Regulatory Reform & Economic Development Subcommittee

Wednesday, December 13, 2023
1:30 PM - 4:00 PM
Webster Hall (212 Knott)

Meeting Packet

Paul Renner
Speaker

Tyler Sirois
Chair

The Florida House of Representatives

Commerce Committee

Regulatory Reform & Economic Development Subcommittee

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Meeting Agenda

Wednesday, December 13, 2023
1:30 pm – 4:00 pm
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I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):
- HB 49 Employment and Curfew of Minors by Chaney
- HB 293 Hurricane Protections for Homeowners' Associations by Sirois
- HB 303 Rabies Vaccinations by Killebrew

Consideration of the following proposed committee substitute(s):
- PCS for HB 267 -- Building Regulations
- PCS for HB 433 -- Employment Regulations

Presentations on How Vaping Advertising Affects Minors

Panel Discussion on How Vaping Advertising Affects Minors, and Related Solutions

V. Closing Remarks

VI. Adjournment

303 House Office Building, 402 South Monroe Street, Tallahassee, FL 32399-1300
(850) 717-4870

HB 49

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 49 Employment and Curfew of Minors
SPONSOR(S): Chaney
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Thompson	Anstead
2) Local Administration, Federal Affairs & Special Districts Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

Subject to some exceptions, federal and state child labor laws prevent work hours and timeframes from interfering with the child's health, safety, and education. At the federal level, the Fair Labor Standards Act (FLSA) determines the minimum age for work during school hours, performing certain jobs after school, and places restraints on work considered hazardous. Florida's Child Labor Law also restricts the employment of minors, sometimes more than federal law. Florida's Child Labor Law contains protections specifically directed to 16 and 17-year-olds, including restrictions on what times during a day they may work, how many hours in a week they may work, and what jobs or occupations they may perform.

Florida authorizes cities and counties to enact their own curfew ordinances for minors under the age of 16. The law provides that any minor under the age of 16 cannot be present at a public establishment during the following hours, not including legal holidays:

- Sunday to Thursday from 11:00 p.m. to 5:00 a.m.
- Saturday or Sunday from 12:01 a.m. to 6:00 a.m.
- 9:00 a.m. to 2:00 p.m. if suspended from school.

The statutory curfew does not apply unless the curfew is adopted by a governing body of the county or municipality. A governing body of a county or municipality is allowed to adopt restrictions that are more or less stringent than the statutory curfew.

The bill:

- Removes the restrictions on work hours for minors 16 and 17 years-of-age, and specifies that minors 16 and 17 years-of-age may work the same number of hours as a person who is 18 years-of-age or older.
- Limits the restriction that currently prohibits 16- and 17-year-olds from working more than 6 consecutive days in any one week, or working 4 hours continuously without a break of at least 30 minutes for a meal period to only apply to minors age 15 or younger.
- Removes the exception from the child labor restrictions for minors 16 and 17 years-of-age who have graduated from high school or received a high school equivalency diploma, because the exception is no longer necessary under the provisions of the bill.
- Prohibits a governing body of a county or municipality from adopting or enforcing an ordinance that regulates the presence of minors in public places and establishments which imposes restrictions more stringent than the curfew imposed in current law.

The bill may have an indeterminate fiscal impact on state and local governments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Federal Fair Labor Standards Act

The federal Fair Labor Standards Act (FLSA), enacted in 1938, provides covered workers with minimum wage, overtime pay, and child labor protections.[1] Congress adopted the FLSA to prevent substandard labor conditions from being used as an "unfair method of competition."[2] The FLSA covers employees and enterprises engaged in interstate commerce. An enterprise is covered if it has annual sales or business done of at least $500,000.[3] Regardless of the dollar volume of business, the FLSA applies to hospitals; institutions primarily engaged in the care of the sick, aged, mentally ill, or disabled who reside on the premises; schools for children who are mentally or physically disabled or gifted; federal, state, and local governments; and preschools, elementary and secondary schools, and institutions of higher education.[4]

The FLSA was adopted as a minimum set of standards, which allowed states to provide more protections for employees. Under the FLSA, if states enact minimum wage, overtime, or child labor laws that are more protective than what is provided by the FLSA, the state law applies.[5] Because states may enact laws that are more protective than what is provided by the FLSA, minimum wage, overtime, and child labor standards vary state by state.

Child Labor

The FLSA prohibits the employment of "oppressive child labor" in the United States and the shipment of goods made in proximity to oppressive child labor.[6] The FLSA establishes a general minimum age of 16 years for employment in nonhazardous occupations, and a minimum age of 18 years for employment in any occupation determined by the Secretary of Labor to be hazardous to the health or well-being of minors. However, children younger than 16 may work if certain conditions are met, and rules for agricultural and nonagricultural employment vary significantly.[7]

According to the US Department of Labor (DOL), two things are certain:[8]

- Once an employee is 18 years-of-age, there are no Federal child labor rules.
- Federal child labor rules do not require work permits. However, many states issue age certificates if you are asked to provide them by your employer.

Nonagricultural Employment – Minimum Standards

For nonexempt children, the minimum age for employment in nonagricultural occupations is:[9]

- 18 years-of-age for occupations determined by the Secretary of Labor to be hazardous to the health and well-being of children (i.e., "hazardous occupations");
- 16 years-of-age for employment in nonhazardous occupations; or

[1] 29 U.S.C. § 201-219 and 29 C.F.R. ch. V.
[2] *Brooklyn Savings Bank V. O'Neil*. 324 U.S. 697 (1945).
[3] 29 C.F.R. §§779.258-779.259.
[4] 29 U.S.C. §203(s)(1).
[5] 29 U.S. Code § 218.
[6] 29 U.S.C. §212.
[7] Congressional Research Service, The Fair Labor Standards Act (FLSA): An Overview, (Mar.8, 2023), https://crsreports.congress.gov/product/pdf/R/R42713. (last visited Nov. 30, 2023).
[8] US Department of Labor, Fair Labor Standards Act (FLSA) Child Labor Rules Advisor, https://webapps.dol.gov/elaws/whd/flsa/cl/default.htm (last visited Dec. 3, 2023).
[9] 29 CFR § 570.2.

- 14 years-of-age for a limited set of occupations, with restrictions on hours and work conditions, as determined by the Secretary of Labor.

A child under the age of 14 may not be employed unless his or her employment is explicitly excluded from the definition of oppressive child labor (e.g., a parent is the child's sole employer in a nonhazardous occupation) or exempt from the FLSA child labor provisions (e.g., newspaper delivery).[10]

The hours and times of day that 14- and 15-year-olds are allowed to work and specific occupations that are permitted or prohibited for such minors in nonagricultural occupations are set by federal and state law.

The FLSA allows the employment of minors 14 and 15 years-of-age during the following hours and times-of-day:[11]

- Outside of school hours;[12]
- Not more than 40 hours in any 1 week when school is not in session;
- Not more than 18 hours in any 1 week when school is in session;
- Not more than 8 hours in any 1 day when school is not in session;
- Not more than 3 hours in any 1 day when school is in session, including Fridays; and
- Between 7 a.m. and 7 p.m. in any 1 day, except during the summer (June 1 through Labor Day) when the evening hour will be 9 p.m.

Oppressive Child Labor

The following occupations constitute oppressive child labor within the meaning of the FLSA when performed by minors who are 14 and 15 years-of-age:[13]

- Manufacturing, mining, or processing occupations.
- Occupations that the Secretary of Labor may, pursuant to section 3(l) of the FLSA, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being.
- Occupations that involve operating, tending, setting up, adjusting, cleaning, oiling, or repairing hoisting apparatus.
- Work performed in or about boiler or engine rooms or in connection with the maintenance or repair of the establishment, machines, or equipment.
- Occupations that involve operating, tending, setting up, adjusting, cleaning, oiling, or repairing any power-driven machinery, including but not limited to lawn mowers, golf carts, all-terrain vehicles, trimmers, cutters, weed-eaters, edgers, food slicers, food grinders, food choppers, food processors, food cutters, and food mixers. Youth 14 and 15 years of age may, however, operate office equipment pursuant to § 570.34(a) and vacuum cleaners and floor waxers pursuant to § 570.34(h).
- The operation of motor vehicles.
- Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes.
- All baking and cooking activities except that cooking which is permitted by § 570.34(c).
- Work in freezers and meat coolers and all work in the preparation of meats for sale except as permitted by § 570.34(j). This section, however, does not prohibit the employment of 14- and 15-year-olds whose duties require them to occasionally enter freezers only momentarily to retrieve items as permitted by § 570.34(i).
- Youth peddling, which entails the selling of goods or services to customers at locations other than the youth-employer's establishment, such as the customers' residences or places of business, or public places such as street corners and public transportation stations.

[10] 29 CFR § 570.119.
[11] 75 C.F.R. § 28448 (2010).
[12] 29 C.F.R. § 570.35(b) defines "school hours" as the hours that the local public school district where the minor resides while employed is in session during the regularly scheduled school year.
[13] 29 C.F.R. § 570.33.

- Loading and unloading of goods or property onto or from motor vehicles, railroad cars, or conveyors, except the loading and unloading of personal non-power-driven hand tools, personal protective equipment, and personal items to and from motor vehicles as permitted by § 570.34(k).
- Catching and cooping of poultry in preparation for transport or for market.
- Public messenger service.
- Occupations in connection with transportation of persons or property, warehousing and storage, communications and public utilities, and construction (including demolition and repair).

Authorized Occupations

The FLSA allows the following occupations to be performed by minors 14 and 15 years-of-age when performed within the required timeframes:[14]

- Office and clerical work, including the operation of office machines.
- Work of an intellectual or artistically creative nature.
- Cooking with electric or gas grills which does not involve cooking over an open flame.
- Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping.
- Price marking and tagging by hand or machine, assembling orders, packing, and shelving.
- Bagging and carrying out customers' orders.
- Errand and delivery work by foot, bicycle, and public transportation.
- Clean up work, including the use of vacuum cleaners and floor waxers, and the maintenance of grounds, but not including the use of power-driven mowers, cutters, trimmers, edgers, or similar equipment.
- Kitchen work and other work involved in preparing and serving food and beverages.
- Cleaning vegetables and fruits, and the wrapping, sealing, labeling, weighing, pricing, and stocking of items.
- The loading onto motor vehicles and the unloading from motor vehicles of the light, non-power-driven, hand tools and personal protective equipment that the minor will use as part of his or her employment at the work site; and the loading onto motor vehicles and the unloading from motor vehicles of personal items such as a back pack, a lunch box, or a coat that the minor is permitted to take to the work site.
- The employment of 15-year-olds (but not 14-year-olds) to perform permitted lifeguard duties at traditional swimming pools and water amusement parks (including such water park facilities as wave pools, lazy rivers, specialized activity areas that may include water falls and sprinkler areas, and baby pools; but not including the elevated areas of power-driven water slides) when such youth have been trained and certified by the American Red Cross, or a similar certifying organization, in aquatics and water safety.
- Employment inside and outside of places of business where machinery is used to process wood products.
- Work in connection with cars and trucks if confined to dispensing gasoline and oil; courtesy service; car cleaning, washing and polishing by hand; and other occupations permitted by this section, but not including work involving the use of pits, racks, or lifting apparatus, or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.
- Work in connection with riding inside passenger compartments of motor vehicles.

Agricultural Employment – Minimum Standards

With some exceptions, the minimum age for employment in agricultural occupations is:

- 16 years-of-age for employment in any agricultural job, including those determined to be hazardous by the Secretary of Labor, with no restrictions on hours of work;[15]
- 14 years-of-age for employment in nonhazardous agricultural jobs, outside of school hours;[16]

[14] 29 CFR § 570.34.

[15] 29 CFR § 570.2.

[16] 29 U.S.C. §213(c)(1)(C). DOL regulations identify the set of jobs and activities that—subject to hours-of-work

- 12 years-of-age (up to 13 years) for employment in nonhazardous agricultural jobs, outside of school hours, with the written consent of a parent; written consent is not required if the work takes place on a farm that also employs the child's parent;[17]
- 10 years-of-age (and up to 11 years) for employment to hand-harvest select crops for up to eight weeks in nonhazardous agricultural jobs, outside of school hours, with the written consent of a parent, providing the employer has obtained a waiver permitting this employment from the Secretary of Labor;[18] or
- Any age (up to 12 years), for employment in nonhazardous agricultural jobs, outside of school hours on certain small farms, with a parent's written consent.[19]

A child of any age who is employed by a parent on a farm owned or operated by the parent may work without restriction.[20] DOL regulations also provide limited exemptions to child labor rules concerning hazardous agricultural occupations for student learners and graduates of vocational training programs that meet regulatory criteria.[21]

FLSA Child Labor Exemptions

The FLSA excludes the following occupations and work arrangements from coverage of its child labor provisions:

- *Children with a Parental Employer*: Children who work for a parent or a person standing in place of a parent[22] in an occupation other than manufacturing, mining, or hazardous work may be employed at any age and for any number of hours.[23]
- *Child Performers*: Children of any age may be employed as actors or performers in motion pictures or in theatrical, radio, or television productions.[24]
- *Newspaper Delivery Persons*: Children of any age may be employed to deliver newspapers to consumers.[25]
- *Evergreen Wreath Producers (Homebased)*: Children of any age may be employed as homeworkers to make evergreen wreaths and to harvest forest products used in making such wreaths.[26]

Hazardous Occupations

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restrictions—do not constitute oppressive child labor for children ages 14 and 15 years old; these are at 29 C.F.R. §570.33.

[17] 29 U.S.C. §213(c)(1)(B).

[18] The conditions under which the Secretary of Labor will grant a waiver permitting the employment of 10 and 11 year old children to harvest certain crops are in 29 U.S.C. 213(c)(4) and 29 C.F.R. § part 575. However, as DOL notes "the Department was enjoined from issuing such waivers in 1980 because of issues involving exposure, or potential exposure, to pesticides (see National Ass'n of Farmworkers Organizations v. Marshall, 628 F.2d 604 (DC Cir. 1980)). Therefore, no waivers have been granted under FLSA section 13(c)(4) for thirty years." DOL-WHD, "Child Labor Regulations, Orders and Statements of Interpretation; Child Labor Violations-Civil Money Penalties - A Proposed Rule," 75 Federal Register 54842, September 2, 2011.

[19] 29 U.S.C. §213(c)(1)(A). Applies to the employment of children on farms that are exempt from FLSA minimum wage provisions because they employed fewer than 500 "man-days of agricultural labor" during any calendar quarter in the previous calendar year. FLSA defines a man-day of agricultural labor as "any day during which an employee performs any agricultural labor for not less than one hour"; 29 U.S.C. §203(u).

[20] 29 U.S.C. §213(c)(2).

[21] 29 C.F.R. §570.72.

[22] Parent or person standing in place of a parent is defined in 29 C.F.R. §570.126 as including "natural parents, or any other person, where the relationship between that person and a child is such that the person may be said to stand in place of a parent. For example, one who takes a child into his home and treats it as a member of his own family, educating and supporting the child as if it were his own, is generally said to stand to the child in place of a parent."

[23] This exemption stems from the FLSA definition of oppressive child labor at 29 U.S.C. §203(1), which excludes children employed by a parent in most nonhazardous occupations. For children employed in nonagricultural work, the parent must be the sole employer for the exemption to hold. The parent need not be the sole employer for children working in agriculture on a farm owned or operated by the parent.

[24] 29 U.S.C. §213(c)(3).

[25] 29 U.S.C. §213(d).

[26] 29 U.S.C. §213(d).

Seventeen groups of nonagricultural occupations have been determined to be hazardous or detrimental to the health or well-being of children between the ages of 16 and 18 years.[27] Employment in these jobs is prohibited, with limited exemptions for registered apprentices and student learners.[28] In some instances, children's employment is banned in entire industries (e.g., coal mining) with some exceptions for office, sales, or maintenance work; others prohibit children's exposure to materials (e.g., radioactive substances) or equipment (e.g., power-driven hoisting apparatus).

Eleven types of agricultural occupations have been determined to be hazardous, in which—with few exceptions—a child below the age of 16 may not be employed.[29] These include, for example, handling or applying certain agricultural chemicals, and working on a farm in a pen occupied by a stud horse maintained for breeding purposes. The prohibition on employment in agricultural hazardous occupations does not apply to children employed by a parent on a farm owned or operated by the parent.[30] When certain requirements are met, student learners and graduates of tractor or machine operation programs that meet regulatory criteria may be employed in select hazardous occupations.

FLSA Violations

Two remedies are available for violations of the FLSA child labor provisions. The Secretary of Labor may assess civil penalties or seek other relief, including injunctive relief. Employers who violate the FLSA child labor provisions may be assessed the following civil penalties:

- Up to $15,138 for each employee who was the subject of a child labor violation; or
- Up to $68,801 for each violation that causes the death or serious injury of a minor employee, a penalty may be doubled if the violation is a repeated or willful violation.[31]

U.S. district courts have jurisdiction to enjoin violations of the FLSA's child labor provisions.[32] For example, a federal court may order an employer to halt employment of a minor in a hazardous occupation or may enjoin a producer from shipping goods out of state from an establishment in or about which a child labor violation has occurred. Criminal penalties are also prescribed for willful violations of the FLSA's child labor provisions.[33]

Florida Child Labor Law

The Florida Department of Business and Professional Regulation, Division of Regulation, administers and enforces the state's Child Labor Law[34] through its Child Labor Program.[35] The "mission of the Child Labor Program is to provide a program of education, enforcement, and administrative initiatives designed to achieve full compliance in the enforcement of Child Labor laws and ensure the health, education and welfare of Florida's working minors."[36]

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[27] 29 C.F.R. §§570.50-570.68.

[28] The prohibition on minors' employment in the nonagricultural hazardous occupations applies even if the child is employed by a parent. The conditions under which a registered apprentice or student learner may participate in hazardous occupation tasks are described in 29 C.F.R. §570.50 (b) and (c).

[29] Hazardous agricultural occupations are described in 29 C.F.R. §570.71; exemptions to the ban on children's employment in hazardous agricultural occupations are in 29 C.F.R. §570.72.

[30] 29 U.S.C. §213(c)(2).

[31] These civil money penalties took effect on January 16, 2023, and are as adjusted for inflation as provided by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (P.L. 114-74).

[32] 29 U.S.C. §217.

[33] Congressional Research Service, The Fair Labor Standards Act (FLSA): An Overview, Mar.8, 2023, at 17 https://crsreports.congress.gov/product/pdf/R/R42713. (last visited Dec. 3, 2023).

[34] *See* ss. 450.001-450.165, F.S.

[35] S. 450.155, provides that Child Labor Law program appropriations made by the Legislature shall be used to carry out the proper responsibilities of administering the Child Labor Law, to protect the working youth of the state, and to provide education about the Child Labor Law to employers, public school employees, the general public, and working youth.

[36] Florida Department of Business and Professional Regulation, Child Labor, http://www.myfloridalicense.com/DBPR/child-labor/ (last visited Dec. 3, 2023).

Florida's Child Labor Law restricts the employment of minors, sometimes more than federal law. Once a worker reaches the age of 18, child labor laws do not restrict their employment.

Florida's Child Labor Law defines "child" or "minor" as any person 17 years of age or younger, unless:[37]

- The person is or has been married;
- The person's disability of nonage has been removed by a court of competent jurisdiction;
- The person is serving or has served in the Armed Forces of the United States;
- It has been found by a court having jurisdiction over the person that it is in the best interest of such minor to work and the court specifically approves any employment of such person, including the terms and conditions of such employment; or
- The person has graduated from an accredited high school or holds a high school equivalency diploma.

Minimum Age

Under Florida's Child Labor law, minors of any age may be employed as follows:[38]

- As pages in the Florida Legislature.
- By the entertainment industry as prescribed in ss. 450.012, F.S., and 450.132, F.S.
- In domestic or farm work in connection with their own homes or the farm or ranch on which they live, or directly for their own parents or guardian, or in the herding, tending, and management of livestock, during the hours they are not required by law to be in school.

The law provides the following prohibitions:

- *Persons 10 years-of-age or younger*: Prohibited from engaging in the sale and distribution of newspapers.
- *Except as provided above, persons 13 years-of-age or younger*: Prohibited from being employed, permitted, or suffered to work in any gainful occupation at any time.
- *Persons 17 years old or younger*: Whether or not such person's disabilities of nonage have been removed by marriage or otherwise, are prohibited from being employed, permitted, or suffered to work in any place where alcoholic beverages are sold at retail, except as provided in s. 562.13, F.S.[39] For example, a 16- or 17-year-old may work at a grocery store that sells alcohol under certain conditions and a restaurant that sells beer and wine under certain conditions.

The law provides the following prohibition to prevent minors being exploited and becoming victims of human trafficking:[40]

- A person under the age of 18, whether or not such person's disabilities of nonage have been removed by marriage or otherwise, may not be employed, permitted, or suffered to work in an adult theater, as defined in s. 847.001(2)(b), F.S.

Hazardous Occupations

Florida law prohibits minors 15 years-of-age or younger, whether or not such person's disabilities of nonage have been removed by marriage or otherwise, from being employed or permitted or suffered to work in any of the following occupations:[41]

- In connection with power-driven machinery, except power mowers with cutting blades 40 inches or less.
- In any manufacturing that makes or processes a product with the use of industrial machines.

[37] S. 450.012(3), F.S.
[38] S. 450.021, F.S.
[39] Section 562.13, F.S., prohibits any vendor licensed under the Beverage Law from employing any person under 18 years of age. However, this section provides specific exceptions, including, but not limited to, professional entertainers under 17 years of-age, certain minors employed in the entertainment industry, persons under the age of 18 employed in drugstores, grocery stores, department stores, florists, specialty gift shops, or automobile service stations for consumption off the premises.
[40] S. 450.021(5), F.S.
[41] S. 450.061(1), F.S.

- The manufacture, transportation, or use of explosive or highly flammable substances.
- Sawmills or logging operations.
- On any scaffolding.
- In heavy work in the building trades.
- In the operation of a motor vehicle, except a motorscooter which he or she is licensed to operate, except that 14-year-old and 15-year-old workers may drive farm tractors in the course of their farmwork under the close supervision of their parents on a family-operated farm, and except that qualified 14-year-old and 15-year-old workers may drive tractors in the course of their farmwork under the close supervision of the farm operator. "Qualified," as used herein, means having completed a training course in tractor operation sponsored by a recognized agricultural or vocational agency, as evidenced by duly executed certificate, such certificate to be filed with the farm operator for the duration of the employment.
- In oiling, cleaning, or wiping machinery or shafting or applying belts to pulleys.
- In repairing of elevators or other hoisting apparatus.
- Work in freezers or meat coolers and all work in preparation of meats for sale, except wrapping, sealing, labeling, weighing, pricing, and stocking when performed in another area. This shall not prohibit work done in the normal operations of a food service facility licensed by chapter 509, F.S.
- In the operation of power-driven laundry or drycleaning machinery or any similar power-driven machinery.
- At spray painting.
- Alligator wrestling, work in connection with snake pits, or similar hazardous activities.
- Door-to-door selling of magazine subscriptions, candy, cookies, flowers, or other merchandise or commodities, except merchandise of nonprofit organizations, such as the Girl Scouts of America or the Boy Scouts of America.
- In working with meat and vegetable slicing machines.

Florida law prohibits minors under 18 years-of-age, whether such person's disabilities of nonage have been removed, from being employed or permitted or suffered to work in any of the following places of employment or in any of the following occupations:[42]

- In or around explosive or radioactive materials.
- On any scaffolding, roof, superstructure, residential or nonresidential building construction, or ladder above 6 feet.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- In or around toxic substances or corrosives, including pesticides or herbicides, unless proper field entry time allowances have been followed.
- Any mining occupation.
- In the operation of power-driven woodworking machines.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- In the operation of power-driven hoisting apparatus.
- In the operation of power-driven metal forming, punching, or shearing machines.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Slaughtering, meat packing, processing, or rendering, except as provided in 29 C.F.R. s. 570.61(c), F.S.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- In the operation of power-driven bakery machinery.
- In the operation of power-driven paper products and printing machines.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Manufacturing brick, tile, and like products.

[42] S. 450.061(2), F.S.

- Wrecking or demolition.
- Excavation operations.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Logging or sawmilling.
- Working on electric apparatus or wiring.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Firefighting.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Operating or assisting to operate, including starting, stopping, connecting or disconnecting, feeding, or any other activity involving physical contact associated with operating, a tractor over 20 PTO horsepower, any trencher or earthmoving equipment, fork lift, or any harvesting, planting, or plowing machinery, or any moving machinery.

