



February 18, 2020

TO: The Honorable William C. Smith, Chair
The Honorable Jeff Waldstreicher, Vice Chair
Members of the Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, MD 21401

FROM: Jocelyn Collins, Maryland and DC Government Relations Director
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SUBJECT: SB 508 St. Mary's County—Possession of Tobacco Product or Electronic Smoking Device by an Individual Under the Age of 21 Years—Prohibition

Position: **OPPOSE**

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 the death and suffering from cancer including policies targeted at reducing tobacco use. ACS CAN **OPPOSES** SB 508, as evidence does not support effectiveness of penalizing youth purchase, use, and possession of tobacco products including electronic smoking devices.

Penalties for youth for purchase, use, and possession may divert attention from more effective tobacco control strategies and relieve the tobacco industry of responsibility for its marketing practices and retailer's irresponsible sale to minors. Further, these laws have been found to disproportionately impact minorities, specifically communities of color, the LGBTQ communities, and communities of lower socioeconomic status.

Some states passed PUP laws with the intention of reducing youth smoking by making kids more personally responsible for buying and using tobacco products. Penalizing children, however, has not been proven to be an effective strategy for reducing youth smoking; and some experts argue that PUP laws could actually detract from more effective enforcement measures and tobacco control efforts.¹

PUP laws also unfairly punish and stigmatize children, many of whom became addicted at a young age as a result of the tobacco industry's aggressive marketing to kids. In this way, PUP laws shift the blame away from the industry's irresponsible marketing and retailers' irresponsible sales, to its victims.

¹ Wakefield, M, and Giovino, G, "Teen penalties for tobacco possession, use, and purchase: evidence and issues," *Tobacco Control*, 12(Suppl1):i6-i13, 2003; Jason, LA, et al., "Youth Tobacco Sales-to-Minors and Possession-Use-Purchase Laws: A Public Health Controversy," *J Drug Education*, 35(4):275-290, 2005.

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, unannounced compliance checks on retailers, and signage. The current Tobacco 21 law does this, and ACS CAN encourages ongoing retailer compliance checks and active enforcement.

Additionally, SB 508 provides an exception for active duty military who presents a valid military identification. However, on December 20, 2019, United States President Donald J. Trump signed legislation amending the Federal Food, Drug, and Cosmetic Act, and raising the federal minimum age for sale of all tobacco products from 18 to 21 years. It is now illegal for a retailer to sell any tobacco product—including cigarettes, cigars, and e-cigarettes—to anyone under 21. The new federal minimum age of sale applies to all retail establishments and persons with no exceptions.

Again, rigorous enforcement of restrictions against sales to minors is critical to minimizing the accessibility of tobacco products and, ultimately, reducing youth tobacco use. We ask the committee for an **unfavorable report** on this legislation.