

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 14, 2018

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, Stennett, and Buckner-Webb

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

VOTE ON GUBERNATORIAL APPOINTMENT: **Senator Lodge** moved to send the Gubernatorial reappointment of Shane Gehring to the Bingo-Raffle Advisory Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**. Senator Lodge will be the floor sponsor.

Chairman Siddoway announced Senator Lakey was called away and Senator Vick would present **RS 26189**.

RS 26189 **RELATING TO SELF-DEFENSE to make corrections and to repeal and amend certain sections.**

Senator Vick, District 2, stated the purpose of **RS 26189** is to consolidate case law and jury instructions regarding Stand Your Ground (SYG) laws and the Castle Doctrine into one place in Idaho Code. It also adds the place of employment, business, or occupied vehicle as places where justifiable homicide can be defined. The bill includes the presumption that if someone is breaking into a home, place of business or employment, or vehicle, they are doing so with the intent to commit a felony.

The proposed addition of Idaho Code § 19-201A, would incorporate provisions of the Castle Doctrine and SYG. The intent is to amend other sections for the "reasonable person" standard for defense and a self defense standard title would be changed. **Senator Vick** explained that Idaho Code § 19-202A(3) provides that the provisions of this subsection do not apply to persons incarcerated in jail or prison facilities when interacting with jail or prison staff who are acting in their official capacities. Sub Section 4 states that the burden of proof is on the prosecution. (Attachment 1)

MOTION: **Vice Chairman Hagedorn** moved to send **RS 26189** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**. **Senator Buckner-Webb** was recorded as voting **nay**.

RS 26162 **STATING FINDINGS OF THE LEGISLATURE and recognizing March, 2018 as National Social Work Month.**

Senator Buckner-Webb, District 19, spoke as a proud member of the National Association of Social Workers (NSW) and presented **RS 26162** for the Committee's consideration. In Idaho, over 5,000 social workers diligently work to positively impact the lives of Idahoans on a daily basis. Intervention is a key tenet

of social work practices and social workers are called on to interrupt behaviors and systems that range from problematic to life-threatening. Professional social workers are equipped to identify and manage these dilemmas. Most important, social worker's primary responsibilities are to: 1.) support the well-being of clients; 2.) promote the rights of clients; and 3.) assist clients in their efforts to identify, clarify, and realize their goals.

Senator Buckner-Webb announced the National Association of Social Workers will meet in the Capitol at the end of February to celebrate their work and to train. **Senator Buckner-Webb** requested support to proclaim March 2018 as National Social Work Month and to call upon Idaho citizens to join with the NSW to acknowledge, celebrate, and support the social work profession.

MOTION:

Vice Chairman Hagedorn moved to send **RS 26162** to print and then to the 10th Order of Business. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

S 1255

RELATING TO TOBACCO to revise the legal age regarding activities related to tobacco, tobacco products, and e-cigarettes; and other technical revisions.

Chairman Siddoway provided direction as to how the testimony on **S 1255** would be heard. Many people signed up to testify, so it was necessary that the Committee limit the time each person could speak to three minutes.

Senator Fred Martin, District 15, thanked the Committee for the opportunity to appear. This bill was brought to the Committee last year and, because of the input the originators received, the bill this year is improved. (Attachment 2) **Senator Martin** turned his time to Corey Surber.

Corey Surber, Director of State Advocacy, Saint Alphonsus Regional Medical Center and Chairman of the Board of United Way of Treasure Valley, expressed appreciation for the opportunity to appear before the Committee in support of **S 1255**. This bill is intended to decrease youth tobacco use; the objective is to save thousands of lives and millions of dollars in health care costs far into the future. According to the Commissioner of the Food and Drug Administration (FDA), tobacco use is the leading cause of preventable disease and premature death in the United States (U.S.), and one of the largest drivers of healthcare costs.