Florida law prohibits the employment of minors under 18 years-of-age, whether such person's disabilities of nonage have been removed by marriage or otherwise, from being employed or permitted or suffered to work in any place of employment or at any occupation hazardous or injurious to the life, health, safety, or welfare of such minor, as such places of employment or occupations may be determined and declared by the department to be hazardous and injurious.

These prohibitions do not apply to minors employed in the entertainment industry.[43]

Hours of Work

Generally, Florida law allows minors who are 16 and 17 years-of-age to work in a broad range of jobs, unless the jobs are hazardous. Minors who are 14 and 15 years-of-age are allowed to work in a broad range of jobs but are limited in the number of hours per day and per week they may work, especially when school is in session.[44] Minors 13 years old or younger are prohibited from working in Florida, except in some limited situations.

Minors Under the Age of 16

For minors younger than 16 years-of-age, Florida Child Labor Law provides the following restrictions on hours of work:

- Before 7 a.m. or after 7 p.m. when school is scheduled the following day or for more than 15 hours in any one week.
- More than 3 hours on any school day, if not enrolled in a career education program, unless there is no session of school the following day.
- During holidays and summer vacations:
    - Before 7 a.m. or after 9 p.m.;
    - For more than 8 hours in any one day; or
    - For more than 40 hours in any one week.

Sixteen and Seventeen-Year-Olds

For minors 16 and 17 years-of-age, Florida's Child Labor Law provides the following restrictions on hours of work:

- Before 6:30 a.m. or after 11:00 p.m.
- More than 8 hours in any one day when school is scheduled the following day.
- When school is in session, more than 30 hours in any one week.
- During school hours on any school day, if not enrolled in a career education program.
- More than 6 consecutive days in any one week.

[43] S. 450.061(4), F.S.
[44] *See* S. 450.081, F.S.

- More than 4 hours continuously without an interval of at least 30 minutes for a meal period.
    - No period of less than 30 minutes is deemed to interrupt a continuous period of work.

Exemptions

The hours of work restrictions do not apply to the following:[45]

- Minors 16 and 17 years-of-age who have graduated from high school or received a high school equivalency diploma.
- Minors who are within the compulsory school attendance age limit who hold a valid certificate of exemption issued by the school superintendent or his or her designee pursuant to the provisions of s. 1003.21(3), F.S.
- Minors enrolled in a public educational institution who qualify on a hardship basis such as economic necessity or family emergency.
    - Such determination must be made by the school superintendent or his or her designee, and a waiver of hours must be issued to the minor and the employer.
- Children in domestic service in private homes, children employed by their parents, or pages in the Florida Legislature.

Florida law provides that the presence of any minor in any place of employment during working hours is prima facie evidence of his or her employment.[46]

Partial Waivers

In extenuating circumstances when it clearly appears to be in the best interest of the child, DBPR is authorized to grant a waiver of the restrictions imposed by the Child Labor Law on the employment of a child. Such waivers are granted upon a case-by-case basis and based upon such factors as the department, by rule, establishes as determinative of whether such waiver is in the best interest of a child.[47]

DBPR, or the school district designee if the minor is enrolled in the public school system, is authorized to grant a waiver of any restriction imposed by the Child Labor Law, or by rule. In determining whether to grant a Partial Waiver, the Department shall consider all relevant information which may establish what is in the best interest of the minor, including:[48]

- *School Status*: DBPR, or the school district designee, is required to grant a partial waiver based on school status when:
    - The minor will receive instruction by a tutor at the place of employment;
    - The minor has been authorized by the District School Superintendent to complete his or her education through alternative methods such as home school;
    - The minor has been permanently expelled from the public school system;
    - The minor is enrolled in school in a foreign country and is visiting Florida during his or her home country's non-school period; or
    - The employment would provide an educational, vocational, or public service experience that would be beneficial to the minor.
        - Documentation shall consist of confirmation from the minor's school principal or the Superintendent of the School District and of copies of school records clearly defining the minor's school status.
- *Financial Hardship*: DBPR, or the school district designee, is required to grant a partial waiver based on financial hardship when compliance with the Child Labor Law or rule will result in undue financial hardship for the minor or the minor's immediate family. Documentation must include:

[45] S. 450.081(5), F.S.
[46] S. 450.081(6), F.S.
[47] S. 450.095, F.S.
[48] R. 61L-2.007, F.A.C.

    - A notarized letter, explaining the particular circumstances creating a hardship, from a parent, guardian, or other adult, who knows and can attest to the minor's financial hardship; written confirmation from a school recently attended;
    - Documentation from a social service agency; or
    - Verification of participation in AFDC, Food Stamp, Project Independence, or other similar programs.
    - DBPR is authorized to require other documentation which proves financial hardship.
- *Medical Hardship*: DBPR, or the school district designee, must grant a partial waiver based on medical hardship when compliance with the Child Labor Law or rule will result in physical or mental hardship for the minor. Documentation may consist of written confirmation from the minor's physician stating the specific medical reasons that require the minor to be excused from mandatory school attendance and affirming that the minor to be excused from mandatory school attendance may be allowed to work the requested hours, or that the minor should be considered an adult for the purpose of work hours.
- *Other Hardship*: DBPR, or school district designee, must grant a partial waiver based on other hardship when compliance with the Child Labor Law or rule will result in unreasonable hardship to the minor in specific situations.
- *Court Order*: DBPR, or the school district designee, must grant a partial waiver based on a court order when compliance with the Child Labor Law or rule will result in the minor violating an order issued by a court mandating that the minor work specified hours or in a specified occupation.

Enforcement

DBPR and local law enforcement are required to:[49]
- Enforce the provisions of the Child Labor Law;
- Make complaints against persons violating its provisions; and
- Prosecute violations.

DBPR is authorized to enter and inspect at any time any place or establishment covered by this law and to have access to age certificates kept on file by the employer and other records. Designated school representatives are required to report to DBPR all violations of the Child Labor Law.[50]

The Child Labor Law also provides that:
- Trial courts in the state have the duty to issue warrants and try cases within their jurisdiction in connection with violations of the Child Labor Law.
- Grand juries have inquisitorial powers to investigate violations, and trial court judges shall specially charge the grand jury to investigate violations of the Child Labor Law.

The Child Labor Law provides the following penalties for violations:[51]
- Second degree misdemeanor, punishable by up to 60 days in prison[52] and a $500 fine.[53]
    - Each day during which any violation of this law continues, and the employment of any minor in violation of the law, constitutes a separate and distinct offense.
- Second degree felony, punishable by up to 15 years in prison,[54] a $10,000 fine,[55] or up to 30 years in prison for habitual offenders[56] any person who:[57]
    - Takes, receives, hires, employs, uses, exhibits, or, in any manner or under any pretense, causes or permits any child less than 18 years of age to suffer;

[49] S. 450.121(1), F.S.
[50] S. 450.121(2), F.S.
[51] S. 450.141(1), F.S.
[52] S. 775.082, F.S.
[53] S. 775.083, F.S.
[54] S. 775.082, F.S.
[55] S. 775.083, F.S.
[56] S. 775.084, F.S.
[57] S. 450.151, F.S.

- Inflicts upon any such child unjustifiable physical pain or mental suffering;
- Willfully causes or permits the life of any such child to be endangered or his or her health to be injured or such child to be placed in such situation that his or her life may be endangered or health injured; or
- Has in custody any such child for any of these purposes.

The Child Labor Law authorizes DBPR to provide administrative fines not to exceed $2,500 per offense.[58] Upon discovery by DBPR that an employer is in violation, it is required to give written notice to the employer specifying the violation, the facts alleged to constitute the violation, and the requirements and time limitations for remedial action. If the employer refuses or fails to comply, DBPR is authorized to seek assessment of the following schedule of fines:[59]

Violation	1st Offense	2nd Offense	3rd and Subsequent Offenses
Child Labor Poster	Up to $500	Up to $1,000	Up to $1,500
Employment of Minor	Up to $1,000	Up to $1,500	Up to $2,500
Proof of Age or Copy of Partial Waiver	Up to $700	Up to $1,200	Up to $2,000
Employment of Minor in Violation of Beverage law.	Up to $1,000	Up to $1,500	Up to $2,500
Work Hours or Consecutive Days	Up to $1,000	Up to $1,500	Up to $2500
Hazardous Occupation	Up to $1,500	Up to $2,000	Up to $2,500
Employment of minor in violation of any provision of Child Labor.	Up to $2,500	Up to $2,500	Up to $2,500
Law or this rule chapter which results in injury or death to minor.			
Violation of proof of age and identity requirements for Adult Theaters.	Up to $1,000	Up to $2,000	Up to $2,500
Any other violation of the Child Labor Law or this rule chapter.	Up to $1,000	Up to $1,500	Up to $2,500
Failure to provide records or documentation upon request.	Up to $500	Up to $1,200	Up to $2,000

Career Education Exemptions

Florida's Child Labor Law specifies that it does not:

- Prevent minors of any age from receiving career education furnished by the U.S., this state, or any county or other political subdivision of this state and duly approved by the Department of Education or other duly constituted authority, nor any apprentice indentured under a plan approved by the Department of Economic Opportunity; or
- Prevent the employment of any minor 14 years of age or older when such employment is authorized as an integral part of, or supplement to, such a course in career education and is authorized by regulations of the district school board of the district in which such minor is employed, provided the employment is in compliance with the provisions of ss. 450.021(4), F.S. and 450.061, F.S.

Exemptions for the employment of student learners 16 to 18 years-of-age provided in s. 450.061, F.S., apply when:[60]

- The student learner is enrolled in a youth vocational training program under a recognized state or local educational authority.
- Such student learner is employed under a written agreement that provides:
  - That the work of the student learner in the occupation declared particularly hazardous shall be incidental to the training.
  - That such work shall be intermittent and for short periods of time and under the direct and close supervision of a qualified and experienced person.

[58] S. 450.141(2), F.S.
[59] R. 61L-2.009, F.A.C.
[60] S. 450.161, F.S.

- That safety instructions shall be given by the school and correlated by the employer with on-the-job training.
- That a schedule of organized and progressive work processes to be performed on the job shall have been prepared.

Proof of Identity

In order to hire a child to work, the law requires an employer to obtain and keep on record during the entire period of employment proof of the child's age.[61] Employers who hire minors are also required to post posters notifying minors of the Child Labor Law.[62]

Local Juvenile Curfew Ordinances

Florida authorizes cities and counties to enact their own curfew ordinances for minors under the age of 16.[63] The law provides the following statutory restrictions that do not apply unless they are adopted by a governing body of the county or municipality:[64]

- A minor may not be or remain in a public place or establishment between the hours of 11:00 p.m. and 5:00 a.m. of the following day, Sunday through Thursday, except in the case of a legal holiday.
- A minor may not be or remain in a public place or establishment between the hours of 12:01 a.m. and 6:00 a.m. on Saturdays, Sundays, and legal holidays.
- A minor who has been suspended or expelled from school may not be or remain in a public place, in an establishment, or within 1,000 feet of a school during the hours of 9:00 a.m. to 2:00 p.m. during any school day.

Local curfew ordinances for minors under the age of 16 are allowed to be more or less stringent than the statutory curfew.[65]

These restrictions do not apply to a minor who is:[66]

- Accompanied by his or her parent or by another adult authorized by the minor's parent to have custody of the minor.
- Involved in an emergency or engaged, with his or her parent's permission, in an emergency errand.
- Attending or traveling directly to or from an activity that involves the exercise of rights protected under the First Amendment of the United States Constitution.
- Going directly to or returning directly from lawful employment, or who is in a public place or establishment in connection with or as required by a business, trade, profession, or occupation in which the minor is lawfully engaged.
- Returning directly home from a school-sponsored function, a religious function, or a function sponsored by a civic organization.
- On the property of, or on the sidewalk of, the place where the minor resides, or who is on the property or sidewalk of an adult next-door neighbor with that neighbor's permission.
- Engaged in interstate travel or bona fide intrastate travel with the consent of the minor's parent.
- Attending an organized event held at and sponsored by a theme park or entertainment complex as defined in s. 509.013(9), F.S.

[61] S. 450.045(1), F.S. Such proof must include photocopies of the child's birth certificate and driver license, an age certificate issued by the district school board of the district in which the child is employed, certifying the child's date of birth, or a photo copy of a passport or visa which lists the child's date of birth.
[62] S. 450.045(2), F.S.
[63] *See* ss. 877.20-877.25, F.S.
[64] S. 877.22, F.S.
[65] S. 877.25, F.S.
[66] S. 877.24, F.S.

A minor in violation must receive a written warning for a first violation. A minor who violates this section after having received a prior written warning is guilty of a civil infraction and must pay a fine of $50 for each violation.[67]

A minor who violates a curfew and is taken into custody must be transported immediately to a police station or facility operated by a religious, charitable, or civic organization that conducts a curfew program in cooperation with a local law enforcement agency.[68]

After recording pertinent information about the minor, law enforcement is required to attempt to contact the parent of the minor, and:[69]

- If successful, request that the parent take custody of the minor and must release the minor to the parent.
- If not able to contact the minor's parent within 2 hours after the minor is taken into custody, or if the parent refuses to take custody of the minor, the law enforcement agency is authorized to transport the minor to her or his residence or take the child into custody as provided under part IV of chapter 39, F.S.

The parent of a minor who knowingly permits the minor to violate the curfew law is required to receive a written warning for a first violation. A parent who knowingly permits the minor to violate the curfew law after receiving a prior written warning is guilty of a civil infraction and subject to a fine of $50 for each violation.[70]

Effect of the Bill

Child Labor

The bill removes the following restrictions on work hours for minors 16 and 17 years-of-age:

- Working before 6:30 a.m. or after 11:00 p.m. or for more than 8 hours in any one day when school is scheduled the following day.
- When school is in session, working more than 30 hours in any one week.
- On any school day, being gainfully employed during school hours if they are not enrolled in a career education program.

The bill reduces the age from 17 years-of-age to 15 years-of-age, which will prohibit minors 15 years old or younger from working more than:

- 6 consecutive days in any one week.
- 4 hours continuously without an interval of at least 30 minutes for a meal period.

The bill removes the exception from the restrictions for minors 16 and 17 years-of-age who have graduated from high school or received a high school equivalency diploma, because such exception will no longer be necessary.

The bill clarifies that minors 16 and 17 years-of-age may work the same number of hours as a person who is 18 years-of-age or older.

Local Juvenile Curfew Ordinances

The bill prohibits a governing body of a county or municipality from adopting or enforcing an ordinance that regulates the presence of minors in public places and establishments which imposes restrictions more stringent than the curfew imposed under s. 877.22, F.S.

B. SECTION DIRECTORY:

[67] *Id.*
[68] *Id.*
[69] *Id.*
[70] S. 877.23, F.S.

Section 1: Amends s. 450.081, F.S., removing certain employment restrictions for minors 16 and 17 years of age; revising the age at which certain employment restrictions apply.

Section 2: Amends s. 877.25, F.S., prohibiting counties and municipalities from adopting or enforcing certain ordinances that are more stringent than state law.

Section 3: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See fiscal comments section.

2. Expenditures:

See fiscal comments section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may increase opportunities for 16 and 17-year-old individuals to work and generate income.

The bill may allow certain employers to employ 16 and 17-year-old individuals without having to comply with the burdensome requirements in current law.

The bill may increase labor force participation among 16 and 17-year-old individuals, which may result in a reduction of obtaining higher skills, education, and healthcare for these individuals.

D. FISCAL COMMENTS:

The bill prohibits a governing body of a county or municipality from setting a curfew for minors in public places that is more stringent than the curfew imposed under state law. To the extent certain local governments have already enacted and are enforcing such ordinances, this may have a negative fiscal impact on related revenues but may also reduce expenditures.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to employment and curfew of minors; amending s. 450.081, F.S.; removing certain employment restrictions for minors 16 and 17 years of age; revising the age at which certain employment restrictions apply; amending s. 877.25, F.S.; prohibiting counties and municipalities from adopting or enforcing certain ordinances that are more stringent than state law; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 450.081, Florida Statutes, is amended to read:

450.081 Hours of work in certain occupations.—

(1)(a) Minors 15 years of age or younger may ~~shall~~ not be employed, permitted, or suffered to work before 7 a.m. or after 7 p.m. when school is scheduled the following day or for more than 15 hours in any one week. On any school day, minors 15 years of age or younger who are not enrolled in a career education program may ~~shall~~ not be gainfully employed for more than 3 hours, unless there is no session of school the following day.

(b) During holidays and summer vacations, minors 15 years of age or younger may ~~shall~~ not be employed, permitted, or

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

suffered to work before 7 a.m. or after 9 p.m., for more than 8 hours in any one day, or for more than 40 hours in any one week.

~~(2) Minors 16 and 17 years of age shall not be employed, permitted, or suffered to work before 6:30 a.m. or after 11:00 p.m. or for more than 8 hours in any one day when school is scheduled the following day. When school is in session, minors 16 and 17 years of age shall not work more than 30 hours in any one week. On any school day, minors 16 and 17 years of age who are not enrolled in a career education program shall not be gainfully employed during school hours.~~

(2)~~(3)~~ Minors 15 ~~17~~ years of age or younger may ~~shall~~ not be employed, permitted, or suffered to work in any gainful occupation for more than 6 consecutive days in any one week.

(3)~~(4)~~ Minors 15 ~~17~~ years of age or younger may ~~shall~~ not be employed, permitted, or suffered to work for more than 4 hours continuously without an interval of at least 30 minutes for a meal period; and for the purposes of this law, a ~~no~~ period of less than 30 minutes is not ~~shall be~~ deemed to interrupt a continuous period of work.

(4)~~(5)~~ ~~The provisions of~~ Subsections (1)-(3) do ~~(1)-(4)~~ ~~shall~~ not apply to:

~~(a) Minors 16 and 17 years of age who have graduated from high school or received a high school equivalency diploma.~~

(a)~~(b)~~ Minors who are within the compulsory school attendance age limit who hold a valid certificate of exemption

issued by the school superintendent or his or her designee pursuant to ~~the provisions of~~ s. 1003.21(3).

(b) ~~(c)~~ Minors enrolled in a public educational institution who qualify on a hardship basis such as economic necessity or family emergency. ~~Such determination shall be made by~~ The school superintendent or his or her designee shall make such determination and issue~~, and~~ a waiver of hours ~~shall be issued~~ to the minor and the employer. The form and contents thereof shall be prescribed by the department.

(c) ~~(d)~~ Minors ~~Children~~ in domestic service in private homes, minors ~~children~~ employed by their parents, or pages in the Florida Legislature.

(5) ~~(6)~~ The presence of a ~~any~~ minor in any place of employment during working hours is ~~shall be~~ prima facie evidence of his or her employment therein.

(6) Minors 16 and 17 years of age may be employed, permitted, or suffered to work the same number of hours as a person who is 18 years of age or older.

Section 2. Section 877.25, Florida Statutes, is amended to read:

877.25 Local ordinance required; effect.—Sections 877.20-877.24 do not apply in a county or municipality unless the governing body of the county or municipality adopts an ordinance that incorporates by reference ~~the provisions of~~ ss. 877.20-877.24. Sections 877.20-877.24 do not preclude county or

municipal ordinances regulating the presence of minors in public places and establishments which provide restrictions ~~more stringent or~~ less stringent than the curfew imposed under s. 877.22. However, a governing body of a county or municipality may not adopt or enforce an ordinance that regulates the presence of minors in public places and establishments which imposes restrictions more stringent than the curfew imposed under s. 877.22.

Section 3. This act shall take effect July 1, 2024.

REGULATORY REFORM & ECONOMIC DEVELOPMENT SUBCOMMITTEE

HB 49 by Rep. Chaney
Employment and Curfew of Minors

AMENDMENT SUMMARY
December 13, 2023

Amendment 1 by Rep. Chaney (line 76-83):

- Clarifies that the provision in the law that allows ordinances adopted by a governing body of a county or municipality that regulate the presence of minors in public places and establishments that are more stringent or less stringent than the restrictions in the current law:
    - Applies to minors under the age of 18, as defined in s. 450.12, F.S.; and
    - Must contain the exceptions provided in s. 877.24, F.S., which allow minors during curfew hours to go to and from work and school, and be involved in emergencies.

HB 293

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 293 Hurricane Protections for Homeowners' Associations
SPONSOR(S): Sirois
TIED BILLS: **IDEN./SIM. BILLS:** SB 600

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Wright	Anstead
2) Civil Justice Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

A homeowners' association (HOA) is an association of residential property owners in which voting membership is made up of parcel owners and membership is a mandatory condition of parcel ownership. HOAs are authorized to impose assessments that, if unpaid, may become a lien on the parcel. HOAs may levy fines against or suspend certain access rights of a parcel owner for failing to comply with the HOA's governing documents.

If the HOA's governing documents allow, an HOA or its architectural, construction improvement, or other similar committee (ARC) may:

- Require a review and approval of plans and specifications for the location, size, type, or appearance of any structure or other improvement on a parcel before a parcel owner makes such improvement.
- Enforce standards for the external appearance of any structure or improvement located on a parcel.

Hurricane hardening involves improvements to a home or other structure to make it less susceptible to damage from extreme wind, flooding, or flying debris. Hardening improves the durability and stability of a structure, making it better able to withstand the impacts of hurricanes without sustaining major damage.

The bill:

- Requires an HOA or ARC to adopt **hurricane protection** specifications for each structure or other improvement on a parcel governed by the HOA. The specifications may include the color and style of hurricane protection products and must comply with the applicable building code.
- Prohibits an HOA or ARC from denying an application for the installation, enhancement, or replacement of hurricane protection by a parcel owner which conforms to the specifications adopted by the HOA or ARC.
- Allows the HOA or ARC to require a parcel owner to adhere to an existing unified building scheme regarding the external appearance of the structure or other improvement on the parcel.
- Provides that "hurricane protection" includes, but is not limited to:
    - Metal roofs,
    - Permanent fixed or roll-down track storm shutters, and
    - Impact-resistant windows and doors.

The bill provides that in order to protect the health, safety, and welfare of the people of the state and to ensure uniformity and consistency in the hurricane protection installed by parcel owners, the bill applies to all HOAs in the state, regardless of when the community was created.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Homeowners' Associations

A homeowners' association (HOA) is an association of residential property owners in which voting membership is made up of parcel owners and membership is a mandatory condition of parcel ownership. HOAs are authorized to impose assessments that, if unpaid, may become a lien on the parcel.[1]

Only HOAs whose covenants and restrictions include mandatory assessments are regulated by Ch. 720, F.S., the Homeowners' Association Act (HOA Act). Like a condominium, an HOA is administered by an elected board of directors (board). The powers and duties of an HOA include the powers and duties provided in the HOA Act, and in the association's governing documents, which include the recorded covenants and restrictions, together with the bylaws, articles of incorporation, and duly adopted amendments to those documents.[2]

An HOA must be a Florida corporation and the initial governing documents must be recorded in the official records of the county in which the community is located. The powers and duties of an association include those set forth in the HOA Act and in the governing documents, except as expressly limited or restricted in the HOA Act.

No state agency has direct oversight over HOAs. However, Florida law provides for a limited mandatory binding arbitration program, administered by the Division of Condominiums, Timeshares and Mobile Homes, within the Department of Business and Professional Regulation, for certain election and recall disputes.[3]

HOA Architectural and Construction Improvement Covenants and Rules

If the governing documents allow, an HOA or its architectural, construction improvement, or other similar committee (ARC) may:[4]

- Require a review and approval of plans and specifications for the location, size, type, or appearance of any structure or other improvement on a parcel before a parcel owner makes such improvement.
- Enforce standards for the external appearance of any structure or improvement located on a parcel.

