

Raising the Minimum Legal Sale Age for Tobacco Products to 21

Report prepared in response to HR 107 of 2018 Legislative Session

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Executive Summary

Tobacco use is the leading cause of preventable death in the United States, killing more than 480,000 people each year (USDHHS, 2014a). Each day, 400 individuals under the age of 18 become smokers and almost one-third will ultimately die from a smoking-related disease (SAMHSA, 2016). Youth and young adults are extremely susceptible to nicotine's addictive effects; therefore, nearly 80% of adolescent smokers transition to regular tobacco use in adulthood (CFTFK, 2018c). Tobacco use duration and intensity are directly related to smoking-related health problems. Youth and young adults who develop a nicotine addiction are at higher risk for long-term health issues such as heart disease, stroke and cancer (USDHHS, 1994).

This report is submitted pursuant to House Resolution (HR) 107 of the 2018 Legislative Session, which was authored by Representative Hoffmann. HR 107 requests that the Louisiana Department of Health continue to study the desirability and feasibility of increasing the minimum age to purchase tobacco products in Louisiana to 21. Below are key highlights from the report:

- Among its youth population, Louisiana tobacco use prevalence is significantly higher than national averages – 28.5% of Louisiana high school students and 14.0% of Louisiana middle school students are current tobacco users (LYTS, 2017), as compared to rates 19.6% and 5.6% nationally (NYTS, 2017).
- From 2017 to 2018, current e-cigarette use has increased by almost 80% among high school students and 50% among middle school students, prompting the U.S. Food and Drug Administration (FDA) to declare that “e-cigarette use among youth has hit epidemic proportions” in September 2018 (FDA, 2018a).
- While data on the impact of raising the minimum legal sale age (MLSA) of tobacco products to 21 is limited due to Tobacco 21 (T21) laws being a relatively new strategy, emerging evidence is promising. A 2015 Institute of Medicine (IOM) literature review found that T21 laws, over time, would result in a 12% decrease in tobacco use, approximately 223,000 fewer premature deaths, 50,000 fewer deaths from lung cancer, and 4.2 million fewer years of life lost for those born between 2000 and 2019 (IOM, 2015).
- In 2007, the National Academy of Medicine (NAM) concluded that comprehensive state tobacco programs can achieve substantial reductions in tobacco use. According to the Centers for Disease Control and Prevention (CDC), there are four evidence-based interventions included in comprehensive state tobacco programs – increasing the price of tobacco products, enacting comprehensive smoke-free policies, funding hard-hitting mass media campaigns and making cessation services fully accessible to tobacco users. Increasing the MLSA to 21 complements, but does not replace, evidence-based tobacco control strategies.
- Members of the Louisiana Tobacco Coalition, Louisiana's group of tobacco control experts, have mixed opinions about 2019 legislation to enact a T21 law. Just over half of the Coalition either would

- not support or is unsure about raising the minimum legal sale age (MLSA) for tobacco to 21 in 2019. However, over 75% of the Coalition would support a T21 proposal in the future.
- Louisiana is one of 19 states that preempts local governments from enacting stricter youth access regulations. Preemptive language at the state level harms tobacco control efforts, as the strongest and most innovative tobacco control policies have emerged at the local level (TCLC, 2014b). Removing the preemption language from LA R.S. 14:91.6 would allow localities to strengthen MLSA laws without restriction. The impact of localities in implementing T21 would help guide the desirability and feasibility of adopting a statewide T21 policy in the future.

Section 1 – Background

MLSA laws for tobacco first appeared in the 1880s (Apollonio & Glantz, 2016), and by 1920 half of the United States had a minimum legal sale age for tobacco of 21 years (Apollonio & Glantz, 2016). Throughout the 20th century, tobacco MLSAs weakened; some MLSAs dropped as low as 16 years (Apollonio & Glantz, 2016). In 1992, Congress passed legislation requiring states to enforce laws prohibiting the sale of tobacco products to individuals under the age of 18. However, states and many local governments have the authority to increase the MLSA for tobacco products. Each day, 400 individuals under the age of 18 become smokers and almost one-third will ultimately die from a smoking-related disease. Raising Louisiana’s MLSA to 21 warrants thoughtful consideration (SAMHSA, 2016).

1.1 – Minimum Legal Sale Age for Tobacco

Youth (those under the age of 18 years old) and young adults (ages 18 to 24) are extremely susceptible to nicotine’s addictive effects. National data shows that almost all (95%) of adult smokers begin smoking before age 21, and about three-quarters first try smoking before age 18. Of those, about 4 out of 5 become daily smokers before age 21; 46% become daily smokers before age 18 (USDHHS, 2014b). This means the 18-to-21 age range is a time when many smokers transition to regular use of cigarettes (CFTFK, 2018a).

Individuals who start smoking at younger ages are among the heaviest tobacco users (USDHHS, 1994). Early age of initiation has been associated with lower rates of smoking cessation (Farber, Pakehale, & Neptune, 2016). The duration (years) and intensity (amount) of tobacco use is directly related to smoking-related health problems, and as a result these individuals are also at higher risk for long-term health issues such as heart disease, stroke and cancer (USDHHS, 1994).

In addition to adverse health effects, research suggests that an MLSA age for tobacco is necessary for three main reasons:

- Young adults are particularly vulnerable to nicotine’s addictive properties,
- Young adults are targeted by tobacco companies, and
- Young adults can be a source of tobacco for youth (Knox, 2017).

Young Adult Vulnerability to Nicotine Addiction

In 2010, it was reported that tobacco has a higher risk of causing addiction than heroin, cocaine, alcohol or cannabis, and every day more than 300 youth who have already experimented with cigarettes become new regular, daily smokers (CFTFK, 2018c). A significant period of biological growth occurs during young

adulthood; therefore, exposure to nicotine can have lasting, harmful consequences on brain development (Knox, 2017). The 2012 Surgeon General Report states:

This earlier age of onset of smoking marks the beginning of the exposure to the many harmful components of smoking. This is during an age range when growth is not complete and susceptibility to the damaging effects of tobacco smoke may be enhanced. In addition, an earlier age of initiation extends the potential duration of smoking throughout the lifespan (HHS, 2012).

In 2015, the National Academy of Medicine (NAM), formerly the Institute of Medicine, similarly reported:

The parts of the brain most responsible for decision making, impulse control, sensation seeking, and susceptibility to peer pressure continue to develop and change through young adulthood, and adolescent brains are uniquely vulnerable to the effects of nicotine and nicotine addiction (IOM Briefing Paper, p. 3).