Ms. Surber quoted statistics in support of this legislation (Attachment 3). This bill would change the legal age of tobacco possession from 18 to 21. It also proposes to change references from "minor" to "youth", or persons under the age of 21 years. The bill would add a retail exception for those employees from 18 - 20 years of age and adds a retail clarification for employees under 18. The legislation also proposes to add retail signage updates to include references to cigarettes. **Ms. Surber** stood for questions.

Senator Stennett referred to the 25th National Survey on Drug Use and Health for age 18 and older; 86.4 percent reported they still drink alcohol; 70 percent drink alcohol regularly; 50-67 percent admit to binge drinking. The National Minimum Drinking Age Act of 1984 changed the age to 21 to purchase alcohol and since it has been in existence those numbers have not decreased. She wondered if, by comparison, the change being contemplated for tobacco will actually occur. **Ms. Surber** responded that data from the Monitoring the Future survey shows a decrease in binge drinking by 22 percent and youth drunk driving involvement in fatal crashes decreased by 61 percent. The National Highway Traffic Safety Administration reports, since 1975, increasing the minimum drinking age has saved more than 21,000 lives. **Senator Stennett** agreed with the reports on accidents, but she stated smoking does not have the same impact as alcohol does. She stated her appreciation for the statistics.

Vice Chairman Hagedorn asked if there was any information about the effectiveness of the Idaho State Police (ISP) sting operations on sales of cigarettes. **Ms. Surber** did not have that information.

TESTIMONY:

Fred Birnbaum, Idaho Freedom Foundation, spoke in opposition to **S 1255**. **Mr. Birnbaum's** spoke to two unrelated issues: 1.) The impact of smoking on healthcare costs, and 2.) The appropriateness of requiring young adults to be 21 to purchase tobacco products. He explained healthcare costs have impacted Idaho with higher insurance premiums and soaring costs. The paradox is smoking has been trending down for over 50 years. **Mr. Birnbaum** clarified it is clear that those who smoke impact healthcare outcomes and quality of life; smoking is not a habit to be encouraged. **Mr. Birnbaum** told of his experience in the military and how young military personnel should not be allowed the choice of smoking. In conclusion, he reiterated that young adults at 18 years of age should be allowed to make the choice on smoking.

Senator Hill asked if it is Mr. Birnbaum's belief that the use of tobacco affects healthcare costs in the U.S. **Mr. Birnbaum** answered it is his belief it impacts healthcare costs. Despite a decline in smoking rates of over 60 percent among adults, a systemic cost savings has not occurred. **Mr. Birnbaum** stated that the increment that would occur in changing the age from 18 to 21 would be very insignificant. **Senator Hill**, for clarification, restated his question. **Mr. Birnbaum** stated he was not an advocate for smoking, he believes in the integrity of numbers and people who smoke die earlier. The totality of costs could be lower. He emphasized that the healthcare costs for that population would never be lower.

Liz Hall spoke in support of Tobacco 21. **Ms. Hall** stated she is a decorated combat veteran. She detailed her service and how the military addresses tobacco use. She discussed soldiers, their environments, how smoking affects their response time, and their physical fitness. She assured the Committee that if they would pass Tobacco 21, they could be assured they had done their part to ensure the health and safety of every deployed service member.

Vice Chairman Hagedorn thanked Ms. Hall for her service. **Vice Chairman Hagedorn** asked about her statement that soldiers who smoked would not be able to keep up with other soldiers. Based on that information, why hasn't the military banned cigarettes completely. **Ms. Hall** responded they work very hard to curb smoking, but the commanders respect the laws of the communities in which they operate and it is hard to ask soldiers to do things that their peers off base do not have to do. She said changes in the law would be respected.

Senator Vick stated that the military asks things of soldiers on base all the time that civilians off base have or do not have to do. **Ms. Hall** agreed. **Senator Vick** observed if it was a problem in the military they could create a limitation.

Chairman Siddoway thanked Ms. Hall for her service on behalf of the Committee.