The HOA or ARC may not restrict the right of a parcel owner to select from any options given in the governing documents for the use of material, the size of the structure or improvement, the design of the structure or improvement, or the location of the structure or improvement on the parcel.[5]

Each parcel owner is entitled to the rights and privileges set forth in the governing documents concerning the architectural use of the parcel, and the construction of permitted structures and improvements on the parcel and such rights and privileges may not be unreasonably infringed upon or impaired by the HOA or ARC. If the an HOA or ARC unreasonably, knowingly, and willfully infringes

[1] S. 720.301(9), F.S.
[2] *See generally* ch. 720, F.S.
[3] S. 720.311, F.S.
[4] S. 720.3035(1), F.S.
[5] S. 720. 3035(2), F.S.

upon or impairs such rights and privileges, the adversely affected parcel owner may recover damages, including any costs and reasonable attorney's fees.[6]

An HOA or ARC may not enforce any policy or restriction that is inconsistent with the rights and privileges of a parcel owner set forth in the governing documents, whether uniformly applied or not.[7]

Levying Fines

Owners, tenants, and guests must comply with an HOA's governing documents, including those related to architectural or construction improvements. HOAs may levy fines against or suspend the right of a parcel owner, tenant, or a guest of an owner or occupant, to use the common areas[8] or any other association property for failing to comply with any provision in the HOA's governing documents.[9]

No fine may exceed $100 per violation, although a fine may be levied on the basis of each day of a continuing violation provided that fine does not exceed $1,000 in the aggregate. However, a fine may exceed $1,000 if the HOA's governing documents authorize it. A fine may not become a lien on the property unless it exceeds $1,000.[10]

Hurricane Hardening

Generally, hurricane hardening involves improvements to a building structure and its openings to make it less susceptible to damage from extreme wind, flooding, or flying debris. Hardening improves the durability and stability of a structure, making it better able to withstand the impacts of hurricanes and weather events without sustaining major damage.[11]

Hurricane hardening includes installing hurricane impact-rated doors, windows with impact-resistant glass, reinforced roof and wall structures that meet or exceed high-velocity impact codes, independent emergency power systems, potable water storage, fuel stores, and other supplies and systems that will sustain those within the building for a certain time period after a storm.[12]

Most hurricane hardening must be installed in compliance with applicable codes, including the Florida Building Code, and by a licensed construction contractor.[13]

Condominium Hurricane Protection Specifications

Each residential condominium must adopt hurricane shutter specifications for each building of the condominium, which must include color, style, and other factors deemed relevant by the condominium. All such specifications must comply with the applicable building code.[14] A condominium is not required to adopt other hurricane protection specifications.

A condominium may not refuse to approve the installation or replacement of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by a condominium unit owner conforming to the condominium's specifications.[15]

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[6] S. 720.3035(4), F.S.
[7] S. 720.3035(5), F.S.
[8] This does not apply to that portion of common areas used to provide access or utility services to the parcel. A suspension may not prohibit an owner or tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park. S. 720.305(2)(a), F.S.
[9] S. 720.305, F.S.
[10] S. 720.305(2), F.S.
[11] *Hurricane Hardening*, WGInc, (June 14, 2018), https://wginc.com/hurricane-hardening/ (last visited Dec. 8, 2023); *Hardening and Resiliency U.S. Energy Industry Response to Recent Hurricane Seasons*, U.S. Department of Energy, Aug. 2010, p.8, https://www.oe.netl.doe.gov/docs/HR-Report-final-081710.pdf (last visited Dec. 8, 2023).
[12] *Id*.
[13] *See* s. 553.72(1), F.S.; S. 489.105, F.S.
[14] S. 718.113(5), F.S.
[15] S. 718.113(5)(d), F.S.

Effect of the Bill

The bill requires an HOA or any ARC to adopt **hurricane protection** specifications for each structure or other improvement on a parcel governed by the HOA. The specifications may include the color and style of hurricane protection products and any other factor deemed relevant by the board. All specifications adopted by the HOA must comply with the applicable building code.

The bill allows the HOA or ARC to require a parcel owner to adhere to an existing unified building scheme regarding the external appearance of the structure or other improvement on the parcel.

The bill provides that, regardless of any other provision in the HOA's governing documents, the HOA or ARC may not deny an application for the installation, enhancement, or replacement of hurricane protection by a parcel owner which conforms to the specifications adopted by the HOA or ARC.

The bill provides that "hurricane protection" includes, but is not limited to:

- Metal roofs,
- Permanent fixed storm shutters,
- Roll-down track storm shutters,
- Impact-resistant windows and doors,
- Polycarbonate panels,
- Reinforced garage doors,
- Erosion controls, and
- Other hurricane protection products used to preserve and protect the structures or improvements on a parcel governed by the HOA.

The bill provides that in order to protect the health, safety, and welfare of the people of the state and to ensure uniformity and consistency in the hurricane protection installed by parcel owners, the bill applies to all HOAs in the state, regardless of when the community was created.

B. SECTION DIRECTORY:

Section 1: Amends s. 720.3035, F.S.; requiring HOAs to provide certain guidance and allow certain improvements related to hurricane protection.
Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow more HOA parcel owners to harden their homes to withstand a storm, which could increase construction in the state and reduce effects of a storm on residences.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is not clear if the bill is intended to be applied retroactively.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to hurricane protections for homeowners' associations; amending s. 720.3035, F.S.; providing applicability; requiring the board or a committee of a homeowners' association to adopt hurricane protection specifications; requiring that such specifications conform to applicable building codes; prohibiting the board or a committee of an association from denying an application for the installation, enhancement, or replacement of certain hurricane protection; authorizing the requirement to adhere to certain guidelines regarding the external appearance of a structure or an improvement on a parcel; defining the term "hurricane protection"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) is added to section 720.3035, Florida Statutes, to read:

720.3035 Architectural control covenants; parcel owner improvements; rights and privileges.—

(6)(a) To protect the health, safety, and welfare of the people of the state and to ensure uniformity and consistency in the hurricane protection installed by parcel owners, this

CODING: Words stricken are deletions; words underlined are additions.

subsection applies to all homeowners' associations in the state, regardless of when the community was created. The board or any architectural, construction improvement, or other such similar committee of an association must adopt hurricane protection specifications for each structure or other improvement on a parcel governed by the association. The specifications may include the color and style of hurricane protection products and any other factor deemed relevant by the board. All specifications adopted by the board must comply with the applicable building code.

(b) Notwithstanding any other provision in the governing documents of the association, the board or any architectural, construction improvement, or other such similar committee may not deny an application for the installation, enhancement, or replacement of hurricane protection by a parcel owner which conforms to the specifications adopted by the board or committee. The board or committee may require a parcel owner to adhere to an existing unified building scheme regarding the external appearance of the structure or other improvement on the parcel.

(c) For purposes of this subsection, the term "hurricane protection" includes, but is not limited to, metal roofs, permanent fixed storm shutters, roll-down track storm shutters, impact-resistant windows and doors, polycarbonate panels, reinforced garage doors, erosion controls, and other hurricane

protection products used to preserve and protect the structures or improvements on a parcel governed by the association.

Section 2. This act shall take effect upon becoming a law.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Regulatory Reform & Economic Development Subcommittee

Representative Sirois offered the following:

Amendment

Remove line 50 and insert:

reinforced garage doors, erosion controls, exterior fixed generators, fuel storage tanks, and other hurricane

REGULATORY REFORM AND ECONOMIC DEVELOPMENT SUBCOMMITTEE

HB 293 by Rep. Sirois
Hurricane Protections for Homeowners' Associations

AMENDMENT SUMMARY
December 13, 2024

Amendment 1 by Rep. Sirois (line 50):

- Adds exterior fixed generators and fuel storage tanks to the list of items for which an HOA must adopt specifications for acceptable use or installation by parcel owners.

HB 303

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 303 Rabies Vaccinations
SPONSOR(S): Killebrew
TIED BILLS: **IDEN./SIM. BILLS:** SB 334

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Thompson	Anstead
2) Commerce Committee			

SUMMARY ANALYSIS

In Florida, the practice of "veterinary medicine" means the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease. Veterinarians are regulated by the Board of Veterinary Medicine (Board) in the Department of Business and Professional Regulation (DBPR) pursuant to ch. 474, F.S., relating to veterinary medical practice (practice act).

All dogs, cats, and ferrets four months of age or older must be vaccinated by a licensed veterinarian against rabies with a vaccine that is licensed by the U.S. Department of Agriculture (USDA) for use in those species. The owner must have the animal revaccinated 12 months after the initial vaccination, and subsequent vaccinations must conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Violations of this requirement are a civil infraction, punishable by a penalty of up to $500.

Currently, Florida law does not appear to allow anyone other than a licensed veterinarian to administer the rabies vaccine. According to Board rule, rabies is recognized as a disease that is communicable to humans and a public health significance, and as a result, only a veterinarian is authorized to immunize or treat an animal for this disease.

The bill:

- Allows an employee, an agent, or a contractor of a county or municipal animal control authority, or sheriff, acting under the indirect supervision of a veterinarian, to administer rabies vaccinations to impounded dogs, cats, and ferrets that will be transferred, rescued, fostered, adopted, or reclaimed by the owner.
- Provides that the supervising veterinarian assumes responsibility for any person vaccinating animals at his or her direction or under his or her direct or indirect supervision.
- Defines "indirect supervision," to mean the supervising veterinarian is required to be available for consultation through telecommunications but is not required to be physically present during such consultation.
- Authorizes veterinarians who supervise the administration of the rabies vaccination to affix his or her signature stamp in lieu of an actual signature to the rabies vaccination certificate.

The bill is expected to have a positive fiscal impact on local government, and may have a positive fiscal impact on the private sector.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Practice of Veterinary Medicine

The Board of Veterinary Medicine (Board) in the Department of Business and Professional Regulation (DBPR) implements the provisions of ch. 474, F.S., relating to veterinary medical practice (practice act). The purpose of the practice act is to ensure that every veterinarian practicing in this state meets minimum requirements for safe practices to protect public health and safety.[1]

A "veterinarian" is a health care practitioner licensed by the Board to engage in the practice of veterinary medicine in Florida[2] and they are subject to disciplinary action from the Board for various violations of the practice act.[3]

The practice of "veterinary medicine" is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.[4]

Veterinary medicine includes, with respect to animals:[5]

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine); and
- Other branches or specialties of veterinary medicine.

The practice act does not apply to the following categories of persons:

- Veterinary aides, nurses, laboratory technicians, preceptors,[6] or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision[7] of a licensed veterinarian;
- Certain non-Florida licensed veterinarians who are consulting upon request of a Florida-licensed veterinarian on the treatment of a specific animal or on the treatment on a specific case of the animals of a single owner.
- Faculty veterinarians when they have assigned teaching duties at accredited[8] institutions;
- Certain graduated intern/resident veterinarians of accredited institutions;

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[1] S. 474.201, F.S.
[2] S. 474.202(11), F.S.
[3] Ss. 474.213 & 474.214, F.S.
[4] *See* s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy or fertility or infertility of animals.
[5] *See* s. 474.202(13), F.S. S. 474.202(1), F.S., defines "animal" as "any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead."
[6] A preceptor is a skilled practitioner or faculty member who directs, teaches, supervises, and evaluates students in a clinical setting to allow practical experience with patients. *See also* https://www.merriam-webster.com/dictionary/preceptor#medicalDictionary (last visited Nov. 30, 2023).
[7] The term "responsible supervision" is defined in s. 474.202(10), F.S., as the "control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services" delegated to unlicensed personnel.
[8] Ss. 474.203(1) and (2), F.S., provide that accreditation of a school or college must be granted by the American Veterinary Medical Association (AVMA) Council on Education, or the AVMA Commission for Foreign Veterinary Graduates.

- Certain students in a school or college of veterinary medicine who perform assigned duties by an instructor or work as preceptors;
- Certain doctors of veterinary medicine employed by a state agency or the United States Government;
- Persons or their employees caring for the persons' own animals, as well as certain part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks; and
- Certain entities or persons[9] that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or treatment methods of treatment or techniques to diagnose or treatment of human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine.[10]

Any permanent or mobile establishment where a licensed veterinarian practices must have a premises permit issued by DBPR.[11] Each person to whom a veterinary license or premises permit is issued must conspicuously display such document in her or his office, place of business, or place of employment in a permanent or mobile veterinary establishment or clinic.[12]

By virtue of accepting a license to practice veterinary medicine in Florida, a veterinarian consents to:
- Render a handwriting sample to an agent of the department and, further, to have waived any objections to its use as evidence against her or him.
- Waive the confidentiality and authorize the preparation and release of medical reports pertaining to the mental or physical condition of the licensee when the department has reason to believe that a violation of this chapter has occurred and when the department issues an order, based on the need for additional information, to produce such medical reports for the time period relevant to the complaint.[13]

For Fiscal Year 2021-2022, there were 12,360 actively licensed veterinarians in Florida. DBPR received 568 complaints, which resulted in 26 disciplinary actions.[14]

Rabies Vaccinations

All dogs, cats, and ferrets four months of age or older must be vaccinated **by a licensed veterinarian** against rabies with a vaccine that is licensed by the U.S. Department of Agriculture (USDA) for use in those species.[15] The owner must have the animal revaccinated 12 months after the initial vaccination, and subsequent vaccinations must conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Violations of this requirement are a civil infraction, punishable by a penalty of up to $500.[16]

A dog, cat, or ferret is exempt from vaccination against rabies if a licensed veterinarian has examined the animal and has certified in writing that the vaccination would endanger the animal's health because of its age, infirmity, disability, illness, or other medical considerations. An exempt animal must be vaccinated against rabies as soon as its health permits.[17]

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[9] *See* s. 474.203(6), F.S., which states that the exemption applies to "[s]tate agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof...."
[10] *See* s. 474.203, F.S.
[11] S. 474.215(1), F.S.
[12] S. 474.216, F.S.
[13] S. 474.2185, F.S.
[14] Department of Business and Professional Regulation, *Division of Professions Annual Report Fiscal Year 2021-2022*, http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2021-22.pdf (last visited Nov. 30, 2023).
[15] S. 828.30(1), F.S.
[16] *See* s. 828.27(2), F.S
[17] S. 828.30(2), F.S.

Upon vaccination, the licensed veterinarian is required to provide the animal's owner and the animal control authority with a rabies vaccination certificate.[18] The veterinarian who administers the rabies vaccine to an animal as required under this section may affix his or her signature stamp in lieu of an actual signature.[19]

Currently, Florida law does not appear to allow anyone other than the veterinarian to administer the rabies vaccine. The law allows certain vaccines, anesthesia and tranquilization to be administered by a veterinary aide, nurse, laboratory technician, intern, or other employee of a licensed veterinarian while under the "immediate supervision" of a licensed veterinarian.[20] In addition, the following tasks may be performed without the licensed veterinarian on the premises:

- The administration of medication and treatment, **excluding vaccinations**, as directed by the licensed veterinarian; and
- The obtaining of samples and the performance of those diagnostic tests, including radiographs, directed by the licensed veterinarian.[21]

The Board has recognized that the following diseases are communicable to humans and are of public health significance, and as a result, **only a veterinarian** is authorized to immunize or treat an animal for these diseases. The diseases include:

- Brucellosis.
- Tuberculosis.
- Rabies.
- Equine Encephalomyelitis.[22]

Effect of the Bill

The bill:

- Allows an employee, an agent, or a contractor of a county or municipal animal control authority, or sheriff, acting under the indirect supervision of a veterinarian, to administer rabies vaccinations to impounded dogs, cats, and ferrets that will be transferred, rescued, fostered, adopted, or reclaimed by the owner.
- Provides that the supervising veterinarian assumes responsibility for any person vaccinating animals at his or her direction or under his or her direct or indirect supervision.
- Defines "indirect supervision," to mean the supervising veterinarian is required to be available for consultation through telecommunications but is not required to be physically present during such consultation.
- Authorizes veterinarians who supervise the administration of the rabies vaccination to affix his or her signature stamp in lieu of an actual signature to the rabies vaccination certificate.

B. SECTION DIRECTORY:

Section 1: Amends s. 828.30, F.S.; authorizing certain persons to administer rabies vaccinations to certain animals under indirect supervision of a veterinarian.

Section 2: Amends s. 474.203, F.S., conforming provisions relating to exemptions.

Section 3: Amends s. 767.16, F.S., conforming provisions relating to police canine or service dog; exemption.

[18] Each animal control authority and veterinarian shall use the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians (NASPHV) or an equivalent form approved by the local government that contains all the information required by the NASPHV Rabies Vaccination Certificate.
[19] S. 828.30(3), F.S.
[20] S. 474.202(5), F.S., defines "immediate supervision" or words of similar purport to mean a licensed doctor of veterinary medicine is on the premises whenever veterinary services are being provided.
[21] R. 61G18-17.005, F.A.C.
[22] R. 61G18-17.006, F.A.C.

Section 4: Amends s. 828.29, F.S., conforming provisions relating to dogs and cats transported or offered for sale; health requirements; consumer guarantee.

Section 5: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. Animal control authorities will be able to administer rabies vaccinations of impounded animals without a veterinarian having to be physically present. This may create a savings for local animal control authorities to the extent they are incurring extra veterinary costs associated with veterinarians currently required to be onsite to administer rabies vaccinations.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may reduce the amount of rabies cases in the state, the associated risks to the health of humans and animals, and related expenses.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to rabies vaccinations; amending s. 828.30, F.S.; authorizing certain persons to administer rabies vaccinations to certain animals under indirect supervision of a veterinarian; defining the term "indirect supervision"; conforming provisions; amending ss. 474.203, 767.16, and 828.29, F.S.; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1) and (3) of section 828.30, Florida Statutes, are amended to read:

828.30 Rabies vaccination of dogs, cats, and ferrets.—

(1)(a) All dogs, cats, and ferrets 4 months of age or older must be vaccinated by a licensed veterinarian or a person authorized under paragraph (b) against rabies with a vaccine that is licensed by the United States Department of Agriculture for use in those species.

(b) Acting under the indirect supervision of a veterinarian, an employee, an agent, or a contractor of a county or municipal animal control authority or sheriff may vaccinate against rabies dogs, cats, and ferrets in the custody of an animal control authority or a sheriff that will be transferred,

rescued, fostered, adopted, or reclaimed by the owner. The supervising veterinarian assumes responsibility for any person vaccinating animals at his or her direction or under his or her direct or indirect supervision. As used in this paragraph, the term "indirect supervision" means that the supervising veterinarian is required to be available for consultation through telecommunications but is not required to be physically present during such consultation.

(c) The owner of every dog, cat, and ferret shall have the animal revaccinated 12 months after the initial vaccination. Thereafter, the interval between vaccinations shall conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Evidence of circulating rabies virus neutralizing antibodies may ~~shall~~ not be used as a substitute for current vaccination in managing rabies exposure or determining the need for booster vaccinations.

(3) Upon vaccination against rabies, the licensed veterinarian shall provide the animal's owner and the animal control authority with a rabies vaccination certificate. Each animal control authority and veterinarian shall use the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians (NASPHV) or an equivalent form approved by the local government that contains all the information required by the NASPHV Rabies Vaccination Certificate. The veterinarian who administers the rabies

vaccination or who supervises the administration of the rabies vaccination as provided in paragraph (1)(b) ~~vaccine~~ to an animal as authorized ~~required~~ under this section may affix his or her signature stamp in lieu of an actual signature.

Section 2. Paragraph (a) of subsection (5) of section 474.203, Florida Statutes, is amended to read:

474.203 Exemptions.—This chapter does not apply to:

(5)(a) Any person, or the person's regular employee, administering to the ills or injuries of her or his own animals, including, but not limited to, castration, spaying, and dehorning of herd animals, unless title is transferred or employment provided for the purpose of circumventing this law. This exemption does not apply to any person licensed as a veterinarian in another state or foreign jurisdiction and practicing temporarily in this state. However, except as provided in s. 828.30, only a veterinarian may immunize or treat an animal for diseases that are communicable to humans and that are of public health significance.

For the purposes of chapters 465 and 893, persons exempt pursuant to subsection (1), subsection (2), or subsection (4) are deemed to be duly licensed practitioners authorized by the laws of this state to prescribe drugs or medicinal supplies.

Section 3. Subsection (2) of section 767.16, Florida Statutes, is amended to read:

767.16 Police canine or service dog; exemption.—

(2) Any dog used as a service dog for blind, hearing impaired, or disabled persons that bites another animal or a human is exempt from any quarantine requirement following such bite if the dog has a current rabies vaccination that was administered as provided in s. 828.30 ~~by a licensed veterinarian~~.

Section 4. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 828.29, Florida Statutes, are amended to read:

828.29 Dogs and cats transported or offered for sale; health requirements; consumer guarantee.—

(1)

(b) For each dog offered for sale within the state, the tests, vaccines, and anthelmintics required by this section must be administered by or under the direction of a veterinarian, licensed by the state and accredited by the United States Department of Agriculture, who issues the official certificate of veterinary inspection. The tests, vaccines, and anthelmintics must be administered before the dog is offered for sale in the state, unless the licensed, accredited veterinarian certifies on the official certificate of veterinary inspection that to inoculate or deworm the dog is not in the best medical interest of the dog, in which case the vaccine or anthelmintic may not be administered to that particular dog. Each dog must receive

vaccines and anthelmintics against the following diseases and internal parasites:

1. Canine distemper.

2. Leptospirosis.

3. Bordetella (by intranasal inoculation or by an alternative method of administration if deemed necessary by the attending veterinarian and noted on the health certificate, which must be administered in this state once before sale).

4. Parainfluenza.

5. Hepatitis.

6. Canine parvo.

7. Rabies, provided the dog is over 3 months of age and the inoculation is administered by as provided in s. 828.30 ~~a licensed veterinarian~~.

8. Roundworms.

9. Hookworms.

If the dog is under 4 months of age, the tests, vaccines, and anthelmintics required by this section must be administered no more than 21 days before sale within the state. If the dog is 4 months of age or older, the tests, vaccines, and anthelmintics required by this section must be administered at or after 3 months of age, but no more than 1 year before sale within the state.

(2)

(b) For each cat offered for sale within the state, the tests, vaccines, and anthelmintics required by this section must be administered by or under the direction of a veterinarian, licensed by the state and accredited by the United States Department of Agriculture, who issues the official certificate of veterinary inspection. The tests, vaccines, and anthelmintics must be administered before the cat is offered for sale in the state, unless the licensed, accredited veterinarian certifies on the official certificate of veterinary inspection that to inoculate or deworm the cat is not in the best medical interest of the cat, in which case the vaccine or anthelmintic may not be administered to that particular cat. Each cat must receive vaccines and anthelmintics against the following diseases and internal parasites:

1. Panleukopenia.
2. Feline viral rhinotracheitis.
3. Calici virus.
4. Rabies, if the cat is over 3 months of age and the inoculation is administered as provided in s. 828.30 ~~by a licensed veterinarian~~.
5. Hookworms.
6. Roundworms.

If the cat is under 4 months of age, the tests, vaccines, and anthelmintics required by this section must be administered no

more than 21 days before sale within the state. If the cat is 4 months of age or older, the tests, vaccines, and anthelmintics required by this section must be administered at or after 3 months of age, but no more than 1 year before sale within the state.

Section 5. This act shall take effect July 1, 2024.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing bill: Regulatory Reform & Economic Development Subcommittee

Representative Killebrew offered the following:

Amendment

Remove line 113 and insert:

the inoculation is administered ~~by~~ as provided in s. 828.30 ~~a~~

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 267 Building Regulations
SPONSOR(S): Regulatory Reform & Economic Development Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Regulatory Reform & Economic Development Subcommittee		Wright	Anstead

SUMMARY ANALYSIS

The Florida Building Code (Building Code) must be applied and enforced uniformly and consistently across the state. Local governments are required to enforce the Building Code and are responsible for issuing building permits. Current law provides standards and timeframes for local governments to follow related to the issuance of building permits.

The bill:

- Requires a local government to:
  - Determine if a building permit application is complete within 5 days of receiving the application, previously set at 10 days.
  - Determine if a building permit application is sufficient within 10 days of receiving a completed application, previously set at 45 days.
  - Approve, approve with conditions, or deny a complete and sufficient permit application within the following timeframes:
    - 30 days for applicants using local government review services, previously set at 120 days;
    - 15 days for applicants using private provider services, previously set at 120 days; and
    - 10 days for applicants for a permit under an already-approved master plan permit, previously set at 120 days.
  - Provide an opportunity for a virtual meeting, instead of just an in-person meeting, before a second request for additional information may be made.
- Provides that a local government can request additional information from an applicant two times, unless the applicant agrees otherwise, previously set at three times.

In Florida law, "plat" means a map or delineated representation of the subdivision of lands, and is generally required whenever a developer wishes to subdivide a large piece of property into smaller parcels and tracts. Some local governments allow a developer to commence construction after a preliminary plat has been issued, but before the plat is finalized.