Therefore, delaying the age that adolescents first experiment with or begin to use tobacco products can reduce the risk that they transition to regular tobacco use as an adult (Knox, 2017). The tobacco industry agrees. In 1982, an R.J. Reynolds Tobacco Company researcher concluded, “If a man has never smoked by age 18, the odds are three-to-one he never will. By age 24, the odds are twenty-to-one” (R.J. Reynolds, 1982).

Furthermore, research shows that adolescents become dependent on nicotine more quickly than adults (Knox, 2017). According to the NAM, several factors increase the likelihood that adolescents’ first experiments with tobacco will progress into regular use:

These factors include the sequence of neurodevelopment in the adolescent years, the unique sensitivity of the adolescent brain to the rewarding properties of nicotine, the early development of symptoms of dependence in an adolescent’s smoking experience (well before reaching the 100-cigarette lifetime threshold), and the difficulties that adolescents have in stopping smoking (IOM, 2015).

The 2015 IOM Report also included mathematical modeling to predict public health outcomes of raising the minimum legal sale age for tobacco products to 19, 21 and 25 years. It found that raising the tobacco MLSA to 21 would result in a 12% decrease in tobacco use, approximately 223,000 fewer premature deaths, 50,000 fewer deaths from lung cancer, and 4.2 million fewer years of life lost for those born between 2000 and 2019 (TCLC, 2016).

Young Adult Targeting by Tobacco Companies

The tobacco industry understands that a successful business model is contingent upon increasing tobacco consumption among young adults. See statements below:

... eighteen to twenty-four year olds will be critical to long term brand vitality as consumption increases with age (U.S. V Philip Morris, USA, Inc., 2006).

... the number one priority for 1990 is to obtain younger adult smoker trial and grow younger adult smoker share of market (R.J. Reynolds, 1990).

To stabilize RJR’s share of total smokers, it must raise share among 18-20 from 13.8%

to 40% ... ASAP (R.J. Reynolds, 1989).

Tobacco companies also realize young adults are especially vulnerable partly due to the natural stresses of life during that time – leaving home, going to college, starting a new job, joining the military, etc. (Knox, 2017). These life stressors add to the desirability of tobacco use, due to the temporary “relief” effects of nicotine. Therefore, tobacco companies heavily target young adults through promotional avenues such as music and sporting events, bar promotions, college scholarships, parties and more (Knox, 2017).

Young Adult Tobacco Sourcing for Youth

In 2014, the national tobacco retailer violation rate was only 9.8% (SAMHSA, 2014). However, according to the 2016 Monitoring the Future Survey, more than 60% of 10th-grade students and almost half of 8th-grade students reported it was easy to get cigarettes (University of Michigan, 2016). This suggests that youth are obtaining tobacco from sources other than tobacco retailers. In Louisiana, about 35% of middle school students and nearly 60% of high school students reported it was somewhat easy to very easy to obtain tobacco products (LYTS, 2017).

Research shows that it is common for youth to obtain cigarettes from peers in their social circle. According to the 2016 Population Assessment of Tobacco and Health study, 75% of current smokers between the ages of 15 and 17 obtain cigarettes from peers. Additionally, data from the 2004 National Survey on Drug Use and Health (NSDUH) showed that 63.3% of youth between ages 12 and 17 who had smoked in the last month had given money to others to buy cigarettes for them, while 62% had “bummed” cigarettes from others.

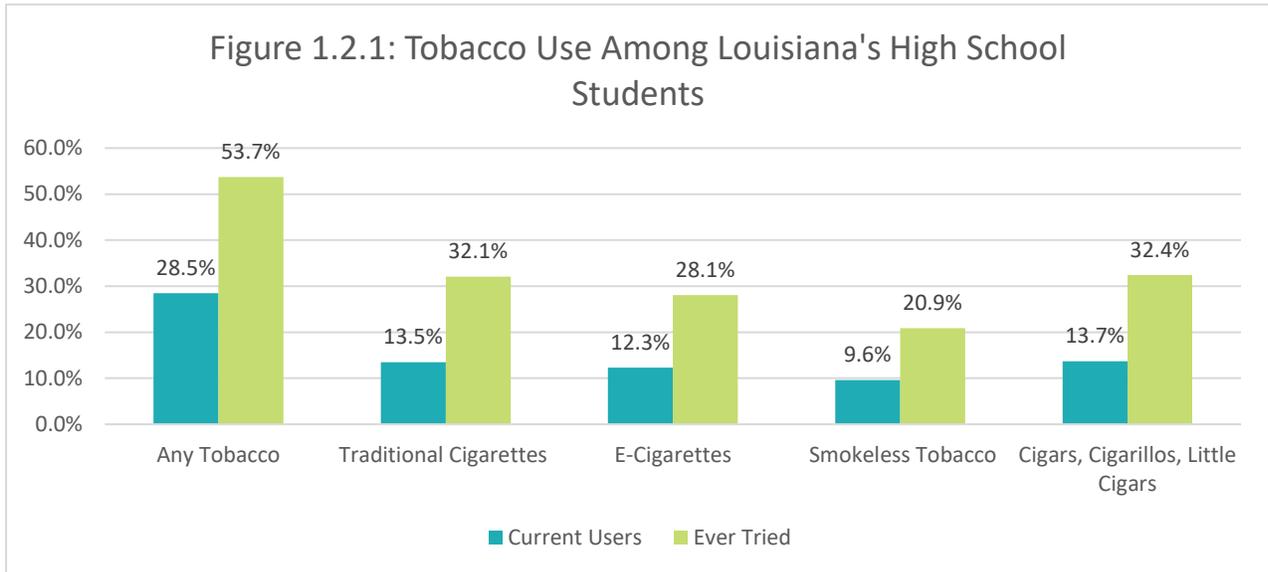
Increasing the MLSA for tobacco would likely make obtaining tobacco through social circles more difficult for adolescents between the ages of 15 and 17 (Knox, 2017). If the MLSA is raised to 21, legal purchasers are less likely to be in the same social circles as high school students, and therefore are less likely to sell or give tobacco products to them (Knox, 2017). Studies have also shown that increasing the tobacco MLSA makes it more difficult for older underage youth (those who are closer to age 18) to succeed in buying tobacco from retailers (TCLC, 2016).

1.2 – Tobacco Trends Among Louisiana Youth and Young Adults

Among its youth population, Louisiana tobacco use prevalence rates are significantly higher than national averages. The Louisiana Youth Tobacco Survey (LYTS) is a survey of Louisiana middle and high school students (grades 6-12) that monitors youth tobacco use across the state. This survey is conducted in odd years. The findings from the most recent survey are described below.