Rick Wheldon, representing Jackson Food Stores, Inc. (Jacksons), spoke in opposition to **S 1255**. Jacksons has 83 stores in Idaho, and have been in business in the State for 43 years. **S 1255** takes away the personal right of young adults who are making other adult decisions, to purchase or not purchase tobacco products. **Mr. Wheldon** outlined the decisions young adults 18 years of age could make and be held responsible for. He referred to the fiscal note that reflects the loss of tax revenue dollars between 2018 and 2021. Not only would this reduction affect retail sales, it would also affect ancillary sales of items such as gas, snacks, and beverages. If those 18-20 years of age shift their buying habits across state borders, those lost sales could affect the employment levels in the State.

Mr. Wheldon stated, as a retailer of age-restricted items, compliance is taken seriously. Employees are trained to monitor age-restricted sales and there is zero tolerance for underage sales of tobacco products. This law may encourage young adults to seek alternative sources for products, such as internet sales, which are not age-verified and do not always collect State taxes. Only five states have increased the age to purchase tobacco products to 21 years of age. Moreover, no long term empirical studies have been conducted to determine whether the raise in age actually reduces tobacco use.

Tom Dale, County Commissioner for Canyon County, Chairman of the Board of Trustees, and President of the Idaho Association of District Boards of Health, spoke in support of **S 1255**. **Mr. Dale** outlined the reasons **S 1255** should become law (Attachment 4). **Mr. Dale** provided information about the results of changing the age for tobacco sales from 18 to 21. The town of Needham, Massachusetts was the first in the country to change the age to 21 in 2005. They saw a decrease in smoking of 46 percent at the high school within four years (Attachment 4). The asserted change does have an impact. On behalf of the Idaho Association of District Boards of Health, **Mr. Dale** asked for support for **H 1255**.

Andrea Jackson, President, Big Smoke and Tobacco Connection (BSTC), spoke in opposition to **S 1255**. BSTC has 50 stores from Portland to Idaho Falls and employs 300 Idahoans. **Ms. Jackson** cited consideration for: 1.) tobacco sales to youth have been reduced by 50 percent according to the FDA. Idaho tobacco retailers are the largest group keeping tobacco away from kids. **Ms. Jackson** stated her small company endured 120 compliance checks by different government agencies and passed at a 99 percent rating; 2.) to arbitrarily carve out 18 to 20 year olds from the adult pool and prohibit them from buying a legal product is wrong. **Ms. Jackson** elaborated on the reasons why: this age group is mature enough to make healthcare decisions, get married, join the military, make long term financial decisions, and be held accountable for their behavior. 3.) **S 1255** would criminalize the purchase of a legal product and then burden law enforcement with the responsibility to enforce the law; 4.) Idaho is a State that believes in freedom of choice. Idaho does not criminalize behavior simply because we do not agree with it. **Ms. Jackson** respectfully asked for a vote against this bill.

Elana Story, Boise, Idaho, spoke in support of **S 1255**. **Ms. Story** provided personal family information and stated some reasons why she supports this bill: 1.) tobacco is known to be harmful, so everything possible should be done to prevent tobacco use among young people; that is when most users become addicted; 2.) nicotine harms adolescent brain development; and 3.) 95 percent of adult smokers begin smoking before they turn 21. **Ms. Story** shared a personal story regarding tobacco addiction. **Ms. Story** emphasized everything possible should be done to prevent tobacco use among young people, to reduce smoking and save lives.

Charley Jones, Owner and President of Stinker Stores, spoke in opposition to **S 1255**. Tobacco products are the number one sales category inside the Stinker Stores. They collect and remit millions of dollars in state excise taxes for Idaho from tobacco sales each year. He said simple legal product prohibition in this form is questionable public policy.

Pam Eaton, President, Idaho Retailers Association, spoke in opposition to **S 1255**. She stated their main concern: this regulation would create an uneven playing field for tobacco retailers. The retailers on tribal lands will continue to sell tobacco at age 18 as will neighboring states, except Oregon. Also, there are online sales. This bill will not curb smoking, it will push those who want tobacco products to go to those other providers.

