

PRIDE OPERATING, LLC

December 10, 2024

Town of Belchertown
Board of Health
c/o Andrea Crete, RS MPH
Director of Public Health

RE: Proposed Revisions to Sale of Tobacco and Vape Products

Dear Belchertown Board of Health,

Pride Operating, LLC (“Pride”), the operator of a gas station and convenience store at 165 State Street, provides the following comments and response to the Belchertown Board of Health’s proposed regulation changes pertaining to the Sale of Tobacco and Vape Products within the Town of Belchertown. The proposed regulations changes include a proposed definition and potential restriction on the sale of oral nicotine pouches and a restriction of sales to anyone born on or after January 1, 2004. Pride is the holder of one of the five tobacco product sales permits allowed in the Town of Belchertown. Pride also has an off-premises beer and wine sales permit. Pride does not have any violations related to either of those permits. Pride anticipates the proposed regulations may have a negative impact on the business.

Oral Nicotine Pouches

The proposal contemplates three potential restrictions on the sale of oral nicotine pouches: pouches must have a nicotine content less than six (6) milligram per individual pouch; the pouches may not be sold lower than an (unidentified) minimum retail sale price; or oral nicotine *products* (not just pouches) can only be sold in adult-only retail tobacco stores.

Of the three restrictions, a reasonable minimum retail sales price might be the most rational. The Board of Health has previously adopted a minimum pricing structure on cigar sales. The restriction on nicotine content for the pouches may have unintended consequences. It is my understanding the pouches are often viewed as “less harmful” products. If the restriction is imposed, it is possible the consumer will be less likely to pursue this product and seek another alternative. By comparison, the nicotine content in an electronic nicotine delivery system is restricted to thirty-five (35) milligrams in a store that is not adult-only. Restricting the sale to adult-only retail tobacco stores may not be effective either. It is my understanding that Belchertown does not currently have a retail establishment that meets the definition of an adult-only retail tobacco store. As such, the regulation could result in a *de facto* ban on the product in the Town of Belchertown. If a store did open, there would be a lack of competition, and the consumer may still choose a higher nicotine product (either at

another tobacco retailer or by purchasing the higher nicotine electronic delivery product available at adult-only stores.

Belchertown adults who choose to use tobacco products should be able to purchase oral nicotine pouches at the same retailer that sells other tobacco products. Removing nicotine pouches from being available at certain retailer stores in Belchertown may discourage the use of oral nicotine pouches, which are viewed as a less risky product.

Nicotine Free Generation

The regulation proposes to restrict the sale of tobacco sales to individuals born on or after January 1, 2004 (even if those individuals are over twenty-one (21) years old. At this point, anyone over the age of twenty-one who chooses to utilize products with nicotine are well aware of the potential dangers and consequences from using the product. An adult, regardless of what generation they belong to, should have a right to buy legal products at a store and location of their choice. An outright ban on a product for individuals born after a certain date may be an infringement on the rights of those individuals. In addition, any restriction or prohibition on the ability to purchase a product would be better addressed at the state or national level. Trying to enforce such a ban at the municipality level may be less effective if the consumer can simply drive to a town over to purchase the product. The end result will be a cross-border sales increase and a large decrease in sales for retailers in Belchertown.

The enforcement level from a business standpoint, where a consumer would be able to purchase certain age restricted items (beer or wine) and not tobacco products would place an undue burden on the retail worker. If passed, an individual resident of Belchertown over the age of 21 would be allowed to purchase alcohol, cannabis and partake in sports gambling, but prevented from purchasing nicotine products. This does not appear to be the most reasonable approach to addressing the issue. An adult (person over the age of 21) should be able to decide on whether they want to use legal adult products. It is misplaced to expand the role of the Board of Health to deprive certain adults of the right to decide if they want to knowingly engage in the use of tobacco products.

Pride appreciates the Belchertown Board of Health's role and responsibility in protecting public health. Respectfully, the proposed regulation changes are not the most reasonable and rational approach to addressing the regulation of the sale of tobacco products in Belchertown. The current model for tobacco sales in Belchertown is effective. We take pride in how we conduct our business in Belchertown. We appreciate the partnership and work that the Board of Health takes in keeping tobacco out of the hands of minors and increasing public health interests. The proposed regulations do not appear to further those concerns.

Sincerely,

Ruth Ann Lilly

Ruth Ann Lilly
SVP Marketing and Merchandising
RLilly@gpminvestments.com

cc: Steve Williams, Town Manager

Pride Letter to Belchertown BOH (12.10.2024)

Final Audit Report

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