Louisiana High School Students

The most recent LYTS data (2017) showed that 28.5% of high school students are current users of some form of tobacco, 8.9% higher than the national average of 19.6% reported by the 2017 National Youth Tobacco Survey (NYTS). The figure below specifies the type of tobacco used among Louisiana's high school students.

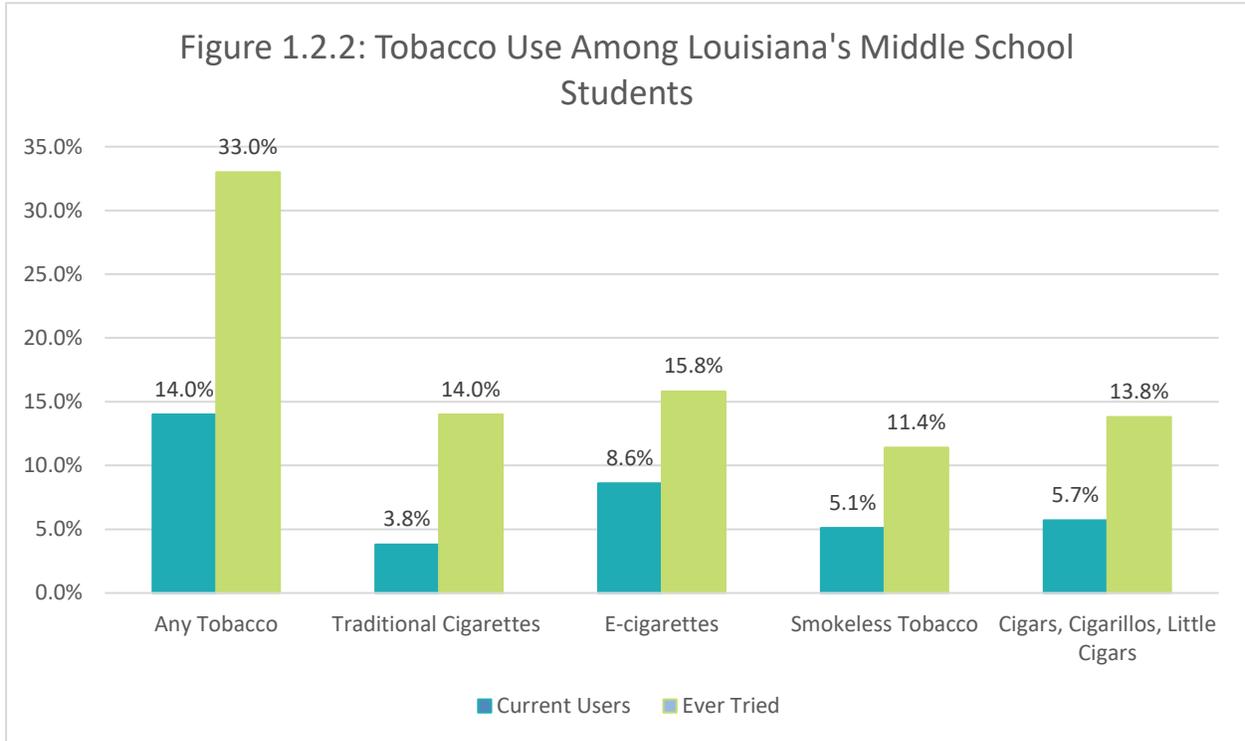


Source: Louisiana Youth Tobacco Survey 2017

As seen above, 28.5% of high school students currently use some form of tobacco, 13.5% of high school students smoke cigarettes, 12.3% use electronic cigarettes, 9.6% use smokeless tobacco, and 13.7% use cigars, cigarillos or little cigars. Furthermore, the LYTS reported that 53.7% of high school students had ever tried some form of tobacco, with 32.1% trying cigarettes, 28.1% trying electronic cigarettes, 20.9% trying smokeless tobacco, and 32.4% trying cigars, cigarillos or little cigars.

Louisiana Middle School Students

The 2017 LYTS also showed that 14.0% of middle school students are current users of some form of tobacco, 8.4% higher than the national average of 5.6% reported by the 2017 NYTS. Figure 1.2.2 below specifies the type of tobacco used among Louisiana's middle school students.



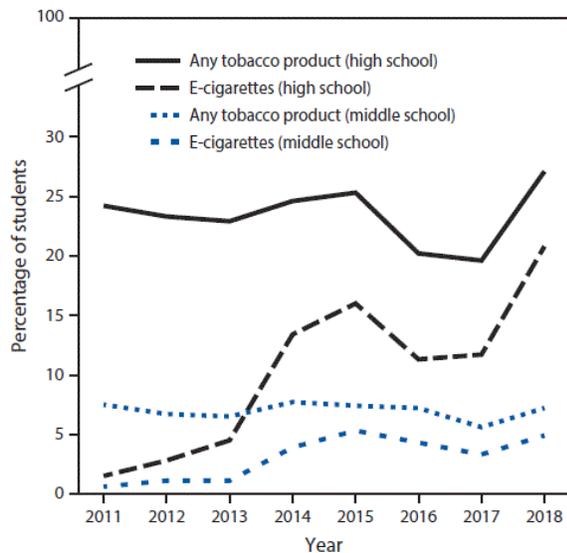
Source: Louisiana Youth Tobacco Survey 2017

As seen above, 14.0% of middle school students are current users of some form of tobacco, 3.8% of middle school students smoke cigarettes, 8.6% use electronic cigarettes, 5.1% use smokeless tobacco, and 5.7% use cigars, cigarillos or little cigars. Furthermore, the LYTS reported that 33.0% of middle school students had ever tried some form of tobacco, with 14% trying cigarettes, 15.8% trying electronic cigarettes, 11.4% trying smokeless tobacco, and 13.8% trying cigars, cigarillos or little cigars.

National E-Cigarette Use Surge

A preliminary breakdown of the not-yet-released 2018 NYTS data indicates that e-cigarette use surged from 2017 to 2018 (Figure 1.2.3). From 2017 to 2018, current use of e-cigarettes increased by 78% among high school students (from 11.7% to 20.8%), and increased by 48% (from 3.3% to 4.9%) among middle school students (Cullen, Ambrose, Gentzke, Apelberg, & Jamal, 2018).

