CC: "swilliams@belchertown.org" <swilliams@belchertown.org>, "Mary Grenier" <mgrenier@belchertown.org>
From: "Crete, Andrea" <acrete@townofware.com>
Sent: Wed, 11 Dec 2024 17:38:54 +0000 (UTC)
Subject: Fwd: Testimony in Favor of Nicotine Free Generation Amendment
To: "Belchertown Board of Health" <BelchertownBoardofHealth@townofware.com>

Attachments:Winickoff and Hartman NFG Belchertown BOH letter 12112024.pdf (503.28 KB) Nicotine-Free Generation Frequently Asked Questions and Answers 12062024.docx (38.97 KB)

Sent from my iPhone

Begin forwarded message:

From: Mark Gottlieb <mark@phaionline.org>
Date: December 11, 2024 at 12:31:24 PM EST
To: "Crete, Andrea" <acrete@townofware.com>, "Barlow, Betty" <BBarlow@townofware.com>
Subject: Re: Testimony in Favor of Nicotine Free Generation Amendment
Reply-To: mark@phai.org

.

Belatedly (but hopefully not too late), I would like to share a letter to the Board from two pediatricians who, today, asked me to submit share support for the proposed regulation. Dr. Winickoff and Dr. Hartman were instrumental in developing the Tobacco 21 policy that began in Massachusetts and is now the national standard. They were unaware of the hearing this evening until I spoke with Dr. Winickoff last night in Chelsea when that board approved the policy. I hope this letter can still be shared as well as the attached FAQ.

Thank-you!
--
Mark Gottlieb, Executive Director
Public Health Advocacy Institute
at Northeastern University School of Law
360 Huntington Avenue / 117 Cushing Hall
Boston MA 02115
mark@phai.org
www.phai.org
Publications

****

On Mon, Dec 9, 2024 at 5:28PM Mark Gottlieb < mark@phaionline.org> wrote:

> Hello Andrea -
>
> Attached please find my written testimony for the consideration of the Board regarding the proposed amendment to the tobacco ordinance. It also includes a relevant peer-reviewed journal article from October that, I think, is relevant.
>
> I will join the meeting remotely on Wednesday, but I do not expect to ask to speak. If, however, there is a legal question that arises, I am happy to provide any relevant insight I may have to the Board if it wishes.
>
> Thanks!
>
> --
> Mark Gottlieb, Executive Director
> Public Health Advocacy Institute
> at Northeastern University School of Law
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Nicotine-Free Generation Frequently Asked Questions and Answers

Won't youth just go to the next town over?

When Needham Massachusetts became the first town to enact Tobacco 21, opponents of the policy made the argument that youth between 18-21 would just buy from the next town over. Yet following the passage of Tobacco 21, Needham witnessed over a 50% decrease in high school smoking. The percentage of high schoolers who smoked declined at nearly triple the rate in Needham compared to surrounding towns that had not adopted the policy (Winickoff 2014; Schneider 2016). Decreasing access to tobacco in even one town has been proven to work.

Doesn't NFG take away free choice for adults? Doesn't it infringe on personal rights?

The tobacco industry likes to frame NFG as a free choice issue. However, 95% of tobacco use begins before the age of 21, and 99% before 26. Early tobacco use is more likely to lead to addiction, which by definition means the loss of free choice. There is no free choice when addiction drives desire. Tobacco is not a freedom, it is an addiction to nicotine and a burden—just ask people who use tobacco. Do they smoke because they want to, or because they need to? Almost all current smokers wish they had never started. People who are addicted to nicotine continue to use tobacco not because they enjoy it but because they are treating the intolerable negative effects of nicotine withdrawal whenever the level gets too low in their brain.

Because tobacco has been sold legally for so long, it's understandable why it might feel like a right or freedom. However, halting the sales of lead paints, asbestos, or FDA-banned supplements for public health reasons obviously don't take away any "personal rights." Tobacco has caused the greatest health detriment of any consumer product in history, causing more annual deaths than AIDS, alcohol, care accidents, illegal drugs, murders, and suicides combined. NFG does not take away personal rights or freedoms, it phases out the sale of a dangerous and addictive product over years.

Is NFG constitutional?

Nicotine is not a constitutional right. The Massachusetts Supreme Judicial Court upheld the legality of NFG policy in Brookline, affirming that it was "not inconsistent with the Constitution" and was "rationally related to the town's legitimate interest in mitigating tobacco use overall and in particular by minors" (see Six Brothers Inc. v. Town of Brookline pg. 11 and 32).

