

Dear Council President Lantry and Councilmembers:

As a resident of greater St. Paul who is also a former ER nurse and an attorney, for the reasons stated below, I respectfully request that you refrain from enacting proposed Ordinance 14-34. Leave the issue to the Minnesota legislature and instead, focus your efforts on more innovative and effective approaches to curb product sales to underage users rather than blindly following in Brooklyn Center's footsteps.

Review of the purpose and findings of fact underlying the single cigar packaging regulation, Ordinance 14-34, reveals that the purported basis for this legislation is misguided. Aside from the fact that the City is attempting to further regulate an area already heavily regulated by state and federal law, the 2010 Minnesota Student Survey (MSS) cited by the City as a basis for the ordinance, is contradicted by the more recent, 2013 version, which shows that tobacco use among St. Paul's 11th grade males has actually decreased since the 2010 study, and is significantly less than results found in the Brooklyn Center district (survey results are compiled by district).

Therefore, rather than risk perpetuating a trend of sponsoring potentially ineffective regulation, I would like to see the City make better use of the sponsor's talents as a community organizer and do something innovative that might make more of an impact, i.e., engage young people (such as those of the Aurora St. Anthony Neighborhood Development Corp. that spoke in favor of this ordinance) to collaborate with the City and vendors in creating new approaches to this issue. By way of further example, in addition to speaking out about their concerns, they could perhaps play a more active role under the direction of a task force and create flyers, posters, etc. that could be displayed at area businesses and directed at their peers.

Compliance issues relating to both tobacco and alcohol sales.

Considering both the results of the survey and the increased failure of tobacco compliance checks cited in the findings of fact, it is unfortunate that the City is focusing more on increasing regulations than on more effective alternatives. Alternatives that could very well offer greater protection from not just tobacco related health risks, but risks associated with alcohol use as well. For example, this could potentially be achieved by collaborating with vendors to explore ways to improve compliance relating to sales practices. Not only would it satisfy the underlying intent of this ordinance, namely, to reduce youth access to these products, but it would also enhance and support the local business climate within the city. It could further benefit the City by allowing greater insight into the difficulties faced by vendors attempting to comply with the current regulations and how these difficulties could be better addressed.

It is commendable that the City desires to continue its efforts to minimize health risks to our young people and in particular, I appreciate the sponsor Dai Thao's desire to make an impact. While I agree with the purported goal of reducing underage smoking, as stated above I disagree with the proposed methodology of prevention. The findings of fact provide troubling statistics indicating that the failure rate of cigarette compliance checks performed in the City of St. Paul "is almost four times higher than the 2012 failure rate." Yet in response to the increasing failure rates of these compliance checks, the City looks to further restrictive packaging regulation, putting even more burden on local retailers, rather than exploring more effective methods of minimizing illegal access. A quick review of the tobacco and alcohol licensing sections found on the St. Paul Dept. of Safety & Inspections webpage, fails to show any information or resources being provided to a potential vendor. So, when a vendor applies for a license to sell these products, they are provided no guidance other than copies of the regulations themselves, along with information relating to penalties. It would seem that it would take little effort for the City to be able to provide packets available to vendors with guidance, suggestions, and resources, i.e. specific resources for products (software, ID readers, etc.) that would assist the vendor in complying with the current regulations.

As pointed out in other correspondence on this issue, this ordinance is local to St. Paul only. I agree with the sentiments expressed by Matt Kramer, President of the St. Paul Chamber of Commerce, in his letter dated August 11, 2014, and included in the packet related to this proposed ordinance. In addition to

simply crossing city lines to purchase the product, consumers could also pay the additional \$1 for a single cigarillo, or simply band together with others to buy and divide the package of 5.

Further review of the 2013 St. Paul MSS relating to tobacco and alcohol use.

If the results of the MSS is truly the catalyst for action, then why did tobacco become the focus rather than alcohol? Both are regulated products and while the health risk from tobacco use is primarily personal to the user, the risks associated with alcohol generally affect not only the user, but others as well, i.e., teenage drinking and driving, high-risk sexual behavior associated with alcohol use, etc. While smoking remains the leading cause of preventable death and disease in the US, excessive alcohol use in the US is the 3rd leading lifestyle-related cause of death, and would seem similarly preventable.

According to the CDC fact sheet (available online at <http://www.cdc.gov/alcohol/fact-sheets/alcohol-use.htm>), 2006 saw more than 1.2 million emergency room visits and 2.7 million physician office visits due to excessive drinking. It also cites economic costs of excessive alcohol consumption for the same year to be estimated at \$223.5 billion, compared to an estimated \$193 billion annually attributed to smoking.

Returning to the results of the 2013 MSS administered to St. Paul students, results indicate somewhat regular use of cigarillos among only 1-3% of 11th grade males, while 23% drank one or more alcoholic beverages within the past 30 days, according to results found in Table No. 33. Of those, 10% bought the alcohol themselves at a liquor or other store. Under these circumstances, it would seem more appropriate, and effective, to focus efforts at to explore ways to increase compliance relating to the sales process of both products, rather than adding unnecessary, additional regulation of the product packaging of just one product.

