

MINUTES
Approved by the Committee
Vape E-Cigarette Regulatory System
Tuesday, October 22, 2024
9:00 A.M.
EW41
Boise, Idaho

Members in attendance: Cochairs Representative Raymond and Senator Harris; Senators Guthrie, and Bjerke; Representatives Vander Woude, Barbieri (via teleconference) and Burns. Absent and excused: Senator Ward-Engelking. Legislative Services Office (LSO) staff: Kyle Slominski, Kelci Karl-Robinson, Jennifer Kish, and Linda Jensen.

Others in attendance: Doug Ball, Jacksons Food Stores; Andrea Jackson, Big Smoke and Tobacco Connection.

NOTE: Presentations and handouts provided by the presenters/speakers are posted to the Idaho Legislature's website and copies of those items are on file at the Legislative Services Office in the State Capitol. Recordings of the meeting may be available under the committee's listing on the website

Michelle Clement Taylor, Director of Student Engagement and Safety Coordinator, Idaho State Department of Education, gave a presentation [Anti-Vaping: Department of Education Efforts](#). She expanded on each slide in the PowerPoint and drew attention to a sample vape survey. She spoke to current grants provided by the Millenium Fund. She highlighted plans for preventative measures and went over alternatives to kids being suspended if they are caught vaping. She briefly mentioned a vape detector grant and further commented that parents were being caught in bathrooms vaping which showed what a big problem it really is. She expounded on a partnership with the Idaho State Police (ISP) on their fentanyl presentation and further explained how money is utilized from the Millenium Fund. She concluded her presentation by briefly discussing community outreach and partnerships highlighting that a major goal was to connect schools with the best resources

- Co-chair Harris asked how fentynal was being put into vape products. Ms. Clement Taylor said the State Police could better answer the question.
- Sen. Guthrie inquired about the 60 percent triggered to do the survey and asked about the demographics. Ms. Taylor said the 60 percent is the minimum threshold to have a valid survey and she noted that it is opt-in. She added that she could not give specifics to the demographics.
- Rep. Vander Woude asked if there were mental health funds and whether other problems in different areas were also being combated. Ms. Taylor said they had three large grants for suicide prevention, and one, the "AWARE" grant, is geared towards mental health. She mentioned taking further information to the Millenium Fund Committee so more could be done. Rep. Vander Woude asked if vaping leads to other issues. Ms. Taylor agreed that there is a connection and that students are trying to find ways to deal with their anxiety and depression. She said that if students and parents feel connected to their community they are less likely to "go down the wrong path." She referred to Upstream Prevention that works towards recognizing all preventative factors.
- Sen. Bjerke shared that he was skeptical of surveys. He asked Ms. Taylor whether anything could curtail the use of vaping. Ms. Taylor acknowledged Sen. Bjerke's concern about surveys. She offered her hope that there is enough overlap with the types of questions that will help results become apparent. Because this can be done over years, she said, there may be correlations from year to year as to what students are saying. In response to a follow-up question, she said part of curtailing the use of vaping is helping kids to understand the hazards of it. She mentioned a documentary titled Nik Sick where honest conversations are featured. She advocated for more

young adults to get involved in their communities as opposed to the dangers of feeling isolated. Sen. Bjerke asked if children in junior high are more apt to express concerns now. Ms. Taylor reflected on her own experiences and said that students are now much more open to ask for help.

- Sen. Guthrie commented on the three-question survey and offered his belief that it does not "drill down" enough. Ms. Taylor clarified that it was just a sample. She said the [actual survey](#) is about 45 questions long and she offered to provide a copy to the committee.
- Rep. Vander Woude asked Ms. Taylor how she planned to achieve the 60% response desired. Ms. Taylor acknowledged the difficulties and learning curves. She provided examples of plans that are in the works to get parents involved. Rep. Vander Woude commented on educating kids about the dangers but also suggested educating the parents. He stressed that parents are being asked to approve the survey, not the kids. Ms. Taylor agreed and noted that would be part of ongoing in-depth discussions.
- Co-chair Raymond asked whether the ISP's fentanyl presentation coordinated with the Drug Abuse Resistance Education (DARE) program. Ms. Taylor responded that sometimes it did, and some ISP officers have been part of the DARE program; however, some DARE funding has gone away so funding is done through the Millennium Fund.
- Co-chair Harris asked Ms. Taylor whether something could be done better or what her assessment was of the success rate. Ms. Taylor answered that they are in the early stages of "a lot of this;" therefore, cannot provide much data, but feedback showed that they are moving in the right direction.

At 9:52 a.m., Co-chair Harris welcomed Dr. Jared Morton who presented online.

