

From: [Leah Peavey <leah_capalbo@yahoo.com>](mailto:leah_capalbo@yahoo.com)

To: [Wendy Hansbury <hansburyw@manchester.ma.us>](mailto:hansburyw@manchester.ma.us)

Date: 3/25/2025 2:19:28 PM

Subject: Re: [EXTERNAL] - Re: Tobacco - NFG petition response

Attachments: Tobacco letter with modifications March 25.docx
Tobacco letter with modifications March 25.pages

Hi Wendy-

I ended up working on the tobacco letter too. I felt like the letter as sent to us sounded too confrontational for me. I am not sure my edits are better as I used that as a background. I took a lot of information from your "Petition to Overturn BOH."

If the town supports the ban but just opposes the fines, I am for working with them and try to adjust our fines and not have to go to the town meeting for a vote- that seems sill. But if the town opposes the ban and therefore also opposes the fines but are fighting the fines as a way of fighting the ban and the vote is actually for or against the ban, that is a different scenario.

For example, Needham separates fines for violations of state rules (underage smoking, etc) vs local rules (such as generational tobacco pan as below with the fines lower (\$100 vs \$1000 for first violation). See #2 below for local violations. We could discuss amending our rules to something similar. Maybe lesser fines would be more palatable.

I found it difficult in revising the letter to know the ultimate goal of our letter. I wanted to educate people about the nicotine free generational band- the rationale and purpose from a public health standpoint and the history of how we came to adopt it for this town as I think most people in the town do not know. People who are voting will want background on the issue. People at the town meeting may take the vote to be one on the actual generational ban rather than on the fines. The letter as sent to us seems more focused on the process of making and overturning the law. I think people in town are less focused on that and ultimately more focused on the actual regulation.

I hope you are able to open my document. I did it on "Pages" on my computer and then exported it to "Word." I sent both. I crossed out old words and put in changes in red (you will see a lot copied from your Petition to Overturn BOH." There is a paragraph in green that I had copied that references the Cape Ann Tobacco Policy Program. I added it at the last minute to show we were working with others and do support the retailers but also think we could get by without it.

Likely- my letter is much too long. And without a doubt, Martin's will be the most well written, concise but yet complete.

Thanks!

Leah

On Monday, March 24, 2025, 04:24:20 PM EDT, Wendy Hansbury <hansburyw@manchester.ma.us> wrote:

I admit to being confused about which letter is being worked on, too. Martin sent comments on the tobacco letter, so I guess that is the one we are working on. I'd prefer to keep it positive and angled toward why we think this is important for us to adopt. I don't know exactly what the SB thought, but I believe it is business driven and a don't impinge on my rights as an adult.

Your comments on the Tobacco Letter will be appreciated.

Thanks, Wendy

From: Leah Peavey <leah_capalbo@yahoo.com>

Sent: Monday, March 24, 2025 4:02 PM
To: Wendy Hansbury <hansburyw@manchester.ma.us>
Subject: [EXTERNAL] - Re: Tobacco - NFG petition response

Hi Wendy,

Ok- never mind this email- I will send you comments/edits tomorrow. Assuming the working document is the "Tobacco Letter?"

I agree with Martin that we should put something in the paper ahead of the town meeting to explain the BOH position and the new regulations as most people may be unaware of it until they see it introduced at the town meeting. Much better to be proactive.

Thanks!

Leah

On Monday, March 24, 2025, 12:15:04 PM EDT, Leah Peavey <leah_capalbo@yahoo.com> wrote:

Hi- Thank you for all of the information and for you and Peter for putting together those letters. Sorry for the delay.

Are you saying that the ultimate decision was made not to send a letter to the Cricket and/pr not to send any information to be published about the recent adoption of our tobacco regulations?

From Ann Harrison's email, it seemed like the conflict was about the generational tobacco ban itself rather than the fines. Do you know if a Manchester resident had forwarded her the email? It had the talking points of Citizens for Adult Choice (which is funded by the New England Convenience Store and Energy Marketers Association).

I liked how the document labeled "Petition to Overturn Local BOH Regulations" included a rationale behind our regulation where as the "Tobacco Letter" is more about the process of passing the regulation itself.

It would help to know the motivation behind bringing it to a vote at the town meeting. Is the intent for it to be a vote against the actual generational ban or just the fines itself? I wish we could have de-escalated this via conversations with the Select Board before bringing it to a town meeting.

Thanks,

Leah

On Thursday, March 20, 2025, 11:08:29 AM EDT, Wendy Hansbury <hansburyw@manchester.ma.us> wrote:

Hello Members of the Board,

Attached are the letters Peter and I wrote to send to the Cricket. Also attached is a document with some of the comments from Peter and I in email exchanges. I hope this isn't confusing, but there was a progression of thought that ended with "no editorial in writing, call the Cricket for an interview".

Any comments can come back to me. I will send out everyone's comments before the meeting next week.

Thank you for your time,

Wendy

Wendy Hansbury MPH, RS

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

Public Health Director

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To The Editor:

This letter is in regards to a recent petition signed by 19 residents of Manchester-by-the-Sea in regards to new tobacco and nicotine regulations adopted by the Manchester-by-the Sea Board of Health In November 2024.

~~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. The state agency drafts regulations. Local Boards of Health adopt the regulation as written by the state or may make the regulation more restrictive but not lessen the regulation.~~

In terms of background, in August 2024 a state agent investigated compliance to the state tobacco regulations. 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 state discovered that the Manchester version of the tobacco regulation was out-dated and not in compliance with the current state regulation. ~~The Manchester tobacco regulation did not prohibit selling tobacco products to minors and the fines were lower than the minimum fines mandated by the state.~~ **The Manchester-by-the-Sea Board of Health** was told to bring our tobacco regulation in compliance with the current state regulation.