As stated earlier, the underlying findings in support of this proposed ordinance point to results of the 2010 MSS, citing that the survey showed nearly 18% of 12th grade boys had smoked cigars or cigarillos in the past 30 days. The findings also point to Brooklyn Center's lead in passing similar legislation based on their particular results of the MSS. However, as indicated in the excerpt of a Star Tribune article cited below, Brooklyn Center looked to the results of the 2013 survey, not the 2010.

For more background on the Brooklyn Center ordinance, on May 15, 2014, the Star-Tribune printed an article entitled "Brooklyn Center puts pinch on popular 'little cigars'" authored by Jim Adams. The story, last accessed 8/14/14, is available online at <http://www.startribune.com/local/north/259471821.html> and describes the efforts taken by Brooklyn Center to "cut down on young peoples' use of "little cigars"; the first city in Minnesota to adopt such an ordinance aimed to reduce the use of these products.

According to the article, results of the 2013 Minnesota Student Survey was the basis for the legislation:
"The council unanimously approved the tobacco rules after hearing results of the 2013 Minnesota Student Survey. It showed that at Brooklyn Center High School, about 37 percent of 12th-grade boys and 20 percent of those in 11th grade reported using little cigars, while cigarette smoking is down. Most students surveyed said their cigars came from city convenience stores, said Council Member Dan Ryan."

It is interesting to note however, that while they indicate a high percentage of use among 12th grade boys, the survey itself was not administered to 12th graders. According to the Minnesota Dept. of Education website, the 2013 survey was administered statewide to public school students in grades 5, 8, 9 and 11. Results of the study are available through a link on the previously mentioned webpage through using a drop down menu to select the year and district.

Looking specifically at the 2013 MSS regarding tobacco use cited by the City of Brooklyn Center:

- Questions posed in the survey regarding tobacco use can be found in Table 31 of the survey: "During the last 30 days, on how many days did yousmoke cigars, cigarillos or little cigars? Of the 19% of 11th grade boys that indicated any use of these products, 13% reported daily use, and 6% reported use of between 1 – 5 days.
- New to the survey in 2013, were questions related to tobacco, alcohol and marijuana, with results shown in Table 43. Here the question related to tobacco was: How often do you use each of the following? Tobacco (cigarettes, chew) [This question did not specifically ask about cigars or cigarillos.] The responses indicate a daily use of tobacco among only 8% of 11th grade males. Here, 75% indicate that they "never" use tobacco products, while 8% use tobacco on a daily basis. Of the other responses, 8% indicated they "tried [tobacco] once or twice", 4% use once a month, and the remaining 4% use it once a week.

In contrast, looking at the same tables of the 2013 MSS survey relating to responses by St. Paul students:

- Responses to questions posed in Table 31 regarding tobacco use show that 92% of St. Paul's 11th grad males indicated no use of cigars, cigarillos or little cigars (the survey in 2013 was not administered to 12th graders). Of the remaining 8% that did indicate any use, 5% used on only 1-2 days, with the remaining 3% varied between 3 and 30 days.
- Responses to questions posed in Table 43 regarding tobacco (cigarettes, chew), show that 84% never use the products. Of the remaining 16%, 5% tried it only once or twice, 2% tried it once or twice a year, 4% used it once or twice a month, with the remaining 5% admitting use on a more regular basis.

With respect to alcohol use, Table 33 of the 2013 MSS shows that 23% of St. Paul's 11th grade males had one or more alcoholic drinks in the preceding 30 days. Furthermore, in the same thirty days, 13% had 5 or more alcoholic drinks within a "couple of hours".

According to this data, all tobacco use among young people in St. Paul has decreased, with use of cigars and cigarillos specifically down to 8% or less between 2010 and 2013, while alcohol use is more prevalent with 23% of St. Paul's 11th grade males having drank in the 30 days prior to the survey.

Given this decline in tobacco use among young people, what should be the more concerning fact identified in the findings, is the failure rate of the compliance checks by tobacco vendors. The findings assert that in 2014, the failure rate of compliance checks in the City of St. Paul was 37.5%. Rather than burdening the general public and retailers that would be impacted by this legislation, it would seem more appropriate to look to ways to increase compliance among the vendors through education or other assistance, rather than to penalize the general public. Cashiers or attendants working in convenience stores are generally paid minimum wages, and retailers often find it difficult to ensure compliance by their employees despite having policies and procedures in place. I would suspect that distributors and retailers would be amenable to efforts to increase compliance by collaborating with the City to determine where the weaknesses are in the process and how to best remedy them.

In summary, I reiterate my request that you refrain from enacting proposed ordinance 14-34. Leave the issue to the Minnesota and federal legislatures and instead, focus your efforts on collaborating with vendors to find ways to increase compliance and prevent sales of tobacco and alcohol products to minors, rather than simply increasing burdensome regulation.

Sincerely,

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