Ms. Eaton called attention to two sections that she deemed confusing: 1.) page 3 of the bill, lines 31-43 regarding who will be fined; and 2.) page 6 of the bill, lines 25-37, specifically lines 33-27, again referring to fines. These two sections seem to oppose one another. These are two different penalties for a clerk who sells to someone under 21.

Oleg Kouskov, a physician pulmonologist at St. Luke's Regional Medical Center (St. Luke's). Dr. Kouskov is the codirector for the early detection of lung cancer. He expressed support for the bill. He stated he is on the frontline when seeing people at the other end of the tobacco process. Most of the lung cancer St. Luke's diagnoses is advanced, with a survival rate of six percent. **Dr. Kouskov** spoke about his patients, his own personal experiences, and emphasized that tobacco use incurs a huge cost for both humanity and the healthcare system. He stated society is not winning the fight even though cigarette use is down; the use of other tobacco products, such as electronic cigarettes, is not counted.

Anita Sloan, a senior at Borah High School and represents the Concerned Youth of Idaho, spoke in support of the bill. **Ms. Sloan** discussed what happens when fellow classmates turn 18 and can now purchase products that could be fatal. She expressed concern that one in three people will become life-long smokers if they start using tobacco before age 21. These same young people are targets for major tobacco companies. Increasing the age to purchase tobacco products will provide a safeguard against early onset addiction.

Senator Hill thanked Ms. Sloan for getting involved, as well as others across the State. He stated it is heartening to see young people get involved in government and public policy issues. You are the ones who will be affected the most. **Senator Hill** asked, in Ms. Sloan's experience, what percent of your peers would favor this kind of legislation. **Ms. Sloan** responded she is a runner, so her friend group is relatively large across Idaho and 50-60 percent of the people she knows have some type of tobacco product in their car or in their rooms. A majority of students fall victim to peer pressure to try tobacco products.

Vice Chairman Hagedorn congratulated Ms. Sloan for testifying and referred to her statement about the number of her friends under 18 that have tobacco products. How do you believe that moving the age from 18 to 21 would reduce the number of those friends who already have tobacco products? **Ms. Sloan** stated her friends and acquaintances get access through their friends who are 18 or older. She said, from her perspective, those people are less likely to have access when adults who are 21 have access. Education is not working. A law will show this is a serious issue and it is important to take it seriously. They will also see how harmful these products are.

Senator Vick complimented Ms. Sloan for her testimony. **Senator Vick** asked if Ms. Sloan ever had a friend or acquaintance who was underage stopped by police or arrested because they had tobacco in their possession. **Ms. Sloan** said she has not seen that happen.

Chairman Siddoway thanked Ms. Sloan for her testimony and referred to her comment about creating a gap between the 18 year olds in high school and those who are younger; he asserted that would stop the flow of cigarettes.

Dusty Wendland stated the reason he was testifying in opposition to this bill was because of his nine-year-old son. **Mr. Wendland** stated his belief that this bill should not even be discussed because it is the parent's duty to teach their children along with church, community, and numerous others; not government. Young adults should not be stripped of their liberty or dignity.

Senator Hill asked if Mr. Wendland thought there were any products or substances that should be regulated by the government regarding their consumption. **Mr. Wendland** responded there is an age of adulthood. When children are small, they have no ability to make decisions; they go through the process of graduation from one stage to another to the age of 18. That is the age we picked for them to be legally responsible and punishable as adults. He stated he is not suggesting there should not be regulation, he is suggesting that children graduate to a point of adulthood where they become responsible for their decisions, and then they have to be trusted.

Erin Bennett, Government Relations Director, American Heart Association/American Stroke Association in Idaho, spoke in support of **S 1255**. **Ms. Bennett** did not belabor all of the health risks and consequences that come with smoking, instead she discussed conversations she had with people since a similar issue arose during the 2017 Legislative Session; those conversations included high school students who smoke on a regular basis. **Ms. Bennett** stated she was alarmed by the number of students that have increased their usage of cigarettes and electronic tobacco devices, and the extent tobacco companies go to get young people under 18 addicted to tobacco.

