

Date February 17, 2021

TO: The Honorable Deb Patterson, Chair  
Senate Committee on Health Care

FROM: Rachael Banks, Director  
Public Health Division  
Oregon Health Authority

SUBJECT: SB 587 Requiring licenses for tobacco and inhalant delivery system  
retailers

Chair Patterson and members of the committee; I am Rachael Banks, Public Health Director at the Oregon Health Authority. I am here to testify in support of SB 587 due to the public health benefit of enacting tobacco retail licensing.

Despite declines in tobacco use, tobacco remains the No. 1 preventable cause of death and disease in Oregon. Tobacco is responsible for killing nearly 8,000 Oregonians each year.<sup>i</sup> In addition, it costs Oregonians \$2.9 billion every year in lost productivity and medical costs.<sup>ii</sup>

The urgency of addressing smoking is only heightened with the COVID-19 pandemic as people who have a history of smoking or are living with a tobacco-related chronic disease are more likely to develop a serious complication if they contract the virus.<sup>iii</sup>

Tobacco companies disproportionately target low income communities and communities of color. The suffering and costs associated with tobacco-related diseases are not experienced equally throughout our communities. Groups with high rates of smoking include Oregonians with low income (30%); less than a high school degree (25%); Oregon Health Plan members (34%); Native Americans and Alaska Natives (30%); and African Americans (25%).<sup>iv</sup> These communities are disproportionately affected by tobacco marketing practices. Combined with historical and systemic discrimination, this industry targeting contributes to health inequities.<sup>v</sup>

In recent years, the public health and medical communities have also been alarmed by the dramatic increase in inhalant delivery system use among youth and young adults. E-cigarette use increased from 13% to 23% among Oregon 11<sup>th</sup> graders from 2017 to 2019, an 80% increase in a 24-month period.<sup>vi</sup> E-cigarettes and vaping are now more popular among youth than cigarettes, little cigars, and smokeless tobacco combined. About one in 20 adults over age 25 uses e-cigarettes<sup>vii</sup>, compared to nearly one in four 11<sup>th</sup> graders.<sup>viii</sup> As such, the U.S. Surgeon General has declared youth e-cigarette use a national epidemic.<sup>ix</sup> These products are setting up a new generation for a lifetime of nicotine and cigarette addiction.

Tobacco retail licensure is a system to enforce laws banning tobacco sales to underage persons and a platform for prevention policies that will have a meaningful impact on health equity as well as youth use of tobacco. Oregon is one of only seven states that does not require tobacco retailers to have a license.<sup>x</sup> A strong licensing system would support enforcement of current tobacco laws, provide a mechanism to educate retailers about how to comply with tobacco regulations, and support Oregon's communities in protecting kids from nicotine addiction.

When used to enforce effective policies, licensing can reduce the number of Oregon children and young adults that become addicted to tobacco, help current tobacco users quit, and reduce health care costs for the State of Oregon. In 2019, 16% of Oregon tobacco retailers inspected by the state, made an illegal tobacco sale to an underage person, and violation rates were higher for products popular among youth. Approximately 40% of all retailers, where persons under 21 can legally enter, are inspected in each cycle. One in five tobacco retailers sold e-cigarettes illegally, and one in four sold cigarillos illegally to underage persons.<sup>xi</sup>

A strong tobacco license system needs to include a few key provisions. First, a strong license has meaningful fees that fully cover all program costs, including administration, inspection, education, and enforcement. This ensures the state can provide culturally appropriate outreach and education to every retailer and inspect retailers regularly to make sure they are following tobacco sales laws.

Second, a strong license includes graduated penalties for the outlet for selling to youth under age 21, up to and including suspending or revoking the tobacco retail license. Removing a retailer's ability to generate revenue from tobacco products is

more effective than a fine for violations. When the Oregon Liquor Control Commission increased enforcement and penalties for licensed cannabis retail stores in early 2018, the sales rate to underage persons dropped dramatically.<sup>xii,xiii</sup>

Third, a strong tobacco license system does not preempt local governments from enacting stronger, tailored policies that reflect community needs and values. Counties such as Multnomah, Clatsop and Klamath are enforcing strong tobacco retail licenses, and Multnomah County has been discussing a ban on flavored tobacco products. Many important public health policies, such as Oregon's Indoor Clean Air Act, started at the local level.

A retail license system that includes the core components creates a straightforward method for identifying businesses that sell tobacco products and managing enforcement of tobacco laws, such as the minimum legal sales age of 21. The Fall 2019 E-cigarette or Vaping Associated Lung Injury (EVALI) public health emergency illustrated the challenges of not having a retailer license. The state was unable to immediately identify and reach all tobacco retailers in Oregon for immediate education and enforcement of the Governor's Executive Orders related to vaping products.