Doesn't NFG split adults into two groups? Why are we judging who is "adult enough" to buy nicotine?

It is important to remember that tobacco products are dangerous at all ages; there is no safe age of nicotine sale. NFG recognizes that tobacco industry nicotine is a harmful and highly addictive product that should not be sold to anyone: it's not about who is an adult or not. The goal of the cutoff date is to ensure a smooth, practical transition to a nicotine-free future. The distinction NFG makes is rational, because it allows sale to individuals already using nicotine, and curtails sales to those too young to be using at the time the law is passed. This approach avoids a black market, safeguards future generations from addiction, gives retailers time to adjust, and continues nicotine access for current users.

What about veterans?

Men and women who serve in the United States armed forces have greater military readiness, including increased stamina, fitness, and work capacity, when they do not use tobacco products. (Institute of Medicine 2009). Additionally, non-users enjoy superior wound healing so they can get back faster after injuries (Silverstein 1992) and are nearly twice as likely to successfully complete basic training (Klesges 2000). NFG will improve our military readiness over time because fewer and fewer recruits will use tobacco products. Someone who is addicted to tobacco will have more trouble hauling gear over distance due to their diminished lung capacity. NFG does not change current veterans' access to tobacco in any way. Rather, it aids the creation of a stronger and more resilient American fighting force. Tobacco causes more deaths each year in the United States than the number of US soldiers who died in all of WWII.

What about young people who have already been trapped by their tobacco addiction? What happens to them with NFG?

Over time, there will be fewer and fewer users who fall into this category. However, safe and effective FDA-approved nicotine (NRT) is available throughout Massachusetts over the counter and is covered by all Massachusetts insurance programs. In addition, the MA quitline gives away free NRT as part of their program. As an outcome of NFG, those who are already addicted to tobacco products will now use safe and freely available FDA-approved nicotine, retaining more money to spend on basic necessities, experiencing a lower incidence of disease, and living longer, more productive lives.

What about those who smoke and want to switch to less harmful forms of nicotine like e-cigarettes?

NFG prevents addictive products from falling into the hands of those who have never tried nicotine, and doesn't limit access for those who already smoke. While established cigarette smokers may switch to e-cigarette products in an effort to reduce their risk of health complications, young adults and adolescents covered by NFG policies are commonly becoming addicted to nicotine by those same vape products. NFG retains alternatives for current combustible tobacco users who might seek harm reduction through vapes, while limiting the most common source of youth nicotine initiation and use (Centers for Disease Control and Prevention 2023, American Lung Association 2024).

Will a "Black Market" develop?

NFG doesn't create additional black market sales. In fact, the policy attempts to avoid further black market nicotine, because current users can continue to legally be sold nicotine, and therefore have no need to turn to a black market. NFG also prevents future generations from becoming addicted, gradually shrinking the dependent user base the black market relies on. Reducing demand for nicotine products means reducing black market sales. A 2015 study found that banning menthol cigarettes resulted in no surge in illicit cigarettes. NFG is even safer than menthol bans because it never removes access to nicotine where a demand exists. NFG allows safe, FDA approved nicotine to be sold over the counter in the form of nicotine patches, nicotine gum, and nicotine lozenges. These forms of nicotine have low addictive potential because of the slow onset of their effect. Keeping these slow release forms of nicotine on the market is important so that people who are addicted to tobacco products can continue transitioning to safer, FDA approved products.

Isn't NFG like Prohibition?

NFG is nothing like Prohibition. Prohibition fueled a massive Black Market because it immediately removed access to a substance that at least half of the adult population wanted to use. It removed the supply of alcohol while demand remained high, creating a huge economic incentive for illegal sales. On the other hand, NFG naturally reduces nicotine demand over time by preventing those under a certain age from becoming addicted. Additionally, NFG never removes the nicotine access of current users like Prohibition did, preventing any increase in illegal sales. In addition, safer FDA approved nicotine will continue to be available.

How can I support this while Marijuana access is increasing, etc.? What about existing tobacco control programs

Nicotine-Free Generation addresses the specific issue of nicotine use, and does not hinder other public health initiatives in any way. Supporters of NFG recognize that nicotine is uniquely dangerous and addictive, and that the policy offers a practical way to prevent tobacco-related deaths among the next generation. Additionally, as NFG starts to reduce the scope of the tobacco issue, it will allow more public health resources to be allocated towards addressing other problems over time.