The bill:

- Requires certain local governments to create a process to expedite the issuance of building permits based on a preliminary plat and to issue the number or percentage of building permits requested by an applicant, under certain circumstances.
- Allows an applicant to contract to sell, but not transfer ownership of, a residential structure or building located in the preliminary plat before the final plat is approved.
- Requires all local governments to create a master building permit process.

The bill may have an indeterminate fiscal impact on state and local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation – Building Permits

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.[1]

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study's commission recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.[2] The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.[3]

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.[4]

The Florida Building Commission (Commission) was statutorily created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,[5] the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.[6]

Use of Building Code Enforcement Fees

A local government may charge reasonable fees as set forth in a schedule of fees adopted by the enforcing agency for the issuance of a building permit.[7] Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Building Code.[8] Enforcing the Building Code includes the direct costs and reasonable indirect costs associated with training, review of building

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[1] The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs,* p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Mar. 23, 2023).
[2] *Id.*
[3] Florida Building Commission Homepage, https://floridabuilding.org/c/default.aspx (last visited Mar. 21, 2023).
[4] *See* s. 553.72(1), F.S.
[5] The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, https://www.iccsafe.org/about/who-we-are/ (last visited Mar. 23, 2023).
[6] S. 553.73(7)(a), F.S.
[7] S. 553.80 F.S.
[8] *Id.*

plans, building inspections, re-inspections, building permit processing, and fire inspections.[9] Local governments must post all building permit and inspection fee schedules on their website.[10]

Local governments are only allowed to collect building permit fees that are sufficient to cover their costs in enforcing the Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances must be carried forward to future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget, not including reserve amounts, for enforcing the Building Code for the previous 4 fiscal years.[11]

DBPR Surcharges

Current law requires all local governments to assess and collect a 1% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local jurisdictions collect the assessment and remit the surcharge fees to DBPR to fund the activities of the Commission, DBPR's Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations.[12]

Current law also requires all local governments to assess and collect a separate 1.5% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local governments collect the assessment and remit the surcharge fees to DBPR, where it is divided equally to fund the activities of the Building Code Administrators and Inspectors Board (BCAIB) and the Florida Homeowners' Construction Recovery Fund.[13]

Local government building departments are permitted to retain 10% of the amount of the surcharges they collect to fund participation by their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Building Code.[14]

Building Permit Delays

Any delays in obtaining a building permit can delay the completion of a construction project. Delays in the completion of a construction project may:[15]

- Lead to increased costs for construction projects, which may be passed onto occupants of a completed project;
- Discourage construction, which can reduce the total supply of buildings in a community and may lead to higher rents in the community;
- Reduce property tax revenue to a local government and other taxing jurisdictions resulting from the delayed start and completion of a construction project; and
- Result in delayed occupancy of a project, including single-family residences and multi-family residences.

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[9] S. 553.80 (7)(a)1., F.S.
[10] Ss.125.56 (4)(c) F.S., and 166.222(2), F.S.
[11] S. 553.80(7)(a), F.S.
[12] S. 553.721, F.S.
[13] S. 468.631, F.S.; The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building and residential contractors. Claims are filed with the DBPR, who reviews for completeness and statutory eligibility. The DBPR then presents the claim to the Construction Industry Licensing Board for review. s. 489.1401(2), F.S.
[14] Ss. 468.631, and 553.721, F.S.
[15] City of Austin Development Services Department, *A Program for Expedited Permitting*, http://austintexas.gov/sites/default/files/files/8-9-2016_Report_on_Expedited_Permitting_Program.pdf (last visited Dec. 7, 2023); PricewaterhouseCoopers, *The Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues*, (Dec. 7, 2005).

Streamlining the process to obtain a building permit can accelerate the completion of construction projects. The goal of streamlining is to remove overlap and duplication and create more efficient administrative procedures while not reducing a building department's ability to enforce the applicable construction codes. Streamlining the building permit process may:[16]

- Increase local government revenues by accelerating completion of a project and thus accelerating property tax collection;
- Create local construction jobs and other indirect jobs supported by local construction jobs, such as jobs at a material supplier, which may increase local tax revenue; and
- Encourage economic development by having an efficient permit system.

Building Permit Application Review

Time-Period to Review

Current law requires local governments to review certain building permit applications within a specific time-period of receiving the applications. Current law has established time-periods for local governments to review applications for the following building permits:[17]

- Accessory structure;
- Slarm permit;
- Nonresidential buildings less than 25,000 square feet;
- Electric;
- Irrigation permit;
- Landscaping;
- Mechanical;
- Plumbing;
- Residential units other than a single-family unit;
- Multifamily residential not exceeding 50 units;
- Roofing;
- Signs;
- Site-plan approvals and subdivision plats not requiring public hearings or public notice; and
- Lot grading and site alteration associated with the permit application.

When a local government receives an application for one of the above building permits, it must:[18]

- **Complete Application –** Inform the applicant within **10 days** of receiving the application, what information, if any, is needed to complete the application.
    - If the local government fails to provide written notice to the applicant within the 10-day window, the application is deemed to be properly completed.
- **Sufficiency of Application –** Notify the applicant within **45 days** of the application being deemed complete, if additional information is necessary to determine the sufficiency of the application;
    - If additional information is needed the local government must specify what additional information is necessary.
    - The applicant may submit the additional information to the local government within 30 days or request that the local government act on the application without the additional information.
- **Approve or Deny Application –** Approve, approve with conditions, or deny the application within **120 days** following receipt of the completed application.
    - This period is tolled during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

[16] *Id.*; Institute for Market Transformation, *Streamlining Compliance Processes*, (Winter 2012) https://www.imt.org/wp-content/uploads/2018/02/CaseStudy5.pdf (last visited Dec. 7, 2023).
[17] S. 553.792(2), F.S.
[18] S. 553.792(1), F.S.

These time-periods do not apply when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.[19]

Additional Information Standards[20]

A local government may only make **three** requests for additional information. However, an applicant may agree in writing to waive the limitation that local governments may only make three requests for additional information for such permits.

If a local government makes a request for additional information from an applicant for one the above building permits, and the applicant provides the information within **30 days** of receiving the request, the local government must[21]:

- **First Request –** Review the additional information and determine the application is complete, approve the application, approve the application with conditions, deny the application, or specify the remaining deficiencies **within 15 days** of receiving the information from the applicant, if the request is the local government's **first request**.
- **Second Request –** Review the additional information and determine the application is complete, approve the application, approve the application with conditions, deny the application, or specify the remaining deficiencies **within 10 days** of receiving the information from the applicant, if the request is the local government's **second request**.
- **Third Request –** Deem the application complete and approve the application, approve the application with conditions, or deny the application **within 10 days** of receiving the information from the applicant, if the request is the local government's **third request**.

Prior to making a third request for information the local government must **offer to meet** with the permit applicant to attempt to resolve outstanding issues.

If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the local government, at the applicant's request, shall proceed to process the application for approval, approval with conditions, or denial.

Fee Reductions for Failure to Meet Timeframes

If a local government fails to meet these deadlines it must reduce the building permit fee by 10% for each **business day** that it fails to meet the deadline. However, these time limitations do not apply when a law, agency rule, or local ordinance specifies different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.

If any permit fees are refunded because a local government fails to meet an established deadline for reviewing a building permit application, the Department of Business and Professional Regulation (DBPR) surcharges for funding the Commission, the Florida Building Code Administrators and Inspectors Board (BCAIB), and the Florida Homeowners' Recovery Fund must be recalculated based on the amount of the permit fees after the refund.[22]

Time-Period to Review Single-Family Residential Dwelling Building Permit Applications

Single-family residential dwelling permits must be issued within:

[19] S. 553.792(1)(a), F.S.
[20] S. 553.792(1)(b), F.S.
[21] *Id*.
[22] S. 553.79(16)(d), F.S.

- **30 business days** of receiving the application, unless the application fails to satisfy the Building Code or the enforcing agency's laws or ordinances, or unusual circumstances require a longer time-period for processing the application.[23]
- If the local enforcing agency does not issue a building permit for a single-family residential dwelling, within **30 business days** after receiving the permit application, it must reduce the building permit fee by 10% for each **business day** that it fails to meet the deadline. Each 10% reduction is based on the original amount of the building permit fee.
- The enforcing agency does not have to reduce the building permit fee if it provides notice to the applicant, by e-mail or United States Postal Service, within **30 business days** after receiving the permit application, that specifically states the reasons the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances.[24]
- After receiving the written notice, the applicant has **10 business days** to correct the specifications written by the local enforcing agency and submit revisions to correct the permit application.
- If the applicant submits the revisions within 10 business days, the local enforcing agency has **10 business days** after receiving such revisions to approve or deny the building permit unless the applicant agrees to a longer permit in writing.[25]

If a government entity fails to approve or deny the single-family residential dwelling building permit within **10 business days** of receiving the applicant's revisions, it must: [26]

- reduce the permit fee by 20% of the original permit fee for the first business day that it fails to meet the deadline; and
- an additional 10% of the original permit fee for each business day that it fails to meet the deadline, for up to five business days.

A government entity does not have to reduce the fee for a single-family residential dwelling building permit, if: [27]

- it provides written notice to the applicant, by email or USPS mail within **30 business days** of receiving the application; and
- The written notice specifically states how the application fails to satisfy the Building Code or the government entity's laws or ordinances, and that the applicant has **10 business days** after receiving the notice to remedy the deficiencies in their application or it will be denied.

A building permit for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant-Disaster Recovery program administered by the Department of Economic Opportunity must be issued within **15 business days** after receipt of the application unless the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances.[28]

Effect of the Bill – Building Permits

Building Permit Application Review

The bill removes a provision in Ch. 533, the Building Code, which requires single-family residential dwelling permits to be issued within 30 days unless the application does not conform to the Building Code or local laws or ordinances. However, the bill incorporates the time period to review single-family residential dwellings into the general section related to building permit applications.[29]

[23] S. 553.79(16), F.S.
[24] S. 553.79(16)(a)-(b), F.S.
[25] S. 553.79(16)(c), F.S.
[26] S. 553.79(16)(c), F.S.
[27] S. 553.79(16)(b), F.S.
[28] S. 553.79(16)(e), F.S.
[29] *See,* s. 553.792, F.S.

The bill reduces current timelines and revises procedures for applying for and obtaining a building permit. The new procedures set out below apply to the following building permit applications:

- Accessory structure;
- Alarm permit;
- Nonresidential buildings less than 25,000 square feet;
- Electric;
- Irrigation;
- Landscaping;
- Mechanical;
- Plumbing;
- Residential units **including a single-family residential unit or a single-family residential dwelling**;
- Multifamily residential not exceeding 50 units;
- Roofing;
- Signs;
- Site-plan approvals and subdivision plats not requiring public hearings or public notice; and
- Lot grading and site alteration associated with a permit application set forth above.

Timelines to Approve or Deny a Completed and Sufficient Building Permit Application

The bill reduces the time that a local government has to approve, approve with conditions, or deny a building permit application following receipt of a **completed and sufficient** application to the following timelines, unless the applicant waives such limitation in writing:

- For an applicant using local government plans review to obtain a building permit:
  - Within **30 days** after receiving a complete and sufficient application **(currently 120 days, or 30 days for single-family residential dwellings)**.
- For an applicant using a private provider to obtain a building permit:
  - Within **15 days** after receiving a complete and sufficient application **(currently 120 days, or 30 days for single-family residential dwellings).**
- For an applicant for a master plan permit:
  - Within **10 days** after receiving a complete and sufficient application **(current timeframe is dependent on the local program, or 30 days for single-family residential dwellings)**.
- For an applicant for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant–Disaster Recovery program administered by the Department of Economic Opportunity:
  - Within **10 days** after receipt of the application, unless the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances **(currently 15 days)**.

If the local government does not approve, approve with conditions, or deny the completed and sufficient application within the required timeframes, the application is **deemed approved**.

The bill requires a local government to maintain a policy on its website containing procedures and expectations for processing of any building permits and development orders required by law to be expedited.

Timelines to Determine a Complete and Sufficient Application

The bill reduces the time that a local government has to provide written notice to the applicant about what information, if any, is needed before the application is deemed:

- **Completed:**
  - Local government has 5 days to review an application and determine if it has been properly completed (from 10 days).
- **Sufficient:**

- Local government has 10 days to review a completed application to determine whether more information is needed or whether the application is sufficient (from 45 days).

The bill reduces the amount of times that a local government may request additional information from the applicant when reviewing an application for sufficiency for a building permit, to **two times**, from three times.

If the local government requests additional information for a second time, such request must be within **10 days** of receiving additional information after the first request, and the local government must determine the sufficiency of the application within **10 days** of receiving the requested additional information.

The bill allows a local government to offer to **meet virtually**, instead of only in person, with the applicant to attempt to resolve outstanding issues before a second request for additional information is made.

If the applicant believes a request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the bill requires the local government, at the applicant's written request, to approve the application, approve the application with conditions, or deny the application within **10 days** after receipt of such. The local government must provide the applicant with sufficient reason for a denial.

Use of Building Code Enforcement Fees

The bill clarifies that local governments may use fees, and any related fines or investment earnings, they have collected for enforcing the Building Code to upgrade technology hardware and software systems used to enforce the Building Code.

Current Situation – Plats

In Florida law, "plat" means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirement of all applicable state requirements and of any local ordinances.[30] Generally, platting is required whenever a developer wishes to subdivide a large piece of property into smaller parcels and tracts. These smaller areas become the residential lots, streets and parks of a new residential sub-division.[31]

State law establishes consistent minimum requirements for the establishment of plats, and local governing bodies have the power to regulate and control the platting of lands.[32] Prior to approval by the appropriate governing body, the plat must be reviewed for conformity with state and local law and sealed by a professional surveyor and mapper who is either employed by or under contract to the local governing body.[33]

Before a plat is offered for recording with the clerk of the circuit court, it must be approved by the appropriate governing body, and evidence of such approval must be placed on the plat. If not approved, the governing body must return the plat to the professional surveyor and mapper or the legal entity offering the plat for recordation.

Jurisdiction over plat approval is as follows:[34]

[30] S. 177.031(14), F.S.
[31] Harry W. Carls, Florida Condo & HOA Law Blog, May 17, 2018, *Why is a Plat so Important?*, https://www.floridacondohoalawblog.com/2018/05/17/why-is-a-plat-so-important/ (last visited Dec. 7, 2023).
[32] S. 177.011, F.S.
[33] S. 177.081(1), F.S.
[34] S. 177.071(1), F.S.

- When the plat to be submitted for approval is located wholly within the boundaries of a municipality, the governing body of the municipality has exclusive jurisdiction to approve the plat.
- When a plat lies wholly within the unincorporated areas of a county, the governing body of the county has exclusive jurisdiction to approve the plat.
- When a plat lies within the boundaries of more than one governing body, two plats must be prepared and each governing body has exclusive jurisdiction to approve the plat within its boundaries, unless the governing bodies having said jurisdiction agree that one plat is mutually acceptable.

Every plat of a subdivision offered for recording must have certain information, including providing:[35]

- The name of the plat in bold legible letters, and the name of the subdivision, professional surveyor and mapper or legal entity, and street and mailing address on each sheet.
- The section, township, and range immediately under the name of the plat on each sheet included, along with the name of the city, town, village, county, and state in which the land being platted is situated.
- The dedications and approvals by the surveyor and mapper and local governing body, and the circuit court clerk's certificate and the professional surveyor and mapper's seal and statement.
- All section lines and quarter section lines occurring within the subdivision. If the description is by metes and bounds, all information called for, such as the point of commencement, course bearings and distances, and the point of beginning. If the platted lands are in a land grant or are not included in the subdivision of government surveys, then the boundaries are to be defined by metes and bounds and courses.
- Location, width, and names of all streets, waterways, or other rights-of-way.
- Location and width of proposed easements and existing easements identified in the title opinion or property information report must be shown on the plat or in the notes or legend, and their intended use.
- All lots numbered either by progressive numbers or, if in blocks, progressively numbered in each block, and the blocks progressively numbered or lettered, except that blocks in numbered additions bearing the same name may be numbered consecutively throughout the several additions.
- Sufficient survey data to positively describe the bounds of every lot, block, street easement, and all other areas shown on the plat.
- Designated park and recreation parcels.
- All interior excepted parcels clearly indicated and labeled "Not a part of this plat."
- The purpose of all areas dedicated clearly indicated or stated on the plat.
- That all platted utility easements must provide that such easements are also easements for the construction, installation, maintenance, and operation of cable television services; provided, however, no such construction, installation, maintenance, and operation of cable television services interferes with the facilities and services of an electric, telephone, gas, or other public utility.

Preliminary Plat Approval

Many local governments around the state have a process to approve a preliminary plat before approving a final plat. Generally, a preliminary plat is a technical, graphic representation of a proposed development, including plans for streets, utilities, drainage, easements, and lot lines, for a proposed subdivision. If a preliminary plat is required, it is generally a prerequisite for a final plat approval and the submission of any property improvement plans or permit applications.[36]

[35] S. 177.091, F.S.

[36] For examples, *see* City of Zephyrhills Code of Ordinances s. 11.03.02.01; Palm Beach County Code of Ordinances Art. 11., Ch. A.; Seminole County, SEMINOLE COUNTY PLANNING & DEVELOPMENT DIVISION, Subdivision Application, https://www.seminolecountyfl.gov/core/fileparse.php/3307/urlt/SUBDIVISION-05-2023.ADA.pdf (last visited Dec. 10, 2023).

Generally, a preliminary plat approval is approval of the development plan, and a final plat approval is approval of a finalized development plan; engineering plans, if required; and documents confirming the parties with a property interest; which is then recorded with the clerk of the circuit court.[37]

Based on a preliminary plat approval, some local governments allow a developer to commence construction before the plat is finalized. For example, the City of Jacksonville, Village of Royal Palm Beach, and the City of Tallahassee allow for a preliminary plat approval process.[38]

In Jacksonville, the Planning and Development Department (Department) of the City of Jacksonville, upon request of an applicant, may allow up to 50 percent of the lots within a proposed subdivision to be developed, but not occupied, based on a preliminary plat approval so long as the developer or owner meets the following conditions for construction:[39]

- Prior to Civil Plans submittal to the Department, the developer must submit the development proposal to Jacksonville Electric Authority (JEA) for review.
- Once JEA has granted preliminary approval, the Department will review the preliminary site plan, the preliminary and final engineering plans for the required improvements, and the sheet identifying the lots being requested for home construction prior to platting as approved by JEA. The Department reserves the right to deny authorization for development on a specific lot or lots to protect City interests.
- The developer or owner must provide a guarantee for required improvements and warranty of title.
- A Certificate of Occupancy may not be issued until the final plat is approved by JEA and the Department and recorded in the current public records of Duval County, Florida.
- Approval of the preliminary plat and required supplemental material are valid for 12 months from the date of approval. If the final plat is not submitted to and approved during the 12-month period, the conditional approvals are null and void.[40]

Vested Rights in Property Based on a Plat

In general, vested rights[41] form when a property owner or developer acquires real property rights that cannot be taken by governmental regulation.[42] Property owners or developers who do not have vested rights will be subject to subsequently enacted land regulations, while subsequently enacted land regulations do not apply to the property owners or developers who are determined to have vested rights.[43]

Florida common law provides that vested rights in a property may be established if a property owner or developer has:[44]

- In good faith reliance,
- Upon some act or omission of government,

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[37] Advance Surveying & Engineering, *An In-Depth Look At Preliminary and Final Plats*, https://www.advsur.com/2019/07/an-in-depth-look-at-preliminary-and-final-plats/ (last visited Dec. 7, 2023).

[38] City of Jacksonville Code of Ordinances s. 654-109, Village of Royal Palm Beach Code of Ordinances s. 22-22, City of Tallahassee Code of Ordinances s. 9-92.

[39] City of Jacksonville Code of Ordinances s. 654-139(d).

[40] City of Jacksonville Code of Ordinances s. 654-109(b).

[41] Florida courts have used the concepts of vested rights and equitable estoppel interchangeably in deciding fault in property rights cases. Equitable estoppel, in this instance, means focusing on whether it would be inequitable or fair to allow a local government to deny prior conduct or position on building or development decisions. Robert M. Rhodes and Cathy M. Sellers, *Equitable Estoppel and Vested Rights in Land Use*, The Florida Bar, II Florida Environmental and Land Use Law 8, (1994).

[42] *Id.*; Heeter, *Zoning Estoppel: Application of the Principles of Equitable Estoppel and Vested Rights to Zoning Disputes*, Urb.L.Ann. 63, 64-65 (1971).

[43] *Monroe County v. Ambrose*, 866 So.2d 707, 712 (Fla. 3d DCA 2003); Kristin Melton, de la Parte & Gilbert P.A., *When are Rights Vested in a Platted Development?*, 2016, https://www.dgfirm.com/email/2016summer/article2.html#:~:text=Florida%20common%20law%20provides%20that,it%20would%20make%20it%20highly (last visited Dec. 8, 2023).

[44] *Monroe County*, 866 So.2d at 710.

- Made such a substantial change in position or has incurred such extensive obligations and expenses,
- That it would make it highly inequitable to interfere with the acquired right.

Recordation of a final plat with the clerk of the circuit court alone is not sufficient to establish vested rights[45] in the land development regulations in existence at that time.[46] Instead, the property owner or developer must take meaningful steps towards development of the property, such as applying for development permits or expending certain monies,[47] to constitute a substantial change in position or be considered extensive obligations and expenses towards development of the property in reliance on some action by the local government.[48]

Additionally, a property owner or developer may obtain vested rights in both a local government-approved preliminary plat and a final plat, as long as expenditures or a substantial change have been made by the property owner or developer based on such preliminary plat or plat.[49]

Effect of the Bill - Plats

The bill requires a governing body to create:

- A two-step application process for the adoption of a preliminary plat and for a final plat in order to expedite the issuance of building permits related to such plats. The application must allow an applicant to identify the percentage of planned homes, or the number of building permits, that the governing body must issue for the residential subdivision or planned community indicated in the preliminary plat.
- A master building permit process consistent with existing master building permit application requirements for applicants seeking multiple building permits for residential subdivisions or planned communities.
    - The bill provides that a master building permit issued pursuant to this requirement is valid for 3 consecutive years after its issuance or until the adoption of a new Building Code, whichever is earlier. After a new Building Code is adopted, the applicant may apply for a new master building permit, which, upon approval, is valid for 3 consecutive years.

The bill requires the governing body to issue the number or percentage of building permits requested by an applicant, provided the residential buildings or structures are unoccupied and all of the following conditions are met:

- The governing body has approved a preliminary plat for each residential building or structure.
- The applicant provides proof to the governing body that the applicant has provided a copy of the approved preliminary plat, along with the approved plans, to the relevant electric, water, and wastewater utilities.
- The applicant holds a valid performance bond for up to 130 percent of the necessary utilities, roads, and stormwater improvements that have not been completed upon submission of the application under this section. For purposes of master planned communities,[50] a valid performance bond is required on a phase-by-phase basis.

By **August 15, 2024**, the bill requires a governing body of a county that has 75,000 residents or more and a governing body of a municipality that has 30,000 residents or more to create a program to expedite the process for issuing building permits for residential subdivisions or planned communities before a final plat is recorded with the clerk of the circuit court.

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[45] *Id*.

[46] Melton, *supra*, at 42.

[47] *Town of Largo v. Imperial Homes Corp.*, 309 So.2d 571, 573 (Fla. 2d DCA 1975).

[48] *Id*.; Melton, *supra*, at 42.

[49] *The Florida Companies v. Orange County*, 411 So.2d 1008, 1011 (Fla. 5th DCA 1982)

[50] "Planned unit development" or "master planned community" means an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the character of the entire development, or a self-contained development in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots. S. 163.3203(5)(b), F.S.

Such expedited process must include an application for an applicant to identify the percentage of planned homes, or the number of building permits, that the governing body must issue for the residential subdivision or planned community, **not to exceed 50 percent** of the residential subdivision or planned community. However, such a local government may issue building permits that exceed 50 percent of the residential subdivision or planned community.

By **December 31, 2027**, the bill requires such a governing body to update its expedited process to contain an application that allows an applicant to request an **increased percentage of up to 75 percent** of building permits for planned homes that the local governing body must issue for the residential subdivision or planned community. However, such a local government may issue building permits that exceed 75 percent of the residential subdivision or planned community.