Ms. Bennett talked with student resource officers, teachers, and school administrators who report they are confiscating cigarettes from 12 and 13 year olds. There was an instance where a 19 year old developmentally delayed person was encouraged to buy younger classmates cigarettes. **Ms. Bennett** said there are many reasons to support this bill; access is not restricted to anyone but those underage students who will have the ability to make that decision when their brain is fully developed.

Senator Winder asked for information regarding vaping versus cigarette smoking. He inquired as to any studies regarding vaping. **Ms. Bennett** responded there are studies that show the impact on health for vape products including the differences between the chemical flavorings. The FDA has approved these products for food purposes, but they have not been tested for use through a respirator. There are results of studies that have identified "popcorn lung" and the health-related impact.

The Idaho Department of Health & Welfare has seen an increase in the use of vape products by underage kids that go on to become regular smokers of tobacco products. **Senator Winder** asked if there were any studies that actually show the health impact for electronic cigarettes; if the State is worried about cancer, we are worried about the impact of those products that contain nicotine or other carcinogenic materials. **Ms. Bennett** said studies have been conducted and she will provide them to Senator Winder.

Dr. Jennifer Shaltz is an internal medicine physician at St. Luke's, the Medical Director of the St. Luke's Tobacco Treatment Program, and the St. Luke's Cardiac and Pulmonary Rehab Program. **Dr. Shaltz** stated she was also a former U.S. Air Force physician and mother of two teenage daughters. **Dr. Shaltz** discussed what she sees coming through the tobacco treatment clinic; how people who want to quit smoking but cannot, even when they choose to; she discussed the suffering it causes for the smoker and their family; and the ravages of disease caused by tobacco. Only one in four or one in five who participate in the St. Luke's program can quit for a year; this is consistent with national averages. **Dr. Shaltz** provided additional statistics on the use of tobacco, the effects of tobacco on health, and how tobacco affects the brains of young people (Attachment 5).

Chairman Siddoway inquired if the chemicals in e-cigarettes are the same level as cigarettes and if those levels of nicotine in an e-cigarette can be modified to

meet the needs of the smoker. **Dr. Shaltz** answered the nicotine levels in vaping products are the same as in cigarettes.

Vice Chairman Hagedorn stated his understanding that it is not nicotine that causes cancer, it is nicotine that causes the addiction to chemicals within the vaping products. It is those chemicals that cause cancer. He asked if it would be better not to have nicotine at all. **Dr. Shaltz** replied vape products are made up of toxic substances, but there are no-long term studies on the toxicity of vaping products.

Vice Chairman Hagedorn remarked most people agree tobacco products and vaping is not healthy and causes concern about health damage and increasing healthcare costs. However, this discussion is about a subsection of people that may be more susceptible to the addiction at an earlier age. He inquired how **Dr. Shaltz** would change the care of this group over the long term. **Dr. Shaltz** answered that her care would change over the long term when fewer people use tobacco products. **Dr. Shaltz** pointed out that people get dependent on vaping products. This bill will help get tobacco products away from school children.

Margi Soni stated she is a nurse practitioner in pulmonary medicine and the Associate Medical Director of the Tobacco Treatment Program at St. Luke's. **Ms. Soni** talked about her experiences at the clinic and provided information on studies that have been conducted; the most comprehensive being the National Academies of Science Engineering and Medicine that came out in January 2018 (Attachment 6). Most students have no intention of using tobacco. They think vaping is a healthy alternative to the tobacco habit.

Erik Cheney is Vice President/Chief Financial Officer of Gem State Distributors based in Pocatello, a convenience store distributor since 1958. The Company services over 100 retailers within the State. **Mr. Cheney** described his experience with this company and how they provide over \$4 million to Idaho through tobacco taxes. He commented that smoking rates have declined by 60 percent. The law currently in place is working. He stated the law gives young adults the right to choose. Education on the negative effects should be instituted. **Mr. Cheney** indicated he opposed **S 1255**.