Why don't we just wait for the State or the Federal Government to enact NFG?

Historically, local tobacco control regulation has led to state level action. The more cities and towns that pass Nicotine Free Generation, the greater the chance that a state level bill will pass and protect the entire state. In the case of Tobacco 21 and the state flavor restriction law, over 100 cities and towns in MA passed their regulations before state laws was passed. Tobacco 21 won federal passage after 19 states passed their own laws. Flavor restriction bills are also following the lead of Massachusetts and spreading across the country. Local action first is the primary way that state and federal bills gain traction. In summary, putting a local regulation in place now will help make a state law possible and will protect your community sooner than waiting for any potential state or federal action in the future.

Is NFG too experimental? Is it actually being considered anywhere else?

NFG is innovative, and builds on the success of tobacco age restrictions such as Tobacco-21. Though it is a relatively new approach, NFG has already received serious consideration globally. British Prime Minister Sunak proposed an NFG law in 2023, which received endorsement from King Charles and the Opposition Party. In New Zealand, NFG was nearly enacted on a nationwide scale until a new government came in and succumbed to tobacco industry pressure in early 2024. Bills have been forwarded in California, Hawaii, Minnesota, the Philippines, Singapore, Malaysia, Denmark, Spain, France, and the European Union. Nine towns in Massachusetts have already adopted the policy, likely with more to come following the MA Supreme Judicial Court ruling that upheld the policy in Brookline. Policymakers everywhere are recognizing the effective approach and public benefit that NFG provides.

Will NFG hurt small-business retailers?

Nicotine-Free Generation laws are gradual, and the market for tobacco will only decline gradually each year. Most retailers won't see a difference for years. The policy provides time for retailers to develop their business model so as to not depend on selling a harmful and exploitative product. Since Brookline enacted their policy in 2019, not a single tobacco retailer has gone out of business.

Why are we preventing nicotine from being sold to adults? Shouldn't we focus on youth use?

NFG aims to tackle youth nicotine addiction first, by preventing youth from ever trying nicotine and becoming addicted. 99% of smokers start before they are 26 (2014 Surgeon General Report). The tobacco industry relies on older peers sharing and distributing tobacco to youth. Over time, youth will be further removed in age from anyone who can be sold nicotine legally and any peers who use. The 2024 Surgeon General Report states that endgame efforts to eliminate tobacco-related disease, disability, and death should create opportunities and conditions for all people to live healthy lives that are

free from commercial tobacco.[1]

Are there equity issues to consider with NFG?

Tobacco product use is highest among lower income and other disadvantaged populations. Tobacco product addiction itself can worsen the cycle of poverty for families because each pack of cigarettes for example costs over $10. Nicotine addiction takes no days off, therefore the pack a day smoker spends over $3,500 on their nicotine addiction after taxes instead of better food, clothing, and rent for their family. In addition, tobacco retailer density tends to be highest in poorer neighborhoods, placing those community members at higher risk of exposure to advertising and greater access to unsafe products. These facts make tobacco use an equity issue and protecting the next generation from worsening economic and health harms due to nicotine will disproportionately benefit disadvantaged groups.[1]

How does NFG help level the playing field with municipal employment opportunities?

Tobacco use is prohibited in all basic military, police, and fire fighter training programs.[2] For a person to get to be one of these respected members of our communities they cannot be addicted to tobacco products. Fire fighters and police officers cannot be smokers and keep their jobs, it is prohibited by law.[3] Therefore, NFG is an important step toward these high paying and upstanding opportunities to be fully available for all our community members.

Suggested Citation for this NFG FAQ: Savage T., Ishak A., Silbaugh K., Chadwick G., Hartmann L., Gottlieb M., Buzby M., Winickoff JP. Nicotine-Free Generation Frequently Asked Questions and Answers. Version 12072024

Other ideas for inclusion:

Economic argument… consider keeping that money in the community rather than funding factories in China where much of the newer tobacco product is created.