People throughout Oregon support tobacco retail licensing. A recent survey of Oregon adults showed that three out of four support requiring tobacco retailers to have a license.<sup>xiv</sup> Other studies conducted by the Oregon Health Authority found that Oregonians already believe that such a policy is in place to hold retailers accountable for illegal tobacco sales.<sup>xv</sup> Licensing businesses is a common place practice that is already used for business that sell other products, some harmful (alcohol, guns) and some not (Christmas trees). A tobacco retailer license would ensure that a similar standard is in place for tobacco retailers, so that the state can reach retailers with important information about how to operate within the law.

To prevent youth initiation of tobacco and e-cigarettes and make meaningful strides toward addressing health inequities, we need a comprehensive approach. A license provides an expectation of retailers statewide that illegal sales to youth will not be tolerated. It also gives the state the ability to work with retailers quickly to adequately protect the public. This bill sets in motion an effective tool for reducing the number of Oregon children and young adults that become addicted to nicotine. This opportunity can be expanded through local action that is more protective and targets health inequities.

The Oregon Health Authority appreciates this committee addressing tobacco retail licensure. Thank you for the opportunity to testify today. I am happy to answer any questions you may have.

- 
- <sup>i</sup> Oregon Vital Statistics. Oregon Vital Statistics Annual Report: Volume 2. Chapter 6: Mortality, 2018. Unpublished data.
- <sup>ii</sup> Campaign for Tobacco-Free Kids. "The Toll of Tobacco in Oregon," 2019. <https://www.tobaccofreekids.org/problem/toll-us/oregon>.
- <sup>iii</sup> Coronavirus Disease 2019 (COVID-19). Centers for Disease Control and Prevention, October 6, 2020. <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.
- <sup>iv</sup> Oregon Health Authority, Public Health Division, Health Promotion and Chronic Disease Prevention section. Oregon Behavioral Risk Factors Surveillance System. Unpublished data.
- <sup>v</sup> U.S. Department of Health and Human Services. "The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General, 2014 | SurgeonGeneral.Gov," 2014. <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/index.html>.
- <sup>vi</sup> Oregon Health Authority. Oregon Healthy Teens (OHT), 2017 - 2019. [https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/CHRONICDISEASE/DATAREPORTS/Documents/datatables/ORAnnualOHT\\_Tobacco.pdf](https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/CHRONICDISEASE/DATAREPORTS/Documents/datatables/ORAnnualOHT_Tobacco.pdf)
- <sup>vii</sup> Oregon Health Authority, Public Health Division, Health Promotion and Chronic Disease Prevention section. Oregon Behavioral Risk Factors Surveillance System, 2018.
- <sup>viii</sup> Oregon Health Authority. Oregon Healthy Teens (OHT), 2019. [https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/CHRONICDISEASE/DATAREPORTS/Documents/datatables/ORAnnualOHT\\_Tobacco.pdf](https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/CHRONICDISEASE/DATAREPORTS/Documents/datatables/ORAnnualOHT_Tobacco.pdf)
- <sup>ix</sup> "Surgeon General's Advisory on E-Cigarette Use Among Youth," 2019, <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>. Accessed January 22, 2019..
- <sup>x</sup> Center for Disease Control and Prevention (CDC). "State Tobacco Activities Tracking and Evaluation (STATE) System, Estimates Are Modified by the Oregon Health Authority Based on Peer-to-Peer Interviews," 2020. <https://www.cdc.gov/statesystem/interactivemaps.html>.
- <sup>xi</sup> Oregon Health Authority. "Oregon Tobacco Retail Enforcement Inspection Results," 2019 2018. [https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/CHRONICDISEASE/HPCDPCONNECTION/TOBACCO/Documents/retail\\_compliance/Enforcement\\_results\\_1819.pdf](https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/CHRONICDISEASE/HPCDPCONNECTION/TOBACCO/Documents/retail_compliance/Enforcement_results_1819.pdf).
- <sup>xii</sup> Oregon Liquor Control Commission. News Release: Retailers Improve in Marijuana Minor Decoy Checks. Available online at: [https://www.oregon.gov/olcc/docs/news/news\\_releases/2018/nr\\_02\\_22\\_18\\_MDO\\_MJ.pdf](https://www.oregon.gov/olcc/docs/news/news_releases/2018/nr_02_22_18_MDO_MJ.pdf). Accessed July 26, 2018.
- <sup>xiii</sup> Oregon Liquor Control Commission. Marijuana Minor Decoy Operations. Available online at: [https://www.oregon.gov/olcc/Pages/reg\\_program\\_overview.aspx#Marijuana\\_Minor\\_Decoy\\_Operations](https://www.oregon.gov/olcc/Pages/reg_program_overview.aspx#Marijuana_Minor_Decoy_Operations). Accessed July 26, 2018.
- <sup>xiv</sup> Oregon Health Authority. Public Health Division. Oregon Health Promotion and Chronic Disease Prevention section. Panel Survey. Unpublished data.
- <sup>xv</sup> Oregon Health Authority. Public Health Division. Oregon Health Promotion and Chronic Disease Prevention section. Prevention Panel Survey. Unpublished data.