Rich Faw, General Manager, Capitol Distributing, voiced his opposition to **S 1255**. **Mr. Faw** stated Capitol Distributing sells and delivers food, beverages, and tobacco products to over 200 retailers in Idaho. No one supports the sale of tobacco to minors. The controversy is the definition of a minor. An 18 year old has the right to do many things; he elaborated on those actions and the attendant responsibility and accountability. Tobacco is a legal product in Idaho and those adults 18 and older should have the right to choose whether to use this product.

Luke Cavener, Idaho Government Relations Director, American Cancer Society Cancer Action Network, spoke in support of this bill. **Mr. Cavener** stated some points of interest: this bill only affects three percent of the buying public; Idaho has one of the lowest tobacco tax rates in the country and the lowest of any non-tobacco producing state. The Centers for Disease Control and Prevention has said that vape products are less harmful than a combustible product. Although retailers consistently verify ID cards of purchasers, some underage people do obtain these products.

Senator Winder questioned the viability of putting someone in jail for up to a year for selling a pack of cigarettes. He wondered how **Mr. Cavener** came to that conclusion. **Mr. Cavener** explained that he worked with Senator Martin and they tried to mirror penalties and enforcement written in Idaho's alcohol law. As for imprisonment, the goal was to mirror other laws.

Vice Chairman Hagedorn asked how many citations have been written to minors for possession of tobacco products over the last year. **Mr. Cavener** said he could not answer exactly, but he could share information provided by student resource officers. Those officers are aware of those students that use tobacco, although the data does not exist. Many people in law enforcement are not involved in arresting any 16 or 17 year old; they look to educate and focus on community policing to put them on the right path.

Vice Chairman Hagedorn stated he is questioning the educational portion that cites either a minor that has tobacco products or someone is not indentifying the purchaser correctly. He inquired about the scope of the fines. Is it a serious attempt to fine someone or is it an attempt to educate? **Mr. Cavener** answered with any policy there are repercussions for actions. Law enforcement officers must make that determination on a case-by-case basis. The penalties are designed to enforce the law.

Vice Chairman Hagedorn asked if there is a problem with the definition of a minor or is the problem with enforcing the law of illegal use of tobacco products. Are our law enforcement officers writing citations so those students will understand they are breaking the law. Previous testimony indicated 60 percent of students are known to be vaping. Is there a failure to educated students about the law? **Mr. Cavener** said it is not any one particular problem. Idaho has a very low regulatory environment related to tobacco products. Idaho does need to increase enforcement. Capital resources to law enforcement officers need to be expanded. It should be made more challenging for the 18 year olds to provide tobacco products to those who are younger.

Senator Winder inquired if youth under the age of 18 were allowed to smoke by their parents. **Mr. Cavener** stated it was his belief one would do the same as would be done in a situation with alcohol. This is not the magic key, this law is about average daily use to lower addiction rate. **Senator Winder** referred to Section 6 related to penalties in Idaho Code § 39-5705, it is a misdemeanor on the first offense and subject to one year imprisonment. **Mr. Cavener** explained, in the case of a first violation, the permittee shall be notified of penalties; the second violation results in a \$200 fine to the permittee and a \$100 fine to the seller pursuant to Idaho Code § 3 a9-5708. Idaho Code § 39-5705 falls under the purview of the courts.

Skip Smyser, testified in opposition to **S 1255**. **Mr. Smyser's** main contention was young adults are given the responsibility to serve in the military in faraway places and in all types of situations; even potentially facing death. To diminish what they are asked to do in those situations by saying they are not mature or adult enough to decide whether or not to smoke is wrong. **Mr. Smyser** applauded those who advocated education instead of changing the law.

Carl Rizzo, represented himself as a provider for tobacco cessation resources and spoke in support of **S 1255**. **Mr. Rizzo** stated he provides services to groups of young people ages 14-22 in areas like juvenile detention, Job Corps, and in high schools. As many as 80 percent of the young people he sees voluntarily admit they have used cigarette devises. **Mr. Rizzo** described what he has seen, the studies he has read, and the issues he encountered as a provider for tobacco cessation.

