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Wendy Hansbury MPH, RS

Pronouns: she/her/hers ([why pronouns matter](#))

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To The Editor:

Manchester is one of 13 communities to adopt the Nicotine Free Generation (NFG) regulation in 2024. Similar legislation has been introduced to the Massachusetts Senate in January 2025.

There are a lot of opinions about tobacco use and choice. The Board of Health has a goal to [separate nicotine products from our current youth, which has a much higher addiction rate than either alcohol or marijuana.](#)

The Board [believes that a strong policy against/agrees with scientific methods that demonstrate a policy](#) against tobacco use, with the goal of protecting future generations from the significant health hazards and cost, can [break the cycle of nicotine addiction](#). The regulation is tied to a date of birth rather than a specific age. The Massachusetts Supreme Court has upheld the local authority to set a generational tobacco by-law.

Massachusetts General Laws established local Boards of Health to act as agents for the Department of Public Health and the Department of Environmental Protection. Local Boards are deputized to adopt and enforce regulations that protect the health and welfare of residents and the environment. Local Boards of Health adopt minimum state regulations and [may make more restrictive modifications that are appropriate for the Town.](#)

[The Board understands people may be frustrated by the mechanisms employed to protect public health.](#) Tobacco use in Massachusetts is at a historic low of about 13%, but this statistic may not reflect other tobacco/nicotine products such as pouches, little cigars, or e-cigarettes. Use of e-cigarettes and vape products are the highest tobacco product use in MA: 18% of adults aged 18-24 use them and about 5.7% of adults overall.

Youth tobacco/nicotine use by e-cigarette/vape products is increasing and was about 17.6% in 2021.

[Breaking the cycle of addiction](#) is an important use of the Board of Health authority.

The BOH's rationale is to prevent a new generation of tobacco addiction given that tobacco use is the leading cause of preventable death in the United States, cigarette smoking causes diseases of almost every organ in the human body, nicotine is as addictive as cocaine and heroin, and that 99% of smokers try smoking by age 26.

Factors that influenced our discussion and adoption of the MBTS – Regulation (with the NFG - Nicotine Free Generation language included) are:

- “Tobacco product use remains the leading cause of preventable disease and death in the United States. In 2022, 49.2 million (19.8%)—or nearly 1 in 5—U.S. adults reported current tobacco product use.”,
- “Youth and young adult use of tobacco products contributes to future use. This is because nicotine exposure can harm the developing brain and increase the risk for dependence.”, and
- “Public health professionals and researchers have proven longstanding public health strategies can reduce tobacco use. These strategies include: Media campaigns, and Expanded access and availability of treatment and counseling for tobacco dependence.

Tobacco regulation came to the Board's attention in August 2023, when a state agent investigated compliance with tobacco regulations then in place. One of two stores selling tobacco products in Manchester was found to be selling cigarettes to minors. In the process of leveling fines to the store, the regional state regulators discovered that the Manchester tobacco regulation was not in compliance with the current state regulation. Specifically, the Board of

Health was told that the language in the old regulations made it difficult to enforce and that the fine schedule was out of compliance.

The Board of Health held a public hearing on the updated tobacco regulation which included at the Board's discretion the increasing age requirement/"generational ban". Both stores currently selling tobacco products were invited to the meeting. One store choose to participate. The other store asked for an extension of the effective date which was granted. One resident requested a postponement of the vote. No other resident participated. The Board adopted the tobacco regulation. It is important to note that the penalty for noncompliance is a fine and/or suspension of the license. It is also important to note that current legal purchasers of tobacco/nicotine products are not affected by this regulation, so the existing store revenue from such products should not change, since it does not affect existing nicotine users over the age of 21.

The Board of Health always encourages resident comments and participation. There is a petition, signed by 19 residents, to vote at town meeting to remove the "generational ban" language and associated fines and penalties. Based on our mandate for our regulations to be at least equivalent (or more restrictive) than the state regulations, removing the language and fines is not possible by such a petition. In addition, the Board's decision to include the "generational ban" in the regulation is binding at this point, and cannot be removed by a town-meeting petition.

The Board of Health encourages (welcomes?) resident comments and participation. The Board of Health held a public hearing on the corrected tobacco regulation the proposed Nicotine Free Generation regulation. The public hearing for the tobacco regulations was advertised two times

in the Cricket at least two weeks in advance, and the notice was posted on the website. Both stores currently selling tobacco products were invited to the meeting. One store did not choose to participate. The other store asked for an extension of the effective date which was granted. One resident requested a postponement of the vote. No other residents participated. However, attendees from around the state presented arguments both for and against the Nicotine Free Generation ban. The Board adopted the tobacco regulation by a vote of 3 to 1. In order to enforce the regulation, the penalty for noncompliance is a fine or after multiple violations, suspension of the license

The petition to vote at the upcoming town meeting is to remove the fine for noncompliance to the tobacco regulation and leave only suspension of license. The BOH believes that this would weaken the regulation and therefore we are opposed to removing fines. It is also important to note that a town meeting vote is non-binding given that the Massachusetts General Laws structure of the local Board of Health authority requires that a Massachusetts Court determines the validity of a Board of Health decision.

Sincerely,

The Manchester-by-the-Sea Board of Health