Figure 1.2.3: Percentage of middle and high school students who currently use e-cigarettes and any tobacco product according to the NYTS, 2011-2018



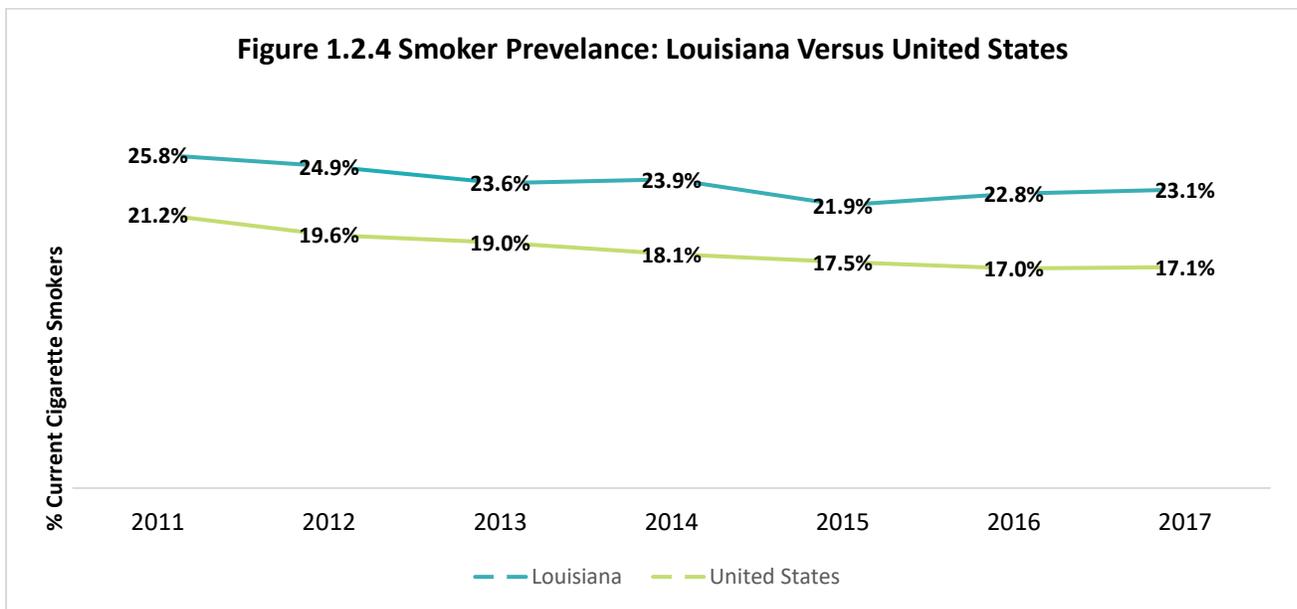
Source: Graph from Cullen, Ambrose, Gentze, Apelberg, & Jamal, 2018

This surge prompted the FDA to declare that “e-cigarette use among youth has hit epidemic proportions” in September 2018 and engage in “a series of critical and historic enforcement actions related to the sale and marketing of e-cigarettes to kids” (FDA, 2018a).

This trend is concerning as data suggests the use of e-cigarettes among youth and young adults could lead to more harmful use of conventional cigarettes, not posing specific benefits (USDHHS, 2016). A study conducted by the RAND Corporation found that youth who use electronic nicotine delivery systems (ENDS) are more likely to smoke conventional cigarettes and will likely increase the frequency of use for both products over time (Dunbar et al., 2018).

Louisiana and National Prevalence Comparison

In Louisiana, the prevalence of smoking is consistently higher as compared to the rest of the country. This can be seen in the trend graph here showing prevalence rates of adult smoking from 2011 to 2017. This data was gathered from the Behavioral Risk Factor Surveillance System (BRFSS). BRFSS is the national system of telephone surveys that collects state-level data regarding health-related risk behaviors, chronic health conditions and use of preventive services. This survey is conducted in each state across the country. The Louisiana survey consists of a sample of more than 4,000 adults. In examining both trend-lines to identify statistically significant increases, decreases or stagnation, the statistical tests show that from 2011 to 2017 the prevalence of smoking in the U.S. showed a statistically significant decrease of 5% percentage points, while for Louisiana there were no statistically significant changes. The margins of error for both data points of 25.7% and 23.1% are too large to make any real differentiation; therefore, the decreasing tobacco use national trend is not mirrored in Louisiana. (BRFSS, 2017). See Louisiana’s smoking trend compared to the national smoking trend below.



Source: BRFSS (2011-2017)

Youth Tobacco Use and Tobacco Use in the Home

The data suggests that youth tobacco use is strongly correlated with tobacco use in the home. The 2017 LYTS showed that high school students who live with a tobacco user are 3 times more likely to be a current tobacco user and 2.8 times more likely to try tobacco in some form as compared to those who did not live with a tobacco user. It also showed that middle school students who live with a tobacco user are 3.5 times more likely to be a current tobacco user and are also 3 times as likely to try tobacco in some form as compared to those who did not live with a tobacco user.

1.3 – Best Practices for Preventing Initiation among Youth and Young Adults

As shown in Figure 1.2.4, the rate of decline in cigarette smoking has slowed in recent years. According to the Centers for Disease Control and Prevention (CDC), several factors may have contributed to this lack of continued decline. Factors include “smaller annual increases in the retail price of cigarettes, decreased

exposure among youth to effective mass media tobacco control campaigns, and less funding for comprehensive statewide tobacco control programs” (CDC, 2014).

In 2007, NAM released the report, “Ending the Tobacco Problem: A Blueprint for the Nation.” This report concluded that there was “compelling evidence that comprehensive state tobacco programs can achieve substantial reductions in tobacco use” (CDC, 2014). According to the CDC, a comprehensive tobacco control program is a coordinated effort to:

- establish smoke-free policies and social norms,
- promote cessation and assist tobacco users to quit, and
- prevent initiation of tobacco use.

To support implementation of comprehensive tobacco control programs, the CDC developed a report – “Best Practices for Comprehensive Tobacco Control Programs.” This report includes guidance on four evidence-based interventions that have been shown to “reduce youth initiation, tobacco-related disease and death, and tobacco-related healthcare costs and lost productivity” (CDC, 2014). These interventions include:

- increasing the price of tobacco products,
- enacting comprehensive smoke-free policies,
- funding hard-hitting mass-media campaigns, and
- making cessation services fully accessible to tobacco users.

National, state and local program activities have been shown to reduce and prevent youth tobacco use when implemented together (CDC, 2018). These activities include:

- higher costs for tobacco products (for example, through increased taxes),
- prohibiting smoking in indoor areas of worksites and public places,
- raising the minimum age of sale for tobacco products to 21 years, which has recently emerged as a potential strategy for reducing youth tobacco use,
- TV and radio commercials, posters and other media messages targeted toward youth to counter tobacco product advertisements,
- community programs and school and college policies and interventions that encourage tobacco-free environments and lifestyles, and
- community programs that reduce tobacco advertising, promotions and availability of tobacco products.