Senator Stennett asked if he has been successful in altering behavior. **Mr. Rizzo** stated he has an 80 percent success rate. He also had instances where the success rate was at 20-25 percent. People will quit when they are ready; all he can do is offer them education and foresight as to what will happen to them if they continue.

Chairman Siddoway asked how broad a spectrum is the age group you work with. **Mr. Rizzo** stated he works for people from 12 years old to 85. The 300 young people, ages 14-22, that he sees during a year tell him they continue to use e-cigarettes because of the taste. **Chairman Siddoway** asked, if this bill passes, will the supply to the younger kids be stopped or will they simply find another provider. **Mr. Rizzo** stated, in his opinion, most students receive tobacco products from their siblings, the older sibling will be affected by this bill. He never heard of anyone going out-of-state or using the internet to get tobacco products or e-cigarettes.

Sebastian Griffen, a junior at Nampa High School spoke in support of **S 1255** on behalf of the American Heart Association/American Stroke Association of Idaho. **Mr. Griffen** shared a personal experience that he saw earlier in the week, a senior vaping with two freshman. This happens frequently where someone 18 years or older provides freshmen with some kind of tobacco or vaping products. **Mr. Griffen** said research shows if someone makes it to 21 without smoking, 98 percent of those people will never use nicotine or tobacco products. He reiterated many of the arguments heard in prior testimony. He asked the Committee to send this bill to the floor with a do pass recommendation.

Senator Hill asked, if the main concern is access in the high schools, could that be accomplished by changing the age to 19 rather than 21. **Mr. Griffen** stated he thought it would help to keep it out of the high schools, but research shows that students that make it to 21 are 98 percent more likely to never use those products. The objective is to keep tobacco products out of high schools and to keep people from using them until age 21.

Senator Stennett asked if schools were not already prohibiting tobacco use. **Mr. Griffen** responded in the affirmative. However, those who are 18 still purchase nicotine products and bring them on the school grounds. **Senator Stennett** asked how this is being regulated if it is prohibited in the schools. **Mr. Griffen** said, with his experience, it was reported and students were suspended. This not only happens at Nampa High School, but at many other schools as well. Implementing this bill would be an important factor to control tobacco usage.

Senator Winder explained the Committee is given a task to not only address the realities of tobacco abuse and use, but also the way the bills are written. The conversation has centered on one age group sharing with a younger age group, penalties are very light compared to a retailer and a clerk who are doing their job, and could potentially be sent to jail. **Senator Winder** asked if Mr. Griffen would want one of his friends sent to jail for sharing a cigarette or an e-cigarette. **Mr. Griffen** stated his opinion that penalties should not be harsh. Education and solutions are the key. He elaborated on what kinds of consequences should be used. It depends on the situation. Those consequences are in place to stop the use of tobacco or nicotine products. **Senator Winder** thanked Mr. Griffen for testifying.

Chairman Siddoway stated there were no more individuals signed up to testify and asked Senator Martin to close.

Senator Martin deferred to Cory Surber. **Ms. Surber** thanked the Committee for hearing extensive testimony. **Ms. Surber** addressed a few issues brought up in testimony. Personal choice and freedom are important and are a key value to the citizens of Idaho. She outlined a variety of reasons how personal choices affect others, how many youth are using nicotine products, the kinds of health issues that result from that use, and the cost.

Ms. Suber addressed the disconnect between tobacco and alcohol policy. Tobacco is the most highly addictive and deadly of the two substances; the objective is to mirror the enforcement of both. Jurisdictions that have implemented this type of policy state there is less than a two percent impact on sales at retailers. The goal is cutting off the supply chain to younger teens. She yielded to Senator Martin.