Dr. Jared Morton, MD, Director of Hospitalist Program, Idaho Falls Community Hospital and Mountain View Hospital, provided an introduction and brief background, which included volunteering on youth advisory councils. He said data changes monthly on this rising addiction. He explained the effect on one's lungs and that E-cigarettes raise the chances of lung injury, and the long-term severity of it is relatively unknown. He further expounded on the chemical agents involved in vaping. He provided real-life examples of vaping when laced with fentanyl and highlighted how big the enterprise was for these illegally made products. He related that Idaho is still in the minority by not having E-cigarette taxes and encouraged questions from committee members.

- Rep. Burns asked whether a state directory of FDA compliant vape products would be beneficial. Dr. Morton concurred that it would be a great resource.
- Co-chair Raymond drew attention to an image of lungs shown on screen and asked for an explanation. Dr. Morton explained that it was "popcorn lung," which is an E-cigarette/vaping related injury, and he further shared that a 22-year-old lost their life due to this complication. He reiterated that many people are unaware of the severities of vaping.
- Sen. Bjerke asked for a description of the developing lungs of youth who vape versus the effects on an adult who vapes. Dr. Morton said he could not provide a description, and furthermore, he was unaware of any literature about the effect on developing lungs.
- Co-chair Harris asked Dr. Morton to expound on illegally made vaping cartridges. Dr. Morton explained that most of the products that contain fentanyl can be bought on the black market. It is the liquid, he said, and could be best answered by law enforcement.

At 10:13 a.m., Co-chair Harris thanked Dr. Morton for his time and invited the next presenter.

Kelci Karl-Robinson, Revenue Analyst, LSO Budget and Policy Division, provided her [presentation](#), titled "Cigarette and Tobacco Tax Distribution and Vaping Taxes in Other States," which showed an overview of Idaho's cigarette and tobacco tax distribution, as well as other states' vaping taxes (provided via a link).

- Sen. Guthrie opined that it appeared "this is a convenient place to get money," when only about \$8 million was used for tobacco prevention. Ms. Karl-Robinson said statute could be changed to redirect the funding, but this was how the legislature had directed it.
- Sen. Bjerke asked about additional taxes. Ms. Karl-Robinson pointed out that there are sales tax exemptions.
- Co-chair Harris asked whether states see a decrease in vaping when it is taxed. Ms. Karl-Robinson stated that she could get back to the committee after further researching the question.

At 10:25 a.m., Co-chair Harris opened public testimony.

Andrea Jackson, President, Big Smoke & Tobacco Connection, gave public testimony and provided a [handout](#) to committee members. She stressed that there was a list of products that the FDA says one cannot sell (shown on page 6) and she confirmed that she does not sell those products and has never received a citation or warning. She noted that page 4 shows the products authorized by the FDA. She offered her opinion that Idaho should enforce what the FDA enforces. She added she would support a modest tax. She related examples of other states that are doing what she is recommending.

- Co-chair Harris asked how often the FDA updated the list. Ms. Jackson replied, "Regularly."
- Rep. Burns asked how she "gets rid of the products" included on the list where a store could be cited for carrying them. Ms. Jackson replied that she would sell them out and not reorder them. She added that the FDA would give her 30 days to do so.
- Sen. Guthrie asked if she can only sell certain cigarettes and whether there was a black market for them. Ms. Jackson said there is a list the state maintains as to what cigarettes can be sold and added that there are not many cigarettes on the market anymore. She said she did not know about a black market but that thousands of dollars are lost from cigarette theft.
- Rep. Vander Woude asked whether individuals were buying products online, or retailers were buying online and then selling to the consumer. Ms. Jackson replied if you sold it in your store, you bought it online.
- Rep. Burns inquired if she had her own proposal about a modest tax. Ms. Jackson deferred the question to the next speaker but added that page 11 highlighted her recommendations. She invited committee members to come to one of her stores to better understand the challenges of regulations and how her stores manage that.
- **Doug Ball**, Tobacco Category Manager, Jackson Food Stores, gave public testimony and provided a brief summary of his stores. He provided a [handout](#) to committee members that focused on products directed towards youths; he stressed that his products are not tainted. He further noted the importance of teaching youths about the hazards of vaping just like there were health warnings against cigarettes. He stated that he is against excessive tax that would cause stores less business, therefore prompting individuals to go elsewhere to purchase the products. He shared his thoughts on Idaho solutions.
- Rep. Burns asked Mr. Ball about his proposed tax. Mr. Ball replied that if a pod-based product is highly taxed it would discourage people from using the pods over cigarettes. He noted that consumers are paying a tax on the quantity of the liquid they buy.

CC Raymond gave closing comments. He said continued vigilance is needed against tobacco products corrupting youths and common ground must be found.

Co-chair Harris asked for the will of the committee as to the direction they wish to go. He noted that he would like legislation to begin being drafted.

With no further business, the meeting was adjourned at 11:14 a.m.