Research shows that prioritizing funding for statewide comprehensive tobacco control programs is valuable. States that have done so have seen larger declines in cigarettes sales than the United States as a whole, and the prevalence of smoking among these states’ adults and youth have declined faster. Florida and New York are examples:

During 1998–2003, a comprehensive prevention program in Florida anchored by an aggressive youth-oriented health communications campaign reduced the prevalence of smoking among middle and high school students by 50% and 35%, respectively (CDC, 2014).

Similarly, during 2001–2010, the New York State Tobacco Control Program reported declines in the prevalence of smoking among adults and youth in the state that outpaced declines nationally.

As a result, smoking-attributable personal health care expenditures in New York in 2010 were

\$4.1 billion less than they would have been had the prevalence of smoking remained at 2001 levels (CDC, 2014).

Research also shows that tobacco control programs that “optimize synergy from applying a mix of educational, clinical, regulatory, economic and social strategies” result in a greater and quicker impact of tobacco control (CDC, 2014). The state of California manages the nation’s first and longest-running comprehensive state tobacco control program. As a result:

The prevalence of smoking among adults declined from 22.7% in 1988 to 11.9% in 2010. Decreases in lung cancer incidence and the correlation between lung cancer incidence and quit ratios also provide compelling evidence of the value of sustained tobacco control efforts. Since 1998, lung cancer incidence in California has been declining four times faster than in the rest of the United States (CDC, 2014).

According to the Campaign for Tobacco-Free Kids (CFTFK), the provision of a T21 law would complement these approaches (increasing tobacco taxes, comprehensive smoke-free laws and comprehensive tobacco prevention and cessation programs) to reduce youth tobacco use and to help users quit.

Thus, increasing the MLSA for tobacco products to 21 may complement CDC best practices for comprehensive tobacco control, but it is not yet a recognized evidence-based tobacco control intervention. Comprehensive tobacco control programs are evidence-based and can more effectively impact both Louisiana’s adolescents and adults.

1.4 – National Trends Towards Tobacco 21

According to the CFTFK, as of October 29, 2018, six states have raised the minimum legal sale age for tobacco products to 21:

- Hawaii – effective January 1, 2016,
- California – effective June 9, 2016,
- New Jersey – effective November 1, 2017,
- Oregon – effective January 1, 2018,
- Maine – effective July 1, 2018, and
- Massachusetts – effective December 31, 2018.

In addition, at least 350 localities have raised the tobacco MLSA to 21, including New York City, Chicago, San Antonio, Boston, Cleveland, Minneapolis and both Kansas Cities. See Appendix A for a comprehensive list of localities. The Preventing Tobacco Addiction Foundation (2018) reports over 27% of the nation’s population is covered by T21 policies.

Given that most T21 laws have only recently been implemented, research on the direct impact of increasing the MLSA to 21 is limited, but emerging evidence is promising. A study regarding T21 based in Needham, Massachusetts, the first locality to pass a T21 ordinance (in 2005), compared youth smoking trends from 2006 to 2010 in Needham with those of 16 surrounding communities. Needham experienced a 6% decrease in the time period (from 13% to 7%). This was a significantly greater decline than in the comparison communities (from 15% to 12%). The decline also did not vary by gender, race/ethnicity or grade level. There were no comparable decreases for alcohol use in the same time period. Due to several limitations, this study is only considered “medium-strength” evidence (Schneider et al., 2016).

Based on preliminary data available from New York City, California and Chicago, raising the tobacco sale age to 21 can help reduce youth access to tobacco and use of tobacco (CFTFK, 2018a):

- In 2014, New York City (NYC) simultaneously implemented T21 and policies to reduce sources of cheap tobacco. While reductions in smoking cannot be attributed solely to the T21 law, preliminary findings suggest that the law is contributing to reductions in youth tobacco use. NYC saw a 29% decline in current cigarette smoking among high school students between 2013 and 2015.
- California's T21 law became effective in June 2016. Initial evaluation results indicate that there is high awareness and support for the new law among tobacco retailers and young adults. In addition, tobacco purchase data show that there is a high compliance with the law among retailers. Specifically, compliance data for 15- to 16-year-olds showed a 45% reduction in sales of tobacco products to underage buyers.
- Chicago has implemented several strategies to reduce tobacco use in recent years, including increasing the cost of tobacco and restricting the sale of flavored tobacco products. In addition, Chicago implemented T21 in 2016. This comprehensive approach has seen current smoking of cigarettes and e-cigarettes among 18- to 20-year-olds decline by over one-third (from 15.2% to 9.7%) from 2015 to 2016 (CFTFK, 2018a).

1.5 – Lessons Learned from Tobacco 21 Enactment and Implementation

According to the Association of State and Territorial Health Officials (2018), several effective strategies for adopting and implementing T21 policies have been identified. These include the bundling of a T21 policy within a larger package of tobacco-related bills, allowing community and other coalitions to champion advocacy efforts, and planning for T21 law implementation:

- *Incorporating T21 into Larger Legislative Packages:* Bundling T21 policies into larger legislative vehicles, such as a suite of tobacco control or budget bills, can help place the policy within the context of a comprehensive tobacco control program. This approach can also foster a broader base of support for the measure and diffuse opposition, which may accelerate the legislative process.
- *Coalition-led Advocacy:* Coalitions often serve as champions for T21 policies and can be invaluable in advancing legislation, highlighting the need for effective collaboration with those community groups to guide T21 legislative efforts.
- *Preparation and Planning:* Due to the nature of the legislative process, the time between a bill's enactment and implementation can be short. California experienced this with its T21 law being signed by the governor on May 4, 2016, with an effective date of June 9, 2016. As a result, it is important to rapidly develop and disseminate educational materials to retailers to ensure compliance. Other health agencies echoed the need for education for both retailers and the public to clarify exemptions and the timeline for implementation (ASTHO, 2018).

Section 2 – General Desirability of Tobacco 21

2.1 – Supporters of Tobacco 21

The general public, often including smokers, are traditionally supportive of raising the MLSA for tobacco products to 21. A July 2015 CDC report found that 75% of adults favor raising the tobacco age to 21,

including 7 in 10 smokers (Knox, 2017). T21 has broad support across the country, including support among men and women, and Americans of all income, education, race/ethnicity and age groups (CFTFK, 2018a).