If a governing body had a program in place **before July 1, 2023**, to expedite the building permit process, the bill requires such governing body to only update their program to approve an applicant's written application to issue up to 50 percent of the building permits for the residential subdivision or planned community. However, such a local government may issue building permits that exceed 50 percent of the residential subdivision or planned community.

The bill allows an applicant to use a **private provider** to review a preliminary plat and to obtain a building permit for each residential building or structure.

The bill allows a governing body to work with appropriate local government agencies to issue an address and a temporary parcel identification number for lot lines and lot sizes based on the metes and bounds of the plat contained in an application.

The bill allows an applicant to contract to sell, but not transfer ownership of, a residential structure or building located in the residential subdivision or planned community until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

The bill prohibits an applicant from obtaining a final certificate of occupancy for each residential structure or building for which a building permit is issued until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

The bill requires an applicant to indemnify and hold harmless the governing body and its agents and employees from damages accruing and directly related to the issuance of a building permit for a residential building or structure located in the residential subdivision or planned community before the approval and recording of the final plat by the governing body. This includes damage resulting from fire, flood, construction defects, and bodily injury.

The bill provides the following definitions:

- "Applicant" means a homebuilder or developer that files an application with the local governing body to identify the percentage of planned homes, or the number of building permits, that the local governing body must issue for the residential subdivision or planned community.
- "Final plat" means the final tracing, map, or site plan presented by the subdivider to a governing body for final approval, and, upon approval by the appropriate governing body, is submitted to the clerk of the circuit court for recording.
- "Preliminary plat" means a map or delineated representation of the subdivision of lands that is a complete and exact representation of the residential subdivision or planned community and contains required land boundary information.

B. SECTION DIRECTORY:

Section 1: Creates s. 177.073, F.S.; relating to approval of certain building permits pursuant to a preliminary plat.
Section 2: Amends s. 553.79, F.S., relating to single-family residential permits.
Section 3: Amends s. 553.792, F.S., relating to building permit application processes.
Section 4: Amends s. 440.103, F.S., conforming a cross-reference.

Section 5: Amends s. 553.80, F.S.; relating to acceptable uses of local government Building Code enforcement fees.
Section 6: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

For a similar bill in 2023, DBPR stated that surcharge collections pursuant to s. 553.791, F.S., and s. 468.631, F.S., could be impacted by the bill.[51]

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

For a similar bill in 2023, DBPR stated that this bill may reduce the amount of permit fees that could be collected by local governments in certain circumstances.[52]

2. Expenditures:

This bill may impact local governments because they may have to hire more employees to meet the prescribed timeframes.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For a similar bill in 2023, DBPR stated that the bill may reduce the cost of permit fees paid by the private sector to local governments based on the local governments failure to meet time requirements.[53] On the other hand, the local jurisdiction may raise permit fees so that they can hire employees to meet the time requirements in the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:
Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

[51] Department of Business & Professional Regulation, Agency Analysis of 2023 Senate Bill 682, p. 4 (February 14, 2023).
[52] *Id.*, at 5.
[53] *Id.*

B. RULE-MAKING AUTHORITY:

The bill would require the Florida Building Commission to amend the Building Code to reflect some of the bill's changes to building permit application processing requirements.[54]

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

[54] *See* rule impacted, r. 61G20-1.001, F.A.C.

A bill to be entitled

An act relating to building regulations; creating s. 177.073, F.S.; providing definitions; requiring certain governing bodies, by a date certain, to create a program to expedite the process for issuing residential building permits before a final plat is recorded; providing an exception; requiring a governing body to create certain processes for purposes of the program; authorizing applicants to use a private provider for certain reviews; authorizing a governing body to issue addresses and temporary parcel identification numbers for specified purposes; requiring a governing body to issue a specified number or percentage of building permits requested in an application when certain conditions are met; setting forth certain conditions for applicants who apply to the program; amending s. 553.79, F.S.; removing provisions relating to acquiring building permits for certain residential dwellings; amending s. 553.792, F.S.; revising the timeframes for approving or denying certain building permits; requiring a local government to provide written notice to an applicant under certain circumstances; revising how many times a local government may request additional information from an applicant; specifying when a permit application is

deemed complete and sufficient; requiring the opportunity for an in-person or virtual meeting before a second request for additional information may be made; reducing permit fees by a certain percentage if certain timeframes are not met; authorizing both parties to extend certain timeframes under certain circumstances; requiring that local governments follow the prescribed timeframes unless a local ordinance is more stringent; conforming provisions to changes made by the act; amending s. 440.103, F.S.; conforming a cross-reference; amending s. 553.80, F.S.; allowing local governments to use certain fees for certain technology upgrades; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 177.073, Florida Statutes, is created to read:

177.073 Expedited approval of residential building permits before a final plat is recorded.—

(1) As used in this section, the term:

(a) "Applicant" means a homebuilder or developer that files an application with the local governing body to identify the percentage of planned homes, or the number of building permits, that the local governing body must issue for the

residential subdivision or planned community.

(b) "Final plat" means the final tracing, map, or site plan presented by the subdivider to a governing body for final approval, and, upon approval by the appropriate governing body, is submitted to the clerk of the circuit court for recording.

(c) "Local building official" has the same meaning as in s. 553.791(1).

(d) "Plans" means any building plans, construction plans, engineering plans, or site plans, or their functional equivalent, submitted by an applicant for a building permit.

(e) "Preliminary plat" means a map or delineated representation of the subdivision of lands that is a complete and exact representation of the residential subdivision or planned community and contains any additional information needed to be in compliance with the requirements of this chapter.

(2)(a) By August 15, 2024, the governing body of a county that has 75,000 residents or more and the governing body of a municipality that has 30,000 residents or more shall create a program to expedite the process for issuing building permits for residential subdivisions or planned communities in accordance with the Florida Building Code and this section before a final plat is recorded with the clerk of the circuit court. The expedited process must include an application for an applicant to identify the percentage of planned homes, or the number of building permits, that the governing body must issue for the

residential subdivision or planned community, not to exceed 50 percent of the residential subdivision or planned community. This subsection does not restrict a local government from issuing building permits that exceed 50 percent of the residential subdivision or planned community.

(b) A governing body that had a program in place before July 1, 2023, to expedite the building permit process, need only update their program to approve an applicant's written application to issue up to 50 percent of the building permits for the residential subdivision or planned community in order to comply with this section. This subsection does not restrict a local government from issuing building permits that exceed 50 percent of the residential subdivision or planned community.

(c) By December 31, 2027, the governing body of a county that has 75,000 residents or more and the governing body of a municipality that has 30,000 residents or more shall update its program to expedite the process for issuing building permits for residential subdivisions or planned communities in accordance with the Florida Building Code and this section before a final plat is recorded with the clerk of the circuit court. The expedited process must contain an application for an applicant to identify the percentage, up to 75 percent, of planned homes that the local governing body must issue for the residential subdivision or planned community. This subsection does not restrict a local government from issuing building permits that

exceed 75 percent of the residential subdivision or planned community.

(3) A governing body shall create:

(a) A two-step application process for the adoption of a preliminary plat and a for final plat in order to expedite the issuance of building permits under this section. The application must allow an applicant to identify the percentage of planned homes, or the number of building permits, that the governing body must issue for the residential subdivision or planned community.

(b) A master building permit process consistent with s. 553.794(3) for applicants seeking multiple building permits for residential subdivisions or planned communities. For purposes of this paragraph, a master building permit is valid for 3 consecutive years after its issuance or until the adoption of a new Florida Building Code, whichever is earlier. After a new Florida Building Code is adopted, the applicant may apply for a new master building permit, which, upon approval, is valid for 3 consecutive years.

(4) An applicant may use a private provider consistent with s. 553.791 to review a preliminary plat and to obtain a building permit for each residential building or structure.

(5) A governing body may work with appropriate local government agencies to issue an address and a temporary parcel identification number for lot lines and lot sizes based on the

metes and bounds of the plat contained in the application.

(6) The governing body must issue the number or percentage of building permits requested by an applicant in accordance with the Florida Building Code and this section, provided the residential buildings or structures are unoccupied and all of the following conditions are met:

(a) The governing body has approved a preliminary plat for each residential building or structure.

(b) The applicant provides proof to the governing body that the applicant has provided a copy of the approved preliminary plat, along with the approved plans, to the relevant electric, water, and wastewater utilities.

(c) The applicant holds a valid performance bond for up to 130 percent of the necessary utilities, roads, and stormwater improvements that have not been completed upon submission of the application under this section. For purposes of master planned communities, as defined in s. 163.3202(5)(b), a valid performance bond is required on a phase-by-phase basis.

(7)(a) An applicant may contract to sell, but may not transfer ownership of, a residential structure or building located in the residential subdivision or planned community until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

(b) An applicant may not obtain a final certificate of

occupancy for each residential structure or building for which a building permit is issued until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

(c) An applicant must indemnify and hold harmless the governing body and its agents and employees from damages accruing and directly related to the issuance of a building permit for a residential building or structure located in the residential subdivision or planned community before the approval and recording of the final plat by the governing body. This includes damage resulting from fire, flood, construction defects, and bodily injury.

Section 2. Subsection (16) of section 553.79, Florida Statutes, is amended to read:

553.79 Permits; applications; issuance; inspections.—

~~(16) Except as provided in paragraph (c), a building permit for a single-family residential dwelling must be issued within 30 business days after receiving the permit application unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.~~

~~(a) If a local enforcement agency fails to issue a building permit for a single-family residential dwelling within 30 business days after receiving the permit application, it must reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline. Each 10-percent~~

~~reduction shall be based on the original amount of the building permit fee.~~

~~(b) A local enforcement agency does not have to reduce the building permit fee if it provides written notice to the applicant, by e-mail or United States Postal Service, within 30 business days after receiving the permit application, that specifically states the reasons the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances. The written notice must also state that the applicant has 10 business days after receiving the written notice to submit revisions to correct the permit application and that failure to correct the application within 10 business days will result in a denial of the application.~~

~~(c) The applicant has 10 business days after receiving the written notice to address the reasons specified by the local enforcement agency and submit revisions to correct the permit application. If the applicant submits revisions within 10 business days after receiving the written notice, the local enforcement agency has 10 business days after receiving such revisions to approve or deny the building permit unless the applicant agrees to a longer period in writing. If the local enforcement agency fails to issue or deny the building permit within 10 business days after receiving the revisions, it must reduce the building permit fee by 20 percent for the first business day that it fails to meet the deadline unless the~~

~~applicant agrees to a longer period in writing. For each additional business day, but not to exceed 5 business days, that the local enforcement agency fails to meet the deadline, the building permit fee must be reduced by an additional 10 percent. Each reduction shall be based on the original amount of the building permit fee.~~

~~(d) If any building permit fees are refunded under this subsection, the surcharges provided in s. 468.631 or s. 553.721 must be recalculated based on the amount of the building permit fees after the refund.~~

~~(e) A building permit for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant-Disaster Recovery program administered by the Department of Economic Opportunity must be issued within 15 working days after receipt of the application unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.~~

Section 3. Subsections (1) and (2) of section 553.792, Florida Statutes, are amended and subsection (4) is added to that section, to read:

553.792 Building permit application to local government.—

(1)(a) The local government must approve, approve with conditions, or deny a building permit application following receipt of a completed and sufficient application within the

following timelines, unless the applicant waives such limitation in writing:

1. For an applicant using local government plans review to obtain a building permit, within 30 days after receiving a complete and sufficient application.

2. For an applicant using a private provider consistent with s. 553.791 to obtain a building permit, within 15 days after receiving a complete and sufficient application.

3. For an applicant for a master plan permit pursuant to paragraph (e), within 10 days after receiving a complete and sufficient application.

4. For an applicant for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant-Disaster Recovery program administered by the Department of Economic Opportunity, within 10 days after receipt of the application unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.

If the local government does not approve, approve with conditions, or deny the completed and sufficient application within the required timeframes, the application is deemed approved. A local government must meet the timeframes set forth in this section for reviewing building permit applications,

unless the timeframes set by local ordinance are more stringent than those prescribed in this section.

(b) After ~~Within 10 days of~~ an applicant submits ~~submitting~~ an application to the local government, the local government must provide written notice to the applicant within 5 days after receipt of the application advising ~~shall advise~~ the applicant what information, if any, is needed to deem the application properly completed in compliance with the filing requirements published by the local government. If the local government does not provide written notice that the applicant has not submitted the properly completed application, the application shall be automatically deemed properly completed and accepted.

(c)1. Within 10 ~~45~~ days after receiving a completed application, a local government must provide written notice to ~~notify~~ an applicant if additional information is required for the local government to determine the sufficiency of the application, and the notice must ~~shall~~ specify the additional information that is required. The applicant may ~~must~~ submit the additional information to the local government or request that the local government act without the additional information. ~~While the applicant responds to the request for additional information, the 120-day period described in this subsection is tolled. Both parties may agree to a reasonable request for an extension of time, particularly in the event of a force majeure~~

~~or other extraordinary circumstance.~~ When reviewing an application for a building permit, a local government may not request additional information from the applicant more than two times, unless the applicant waives such limitation in writing. If the local government requests additional information for a second time, such request must be within 10 days of receiving requested additional information from the first request, and the local government must determine the sufficiency of the application within 10 days of receiving the requested additional information. ~~The local government must approve, approve with conditions, or deny the application within 120 days following receipt of a completed application.~~

2. Before a second request for additional information may be made, the local government must offer the applicant an opportunity to meet in person or virtually with the local government to attempt to resolve outstanding issues.

3. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the local government, at the applicant's written request, must process the application within 10 days after receipt of the request and ~~either~~ approve the application, approve the application with conditions, or deny the application and provide the applicant with sufficient reason for such denial.

(d) A local government shall maintain on its website a

policy containing procedures and expectations for expedited processing of those building permits and development orders required by law to be expedited.

~~(b)1. When reviewing an application for a building permit, a local government may not request additional information from the applicant more than three times, unless the applicant waives such limitation in writing.~~

~~2. If a local government requests additional information from an applicant and the applicant submits the requested additional information to the local government within 30 days after receiving the request, the local government must, within 15 days after receiving such information:~~

~~a. Determine if the application is properly completed;~~

~~b. Approve the application;~~

~~c. Approve the application with conditions;~~

~~d. Deny the application; or~~

~~e. Advise the applicant of information, if any, that is needed to deem the application properly completed or to determine the sufficiency of the application.~~

~~3. If a local government makes a second request for additional information from the applicant and the applicant submits the requested additional information to the local government within 30 days after receiving the request, the local government must, within 10 days after receiving such information:~~

~~a. Determine if the application is properly completed;~~

~~b. Approve the application;~~

~~c. Approve the application with conditions;~~

~~d. Deny the application; or~~

~~e. Advise the applicant of information, if any, that is needed to deem the application properly completed or to determine the sufficiency of the application.~~

~~4. Before a third request for additional information may be made, the applicant must be offered an opportunity to meet with the local government to attempt to resolve outstanding issues. If a local government makes a~~ second ~~third request for additional information from the applicant and the applicant submits the requested additional information to the local government within 30 days after receiving the request, the local government must, within 10 days after receiving such information unless the applicant waived the local government's limitation in writing, determine that the application is complete and:~~

~~a. Approve the application;~~

~~b. Approve the application with conditions; or~~

~~c. Deny the application.~~

~~5. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the local government, at the applicant's request, must process the application and either approve the application, approve the application with conditions, or deny~~

~~the application.~~

(e)~~(c)~~ If a local government fails to meet a deadline under this subsection ~~provided in paragraphs (a) and (b)~~, it must reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline, unless the parties agree in writing to a reasonable extension of time. Each 10-percent reduction shall be based on the original amount of the building permit fee, unless the parties agree to an extension of time.

(2)~~(a)~~ The procedures set forth in subsection (1) apply to the following building permit applications: accessory structure; alarm permit; nonresidential buildings less than 25,000 square feet; electric; irrigation permit; landscaping; mechanical; plumbing; residential units including a single-family residential ~~other than a single family~~ unit or a single-family residential dwelling; multifamily residential not exceeding 50 units; roofing; signs; site-plan approvals and subdivision plats not requiring public hearings or public notice; and lot grading and site alteration associated with the permit application set forth in this subsection. The procedures set forth in subsection (1) do not apply to permits for any wireless communications facilities ~~or when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications~~.

~~(b) If a local government has different timeframes than~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

~~the timeframes set forth in subsection (1) for reviewing building permit applications described in paragraph (a), the local government must meet the deadlines established by local ordinance. If a local government does not meet an established deadline to approve, approve with conditions, or deny an application, it must reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline. Each 10-percent reduction shall be based on the original amount of the building permit fee, unless the parties agree to an extension of time. This paragraph does not apply to permits for any wireless communications facilities.~~

Section 4. Section 440.103, Florida Statutes, is amended to read:

440.103 Building permits; identification of minimum premium policy.—Every employer shall, as a condition to applying for and receiving a building permit, show proof and certify to the permit issuer that it has secured compensation for its employees under this chapter as provided in ss. 440.10 and 440.38. Such proof of compensation must be evidenced by a certificate of coverage issued by the carrier, a valid exemption certificate approved by the department, or a copy of the employer's authority to self-insure and shall be presented, electronically or physically, each time the employer applies for a building permit. As provided in s. 553.79(23) ~~s. 553.79(24)~~, for the purpose of inspection and record retention, site plans

or building permits may be maintained at the worksite in the original form or in the form of an electronic copy. These plans and permits must be open to inspection by the building official or a duly authorized representative, as required by the Florida Building Code. As provided in s. 627.413(5), each certificate of coverage must show, on its face, whether or not coverage is secured under the minimum premium provisions of rules adopted by rating organizations licensed pursuant to s. 627.221. The words "minimum premium policy" or equivalent language shall be typed, printed, stamped, or legibly handwritten.

Section 5. Paragraph (a) of subsection (7) of section 553.80, Florida Statutes, is amended to read:

553.80 Enforcement.—

(7)(a) The governing bodies of local governments may provide a schedule of reasonable fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for enforcing this part. These fees, and any fines or investment earnings related to the fees, shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code, including for upgrading technology hardware and software systems used in enforcement. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances must be carried forward to

future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget for enforcing the Florida Building Code for the previous 4 fiscal years. For purposes of this subsection, the term "operating budget" does not include reserve amounts. Any amount exceeding this limit must be used as authorized in subparagraph 2. However, a local government that established, as of January 1, 2019, a Building Inspections Fund Advisory Board consisting of five members from the construction stakeholder community and carries an unexpended balance in excess of the average of its operating budget for the previous 4 fiscal years may continue to carry such excess funds forward upon the recommendation of the advisory board. The basis for a fee structure for allowable activities must relate to the level of service provided by the local government and must include consideration for refunding fees due to reduced services based on services provided as prescribed by s. 553.791, but not provided by the local government. Fees charged must be consistently applied.

1. As used in this subsection, the phrase "enforcing the Florida Building Code" includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. The phrase may also include

training costs associated with the enforcement of the Florida Building Code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

2. A local government must use any excess funds that it is prohibited from carrying forward to rebate and reduce fees, or to pay for the construction of a building or structure that houses a local government's building code enforcement agency or the training programs for building officials, inspectors, or plans examiners associated with the enforcement of the Florida Building Code. Excess funds used to construct such a building or structure must be designated for such purpose by the local government and may not be carried forward for more than 4 consecutive years. An owner or builder who has a valid building permit issued by a local government for a fee, or an association of owners or builders located in the state that has members with valid building permits issued by a local government for a fee, may bring a civil action against the local government that issued the permit for a fee to enforce this subparagraph.

3. The following activities may not be funded with fees adopted for enforcing the Florida Building Code:

a. Planning and zoning or other general government activities.

b. Inspections of public buildings for a reduced fee or no fee.

c. Public information requests, community functions,

boards, and any program not directly related to enforcement of the Florida Building Code.

d. Enforcement and implementation of any other local ordinance, excluding validly adopted local amendments to the Florida Building Code and excluding any local ordinance directly related to enforcing the Florida Building Code as defined in subparagraph 1.

4. A local government must use recognized management, accounting, and oversight practices to ensure that fees, fines, and investment earnings generated under this subsection are maintained and allocated or used solely for the purposes described in subparagraph 1.

5. The local enforcement agency, independent district, or special district may not require at any time, including at the time of application for a permit, the payment of any additional fees, charges, or expenses associated with:

a. Providing proof of licensure under chapter 489;

b. Recording or filing a license issued under this chapter;

c. Providing, recording, or filing evidence of workers' compensation insurance coverage as required by chapter 440; or

d. Charging surcharges or other similar fees not directly related to enforcing the Florida Building Code.

Section 6. This act shall take effect July 1, 2024.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Regulatory Reform & Economic Development Subcommittee
Representative Esposito offered the following:

Amendment (with title amendment)

Remove lines 133-295 and insert:

each residential subdivision or planned community.

(b) The applicant provides proof to the governing body that the applicant has provided a copy of the approved preliminary plat, along with the approved plans, to the relevant electric, water, and wastewater utilities.

(c) The applicant holds a valid performance bond for up to 130 percent of the necessary utilities, roads, and stormwater improvements that have not been completed upon submission of the application under this section. For purposes of master planned

communities, as defined in s. 163.3202(5)(b), a valid performance bond is required on a phase-by-phase basis.

(7)(a) An applicant may contract to sell, but may not transfer ownership of, a residential structure or building located in the residential subdivision or planned community until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

(b) An applicant may not obtain a final certificate of occupancy for each residential structure or building for which a building permit is issued until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

(8) For purposes of this section, an applicant has a vested right in a preliminary plat that has been approved with conditions by a governing entity, if all of the following conditions are met:

(a) The applicant relies in good faith on the approved preliminary plat or any amendments thereto; and

(b) The applicant commences and is continuing in good faith with the development of the property.

(9) Upon the establishment of vested rights by applicant in subsection (8), a government entity may not make substantive changes to the preliminary plat without the applicant’s written consent.

(10) An applicant must indemnify and hold harmless the governing body and its agents and employees from damages accruing and directly related to the issuance of a building permit for a residential building or structure located in the residential subdivision or planned community before the approval and recording of the final plat by the governing body. This includes damage resulting from fire, flood, construction defects, and bodily injury, but excludes infringement of vested rights.

Section 2. Subsection (16) of section 553.79, Florida Statutes, is amended to read:

553.79 Permits; applications; issuance; inspections.—

~~(16) Except as provided in paragraph (e), a building permit for a single-family residential dwelling must be issued within 30 business days after receiving the permit application unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.~~

~~(a) If a local enforcement agency fails to issue a building permit for a single-family residential dwelling within 30 business days after receiving the permit application, it must reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline. Each 10-percent reduction shall be based on the original amount of the building permit fee.~~

~~(b) A local enforcement agency does not have to reduce the building permit fee if it provides written notice to the applicant, by e-mail or United States Postal Service, within 30 business days after receiving the permit application, that specifically states the reasons the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances. The written notice must also state that the applicant has 10 business days after receiving the written notice to submit revisions to correct the permit application and that failure to correct the application within 10 business days will result in a denial of the application.~~

~~(c) The applicant has 10 business days after receiving the written notice to address the reasons specified by the local enforcement agency and submit revisions to correct the permit application. If the applicant submits revisions within 10 business days after receiving the written notice, the local enforcement agency has 10 business days after receiving such revisions to approve or deny the building permit unless the applicant agrees to a longer period in writing. If the local enforcement agency fails to issue or deny the building permit within 10 business days after receiving the revisions, it must reduce the building permit fee by 20 percent for the first business day that it fails to meet the deadline unless the applicant agrees to a longer period in writing. For each additional business day, but not to exceed 5 business days, that~~

~~the local enforcement agency fails to meet the deadline, the building permit fee must be reduced by an additional 10 percent. Each reduction shall be based on the original amount of the building permit fee.~~

~~(d) If any building permit fees are refunded under this subsection, the surcharges provided in s. 468.631 or s. 553.721 must be recalculated based on the amount of the building permit fees after the refund.~~

~~(e) A building permit for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant Disaster Recovery program administered by the Department of Economic Opportunity must be issued within 15 working days after receipt of the application unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.~~

Section 3. Subsections (1) and (2) of section 553.792, Florida Statutes, are amended and subsection (4) is added to that section, to read:

553.792 Building permit application to local government.—

(1)(a) The local government must approve, approve with conditions, or deny a building permit application following receipt of a completed and sufficient application within the following timelines, unless the applicant waives such limitation in writing:

1. For an applicant using local government plans review to obtain a building permit, within 30 business days after receiving a complete and sufficient application.