Senator Martin stated his appreciation for both sides of testimony. He referred to the Attorney General's letter (Attachment 2) regarding the constitutionality of this proposal. **Senator Martin** stated military leaders have pledged their support to reduce use across all departments. The goal is to reduce the use of tobacco by all. **Senator Martin** concluded they are changing the age, the existing statute remains the same.

DISCUSSION:

Senator Winder stated he is conflicted on this bill because he has seen the impact in his own family. The issue before the Committee is the bill. The dealer is not the problem, it is the person buying tobacco legally and providing it illegally with minimal penalty for that person. **Senator Winder** declared a potential conflict of interest pursuant to Senate Rule 39(H).

Senator Stennett said she is opposed to smoking; does not advocate it for anyone, and understands the health risks. She stated her doubt that this will keep cigarettes out of schools as it is already illegal and prevalent in the schools. She agreed education should be stronger. The penalties for violations for persons under the age of 21 is punishable by imprisonment; sending children to prison is not acceptable.

Vice Chairman Hagedorn spoke as a previous smoker who started at 14 and told of his personal experiences. Although he no longer smokes, he said he is still addicted to nicotine – it is a terrible drug. **Vice Chairman Hagedorn** said we, as a nation, are addicted to the money that comes from tobacco and, until we address that problem, people will be addicted to nicotine. The nation has also decided that age 18 is the time children become adults, have choices, accept responsibilities, and are held accountable for those choices. **Vice Chairman Hagedorn** emphasized children need to be educated at an early age and older children need to educate one another. Peer pressure is the answer for high school kids.

Senator Buckner-Webb told of her own personal experiences with long-term smoking by family members. She stated she has emotional and intellectual conflicts about this issue. She also has considered that the words "children" and "adult" have been used interchangeably when speaking of smoking and 18 year olds. She made the decision to support this legislation.

Chairman Siddoway shared a story about a person with a strong addiction to tobacco. He pointed out that those tobacco products take away your agency, you do not make decisions you would normally make. This person started smoking at age 14, when he wanted to quit, he could not. He started in high school, just to be cool. He recently died of cancer. If the older teenagers in his school had not had the ability to provide cigarettes to young kids, he probably would never have started smoking. **Chairman Siddoway** stated his appreciation for bringing this bill and his intention to support it.

Senator Vick stated he started smoking at age 14 and quit at 15 because it seemed dumb and expensive. **Senator Vick** said he was aware of the consequences of tobacco use. There has been discussion about the developing brain and the kinds of decisions people can make. He stated maybe the age of

maturity is wrong. He outlined the things one can do at 18: marry, jury duty, join the military, and vote, all have long-term consequences. This is not the only decision that has long-term consequences.

The age of 18 may be wrong to be considered an adult; however, as long as that is the age to make other life altering decisions, the age needs to be the same for smoking as well. There are also problems with the penalties. **Senator Vick** said he resides close to the State of Washington and to an Indian reservation. This bill would unnecessarily penalize businesses. For those reasons, he stated he will be voting against the bill.

Senator Anthon remarked this is one of those interesting bills and topics where all who are involved share the same goal, but disagree about proper policy in an honest way. He stated his respect for all who have spoken both in favor of and against. **Senator Anthon** added a preface to his comments, both of his grandfathers smoked and died of smoking related illnesses, so he knows the effects of smoking. He stated his desire that no one should ever pick up a cigarette. He reiterated many of the issues that have been brought out in testimony. There is a presumption in the argument that by making something illegal, you solve the problem. From his experience, as someone who has prosecuted crime and as a public defender, he felt that is not true. It can have an impact and does. It is a question of the government's role. **Senator Anthon** stated he was not ready to support this bill.

MOTION:

Vice Chairman Hagedorn moved to hold **S 1255** in Committee. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**MINUTES
APPROVAL:**

The approval of the Minutes of January 29, 2018 and February 2, 2018 was rescheduled.

ADJOURNMENT:

There being no further business, **Chairman Siddoway** adjourned the meeting at 10:46 a.m.

Senator Hagedorn
Vice Chair

Twyla Melton
Secretary