There is also emerging support from some tobacco companies. On October 31, 2018, FDA Commissioner Scott Gottlieb released a statement regarding his recent meetings with the leadership of five tobacco companies to address “rising epidemic rates in youth e-cigarette use.” The five companies were Altria Group Inc., JUUL Labs Inc., Reynolds American Inc., Fontem Ventures and Japan Tobacco International USA Inc. The statement says, “The companies also acknowledged the power of social sourcing of tobacco products – in other words, of-age purchasers sharing or selling products to underage friends – in contributing to youth tobacco use. To address this issue, some companies said that they would support raising the minimum age to purchase tobacco to 21 years of age” (FDA, 2018b).

2.2 – Opponents of Tobacco 21

The tobacco industry traditionally opposes T21. The tobacco industry heavily targets youth and young adults, as many profit measures surround the youth and young adult population (Ling et al 2002; U.S. V. Philip Morris USA, Inc., et al. 2006; Reynolds 1990; Reynolds 1989).

A popular debate around T21 is desirability related to the military. Youth access laws are often challenged by the concern for allowing a person to serve their country at 18 years of age, but not allowing him or her to purchase certain goods or services. Although this is a common theme, there is no public health rationale for this argument.

Maj. Gen. Bret Daugherty, the adjutant general for the state of Washington and commander of the Washington National Guard, stated in testimony supporting raising the MLSA for tobacco products:

... I want to address the age-old argument that if someone is old enough to serve their country in the military, then they are old enough to use tobacco products. This is clearly an outdated argument. There is a laundry list of things that we as a country have decided are contrary to the interest of young people and public health, whether they are in the military or not. Decades ago, this very body saw the wisdom in raising the drinking age to 21. That policy change significantly reduced drunk driving deaths and contributed to the overall health of our public here in the state (Daugherty, 2017).

Additionally, there is a concern regarding the disproportionate tobacco use among military personnel. According to the CFTFK:

Nearly one-quarter (24.0%) of active duty military personnel in 2011 reported currently smoking, compared to 19% of civilians at that time. Smoking rates vary significantly by service, ranging from 16.7% in the U.S. Air Force to 30.8% in the U.S. Marine Corps. Many of the military’s current cigarette smokers are dual users of smokeless tobacco. Furthermore, close to half of all military service members (49.2%) used a nicotine product in the past twelve months (CFTFK, 2017b).

Recognizing the negative impact of tobacco on troop readiness and soldiers’ health, the military has initiated a series of actions to curb tobacco use in the military (Carter, 2016; Partnership for Prevention, 2014). The Department of Defense and the Army, Navy, Marines and Air Force have each set goals to become tobacco-free (IOM, 2009).

Section 3 – General Feasibility of Tobacco 21

3.1 – Preemption

Currently, raising the MLSA to 21 is dependent upon state and local governments. In states that have successfully implemented T21, much of the movement started locally and then evolved to the state level. Louisiana is one of 19 states that preempts local governments from enacting stricter youth access regulations than that of the state government. Preemption occurs when a higher level of government (e.g., federal or state) eliminates or limits the authority of a lower level of government (e.g., state or local) to regulate a certain issue (TCLC, 2014a). Historically, the tobacco industry has successfully pushed for the inclusion of preemptive language in state legislation that does not allow local governments the authority to pass comprehensive smoke-free and other tobacco control laws (TCLC, 2014a). Preemption harms tobacco control efforts, as the strongest and most innovative tobacco control policies have emerged at the local level (TCLC, 2014b). Grassroots efforts build community readiness, increase local awareness and foster public debate about the need for policy change (TCLC, 2014b). In Louisiana, removing the preemption language from LA R.S. 14:91.6 is the next important step in determining the feasibility and readiness of communities for a statewide T21 law.

3.2 – Impact on Retailers

Raising the MLSA for tobacco would make it harder for youth and young adults to obtain cigarettes, but a decline in cigarette sales and state tax revenue would take time to accumulate (CFTFK, 2017a). According to a NAM report, the short-term fiscal impact of T21 legislation on tobacco tax revenue is likely to be minimal (IOM, 2015; CFTFK, 2017a). The impact on cigarette tax revenue over the first five years is estimated to be a fraction of 1%; that is, an estimated one-fourth of 1% (IOM, 2015; CFTFK, 2017a). In the first year of implementation, the impact would be even less (CFTFK, 2017a).

A small percentage (roughly 2% to 4%) of 18- to 20-year-olds account for total cigarette sales, and most will not stop smoking as a result of this type of policy change (CFTFK, 2017a; Winickoff et al., 2014; Farber, Pakehale, & Neptune, 2016). Although the proportion of cigarette sales to adults under 21 years old is small, lifetime smokers usually start smoking before age 21 (Winickoff, 2014). The primary intention of policy change is to prevent or delay the initiation of tobacco use among adolescents and youth. A dramatic and immediate effect on retail sales is not expected, as adult smoking accounts for most of a state's cigarette sales (CFTFK, 2017a). Money not spent on tobacco products by 18-, 19- and 20-year-olds is available to be spent on other consumer items. Therefore, spending does not necessarily disappear from the economy; rather, it is redirected to other products purchased in-state (CFTFK, 2017a). Additionally, any potential decrease that would take effect would do so gradually and would allow for small businesses to adjust to the changing market conditions (Winickoff et al., 2014).

3.3 – Impact on Enforcement Entities

The Louisiana Office of Alcohol and Tobacco Control (ATC) is supportive of raising the MLSA for tobacco to 21, as it may simplify identification checks for retailers (CFTFK, 2018a; TCLC, 2014a). Many state drivers' licenses, including Louisiana's, indicate if a driver is under the age of 21 (i.e., license format, photo placement), making it easy to identify underage youth (CFTFK, 2018a).

Passing a T21 policy would affect minimal to no change to enforcement and compliance systems across the state. The system would be simplified if retailers were checking for one legal age of purchase (21) rather than two (18 and 21) (Winickoff et al., 2014). Enforcement for e-cigarette or vapor product sales would be similar to tobacco product enforcement. Active enforcement of tobacco minimum age restrictions, including meaningful penalties for violations, increases retailer compliance and decreases the availability of retail tobacco to underage persons (IOM, 2015). Literature supports that retailers are not likely to comply with MLSA laws if there is no meaningful enforcement (IOM, 2015). Raising the tobacco MLSA to 21 could help decrease access to tobacco in social circles. Evidence has also shown that banning noncommercial distribution of tobacco by friends, proxy purchasers and other social sources is helpful, but these policies are not well-enforced (IOM, 2015).

Aside from compliance and enforcement, ATC believes informant recruitment may be easier if the MLSA for tobacco is increased to 21. Informants are more accessible and attainable at ages 20 and under. Specifically, informant recruitment could span a broader audience at colleges and universities statewide. Younger adolescents may also have a harder time passing as 21, which could reduce underage sales (CFTFK, 2018a; White et al., 2005).