2. For an applicant using a private provider consistent with s. 553.791 to obtain a building permit, within 15 business days after receiving a complete and sufficient application.

3. For an applicant for a master plan permit pursuant to paragraph (e), within 10 business days after receiving a complete and sufficient application.

4. For an applicant for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant–Disaster Recovery program administered by the Department of Economic Opportunity, within 10 business days after receipt of the application unless the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.

If the local government does not approve, approve with conditions, or deny the completed and sufficient application within the required timeframes, the application is deemed or determined to be approved. A local government must meet the timeframes set forth in this section for reviewing building permit applications, unless the timeframes set by local

ordinance are more stringent than those prescribed in this section.

(b) After ~~Within 10 days of~~ an applicant submits ~~submitting~~ an application to the local government, the local government must provide written notice to the applicant within 5 business days after receipt of the application advising ~~shall advise~~ the applicant what information, if any, is needed to deem or determine that the application is properly completed in compliance with the filing requirements published by the local government. If the local government does not provide timely written notice that the applicant has not submitted the properly completed application, the application shall be automatically deemed or determined to be properly completed and accepted.

(c)1. Within 10 business ~~45~~ days after receiving a completed application, a local government must provide written notice to ~~notify~~ an applicant if additional information is required for the local government to determine the sufficiency of the application, and the notice must ~~shall~~ specify the additional information that is required. The applicant may ~~must~~ submit the additional information to the local government or request that the local government act without the additional information. ~~While the applicant responds to the request for additional information, the 120-day period described in this subsection is tolled. Both parties may agree to a reasonable request for an extension of time, particularly in the event of a~~

~~force majeure or other extraordinary circumstance.~~ When reviewing an application for a building permit, a local government may not request additional information from the applicant more than two times, unless the applicant waives such limitation in writing. If the local government requests additional information for a second time, such request must be within 10 business days of receiving the additional information indicated in the first request, and the local government must determine the sufficiency of the application within 10 business days of receiving the requested additional information. If the local government does not provide timely written notice that the applicant must submit additional information to determine whether the application is sufficient, the application shall be automatically deemed or determined to be sufficient. ~~The local government must approve, approve with conditions, or deny the application within 120 days following receipt of a completed application.~~

2. Before a second request for additional information may be made, the local government must offer the applicant an opportunity to meet in person or virtually with the local government to attempt to resolve outstanding issues.

3. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the local government, at the applicant's

written request, must process the application within 10 business days

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T I T L E A M E N D M E N T

Remove line 17 and insert:

the program; providing that an applicant has a vested right in an approved preliminary plat when certain conditions are met; amending s. 553.79, F.S.; removing

REGULATORY REFORM AND ECONOMIC DEVELOPMENT SUBCOMMITTEE

PCS for HB 267 by Rep. Esposito
Building Regulations

AMENDMENT SUMMARY
December 13, 2024

Amendment 1 by Rep. Esposito (lines 133-295):

- Provides that vested rights in a preliminary plat are formed if an applicant commences developing the property based on an approval of such preliminary plat by a local government.
- Requires an applicant for a residential building permit pursuant to a preliminary plat to indemnify and hold harmless the local government from damages directly related to the issuance of such building permit before the approval of the final plat.
- Clarifies that timeframes in the updated permitting procedures are calculated using business days.
- Clarifies that if a local government fails to timely notify an applicant of what is needed to determine a sufficient application, such application will be automatically determined to be sufficient.
- Corrects a scrivener's error.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 433 Employment Regulations
SPONSOR(S): Regulatory Reform & Economic Development Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Regulatory Reform & Economic Development Subcommittee		Thompson	Anstead

SUMMARY ANALYSIS

The federal Fair Labor Standards Act (FLSA) provides workers with minimum wage, overtime pay, record keeping, and child labor protections for full and part-time workers in both the private sector and federal, state and local employment. The FLSA allows states to expand the rights of employers and employees. In some instances, Florida law provides stronger protections for employees than federal law, including protections regarding discrimination based on marital status, minimum wage, and health coverage obligations for small employers. Florida generally follows federal law on overtime pay and occupational health and safety.

The Florida Minimum Wage Act (Act), enacted in 2005, implements the minimum wage provisions in the State Constitution.

Florida's wage and employment benefits law preempts the establishment of a minimum wage to the state. Thus, local governments cannot establish a minimum wage for private employers in their jurisdiction. Local governments are also prohibited from requiring private employers to provide employment benefits not required by state or federal law. However, local governments have limited authority to establish a minimum wage and to require specific employment benefits for their own employees and those of their vendors or contractors.

The Occupational Safety and Health Act of 1970 (Act) is the federal labor law governing occupational health and safety in the private sector and federal government. Currently, there are no specific federal or state laws that provide heat exposure protections for outdoor workers.

The bill:

- Prohibits local governments from preferring one contractor over another based on the wages or employment benefits provided by the contractor.
- Removes the ability of local governments to require a minimum wage for certain contracted employees under the terms of a contract.
- Expressly preempts the regulation of the terms and conditions of employment to the state.
- Preempts the regulation of workplace heat exposure requirements to the state.
- Clarifies that the preemption of workplace heat requirements does not limit the authority of a local government to provide workplace heat exposure requirements for the employees of the local government, and does not apply if compliance will prevent the local government from receiving federal funds.

The bill does not appear to have a fiscal impact on state or local government.

The effective date of the bill is July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Fair Labor Standards Act

The federal Fair Labor Standards Act (FLSA), enacted in 1938, provides covered workers with minimum wage, overtime pay, and child labor protections.[1] In 1938, the FLSA established a minimum wage of $.25 an hour. The current federal minimum wage rate is $7.25 an hour, which went into effect July 24, 2009. The FLSA applies to employment within any state in the U.S., the District of Columbia or any territory or possession of the U.S.[2]

The FLSA covers most private and public sector employees. However, certain employers and employees are exempt from coverage, including: individuals with disabilities, youth workers, tipped workers and executive, administrative and professional workers. The FLSA covers businesses if the business has annual sales of at least $500,000.[3] It also covers certain individual employees if such employee is engaged in interstate commerce.

Regardless of the dollar amount of revenues of a business, the FLSA applies to:[4]

- **Governments**: Federal, state, or local government agencies.
- **Hospitals**: Hospitals, or institutions primarily engaged in the care of the sick, the aged, or the mentally ill or disabled who live on the premises. (It does not matter if the hospital or institution is public or private or is operated for profit or not-for-profit.)
- **Schools**: Pre-schools, elementary or secondary schools or institutions of higher learning (e.g., college), or a school for mentally or physically handicapped or gifted children. (It does not matter if the school or institution is public or private or operated for profit or not-for-profit.)

The FLSA includes several exemptions from the federal minimum wage provisions, including:[5]

- Executive, administrative and professional employees;
- Employees in certain seasonal amusement or recreational establishments, employees in certain small newspapers, seamen employed on foreign vessels, employees engaged in fishing operations, and employees engaged in newspaper delivery;
- Farm workers employed by certain employers;
- Casual babysitters and persons employed as companions for the elderly or infirm;
- Border patrol agents[6]; and
- Baseball players who are compensated pursuant to a contract that provides for a weekly salary for services performed during the league's championship season at a rate that is not less than a weekly salary equal to the minimum wage.

The FLSA was amended in 2014, related to border patrol agents, and again in 2018, to exempt minor league baseball players who are paid at least $290 per week during the 2018 championship season

[1] 29 U.S.C. § 201-219 and 29 C.F.R. ch. V.

[2] Congressional Research Service, CRS Report R42713, *The Fair Labor Standards Act (FLSA): An Overview*, https://crsreports.congress.gov/product/pdf/R/R42713, (last visited Dec. 5, 2023). (The main FLSA provisions and accompanying Department of Labor (DOL) regulations constitute what is commonly known as federal wage and hour laws and federal child labor law.).

[3] The size of an enterprise is measured by its "annual sales or business done." Annual sales or business done includes all business activities that can be measured in dollars. Thus, retailers are covered by the FLSA if their annual sales are at least $500,000. Owners of rental properties are covered if they collect at least $500,000 annually in rent. 29 C.F.R.§§779.258-779.259.

[4] U.S. Department of Labor, Fair Labor Standards Act Advisor, https://webapps.dol.gov/elaws/whd/flsa/scope/screen10.asp, (last visited Dec. 5, 2023).

[5] 29 U.S.C. § 213. (It also includes separate exemptions from overtime pay.)

[6] *See* Border Patrol Agent Pay Reform Act of 2014, S.1691, 113th Cong, (2014).

from the federal minimum wage rate and overtime pay.[7] These two amendments were the only amendments made to the minimum wage exemptions provisions of the FLSA since Florida passed its minimum wage law in 2005.[8]

The FLSA provides that if states enact worker protections, including minimum wage rates, that are more protective of employees than what is provided by the FLSA, the state law applies.[9] Consequently, no state law may weaken the worker protections in the FLSA. However, state laws that impose greater worker protections will supersede those in the FLSA.[10]

Thirty states plus Washington DC, Guam, Puerto Rico, and the Virgin Islands provide a minimum wage greater than the federal minimum wage. Thirteen states provide a minimum wage that is equal to the federal minimum wage. Five states have not adopted a minimum wage and two states have a minimum wage that is below the federal minimum wage.[11] For those seven states, the federal minimum wage applies, but only to those workers covered by the FLSA.

Article X, Section 24 of the Florida Constitution

On November 2, 2004, Floridians voted to amend the Florida Constitution by adding a minimum wage provision (Section 24) that established the state minimum wage.[12] Prior to this date Florida did not have a law on minimum wage so the FLSA applied for covered workers. Section 24 provides the amount of the minimum wage and the procedure for calculating increases in the minimum wage.[13]

Florida voters again on November 3, 2020, voted to approve a constitutional amendment related to the state's minimum wage, Amendment 2, to gradually increase the state's minimum wage to $15 an hour by the year 2026.[14] Pursuant to the passage of Amendment 2, on September 30, 2021, Florida's minimum wage increased to $10 per hour. Each year, thereafter, Florida's minimum wage will increase by $1 until the minimum wage reaches $15 per hour on September 30, 2026.[15] Beginning in 2027, the minimum wage will be adjusted annually for inflation, as it had been done from 2004 - 2021.

Related to minimum wage, the Florida Constitution states, "All working Floridians are entitled to be paid a minimum wage sufficient to provide a decent and healthy life, that protects their employers from unfair low wage competition, and that does not force them to rely on taxpayer-funded public services."[16]

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[7] *See* Levi Weaver, On Minor-League Pay, *MLB's Stance Doesn't Line Up with the Facts*, ATHLETIC (Apr. 4, 2018), https://www.theathletic.com/293189/%202018/04/04/on-minor-league-pay-mlbs-stance-doesnt-line-up-with-the-facts// (last visited Dec. 5, 2023). (When recounting salary scale per level of minor league baseball, the article notes "federally-recognized poverty line is $12,140 per year for single-individual households." According to the article, a not-insignificant percentage of minor league players are able to subsidize their relatively meager monthly salaries by drawing upon the signing bonuses they received from their MLB clubs when first entering the professional ranks. These bonuses can range anywhere from $10,000 to several million dollars. "The top 64 picks [in the MLB draft] last year all received a bonus of over $1,000,000 before taxes, but roughly 40% of players signed for one-time bonuses of $10,000 or less."

[8] S. 448.110, F.S., expressly references ss. 213 and 214 of the FLSA, which address minimum wage exemptions and employment under special certificates, respectively. However, s. 214 has not been amended since 1989. (*See* Pub. L. 101–157, § 4(d), Nov. 17, 1989, 103 Stat. 941.)

[9] 29 U.S.C. §218.

[10] Congressional Research Service, CRS Report R42713, *The Fair Labor Standards Act (FLSA): An Overview, Updated March 2, 2023*, https://crsreports.congress.gov/product/pdf/R/R42713, (last visited Dec. 5, 2023).

[11] U.S. Department of Labor, Consolidated Minimum Wage Table, https://www.dol.gov/agencies/whd/mw-consolidated (last visited Dec. 5, 2023).

[12] Art. X, s. 24., Fla. Const.

[13] Art. X, s. 24 (c), Fla. Const.

[14] U.S. Department of State, *Notice of Increase to State of Florida's Minimum Wage*, https://www.state.gov/wp-content/uploads/2021/01/2021-01-29-Notice-FL-Minimum-Wage-Increase.pdf (last visited Dec. 5, 2023).

[15] Department of Economic Opportunity, *Florida's Minimum Wage*, https://floridajobs.org/docs/default-source/business-growth-and-partnerships/for-employers/posters-and-required-notices/2022-minimum-wage/2022-florida-minimum-wage-announcement.pdf?sfvrsn=961754b0_2 (last visited Dec. 5, 2023).

[16] Art. X, s. 24 (a), Fla. Const.

The Florida Constitution references the FLSA and specifically ties the meaning[17] of certain terms, "Employer," "Employee" and "Wage," to have the meanings established under the FLSA and its implementing regulations.[18] It also indicates that that case law, administrative interpretations, and other guiding standards developed under the federal FLSA must guide the construction of Florida's Constitution related to Section 24 and any implementing statutes or regulations.[19]

Florida Minimum Wage Act

The Florida Minimum Wage Act (Act) was enacted in 2005 to implement the minimum wage provisions in the State Constitution.[20] The Act designates the Department of Commerce (DC) as the state agency that implements the minimum wage requirements, establishes procedures with respect to civil actions alleging violations, and provides that it is the exclusive remedy under state law for violations of Section 24.[21]

The Act provides that effective May 2, 2005, employers are required to pay employees a minimum wage at an hourly rate of $6.15 for all hours worked in Florida. Only those individuals entitled to receive the federal minimum wage under the FSLA and its implementing regulations are eligible to receive the state minimum wage pursuant to the State Constitution and this statute. The provisions of ss. 213 and 214 of the federal Fair Labor Standards Act, as interpreted by applicable federal regulations and implemented by the Secretary of Labor, are incorporated by reference.[22]

As it relates to the federal minimum wage and the FLSA, the Act specifies that:[23]

- Only those individuals entitled to receive the federal minimum wage under the FSLA, as amended, and its implementing regulations, are eligible to receive the state minimum wage; and
- Provisions related to federal minimum wage exemptions in the FLSA are considered incorporated in the Act.

Local Wage Ordinances

In Florida, the State Constitution authorizes counties to enact ordinances that are not inconsistent with state law.[24] The State Constitution also grants municipalities the power to enact ordinances on any subject that state law may address, except:[25]

- The subjects of annexation, merger, and exercise of extraterritorial power;
- Any subject expressly prohibited by the State Constitution;
- Any subject expressly preempted to state or county government by the State Constitution or by law; or
- Any subject preempted to a county under a county charter.

In 2003, the Legislature preempted the establishment of minimum wages to the state.[26] However, a political subdivision (local government)[27] retains the authority to establish a minimum wage other than a

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[17] *In re Advisory Opinion to the Atty. Gen. re Fla. Minimum Wage Amend.*, 880 So. 2d 636, 641–42 (Fla. 2004). ("The proposed amendment does not state that it is adopting the FLSA's *definition* of the term "employee," but provides that it is adopting the *meaning* of the term "employee," which is a much broader concept.")

[18] Art. X, s. 24(b), Fla. Const.

[19] Art. X, s. 24(f), Fla. Const.

[20] Ch. 2005-353, Laws of Fla., codified in s. 448.110, F.S.

[21] S. 448.110(10), F.S. HB 5 (2023) renames the Department of Economic Opportunity as the Department of Commerce; SB 82 (2024), section 220, makes this conforming change in the Florida Minimum Wage Act.

[22] S. 448.110(3), F.S.

[23] S. 448.110(3), F.S.

[24] S. 1(f) and (g), Art. VIII, Fla. Const.; *see also* s. 125.01, F.S.

[25] S. 2(b), Art. VIII, Fla. Const.

[26] S. 218.077(2), F.S. *See* s. 18(a) of the federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. s. 218:
No provision of [the Fair Labor Standards Act] or of any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under [the federal act].

[27] "Political subdivision" is defined to mean a county, municipality, department, commission, district, board, or other public body, whether corporate or otherwise, created by or under state law. S. 218.077(1)(f), F.S.

state or federal minimum wage or to provide employment benefits not otherwise required under state or federal law for:[28]

- Its employees;
- The employees of an employer contracting to provide goods or services for the local government, or for the employees of a subcontractor of such an employer, under the terms of a contract with the local government; or
- The employees of an employer receiving a direct tax abatement or subsidy from the local governments, as a condition of the direct tax abatement or subsidy.

The preemption also does not apply to, "a domestic violence or sexual abuse ordinance, order, rule, or policy adopted by a political subdivision."[29]

The law contains an exception for situations where compliance would prevent a local government from receiving federal funds. This allows compliance with the Davis-Bacon and related acts,[30] which direct the federal Department of Labor to determine fair wages for contractors and subcontractors working on public buildings and public works. Florida law only allows non-compliance with regard to local minimum wage alterations to the extent necessary to allow receipt of federal funds.[31]

Additionally, local governments are prohibited from requiring an employer to provide employment benefits[32] not required by state or federal law. "A political subdivision may not establish, mandate, or otherwise require an employer to pay a minimum wage, other than a state or federal minimum wage, to apply a state or federal minimum wage to wages exempt from a state or federal minimum wage, or to provide employment benefits not otherwise required by state or federal law."[33]

Despite these provisions, in 2016, the city of Miami Beach enacted a local ordinance establishing a minimum hourly wage significantly exceeding the current Florida minimum wage. The ordinance applied to all employers operating with the city. The ordinance, which was scheduled to take effect on January 1, 2018, established both a local minimum wage of $10.31 an hour and annual increases to $13.31 an hour effective January 2021. Subsequently, the ordinance was challenged on the grounds that it was preempted by Florida's wage and employment benefits law that preempts the establishment of minimum wages to the state, and Florida's Third District Court of Appeals struck down the ordinance.

The court held that the Florida Constitution authorizes the state legislature to preempt municipal powers by statute. The court also rejected the city's principal argument that Article X, Section 24 of the Florida Constitution, raising the state minimum wage, made the statute unconstitutional. In 2018, the Florida Supreme Court agreed to take up the case.[34] However, in 2019, the Florida Supreme Court issued an order that discharged jurisdiction over the case. As a result, the Third District's decision invalidating Miami Beach's local wage ordinance appears to currently stand.[35]

Workplace Heat Exposure

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[28] S. 218.077(3)(a), F.S.
[29] S. 218.077(3)(b), F.S.
[30] *See, e.g.*, 40 U.S.C. 3141 *et seq*. The Davis-Bacon Act is a federal law that regulates prevailing wage rates on public works projects. The Act provides that all laborers and mechanics working on construction projects which are funded by the federal government shall not be paid a wage less than prevailing wage, as specified by the U.S. Department of Labor, in the locality in which work is performed.
[31] S. 218.077(4), F.S.
[32] "Employment benefits" is defined to mean anything of value that an employee may receive from an employer in addition to wages and salary. The term includes, but is not limited to, health benefits; disability benefits; death benefits; group accidental death and dismemberment benefits; paid or unpaid days off for holidays, sick leave, vacation, and personal necessity; retirement benefits; and profit-sharing benefits. S. 218.077(1)(d), F.S.
[33] S. 218.077(2), F.S. Federally authorized and recognized tribal governments, however, are not prohibited from requiring employment benefits for a person employed within a territory over which the tribe has jurisdiction. S. 218.077(5), F.S.
[34] *City of Miami Beach v. Florida Retail Federation, Inc.*, 233 So.3d 1236 at 1238 (Fla. 3d DCA 2017) (declined for review February 5, 2019).
[35] JDSUPRA, *Can Cities Set a Local Minimum Wage? Florida Supreme Court Says No* (Feb. 14, 2019), https://www.jdsupra.com/legalnews/can-cities-set-a-local-minimum-wage-67192/ (last visited Dec. 5, 2023).

The Occupational Safety and Health Act of 1970 (Act) is the federal labor law governing occupational health and safety in the private sector and federal government.[36] Under the Act, two federal agencies are responsible for promoting occupational safety and health in the United States. The National Institute for Occupational Safety and Health (NIOSH) conducts research and recommends occupational safety and health standards.[37] The Occupational Safety and Health Administration (OSHA)[38] is responsible for the promulgation and enforcement of standards.[39]

Currently, there are no specific laws in Florida that provide heat exposure protections for outdoor workers. NIOSH and OSHA provide certain recommendations that employers provide heat exposure protections.

In 2013, NIOSH published "Preventing Heat-related Illness or Death of Outdoor Workers." This recommended standard recommends that employers have a plan in place to prevent heat-related illness. The plan should include hydration (drinking plenty of water), acclimatization (getting used to weather conditions), and schedules that alternate work with rest. It recommends that employers should also train workers about the hazards of working in hot environments.[40]

OSHA does not currently have any specific heat exposure standards. In the absence of a specific standard, OSHA is authorized to enforce the "general duty clause" of the Act, which requires each employer to provide a workplace that is free of "recognized hazards" causing or likely to cause "death or serious physical harm" to its employees.[41]

In 2011, OSHA launched a heat illness prevention campaign that includes guidance to employers and employees, a smartphone app that provides location-specific information on heat conditions and heat exposure prevention and first aid, and educational materials such as posters and pamphlets in English, Spanish, and other languages.[42]

On October 27, 2021, OSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) for a potential standard on Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings.[43] OSHA solicited public comments on the ANPRM through January 26, 2022, and received over 1,000 comments on the ANPRM.

In March 2021, OSHA cited Valley Produce Harvesting and Hauling Company for a willful violation of the general duty clause by exposing sugar cane harvesting employees in Florida to "excessive heat, elevated temperature working conditions, direct sun radiation and thermal stress" while working outdoors in September 2020. OSHA assessed the maximum allowable civil monetary penalty of $136,532 for this violation, which was later reduced through an informal settlement with the employer to $81,919.20. The citation provides, "the employer did not furnish employment and a place of employment which were free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to excessive heat, elevated temperature working conditions, direct sun radiation and thermal stress."[44]

In April 2022, OSHA began a National Emphasis Program (NEP) of enforcement of the general duty clause and compliance assistance to focus on indoor and outdoor heat exposure. The NEP expands on OSHA's ongoing heat-related illness prevention initiative and campaign by creating a targeted enforcement component and reiterating its compliance assistance and outreach efforts. This approach is intended to encourage early interventions by employers to prevent illnesses and deaths among

[36] Occupational Safety and Health Act of 1970, Pub. L. No. 91-596, 84 STAT. 1590, 91st Cong. (Jan. 1, 2004).
[37] 29 U.S.C. § 671.
[38] *See* Occupational Safety and Health Administration, *About Osha*, https://www.osha.gov/aboutosha (last visited Dec. 5, 2023).
[39] 29 U.S.C. § 655.
[40] NIOSH 1986, 2008, 2010; OSHA-NIOSH 2011.
[41] 29 U.S.C. § 654.
[42] Occupational Safety and Health Administration, Heat Illness Prevention, https://www.osha.gov/heat/ (last visited Dec. 5, 2023).
[43] 86 FR 59309.
[44] Occupational Safety and Health Administration, *Violation Detail*, https://www.osha.gov/ords/imis/establishment.violation_detail?id=1495595.015&citation_id=02001 (last visited Dec. 5, 2023).

workers during high heat conditions, such as working outdoors in a local area experiencing a heat wave, as announced by the National Weather Service. Early interventions include, but are not limited to, implementing water, rest, shade, training, and acclimatization procedures for new or returning employees.[45]

Local Heat Regulation

On November 11, 2023, the Miami-Dade County Board of County Commissioners considered a proposal that would require construction and agriculture companies with five or more employees to guarantee workers access to water and give them 10-minute breaks in the shade every two hours on days when the heat index equals or exceeds 95 degrees Fahrenheit. The proposal would also require employers to train workers to recognize the signs of heat illness, administer first aid and call for help in an emergency. Enforcement includes a warning, fines of up to $2,000 per day per violation, and debarment of contractors from county work for certain repeated violations and unpaid penalties.[46] According to reports:[47]

- The proposal was deferred until March.
- Some South Florida employers have expressed that they already provide such protections.
- Miami-Dade County would have been the only local government in the nation to adopt such requirements.

