



TO: Representatives  
 DATE: February 17, 2020  
 RE: Assembly Substitute Amendment 1 to Assembly Bill 422

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Youth use of e-cigarettes has substantially increased and is a serious public health threat. We must enact strong regulation to reduce youth access to these products. We support the original bill— Assembly Bill 422— but we have significant concerns with the substitute amendment. It excludes certain products, raises potential enforcement challenges, and does not apply to all retailers equally. **We urge you to amend the bill to include all vapor products and all retailers, as the original bill did. Without these provisions, the bill should not be supported.**

The substitute amendment makes three changes to the original bill, AB 422.

- 1.) **Instead of raising Wisconsin’s minimum sales age for tobacco to 21, it ties Wisconsin’s minimum sales age to the federal minimum sales age, which is currently 21.**

**We support this change**

- 2.) **The substitute amendment excludes “vapor products”.** Vapor products are defined (as created in the 2019-2021 budget) as a noncombustible product that produces vapor or aerosol for inhalation from the application of a heating element, regardless of whether the liquid or other substance contains nicotine. Vapor products were included in the original bill but are not included in the substitute amendment.

**We oppose this change for the reasons listed below**

- 3.) **The substitute amendment only applies to licensed retailers, notably excluding unlicensed vape shops.** The original bill included all retailers, whether licensed or not, that sell cigarettes, other tobacco products or vapor products.

**We oppose this change for the reason listed below**

It is critical all vapor products are included in this policy, even those without nicotine, for two reasons. First, nicotine is not the only harmful substance in vapor products. Users breathe in other chemicals, including diacetyl (a chemical linked to a serious lung disease), cancer-causing chemicals, volatile organic compounds (VOCs), and heavy metals such as nickel, tin, and lead. Youth should not have access to these products, whether or not they contain nicotine.

Additionally, enforcement challenges arise when nicotine and non-nicotine products are regulated differently. It can be difficult for law enforcement to determine which products contain nicotine and which do not, ultimately making their job of implementing this policy very difficult. Kids can simply tell them “there’s no nicotine in it”. Covering all vapor products alleviates confusion and is clearer to enforce.

Lastly, the policy must apply to all retailers equally. We cannot exempt unlicensed vape shops from this policy. Doing so provides an avenue for youth to still access products and further obscures implementation and enforcement in communities.

Proper implementation and enforcement are key in ensuring we obtain the goal of the policy—improved health for our youth and compliance with federal law. **Please amend the substitute amendment to include all vapor products and unlicensed retailers (as the original bill does).**

If you have questions, please contact Nicole Hudzinski, Government Relations Director at the American Heart Association at [nicole.hudzinski@heart.org](mailto:nicole.hudzinski@heart.org) or 608-225-4042.

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