin need to update our law, if Tobacco 21 is already the law of the land? State and local law enforcement cannot enforce federal law. Therefore, Wisconsin statutes must be updated to enable Wisconsin law enforcement to be able to enforce the law. Federal law requires compliance checks, or Wisconsin could lose funding from the Substance Abuse and Mental Health Services Administration (SAMHSA) substance abuse grants.

I recognize that there are two different camps when it comes to increasing the age for tobacco, nicotine and vaping products. I understand the rationale that a legal adult should be able to purchase these products when they turn 18. However, I am also extremely concerned about the proven fact that we have high school and even middle school kids accessing these products from friends and siblings. This law change may not entirely solve the problem, but it is a reasonable action to protect our kids.

Between 2017 and 2018, the use of vaping products increased by 78% for high school students and by 48% among middle school students, according to figures from the Food & Drug Administration (FDA). Studies have shown nearly 40% of 12th graders report using a vaping product in the past 12 months.

The vast majority of high school and middle school students obtain vaping products from social sources, such as a classmate, friend or sibling. Obtaining the products has proven far too easy for youth, in part because 80% of their classmates turn 18 before they graduate. Parents and educators across the state have passionately voiced their concerns about the prevalence of youth vaping at listening sessions and have urged lawmakers to take action.

The increase to age 21 will help ensure fewer social access points to the products in high schools, while aligning e-vapor and tobacco products with other adult products, including beer, wine and distilled spirits. It is true that in most circumstances, the age of 18 is accepted as the entry point to adulthood. However, I believe those concerns are outweighed by the public health consequences of youth vaping.

I am also very concerned about the potential for illegal drugs and narcotics to be added to vaping products with – or without – the consent and knowledge of a user. We are already seeing this issue manifest in emergency rooms and hospitals throughout the state. Teenagers, who acquire their vaping products from others, may be more subject to this type of threat to their health and well-being. With all that said, we should align Wisconsin law with federal law to enable our local law enforcement to enforce the law.

This bipartisan legislation has broad support that includes Altria Client Services, Association of Wisconsin School Administrators, Badger State Sheriffs' Association, DCI Group AZ L.L.C., JUUL Labs, Inc., Kwik Trip Inc., Metropolitan Milwaukee Association of Commerce, RAI Services Company, Wisconsin Association of Distributors, Wisconsin Association of School Boards, Wisconsin Association of School Business Officials, Wisconsin Association of School District Administrators, Wisconsin Association of School Personnel Administrators, Wisconsin Chiefs of Police Association, Wisconsin Council for Administrators of Special Services, Wisconsin Grocers Association, Wisconsin Manufacturers & Commerce, Wisconsin Petroleum Marketers & Convenience Store Association, and Wisconsin Sheriffs and Deputy Sheriffs Association.

SB 355 has passed the Senate Committee on Judiciary and Public Safety. The Assembly version of this bill, authored by Representative John Spiros (R-Marshfield) is awaiting a hearing in the Assembly Committee on Substance Abuse and Prevention. I am proud to be part of the solution to this growing problem in our state and will continue to work with my colleagues to move the Tobacco 21 bill through the legislative process.

For more information and to connect with me, visit my website <http://legis.wisconsin.gov/senate/17/marklein> and subscribe to my weekly E-Update by sending an email to Sen.Marklein@legis.wisconsin.gov. Do not hesitate to call 608-266-0703 if you have input, ideas or need assistance with any state-related matters.

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