Preemption

A local government enactment may be inconsistent with state law if the:

- Local enactment conflicts with state statutes; or
- The Legislature has preempted the particular area of law that is the subject of the enactment.

Such state preemption precludes a local government from exercising authority in the preempted area.[48]

Florida law recognizes two types of state preemption: express and implied. Express preemption requires an express legislative statement of intent to preempt a specific area of law; it cannot be implied or inferred.[49] Implied preemption, on the other hand, exists where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the legislature.[50] Courts determining the validity of local government ordinances enacted in the face of state preemption, whether express or implied, have found such ordinances to be null and void.[51]

Effect of Proposed Changes

Wage and Employment Benefits

The bill amends Florida's wage and employment benefits law by providing that a political subdivision may not:

- "maintain a minimum wage, other than a state or federal minimum wage."
- "through its purchasing or contracting procedures seek to control or affect the wages or employment benefits provided by its vendors, contractors, service providers, or other parties doing business with the political subdivision."

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[45] Occupational Safety and Health Administration, *OSHA Instruction*, https://www.osha.gov/sites/default/files/enforcement/directives/CPL_03-00-024.pdf (last visited Dec. 5, 2023).
[46] Miami-Dade Legislative Item, File Number: 231773.
[47] Miami Herald, After industry pressure, Miami-Dade puts heat protections for outdoor workers on ice, https://www.miamiherald.com/news/local/environment/article281487003.html (last visited Dec. 6, 2023).
[48] Wolf, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009), https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/ (last visited March 20, 2023).
[49] *See City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309 (Fla. 2008).
[50] *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880 (Fla. 2010).
[51] *See, e.g., Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami,* 812 So. 2d 504 (Fla. 3d DCA 2002).

- "through the use of evaluation factors, qualification of bidders, or otherwise, award preferences on the basis of wages or employment benefits provided by its vendors, contractors, service providers, or other parties doing business with the political subdivision."

The bill removes the ability of local governments to require a minimum wage for certain contracted employees under the terms of a contract.

The bill also removes the exception that allows political subdivisions to establish a minimum wage or employment benefits not otherwise required under state or federal law for:

- "the employees of an employer contracting to provide goods or services for the political subdivision, or for the employees of a subcontractor of such an employer, under the terms of a contract with the political subdivision."

Regulation of Labor

The bill expressly preempts the regulation of the "terms and conditions" of employment to the state. The bill provides that unless expressly authorized by special or general law, a county, municipality, special district, or political subdivision of the state may not adopt or enforce an ordinance, order, rule, or policy providing any "term or condition of employment" that exceeds or conflicts with the requirements of federal or state law relating to any term or condition of employment. The bill provides that an ordinance, order, rule, or policy that violates this provision is void and unenforceable.

This appears to limit local government from regulating employment in any way, including having certain requirements for its own employees that are different from the state or federal law.

Workplace Heat Exposure Requirements

In addition to the blanket preemption in the bill for all conditions of employment, the bill preempts the regulation of workplace heat exposure requirements to the state, and specifically indicates that the provision applies retroactively. Specifically, the bill provides that any local law, ordinance, resolution, regulation, rule, code, policy, or charter amendment adopted before, on, or after the effective date of this act which conflicts with this provision is void and prohibited.

The bill requires the DC to adopt rules relating to workplace heat exposure requirements if OSHA has not done so by July 1, 2028. The rules must be consistent with the standards of OSHA in effect at the time the DC adopts its rules, and modified as necessary to reflect workplace heat exposure considerations specific to this state. The Legislature must ratify such rules before they take effect.

The bill prohibits local governments from:

- Mandating or otherwise imposing heat exposure requirements on an employer, an employee, a contractor, or a subcontractor.
- Considering or seeking information relating to a contractor's or subcontractor's heat exposure requirements in any procurement for goods or services.

The bill provides that it does not:

- Limit the authority of a local government to mandate or impose workplace heat exposure requirements for the employees of the local government.
- Apply if it is determined that compliance would prevent the distribution of federal funds to a local government or would otherwise be inconsistent with federal requirements pertaining to receiving federal funds, but only to the extent necessary to allow a local government to receive federal funds or to eliminate the inconsistency with federal requirements.

The bill provides the following definitions:

- "Contractor" means an employer contracting with, or seeking to contract with, a local government to provide goods or services to, for the benefit of, or on behalf of the local government.

- "Employee" means a natural person, including a self-employed person, who receives any type of compensation or remuneration for providing services to an employer.
- "Employer" means a person who hires or contracts for the services of employees.
- "Heat exposure requirement" means a standard mandated or otherwise imposed on employers, employees, contractors, or subcontractors to control an employee's exposure to heat or sun, or to otherwise address or moderate the effects of such exposure. The term includes, but is not limited to, standards relating to all of the following:
    - Employee monitoring and protection.
    - Water consumption.
    - Cooling measures.
    - Acclimatization and recovery periods or practices.
    - Posting or distributing notices or materials relating to heat exposure which inform employees how to protect themselves from such exposure.
    - Implementation and maintenance of heat exposure programs or training.
    - Appropriate first-aid measures or emergency responses related to heat exposure.
    - Protections for employees who report that they have experienced excessive heat exposure.
    - Reporting and recordkeeping requirements.
- "Local government" means a county, municipality, department, commission, district, board, or other public body, whether corporate or otherwise, created by or under state law.
- "Subcontractor" has the same meaning as in s. 448.095(1), F.S., which includes a person or an entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

B. SECTION DIRECTORY:

Section 1: Amends s. 218.077, F.S., relating to wage and employment benefits requirements by political subdivisions; restrictions.

Section 2: Creates s. 448.077, F.S., relating to regulation of labor preempted to state.

Section 3: Amends s. 448.106, F.S., relating to workplace heat exposure requirements; preemption; rulemaking.

Section 4: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate fiscal impact on the private sector to the extent that the preemptions supersede local ordinances.

The bill may:

- Prevent businesses from losing local government contracts based on wages or employment benefits that they do not currently offer.
- Allow businesses that contract with local governments to pay their employees as they see fit.
- Prevent businesses from being required to provide costly terms and conditions of employment.
- Prevent businesses from being required to provide costly workplace heat exposure protections.
- Prevent workers from earning a wage that allows them to live in the area that they work.
- Create a negative fiscal impact for employers who provide workers' compensation insurance for their employees.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the DC to adopt rules relating to workplace heat exposure requirements if OSHA has not done so by July 1, 2028.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to employment regulations; amending s. 218.077, F.S.; prohibiting political subdivisions from maintaining a certain minimum wage; prohibiting political subdivisions from controlling, affecting, or awarding preferences relating to wages or employment benefits of entities contracting with the political subdivision; providing applicability; creating s. 448.077, F.S.; preempting regulation of the terms and conditions of employment to the state; declaring void any ordinance, order, rule, or policy that violates this prohibition; creating s. 448.106, F.S.; providing definitions; preempting the regulation of heat exposure requirements in the workplace to the state; providing that certain local laws, ordinances, resolutions, regulations, rules, codes, policies, and amendments are void and prohibited; requiring the Department of Commerce to adopt rules relating to workplace heat exposure requirements if the Occupational Safety and Health Administration has not done so by a date certain; providing requirements for such rules; prohibiting local governments from mandating or imposing certain requirements or seeking information from certain persons relating to certain requirements; providing construction and

applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) and paragraph (a) of subsection (3) of section 218.077, Florida Statutes, are amended to read:

218.077 Wage and employment benefits requirements by political subdivisions; restrictions.—

(2)(a) Except as otherwise provided in subsection (3), a political subdivision may not establish, mandate, maintain, or otherwise require an employer to pay a minimum wage, other than a state or federal minimum wage, to apply a state or federal minimum wage to wages exempt from a state or federal minimum wage, or to provide employment benefits not otherwise required by state or federal law.

(b) A political subdivision may not through its purchasing or contracting procedures seek to control or affect the wages or employment benefits provided by its vendors, contractors, service providers, or other parties doing business with the political subdivision. A political subdivision may not through the use of evaluation factors, qualification of bidders, or otherwise, award preferences on the basis of wages or employment benefits provided by its vendors, contractors, service providers, or other parties doing business with the political subdivision.

(3) This section does not:

(a) Limit the authority of a political subdivision to establish a minimum wage other than a state or federal minimum wage or to provide employment benefits not otherwise required under state or federal law:

1. For the employees of the political subdivision; or

~~2. For the employees of an employer contracting to provide goods or services for the political subdivision, or for the employees of a subcontractor of such an employer, under the terms of a contract with the political subdivision; or~~

2.~~3.~~ For the employees of an employer receiving a direct tax abatement or subsidy from the political subdivision, as a condition of the direct tax abatement or subsidy.

Section 2. Section 448.077, Florida Statutes, is created to read:

448.077 Regulation of labor preempted to state.—

The regulation of the terms and conditions of employment is expressly preempted to the state. Unless expressly authorized by special or general law, a county, municipality, special district, or political subdivision of the state may not adopt or enforce an ordinance, order, rule, or policy providing any term or condition of employment that exceeds or conflicts with the requirements of federal or state law relating to any term or condition of employment. An ordinance, order, rule, or policy that violates this section is void and unenforceable.

Section 3. Section 448.106, Florida Statutes, is created to read:

448.106 Workplace heat exposure requirements; preemption; rulemaking.—

(1) As used in this section, the term:

(a) "Contractor" means an employer contracting with, or seeking to contract with, a local government to provide goods or services to, for the benefit of, or on behalf of the local government.

(b) "Employee" means a natural person, including a self-employed person, who receives any type of compensation or remuneration for providing services to an employer.

(c) "Employer" means a person who hires or contracts for the services of employees.

(d) "Heat exposure requirement" means a standard mandated or otherwise imposed on employers, employees, contractors, or subcontractors to control an employee's exposure to heat or sun, or to otherwise address or moderate the effects of such exposure. The term includes, but is not limited to, standards relating to all of the following:

1. Employee monitoring and protection.

2. Water consumption.

3. Cooling measures.

4. Acclimatization and recovery periods or practices.

5. Posting or distributing notices or materials relating

to heat exposure which inform employees how to protect themselves from such exposure.

6. Implementation and maintenance of heat exposure programs or training.

7. Appropriate first-aid measures or emergency responses related to heat exposure.

8. Protections for employees who report that they have experienced excessive heat exposure.

9. Reporting and recordkeeping requirements.

(e) "Local government" means a county, municipality, department, commission, district, board, or other public body, whether corporate or otherwise, created by or under state law.

(f) "Subcontractor" has the same meaning as in s. 448.095(1).

(2)(a) The regulation of workplace heat exposure requirements is preempted to the state. Any local law, ordinance, resolution, regulation, rule, code, policy, or charter amendment adopted before, on, or after the effective date of this act which conflicts with this section is void and prohibited.

(b) If the Occupational Safety and Health Administration has not adopted by rule requirements regulating workplace heat exposure by July 1, 2028, the Department of Commerce must adopt by rule statewide workplace heat exposure requirements. Such rules must be consistent with the standards of the Occupational

Safety and Health Administration in effect at the time the Department of Commerce adopts its rules, and modified as necessary to reflect workplace heat exposure considerations specific to this state. The Legislature must ratify such rules before they take effect.

(3) Except as otherwise provided in this section, a local government may not:

(a) Mandate or otherwise impose heat exposure requirements on an employer, an employee, a contractor, or a subcontractor.

(b) Consider or seek information relating to a contractor's or subcontractor's heat exposure requirements in any procurement for goods or services.

(4) This section does not limit the authority of a local government to mandate or impose workplace heat exposure requirements for the employees of the local government.

(5) This section does not apply if it is determined that compliance with this section will prevent the distribution of federal funds to a local government or would otherwise be inconsistent with federal requirements pertaining to receiving federal funds, but only to the extent necessary to allow a local government to receive federal funds or to eliminate the inconsistency with federal requirements.

Section 4. This act shall take effect July 1, 2024.

Presentation 1

2023 FLORIDA YOUTH SUBSTANCE ABUSE SURVEY

Erica Floyd Thomas

Assistant Secretary for Substance Abuse and Mental Health

Department of Children and Families

OVERVIEW

- The Florida Youth Survey (FYS) has been conducted since 1999. The FYS has consisted of three questionnaires since its inception. The 2023 questionnaires include the Florida Youth Tobacco Survey (FYTS), Florida Youth Substance Abuse Survey (FYSAS), and Florida Specific Youth Survey (FSYS).

- The FYS is a system of surveys conducted in tandem, in the same classrooms via either a web or paper administration. Survey instruments are evenly collated so that each student in the randomly selected class is asked to complete one of the surveys being administered.

BACKGROUND

- Since 2002, the FYSAS is administered each spring to public middle and high school students across Florida.
- During even years, the FYS sample size is larger and aimed at producing state and county-level data for the FYTS and FYSAS questionnaires.
- On odd years, the FYS has aimed to collect only state-level data.
  - In odd numbered years, sample size is only large enough to produce state-level estimates.
- Survey administration typically occurs in a seven-week window from January to March.

THE 2023 FYSAS

- The 2023 survey was a state-level sample, therefore not all Florida counties were selected to participate: 33 counties selected, 28 participated.
- Final sample size was 9,101 across grades 6th through 12th.
- 62.2 percent of surveys were administered online.
- 37.8 percent of surveys were administered with printed booklets.

NATIONAL VAPING AMONG STUDENTS, 2022

Nationally, more than 2.5 million middle and high school students use e-cigarettes.

Flavored E-Cigarette Use

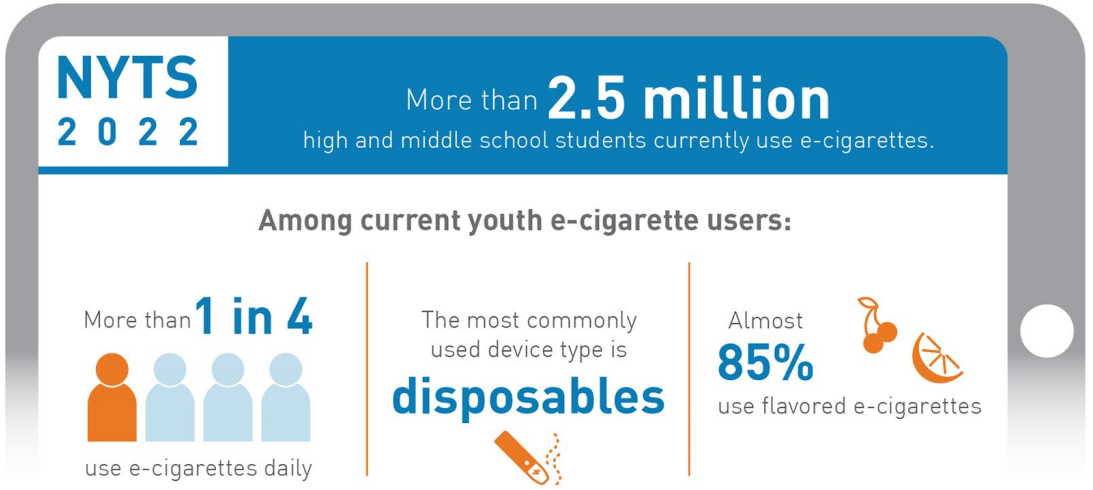
- Nearly 85% used flavored e-cigarettes, with fruit flavors being the most popular, followed by candy, desserts, or other sweets.

Frequency of Use

- More than 4 in 10 youth e-cigarette users report using e-cigarettes in at least 20 of the last 30 days.

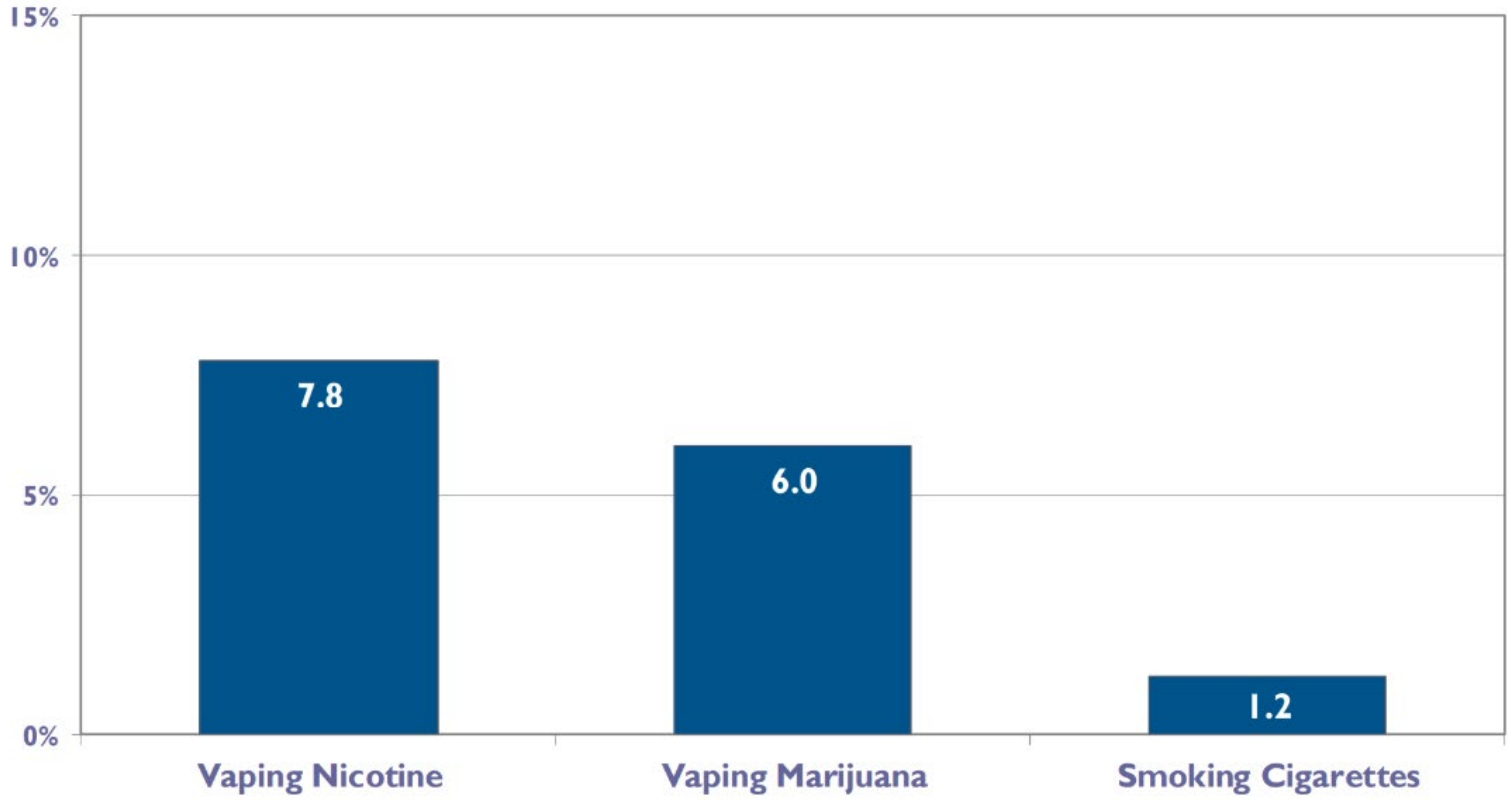
Type of Device

- The most commonly used device among current users was disposables (55.3%), followed by prefilled/refillable pods or cartridges (25.2%).



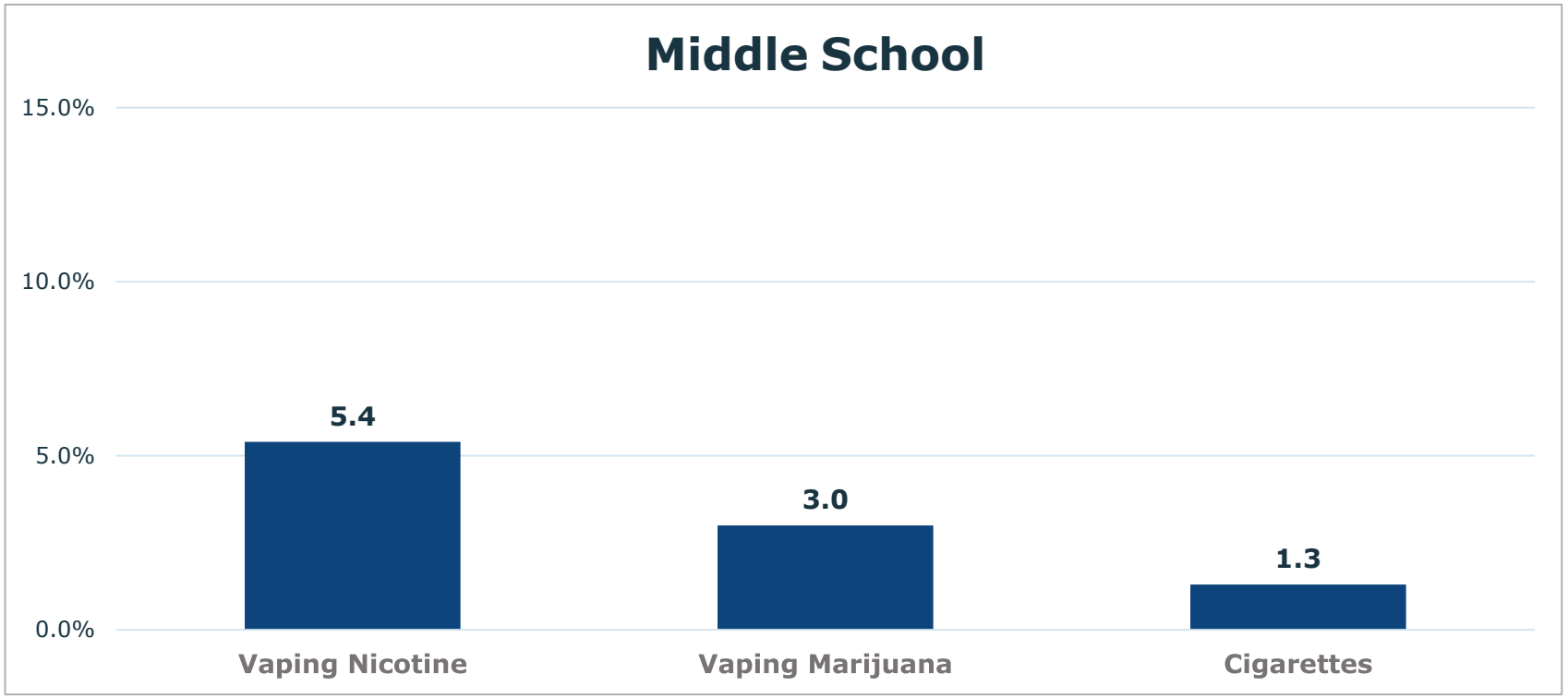
VAPING AND CIGARETTE USE, FYSAS 2023

- Past 30 Day Overall Prevalence (Percentage of Total Students)