1. U.S. Department of Health and Human Services. Eliminating Tobacco-Related Disease and Death: Addressing Disparities—A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2024. ↑

2. DOD: https://www.militaryonesource.mil/military-basics/new-to-the-military/what-to-pack-for-basic-training/ [militaryonesource.mil]; https://msptrooper.org/wp-content/uploads/2016/04/Ma-State-Police-Rules-and-Regulations-Combined.pdf [msptrooper.org]; https://www.franklinma.gov/sites/g/files/vyhlif10036/f/uploads/academy-trained-patrol-officer-posting-11-19-24.pdf [franklinma.gov]; https://www.mass.gov/doc/career-recruit-rules-regulations-11-3-2021-3/download [mass.gov] sectiion II. D ↑

3. https://casetext.com/statute/general-laws-of-massachusetts/part-i-administration-of-the-government/title-vii-cities-towns-and-districts/chapter-41-officers-and-employees-of-cities-towns-and-districts/section-41101a-police-officers-or-firefighters-tobacco-smoking [casetext.com] ↑

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Jonathan P. Winickoff, M.D., M.P.H.
Professor of Pediatrics

December 11, 2024

Dear Belchertown Board of Health,

We urge your support of the proposed Nicotine Free Generation (NFG) regulation to phase out the sale of tobacco products.

As Massachusetts pediatricians, we have treated many hundreds of young patients suffering from tobacco use disorder that has negatively affected their developing brains and robbed them of their agency and, too often, the opportunity to enjoy the natural vitality of youth. The Surgeon General has compared the addictiveness of nicotine to heroin and cocaine. Few substances create a such a strong withdrawal effect, rapid dependence, and tolerance like nicotine.

Nicotine up-regulates acetylcholine receptors in the nucleus accumbens and prefrontal cortex that is associated with compulsive use and reduced interest in non-drug rewards. The reinforcing effects, produce both euphoric sensations and a strong dopaminergic response. Developing brains are uniquely susceptible to even low levels of nicotine and exposure to nicotine in youth may lead to lasting brain changes.[1] Nicotine itself is associated with worsening depression, anxiety, ADHD, and suicidal ideation.[2] Nicotine exposure, particularly in adolescence, also increases transcription of proteins that potentiate reward from other addictive substances such as cocaine, opioids, alcohol, and methamphetamine, accelerating addictive processes with these drugs, consistent with a gateway-drug effect.[3] The tobacco industry knows that people who use one starter nicotine

[1] Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health Full Report | SAMHSA Publications and Digital Products

[2] Tervo-Clemmens B, Gilman JM, Evins AE, et al. Substance use, suicidal thoughts, and psychiatric comorbidities among high school students. *JAMA Pediatr*. 2024;178(3):310-313.

[3] Levine A, Huang Y, Drisaldi B, et al. Molecular mechanism for a gateway drug: epigenetic changes initiated by nicotine prime gene expression by cocaine. *Sci Transl Med*. 2011;3(107):107ra109.

product will then be much more likely to use other nicotine products, including cigarettes. Smoking itself causes 490,000 deaths in the United States each year.[4]

The vaping crisis among adolescents has reversed some of the important progress achieved over decades to get kids into adulthood tobacco-free. If a young person can make it to the age of 26 tobacco-free, the chance that they will initiate after that age is incredibly small, <1%.[5]

We worked to urge cities and towns to raise the minimum tobacco sales age to 21 and to remove the flavored products that appeal to youth. We still see many adolescents who come for their annual check-up addicted to e-cigarettes or nicotine pouches after just a few weeks of use. One of the greatest regrets of almost all adult tobacco users is that they ever started to use tobacco. Many people have a grandparent, parent, uncle, or aunt whose life was taken by use of tobacco products and we honor them by preventing this harm in other families.

In considering NFG, you have an opportunity to make an enormous difference to protect the health of the next generation in your community. The regulation before you will not only phase out the sales of tobacco products so that the next and subsequent generations won't ever be sold tobacco products here, but, over time, it will dramatically reduce the availability of tobacco products to young people from non-retail sources such as older peers. In fact, more than half of underage access to tobacco products comes from older peers.[6] By design, the Nicotine Free Generation policy will increase the age gap between young people and those who may be sold tobacco products.

Nicotine free generation works at the local level to decrease access to the commercial tobacco products that addict people who have not yet started to use tobacco. In this way, it preserves the freedom of the next generation who is not yet addicted from losing their agency over this addictive substance. NFG will work even when other surrounding cities and towns to your community take longer to enact this policy. We found that when Needham Massachusetts increased its sales age by one year each year to age 21, despite the fact that no other bordering towns took this action, the rate of adolescent smoking dropped by half in Needham—almost no public health approach works that well.[7]

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[4] U.S. Department of Health and Human Services. Eliminating Tobacco-Related Disease and Death: Addressing Disparities—A Report of the Surgeon General: Executive Summary. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2024.

