

Oklahoma Tobacco Settlement Endowment Trust Board of Directors: Recommendations for Youth Purchase, Use, and Possession (PUP) Laws

August, 2022

WHEREAS, the Oklahoma Tobacco Settlement Endowment Trust (TSET) was created by voters in 2000 and has a constitutional mandate to support strategies and programs designed to maintain or improve the health of Oklahomans; and

WHEREAS, in 2006, a U.S. federal court found Altria, Philip Morris USA, R.J. Reynolds, and other tobacco companies in violation of the Racketeer Influenced and Corrupt Organizations Act (RICO), citing 145 distinct acts of racketeering in a 1,682-page ruling and finding the companies' conduct permeated all aspects of their operations, that they would likely continue committing fraud, and that their conspiracy sought not only to misinform the public, but also lawmakers; and

WHEREAS, despite progress in reducing smoking, it remains the leading cause of preventable disease, disability and death in the U.S and in Oklahoma¹, killing 7,500 Oklahomans and costing our state over \$1.6 billion in healthcare costs annually²; and

WHEREAS, more than one in four Oklahoma youth have reported using some form of tobacco³, with 27.8% of high school youth reporting using e-cigarettes or vapor devices in 2020⁴; and

WHEREAS, in 2020, the minimum legal age to purchase tobacco products in Oklahoma was raised from 18 to 21 to bring state law into alignment with updated federal law; and

WHEREAS, preventing youth access to tobacco is vital as nine out of ten smokers begin before the age of 18⁵; and

WHEREAS, the tobacco industry has lobbied for youth purchase, use or possession (PUP) laws while aggressively marketing their highly addictive products to youth, seeking to direct punishment for underage sales of tobacco products away from retailers and onto youth; and

WHEREAS, such laws have shown to be inequitable and ineffective in preventing youth from initiating tobacco use, and may be detrimental as youth do not seek out cessation services or other support for fear of punishment⁶; and

WHEREAS, House Bill 3315, sponsored by Representative Cynthia Roe and signed by Governor Kevin Stitt in May 2022, removed the \$100 fine for youth caught in possession of tobacco products and instead require youth offenders to complete an education or tobacco use

¹ <https://www.americashealthrankings.org/explore/annual/measure/Smoking/state/OK>

² https://www.cdc.gov/tobacco/stateandcommunity/state-fact-sheets/oklahoma/index.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Ftobacco%2Fabout%2Fosh%2Fstate-fact-sheets%2Foklahoma%2Findex.html

³ <https://www.cdc.gov/tobacco/stateandcommunity/state-fact-sheets/oklahoma/index.html>

⁴ <https://www.cdc.gov/brfss/index.html>

⁵ Youth and Tobacco Use | Smoking and Tobacco Use | CDC

⁶ <https://www.tobaccofreekids.org/assets/factsheets/0074.pdf>

cessation program that has been approved by the Oklahoma State Department of Health (OSDH); and

WHEREAS, providing education and cessation assistance to youth is more effective in helping youth to quit tobacco products; and

WHEREAS, the focus of youth access laws should be directed to retailers who sell to underage buyers and to the tobacco industry for targeting youth.

BE IT THEREFORE RESOLVED, the TSET Board of Directors supports further efforts to reform PUP laws and reduce underage use of tobacco products by:

- Encouraging the federal government to ban the sale and delivery of tobacco products on the internet.
- Continuing to ensure youth in Oklahoma have tobacco cessation resources. Currently, TSET funds My Life My Quit⁷ and Quit the Hit⁸ programs to help youth quit using tobacco products.
- Strengthening compliance by 1) placing tobacco free signage on school property and throughout the community, 2) sending letters to parents about the school being a tobacco-free property to raise awareness that tobacco or nicotine products are not allowed and 3) making announcements during school events and athletic activities that use of tobacco or nicotine products is not allowed.
- Increasing educational opportunities for youth, parents, and community members about the harms of tobacco and nicotine products.
- Including a non-punitive disciplinary measure as an alternative to suspension if a student is caught with a tobacco product at school. Instead, encourage students to participate in the tobacco cessation or education class as recommended by OSDH under HB 3315.
- Encouraging schools to use a tiered approach when addressing nicotine or tobacco use violations by students. Violation actions taken by schools could include:
 - Confiscating the tobacco product.
 - Notifying the parent or guardian by telephone call or meeting to discuss it.
 - Requiring students to take the cessation or educational course recommended by OSDH.
 - Referring the student to a school counselor or nurse for a trauma-informed assessment and information about cessation resources if the student would like to quit.
 - Requiring a parent or guardian written notice of the tobacco or nicotine violation to be signed and returned to the school if more than one violation occurred.

FURTHERMORE, BE IT THEREFORE RESOLVED, the TSET Board of Directors calls on the Oklahoma State Legislature to enact legislation in support of these aims by:

⁷ <https://mylifemyquit.com/>

⁸ <https://quitthehitnow.com/>

- Supporting measures that put the responsibility for underage sales on retailers and funding adequate retailer education, outreach and enforcement programs.
- Repealing tobacco control preemption measures that prevent local governments from enacting policies to protect the health and well-being of their citizens.
- Limiting the amount, location and density of tobacco retailers.
- Restricting advertising and sponsorship of all tobacco and nicotine products, particularly on social media and at retail locations.
- Prohibiting the sale of flavored tobacco products to reduce youth initiation of tobacco products⁹.
- Increasing the minimum age for clerks who sell tobacco products to 21¹⁰.
- Raising the tax or applying minimum price laws on all tobacco and nicotine products to help reduce youth access to these products, as youth are particularly price sensitive.
- Enacting minimum package or container sizes for all tobacco products so they are not sold individually or in small quantities at cheaper rates that make them more accessible to youth.

FURTHERMORE, BE IT THEREFORE RESOLVED, the TSET Board of Directors respectively recommends the adoption of the aforementioned policies and strategies to reduce youth tobacco use.

THE TSET BOARD OF DIRECTORS hereby calls upon other interested groups and governing bodies to adopt similar resolutions.

⁹ https://www.changelabsolutions.org/sites/default/files/2019-05/PUPinSmoke_FINAL_2019-04-17.pdf

¹⁰ <http://tobaccocontrolnetwork.org/wp-content/uploads/2022/05/2022-TCN-Policy-Recommendations-Guide-FINAL.pdf>