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. The state agency drafts regulations. ~~Local Boards of Health adopt the regulation as written by the state or may make the regulation more restrictive but not lessen the regulation.~~ Local Boards of Health must adopt regulations that are at least as stringent as the the regulation as written by the state and can ~~make the regulation more restrictive but not lessen the regulation.~~ **add more restrictive modifications that are appropriate for the Town.**

In developing are draft, we worked with the North Shore / Cape Ann Tobacco Policy Program. The program is funded through the Massachusetts Tobacco Control Program (MTCP) of the Department of Public Health and is part of Smoke Free Solutions North, the MTCP Community Mobilization Network. MTCP was created through a statewide referendum in 1992 and has programs that facilitate smoking cessation and supports retail compliance.

~~The state sent us the current regulation with an advisory that additional amendments may be forthcoming, in particular the clause that increases the age to purchase tobacco products by~~

~~one year each year. There is a bill in the state house to require adoption of this age requirement. Eleven municipalities have adopted the regulation.~~

Several other municipalities ,starting with Brookline, MA in 2021, in updating their respective tobacco regulations included a ban on the sale of nicotine products to anyone born after a certain date with the goal of protecting future generation from the dangers, health hazards, and cost of nicotine addiction.The regulation is tied to a date of birth rather than a specific age. The Massachusetts Supreme Court upheld Brookline’s generational tobacco bylaw and multiple other municipalities followed suit. A member of the Board of Health asked that the proposed Nicotine Free Generation (NFG) regulation, that prohibits nicotine product sales to people born after January 1, 2004, be included for review. It does not affect existing nicotine users over the age of 21.

Our goal is to prevent new users of highly addictive and deleterious nicotine products. The reasoning for the Board to adopt the Nicotine Free Generation regulation include:

- “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.”,
- “Cigarette smoking causes diseases of almost every organ of the human body, including cancer, stroke., Type 2 diabetes, and chronic obstructive pulmonary disease (COPD). Smoking causes cancer of the lung, esophagus, larynx, mouth, throat, kidney, bladder, liver, pancreas, stomach, cervix, colon, and rectum.”
- Nicotine is a highly addictive drug found in tobacco products. As with drugs such as cocaine and heroin, nicotine activates the brain’s reward circuits and reinforces repeated exposure.
- Nicotine exposure can harm the developing brain, which continues to develop into the mid-20’s.
- Nearly 9 out of 10 adult cigarette smokers who smoke daily first try smoking by age 18 and 99% first try smoking by age 26. Therefore, after age 25, almost no smokers began smoking or transitioned to daily cigarettes,
- ~~“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. These measures can be coordinated with tobacco prevention and control policies (e.g., price increases, smoke-free policies). Together, they are essential for reducing the toll caused by tobacco product use including disease and death in the United States.”~~

CDC Smoking and Tobacco Use; Current Cigarette Smoking Among Adults in the United States, Sept. 17, 2024. <https://www.cdc.gov/tobacco/php/data-statistics/adult-data-cigarettes/index.html>)

(Centers for Disease Control and Prevention, Office on Smoking and Health Summary of Scientific Evidence: Raising the Minimum Legal Sales Age for Tobacco Products, Feb 2021) <https://www.cdc.gov/tobacco/media/pdfs/2024/07/minimum-legal-sales-508.pdf>)

The Board of Health encourages resident comments and participation. The Board of Health held a public hearing on the corrected tobacco regulation the proposed Nicotine Free Generation regulation. The drafts used during the hearing were provided by the North Shore / Cape Ann Tobacco Policy Program.

The North Shore / Cape Ann Tobacco Policy Program is funded through the Massachusetts Tobacco Control Program (MTCP) of the Department of Public Health and is part of Smoke Free Solutions North, the MTCP Community Mobilization Network. MTCP was created through a statewide referendum In 1992 and has programs that facilitate smoking cessation and supports retail compliance.

The public hearing for the tobacco regulations were advertised two times in the local newspaper 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 resident participated. However, attendees from around the state presented arguments both for and against the Nicotine Free Generation. The Board adopted the tobacco regulation by a vote of 3 to 1. Of note, the penalty for noncompliance is a fine or **after multiple violations, suspension of the license**

Manchester is one of 13 communities to adopt the **NFG regulation**; the others include Brookline, Stoneham, Wakefield, Winchester, Reading, Malden, Melrose, Concord, Chelsea, Belchertown, Needham, and Newton. In addition, state legislation to ban the sale of nicotine products to anyone born after 2005 was introduced in the Massachusetts Senate January 2025.

~~The Board of Health encourages resident comments and participation.~~ 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. It is important to note that this vote is non-binding. 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. ~~The ONLY way to challenge any Board of Health action is through the court system.~~

TECHNICAL COMMENTS ONLY:

2nd paragraph, 2nd sentence – selling cigarettes to minors:

“On Sunday August 13, 2023 the North Shore/Cape Ann Tobacco Policy Program conducted tobacco compliance checks in the Town of Manchester-By-The-Sea.” via email/memo from Joyce Redford, Director NS/CATPP, dated 8/16/23 at 11:44 am.

2nd paragraph, 3rd sentence – did not prohibit selling:

The regulation has always prohibited the sale to minors, it was the fine schedule that was out of compliance with the state.

This was corrected at the 2024 Town Meeting and our June 2024 hearing for Tobacco Regulation update. The NS/CATPP Director noted at that time the local regulation format made it difficult to enforce and asked us to revisit them in the fall of 2024.

3rd paragraph, 1st sentence – increasing the age:

The law would set a date (year) that anyone born after that date would not be able to buy tobacco products.