Purchase Use Possession (PUP) Laws

Laws that penalize underage youth for purchase, use or possession of tobacco products (PUP laws) have generated mixed reactions. PUP laws have been criticized as not being effective in reducing underage tobacco use, and increasing the potential to unnecessarily penalize young people, especially racial/ethnic minority youth (TCLC 2014a; Farber, Pakehale, & Neptune, 2016; Gottlieb et al., 2004). Gottlieb et al. (2004) examined how citations along with other variables impacted future smoking intentions in a sample of Texas students in grades 6-12. This study suggested that African American and Hispanic youth were indeed more likely to receive a citation for tobacco use than other groups, raising concerns of differential enforcement of a minor in possession laws, and that the threat of citation was not universally successful in deterring youth tobacco use (Gottlieb et al, 2004). Experts suggest that the stronger enforcement approach is to focus on retailers – ensuring enforcement of the law and penalizing noncompliant retailers (TCLC, 2014a; IOM, 2015).

Section 4 – The Louisiana Tobacco Coalition Survey

Between September 2017 and October 2017, the members of the Louisiana Tobacco Coalition were surveyed to determine the desirability and feasibility of a T21 law in Louisiana. The survey consisted of seven questions (see Appendix B). Louisiana Tobacco Coalition members completing the survey included the American Cancer Society Cancer Action Network, the American Heart Association, the CFTFK, Louisiana Cancer Prevention and Control Programs, March of Dimes, Louisiana Campaign for Tobacco-Free Living and the Louisiana Tobacco Control Initiative. In July 2018, this same group of coalition members were re-surveyed. An email was sent with a new survey link, and members were given the option to either reply to the email with “no changes” or complete the new survey and/or update their formal statement, if applicable (see Appendix B). All coalition members who completed the survey in 2017 stated that their 2017 survey responses capturing their stance on a T21 proposal have not changed for 2018 (see Appendix C for survey responses). There were two coalition members that did not complete the

survey last year, but completed it this year: The Smoking Cessation Trust and Preventing Tobacco Addiction Foundation. Their survey responses have also been added to Appendix C.

4.1 – Desirability of Tobacco 21 in Louisiana

To gauge desirability of T21 in Louisiana, respondents were asked if they would be supportive of a T21 proposal in 2019. Respondents were also asked if they would be supportive of a T21 proposal in the future. Overall, most of the Louisiana Tobacco Coalition are supportive of T21, but would prefer a T21 proposal in the future. Research shows that tobacco control and prevention efforts should prioritize evidence-based interventions. Therefore, in 2019, key Coalition partners have indicated they will primarily focus efforts on a statewide comprehensive smoke-free air proposal. In addition, Coalition members are concerned that simultaneous legislative efforts regarding tobacco could potentially compete for resources and create confusion.

2019 Support for Tobacco 21

Figure 4.1.1, below, shows support of a T21 proposal in 2019 among Coalition members.

Figure 4.1.1: Louisiana Support for T21 in 2019



As shown above, 55.55% of respondents indicated they either did not support, or were unsure about, raising the MLSA for tobacco to 21 in 2019, while 44.45% of respondents indicated support for T21 in 2019.

Respondents were then asked to explain their stance. Raw responses are included in Appendix C. Below are key findings from respondent answers.

Organizations that indicated support for T21 in 2019 did so because:

- Projections on the impact of increasing the MLSA for tobacco products to 21 show a significant effect on preventable death, particularly from cancer.

- Educating members of the Legislature on the importance of strong tobacco control policies, including raising the MLSA, is viewed as a valuable opportunity.
- T21 supports protection of our youth from predation by big tobacco's targeting/marketing of smoking to our youth.

Organizations that indicated they would not support T21 in 2019 did so because:

- Support in 2019 will go toward a statewide comprehensive smoke-free air proposal and subsequent implementation. This law would include bars, gaming institutions and the use of electronic nicotine devices.
- Tobacco control and prevention best practices include enacting comprehensive smoke-free policies. Therefore, until a statewide comprehensive smoke-free air law is passed, resources will be focused on statewide and local comprehensive smoke-free efforts.
- Simultaneous tobacco legislative efforts would deplete resources and create confusion among supporters and key legislators.

Organizations that indicated they would be neutral regarding a T21 proposal in 2019 did so because:

- The legislation would need to be reviewed by national and/or organizational staff before taking a position.
- Due to its government affiliation, the organization must remain neutral.

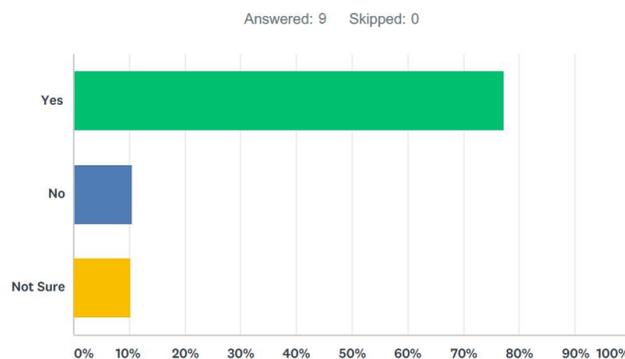
Future Support for Tobacco 21

Figure 4.1.2, below, shows support of a T21 proposal ever among Coalition members.

Figure 4.1.2: Louisiana Support for T21 Ever

Tobacco 21 Desirability and Feasibility Survey

Q5 Would your organization be supportive of a T21 proposal ever?



ANSWER CHOICES	RESPONSES	
Yes	77.78%	7
No	11.11%	1
Not Sure	11.11%	1
TOTAL		9

As shown above, 77.78% of respondents indicated they would, at some point, support a T21 policy. The remaining 22.22% either do not support or are unsure about raising the minimum legal sale age for tobacco to 21.

Respondents were then asked to explain their stance. Raw responses are included in Appendix C. Below are key findings from respondent answers.

Organizations that indicated support for a T21 proposal in the future did so because:

- A 2015 Institute of Medicine report predicted that raising the MLSA for tobacco to 21 will help keep young people from starting to smoke, reduce smoking-caused deaths and immediately improve the health of adolescents and young mothers who would be deterred from smoking.
- Best practices of tobacco control and prevention indicate that raising the MLSA of tobacco to 21 has a greater impact after a statewide comprehensive smoke-free air law is passed.
- A T21 proposal would help with the poor birth outcomes throughout the state.
- A T21 proposal would restrict youth access, reduce youth initiation and addiction, and address the epidemic of youth e-cigarette use. With strong enforcement, a T21 law will result in reduced tobacco initiation among youth, reduced smoking prevalence and improved health outcomes.