[5] Preventing tobacco use among youth and young adults: a report of the Surgeon General. Atlanta, GA.: Dept. of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health; Washington, D.C.: For sale by the Supt. of Docs., U.S. G.P.O., 2012.

[6] Meyers MJ, Delucchi K, Halpern-Felsher B. Access to Tobacco Among California High School Students: The Role of Family Members, Peers, and Retail Venues. J Adolesc Health. 2017 Sep;61(3):385-388. doi: 10.1016/j.jadohealth.2017.04.012. Epub 2017 Jul 14. PMID: 28712593; PMCID: PMC5610576.

[7] Winickoff JP, Gottlieb M, Mello MM. Tobacco 21--an idea whose time has come. N Engl J Med. 2014 Jan 23;370(4):295-7. doi: 10.1056/NEJMp1314626. Epub 2014 Jan 8. PMID: 24401021.

Over time, all of Needham's neighboring towns enacted Tobacco 21. One single community's action paved the way for a state level bill and eventual passage of the national Tobacco 21 law in 2019. Momentum for Nicotine Free Generation has now been passed by 9 cities and towns since the Massachusetts Supreme Court ruled that it was constitutional in 2024.

The rationale for NFG is simple. For example, five years after the enactment of this policy the difference in age between a high school junior and a person eligible to be sold tobacco products will increase from five to 10 years. Ten years in, the difference in age will be 15 years, which is well-beyond the age range of peers or even most siblings. This policy is a backstop to end youth tobacco dependence in a gradual and controlled way that won't leave anyone who is currently being sold tobacco without an option, won't take a single current customer away from the stores that sell these products, and yet will bring about a profound change that will greatly benefit this community's health. In Brookline, which enacted NFG several years ago, not a single business that sells tobacco products has closed.

The tobacco industry sells products designed to addict users after just a few uses. These products are unhealthy and dangerous for anyone. The nicotine levels present in currently available tobacco industry products are increasing in strength. Newer disposable devices with a 10-mL well of 5% nicotine (500-600mg/device) e-juice deliver the nicotine equivalent of more than 10 packs of cigarettes.[8] For adults, tobacco is not a freedom, it is an addiction and a burden—just ask people who use tobacco. Do they smoke because they want to, or because they need to? The NFG policy is about creating a freedom from tobacco for every member of the community who would never choose to become addicted to a deadly and expensive product for life.

Other products such as lead paint and asbestos have been banned to protect public health. NFG is not an immediate ban of nicotine, it is a gradual phase out of highly addictive and harmful nicotine in the commercial marketplace. FDA regulated nicotine will still be available for sale in pharmacies over the counter, through the Massachusetts Quitline, and for free by prescription to help everyone who wants to cut down or make a quit attempt to stop the use of the harmful tobacco industry products.

Tobacco has caused the greatest health detriment of any consumer product in history, causing more annual deaths than AIDS, alcohol, car accidents, illegal drugs, murders, and suicides combined.[9] Tobacco causes more deaths each year in the United States than the number of US soldiers who died in all of WWII.[10] NFG does not take away personal rights or freedoms, it phases out the sale of a dangerous and addictive product over years. NFG is actually all about protecting the next generation and all future generations from the known

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[8] Prochaska JJ, Vogel EA, Benowitz N. Nicotine delivery and cigarette equivalents from vaping a JUULpod. *Tob Control.* 2022;31(e1):e88-e93.

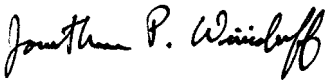
[9] HHS, The Health Consequences of Smoking – 50 Years of Progress A Report of the Surgeon General, 2014, https://www.cdc.gov/tobacco/sgr/50th-anniversary/index.htm;

[10] John W. Chambers, II, ed. In chief, he Oxford Companion to American Military History. (Oxford University Press, 1999, ISBN 0-19-507198-0), 849.

harms caused by the impact of nicotine dependence on the mental, physical, and financial health of our population and of our community. The value of this freedom from tobacco dependence will be immeasurable.

We hope you will support this version of the future with your vote.

Sincerely,



Jonathan P. Winickoff, MD, MPH, FAAP
and Lester Hartman MD, MPH, FAAP