

Crete, Andrea

From: Crete, Andrea
Sent: Tuesday, November 12, 2024 3:40 PM
To: Belchertown Board of Health
Subject: FW: Belchertown TFG comments (10/31 draft attached)
Attachments: Wood_Tobacco mythbusting - not driver foot traffic retail_TobControl20.pdf; Frequently Asked Questions Answers (1) (1).docx; NFG MA One Page Savage et al 08132024.pdf

Good afternoon, please see the attached information from Anthony. Anthony Ishak is a practicing clinical pharmacist in primary care at Mass General Hospital. Tobacco lobbyists like Stephen Helfer who was allowed to speak at the Board of Health meeting does not have the credentials in any sort of health care / public health to be educating or advising the Board of Health on it's decisions on tobacco control policies. Tobacco lobbyists do not have the best interest of your residents at heart, and solely strive to thwart local Board of Health tobacco control policies that could potentially reduce the sale of tobacco products.

Please see Anthony's email below on those who were in attendance at the last meeting who joined remotely.

From: Anthony Ishak <aishakpharmd@yahoo.com>
Sent: Thursday, November 7, 2024 11:16 PM
To: mark@phai.org; kenelstein@gmail.com
Cc: Kate Silbaugh <kbsilbaugh@gmail.com>; khoag@belchertownps.org; Crete, Andrea <acrete@townofware.com>
Subject: Re: Belchertown TFG comments (10/31 draft attached)

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Ken and Andrea

I've attached a few things for you and your group that might help some of the points you have heard or might hear at the public hearing. Including a study from 2021 that dispels the high figures that business quote in terms of impact of tobacco products on business models. Also, there are 3 speakers that were in the meeting yesterday that represent tobacco lobbying groups though not openly.

Stephen Helfer has been fighting tobacco regs since the 1990s as the leader of Cambridge Citizens for smokers' rights (one has to wonder how he has been able to "volunteer" his time doing this for 30+ years)

Peter Brennan, executive director for the New England Convenience Store and Energy Marketers Association. They are likely behind some of the letters being sent out from convenience stores that are outside of Belchertown (and indeed Mass. in general)

Emily Wieja (also of Cambridge Citizens for smokers' rights, though she won't disclose it so that it sounds like she is separate from Stephen: <https://patch.com/massachusetts/cambridge/cigarette-disposal-new-public-toilet-top-improvements-central-square>)

I would caution for the public hearing that Stephen will intentionally lie (similar to Wednesday night) and often will ask to speak multiple times or interject. I know the chair has the right to recognize speakers, but wanted to raise it now as a warning. Also, at some point he may say that there is a lawsuit going to the Supreme Court of that an appeal of the SJC decision may occur. Both of those are false, the appeal window lapsed so businesses would have to start the process all over again.

Chelsea has their public hearing on the 19th and Needham already had their hearing and will likely be voting on the 22nd. I expect both to pass by your hearing and use the same birthday restriction of 1/1/2004.

As for Zyn use in youth, University of Colorado has an article: <https://news.cuanschutz.edu/departments-of-medicine/health-nicotine-pouches-zyn> and the American Lung Association similarly has an article raising alarm bells: <https://www.lung.org/blog/zyn-nicotine-addiction>

Let me know if there is additional information I can provide.

Anthony

Anthony Ishak Pharm.D. BCPS
he/his/him

On Friday, November 1, 2024 at 05:29:51 PM EDT, Ken Elstein <kenelstein@gmail.com> wrote:

Mark,

Thanks. It seems that if USPS, UPS, and FedEx do not deliver tobacco (right?), then there are limited ways to get it by "mail". I suppose an Amazon-like entity could have their own trucks, but that becomes even more complicated. It seems like a small loophole that is not a big worry at the moment.

I had also seen that the cigarettes needed the tax sticker.

Thank you again.

On Fri, Nov 1, 2024 at 12:25 PM Mark Gottlieb <mark@phaionline.org> wrote:

Hi Ken -

I would summarize the Nicotine Free Generation policy succinctly as:

NFG authorizes retailers to sell tobacco products to anyone who is 21 years of age or older on the effective date. For everyone below age 21 on that effective date, no retail sales of tobacco products are permitted.

In terms of online sales of tobacco products, there are a bunch of different laws, both state and federal, that apply.

- No sales of flavored tobacco products are permitted at retail or online. (Chapter 133 of the Acts of 2019).
- Mail-order or internet sales of electronic smoking devices prohibited unless retailer requires age-verification and signature by person of legal sales age upon receipt. (940 Mass. Code Regs. 21.04(1)(c), (4)(a) (2024)) **I would argue that this would apply to local jurisdictions with NFG in place.**
- Per the federal Jenkins Act, internet cigarette retailers who sell cigarettes to Massachusetts customers are required to:
Register with the Massachusetts Department of Revenue (DOR) and
Report information regarding each sale, including the name and address of the customer.
- The Preventing All Cigarette Trafficking Act (PACT Act) Prohibits mailing of cigarettes, vapes and e-cigarettes, flavored and smokeless tobacco. UPS and Federal Express also ban shipment of such products.. Tobacco mail order and online sellers are required by federal, state, and local laws to meet sales reporting, tobacco product shipping and tax requirements to ensure they are compliant with cigarette regulations.

- Importantly, under the federal PACT Act, common carriers or other delivery services must have the purchaser placing the delivery sale order or another adult sign to accept delivery of the shipping container at the delivery address. They must also obtain proof from the person who accepts delivery of the shipping container—in the form of a valid, government-issued identification bearing a photograph of the individual—that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery. (15 U.S.C. § 376 et seq.) (emphasis added) **This would apply to any local jurisdiction where the NFG is in effect, in my opinion.**

That's a lot to digest but, in short, no flavored products may be sold to anyone in MA online and any tobacco products sold online must be signed for at time of delivery by someone who is legally able to be sold tobacco in that local jurisdiction.

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On Thu, Oct 31, 2024 at 8:21 PM Anthony Ishak <aishakpharmd@yahoo.com> wrote:

Hi Mark and Kate

I am putting you in touch with Ken Elstein, a member of the Board of Health for Belchertown. He is working on a summary for the Select Board meeting on Monday so I wanted to put you in touch in case he had questions in preparation of his summary (draft to be updated attached).

Mark--He asked me if you can buy tobacco products online, perhaps you can weigh-in.
Ken-"See" you Monday/Wednesday.

Anthony

Anthony Ishak Pharm.D. BCPS
he/his/him

----- Forwarded Message -----

From: Ken Elstein <kenelstein@gmail.com>
To: aishakpharmd@yahoo.com <aishakpharmd@yahoo.com>
Sent: Thursday, October 31, 2024 at 05:52:01 PM EDT
Subject: Belchertown TFG comments (10/31 draft attached)