One organization indicated they would never support a T21, but rather remain neutral regarding a T21 proposal in 2019 because:

- Due to its government affiliation, the organization must remain neutral.

One organization indicated they were unsure of support for T21, but rather remain neutral regarding a T21 proposal in 2019 because:

- The legislation would need to be reviewed by national and/or organizational staff before taking a position.

4.2 – Feasibility of Tobacco 21 in Louisiana

To gauge feasibility of a 2019 T21 proposal in Louisiana, respondents were asked how a T21 proposal would affect current tobacco control and prevention efforts in Louisiana. Below are key findings from respondent answers. Overall, respondents indicated that a T21 proposal in 2019 could interfere with the current tobacco control and prevention efforts in Louisiana.

Three respondents indicated that a T21 proposal would complement and strengthen current tobacco control and prevention efforts in Louisiana. The CFTFK said, “Raising the tobacco age to 21 complements other strong tobacco prevention policies including smoke-free laws, higher tobacco taxes and ensuring CDC recommended levels of spending on state tobacco control and cessation programs.” The March of Dimes believes a T21 proposal would complement the recent passage of comprehensive smoke-free laws in Baton Rouge and New Orleans, and said, “This is one of the next steps to enhance the tobacco control efforts in the state and what is occurring with tobacco cessation policies across the nation.” The Preventing Tobacco Addiction Foundation echoed the CFTFK’s voice by stating, “Tobacco 21 proposal complements other tobacco control movement including increased taxes and comprehensive smoke-free laws.”

One respondent, the Smoking Cessation Trust, indicated that a T21 proposal would affect the future of the tobacco industry in Louisiana, stating that they see a T21 proposal as “affecting the future of big tobacco’s market share in the long-term.”

Two respondents indicated that a T21 proposal would create challenges for current tobacco control and prevention efforts in Louisiana. The Louisiana Campaign for Tobacco-Free Living (TFL) shared that a T21 proposal may disrupt, but not weaken, its tobacco control work statewide. TFL stated that a T21 proposal would, “deplete resources dedicated to educate communities on evidence-based practices” and that its “current messaging, campaigns and work plan do not focus on Tobacco 21.” Likewise, Louisiana Cancer Prevention and Control Programs shared that a T21 proposal “stretches the limited resources that we, as multiple different organizations, have pulled together for relatively successful campaigns.”

Two respondents indicated they were unsure how a T21 proposal would affect current tobacco control and prevention efforts in Louisiana. However, the American Heart Association (AHA) questioned whether a T21 proposal would affect its current effort to amend and reenact the Louisiana Clean Air Act to prohibit smoking in all bars and casinos statewide. In addition, AHA expressed that multiple tobacco bills might be a heavy load for one sponsor to carry in one session.

4.3 – Formal Statements from the Louisiana Tobacco Coalition

Members of the Louisiana Tobacco Coalition were extended the opportunity to submit a formal statement regarding T21. Three coalition members provided new formal statements for 2018 – American Lung Association (Appendix G), Louisiana Tobacco Control Initiative (Appendix I) and Louisiana Cancer Prevention and Control Programs (Appendix H). Statements from Louisiana Campaign for Tobacco-Free Living (Appendix D), March of Dimes (Appendix E) and Truth Initiative (Appendix F) are unchanged from 2017, and remained the same for 2018 per their request. We have received one additional formal statement for 2018 from the Smoking Cessation Trust (Appendix J).

Section 5 – Conclusion

Among its youth population, Louisiana tobacco use prevalence is significantly higher than national averages – 28.5% of Louisiana high school students and 14.0% of Louisiana middle school students are current tobacco users (LYTS, 2017). Four out of five adult smokers become daily smokers before age 21, increasing their risk for long-term smoking-related health problems, such as heart disease, stroke and cancer (USDHHS, 1994). Compounding this challenge is the recent surge in e-cigarette use by middle and high school students, prompting the FDA to declare that that “e-cigarette use among youth has hit epidemic proportions” in September 2018 (FDA, 2018a).

While data on the impact of raising the minimum legal sale age (MLSA) of tobacco products to 21 is limited due to Tobacco 21 (T21) laws being a relatively new strategy, emerging evidence is promising. A 2015 IOM literature review found that T21 laws, over time, would result in a 12% decrease in tobacco use, approximately 223,000 fewer premature deaths, 50,000 fewer deaths from lung cancer, and 4.2 million fewer years of life lost for those born between 2000 and 2019 (TCLC, 2016). However, there is only one study that shows the direct impact of raising the minimum legal sale age to 21, and due to several limitations, this study is only considered medium-strength evidence.

In 2007, the National Academy of Medicine concluded that there was compelling evidence that comprehensive state tobacco programs can achieve substantial reductions in tobacco use. According to the CDC, comprehensive state tobacco programs include four evidence-based interventions – increasing the price of tobacco products, enacting comprehensive smoke-free policies, funding hard-hitting mass-media campaigns and making cessation services fully accessible to tobacco users. Much like increasing the

minimum drinking age has not eliminated underage drinking, raising the MLSA for tobacco is not likely to eliminate underage tobacco use. Rather, it is one more part of a comprehensive tobacco control effort that could help reduce youth tobacco use and increase the likelihood of a tobacco-free future for youth:

- Delaying the age when young people first begin using tobacco would reduce the risk that they will transition to regular or daily tobacco users and increase their chances of quitting, if they become regular users.
- Raising the MLSA to 21 would increase the age gap between adolescents initiating tobacco use and those who can legally provide them with tobacco products by helping to keep tobacco out of schools.
- Younger adolescents would also have a harder time passing themselves off as 21-year-olds than they would 18-year-olds, which could reduce underage sales.
- MLSA of 21 may simplify identification checks for retailers, since many state drivers' licenses indicate that a driver is under the age of 21 (e.g. license format, color or photo placement) (CFTFK, 2018a).

The Louisiana Office of Alcohol and Tobacco Control is generally supportive of raising the minimum legal sale age of tobacco to 21 in 2019. However, most of the Louisiana Tobacco Coalition would prefer a Tobacco 21 proposal in the future, agreeing that tobacco control and prevention efforts in 2019 should prioritize the aforementioned evidence-based interventions.

Nationwide, much of the T21 movement started locally and evolved to the state level. Louisiana law currently preempts localities from enacting stricter youth access regulations than the state law. Thus, a next step for T21 in Louisiana would be to remove preemption language from LA R.S. 14:91.6 to allow localities to adopt T21 laws. This would help further determine the desirability and feasibility of adopting a statewide T21 law in the future.

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