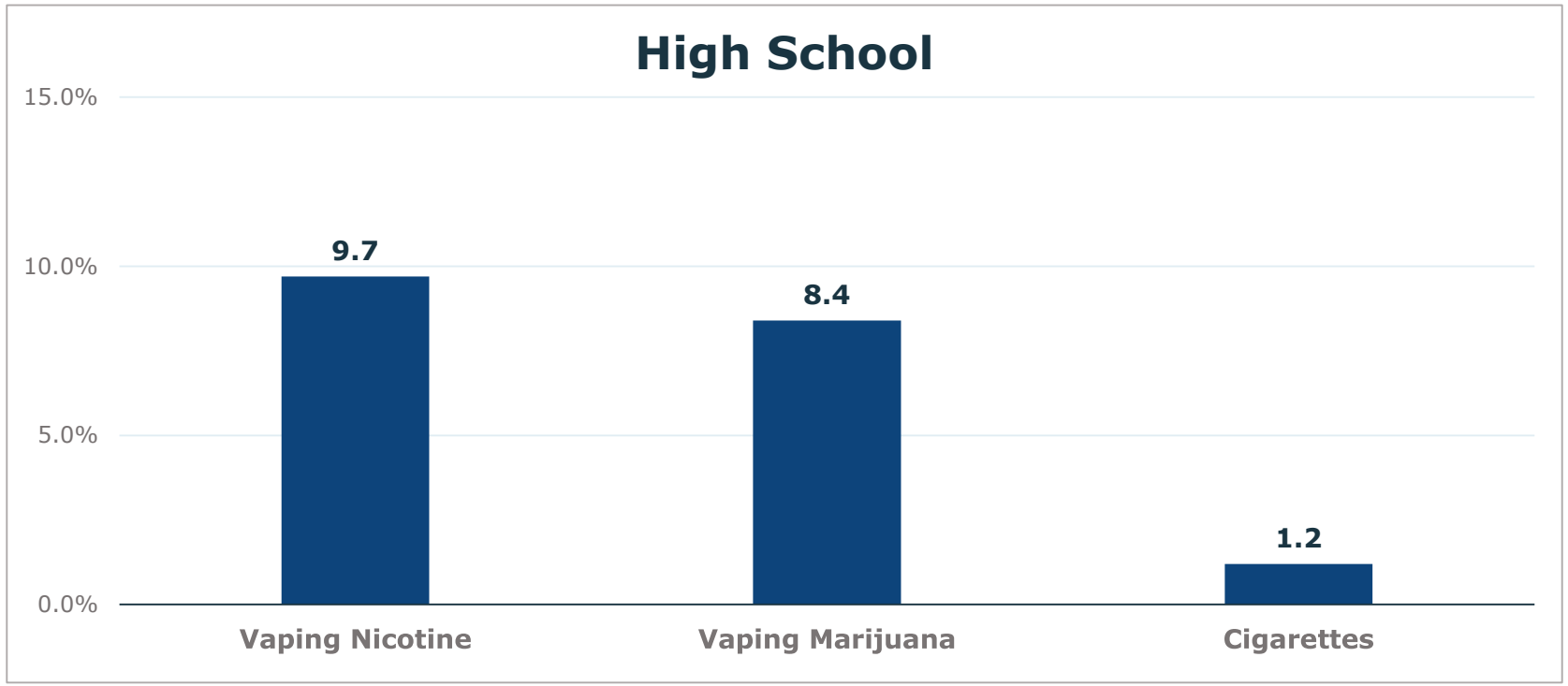
NICOTINE, TOBACCO, AND VAPING: MIDDLE SCHOOL

- Past 30-Day Prevalence (Percentage of Students)



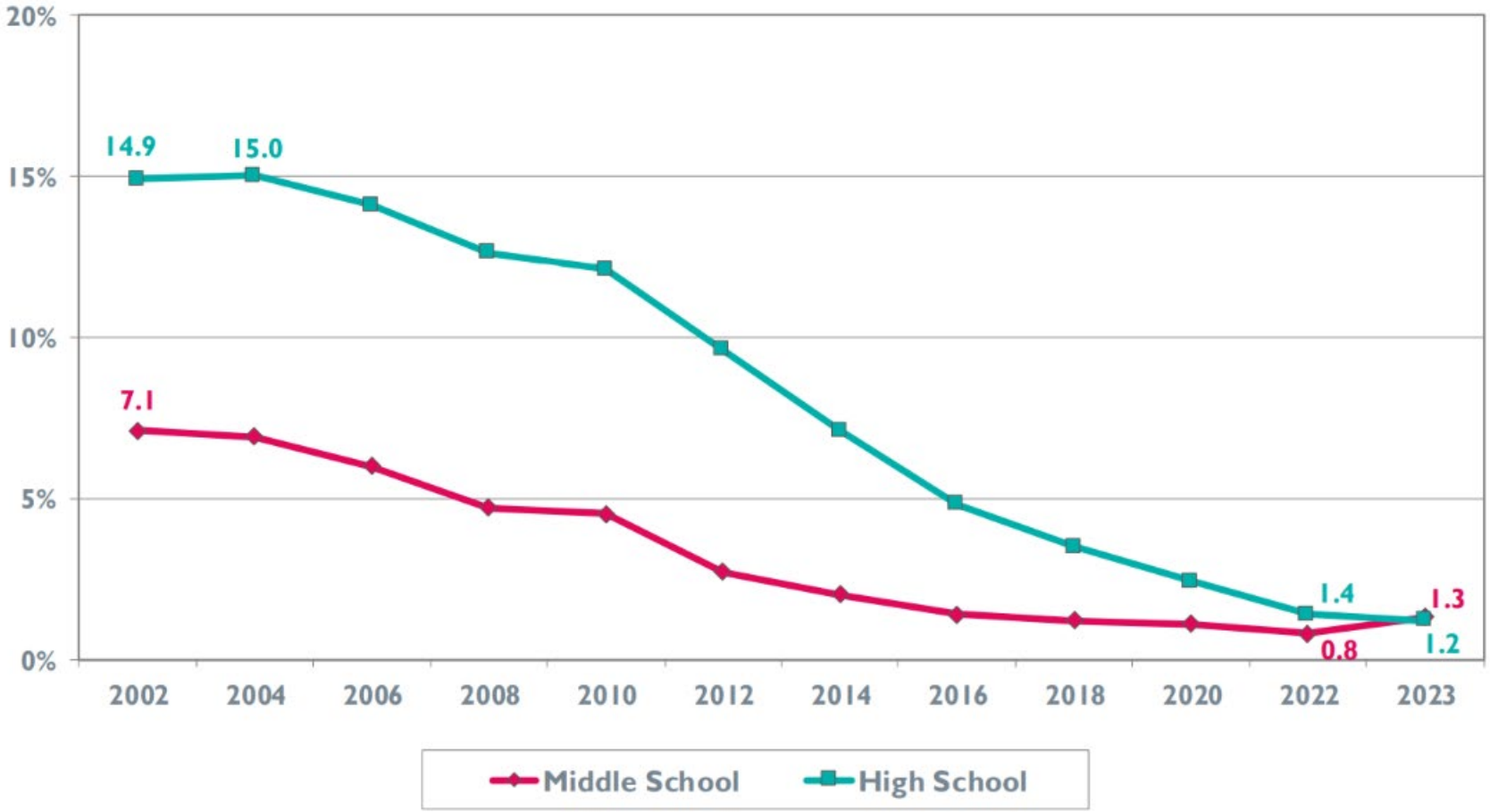
NICOTINE, TOBACCO, AND VAPING: HIGH SCHOOL

- Past 30-Day Prevalence (Percentage of Students)



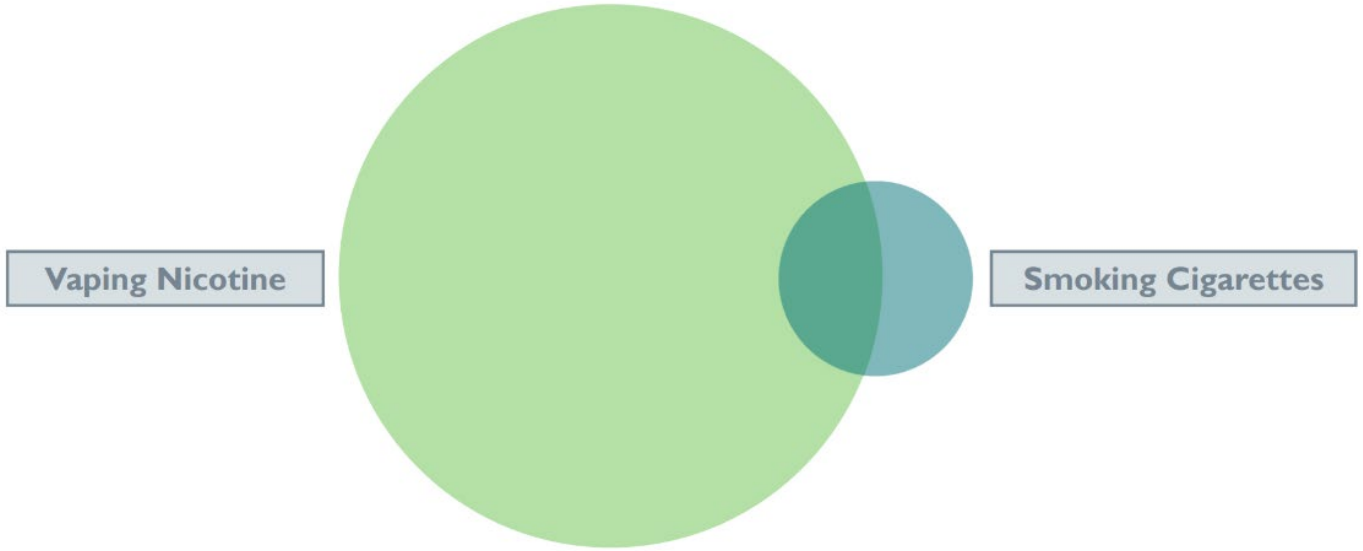
CIGARETTE USE

- Past 30-Day Prevalence by Grade School Cohort



VAPING NICOTINE AND SMOKING CIGARETTES

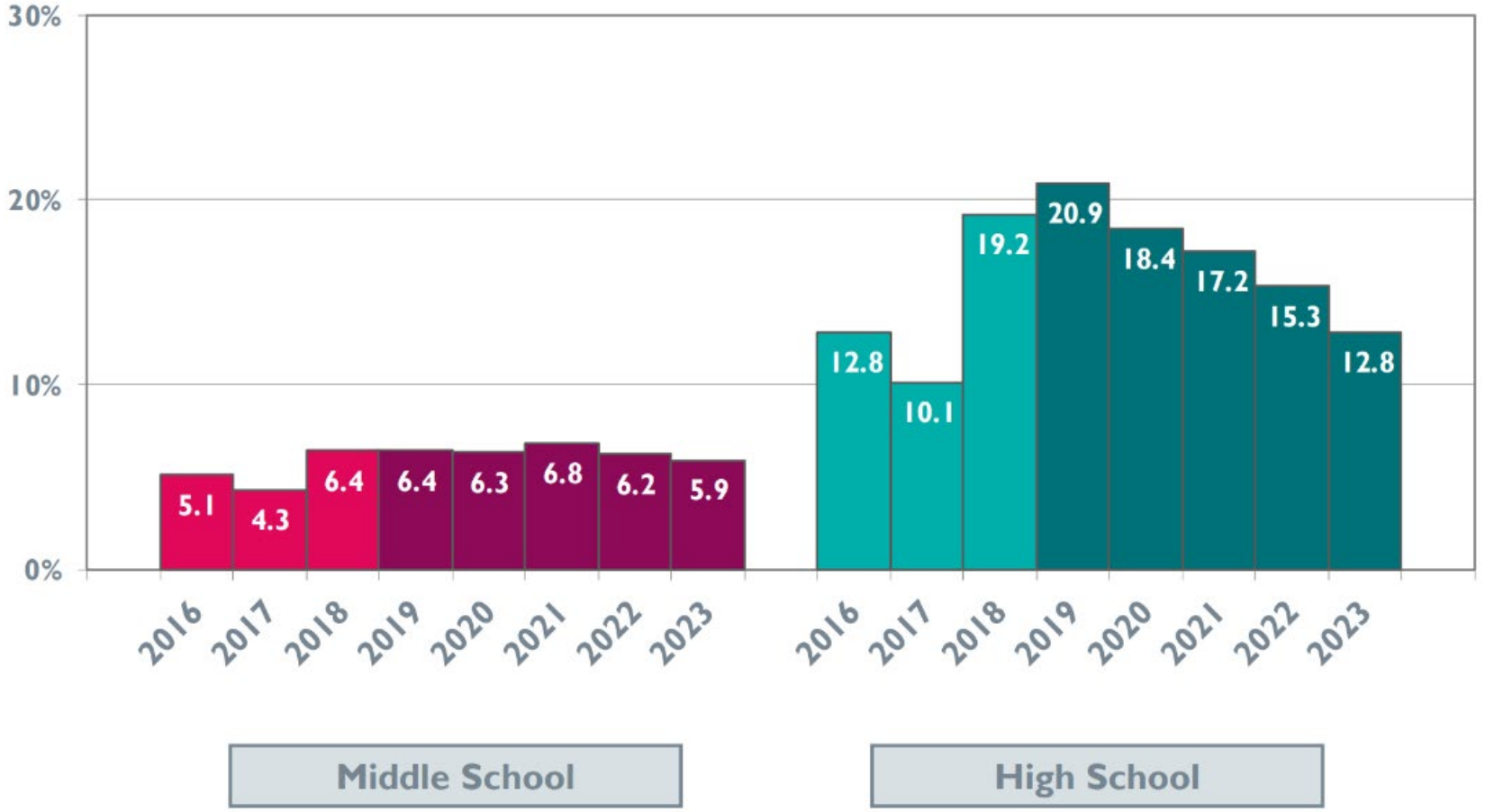
- Past 30-Day Prevalence



7.1% of current nicotine vapers also smoke cigarettes.
47.5% of current smokers also vape nicotine.

ANY VAPING

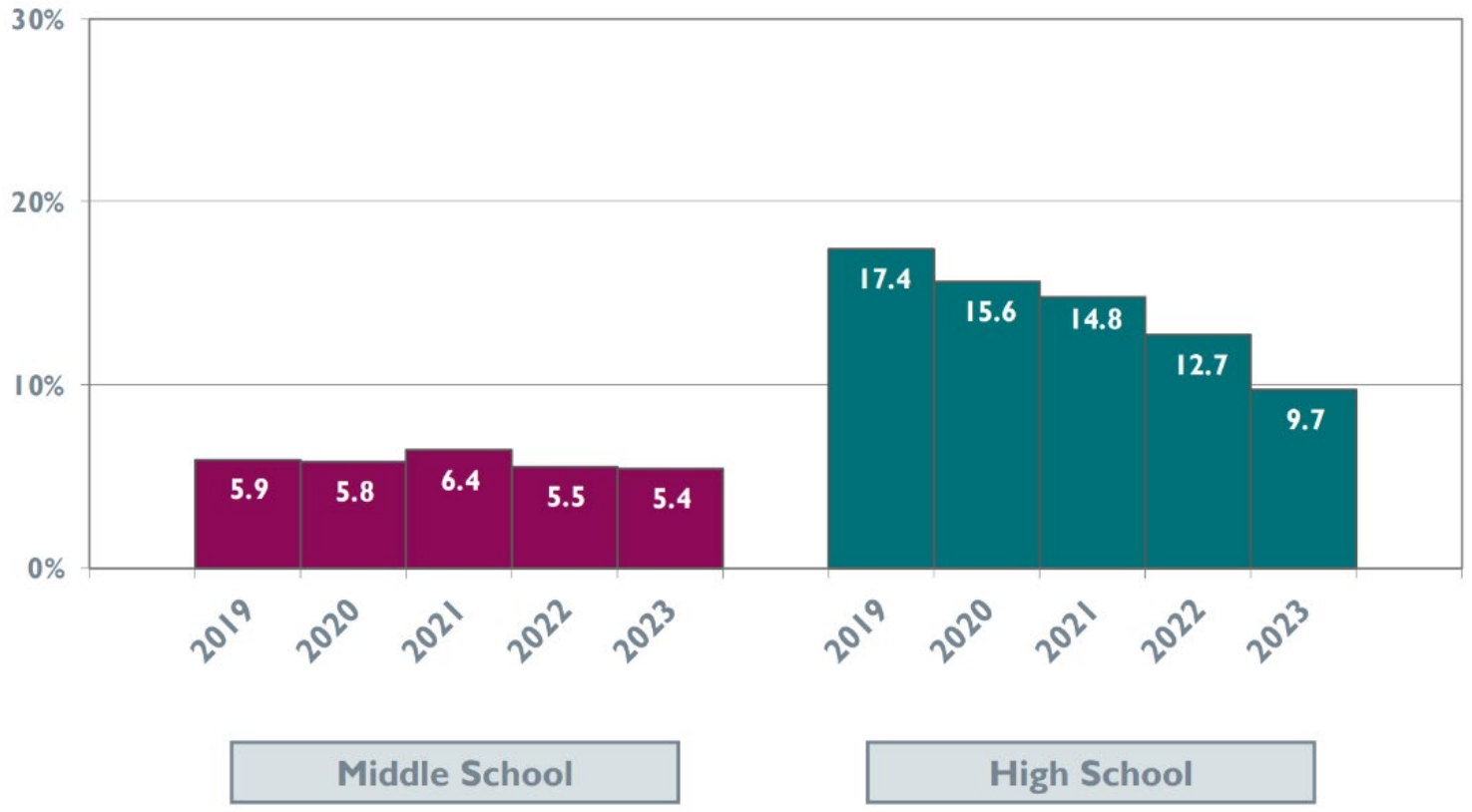
- Past 30-Day Prevalence



2019 and onward are shaded differently because 2019 was the first year that the survey's vaping question distinguished nicotine from marijuana. Additionally, starting in 2019, counties were given the choice to administer the survey by paper or electronic mode.

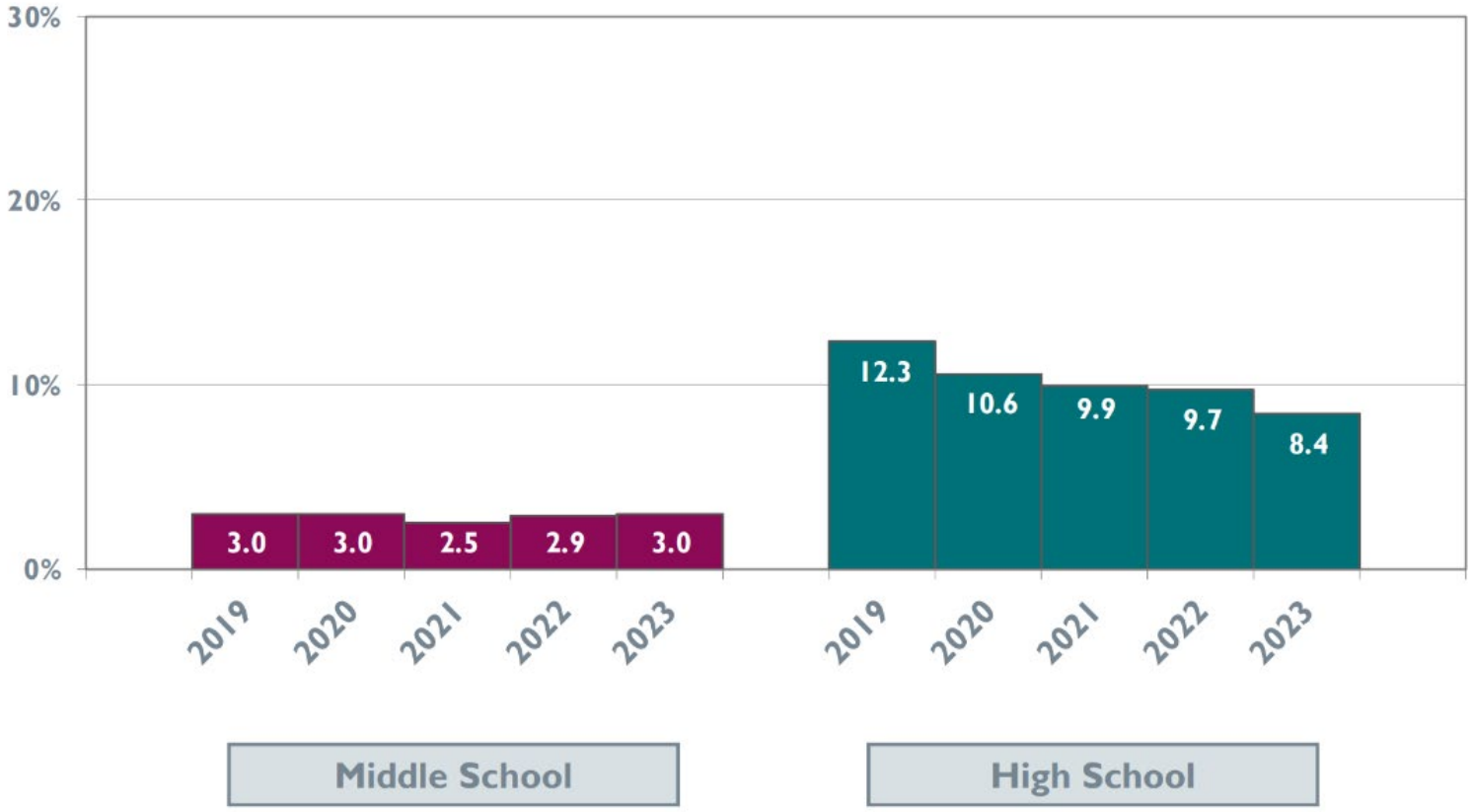
NICOTINE VAPING

- Past 30-Day Prevalence



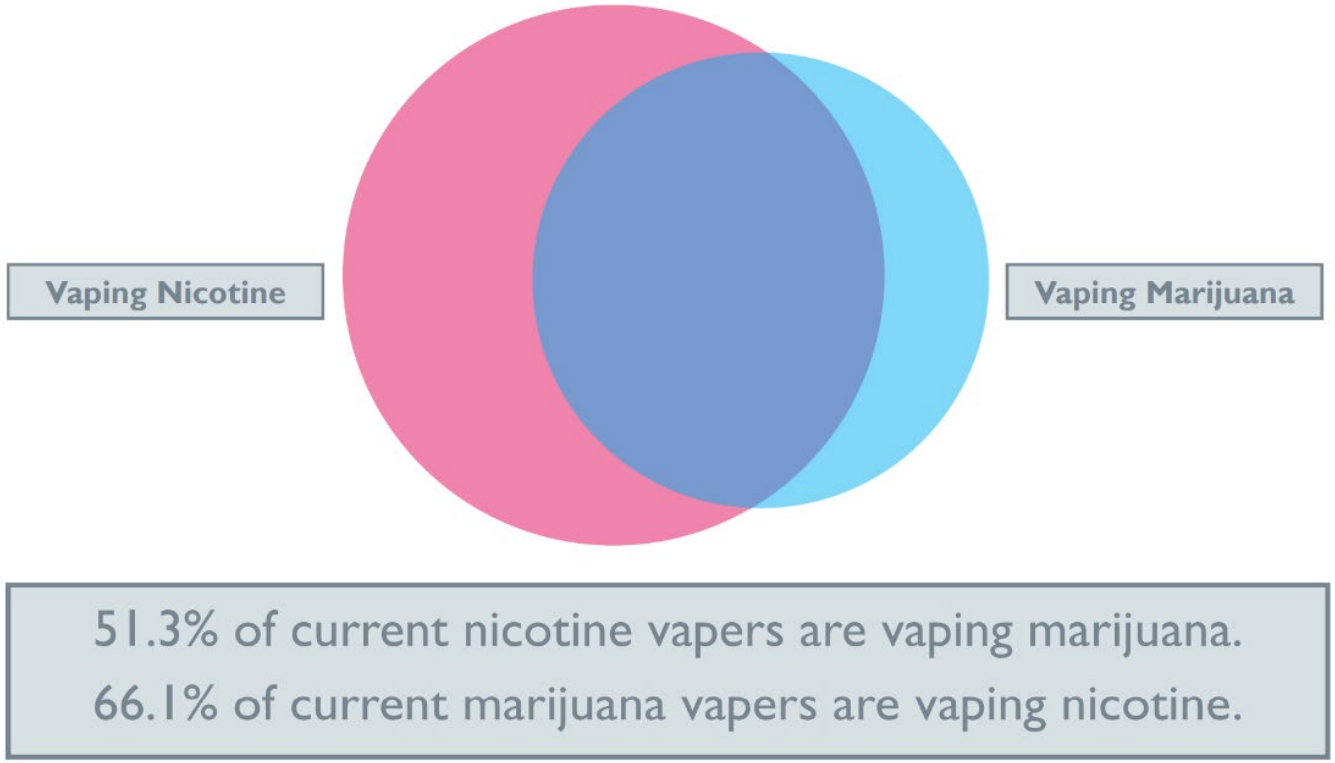
MARIJUANA VAPING

- Past 30-Day Prevalence



VAPING NICOTINE AND VAPING MARIJUANA

- Past 30-Day Prevalence



VAPING TREND SUMMARY

- Among high school students, the vaping epidemic peaked in 2019, with rates for both vaping nicotine and vaping marijuana decreasing between 2019 and 2023.
  - Nicotine vaping: 7.7 percent decline.
  - Marijuana vaping: 3.9 percent decline.

- Among middle school students, past-30-day vaping rates showed less change between 2019 and 2023.
  - Nicotine vaping: 0.5 percent decline.
  - Marijuana vaping: no change.

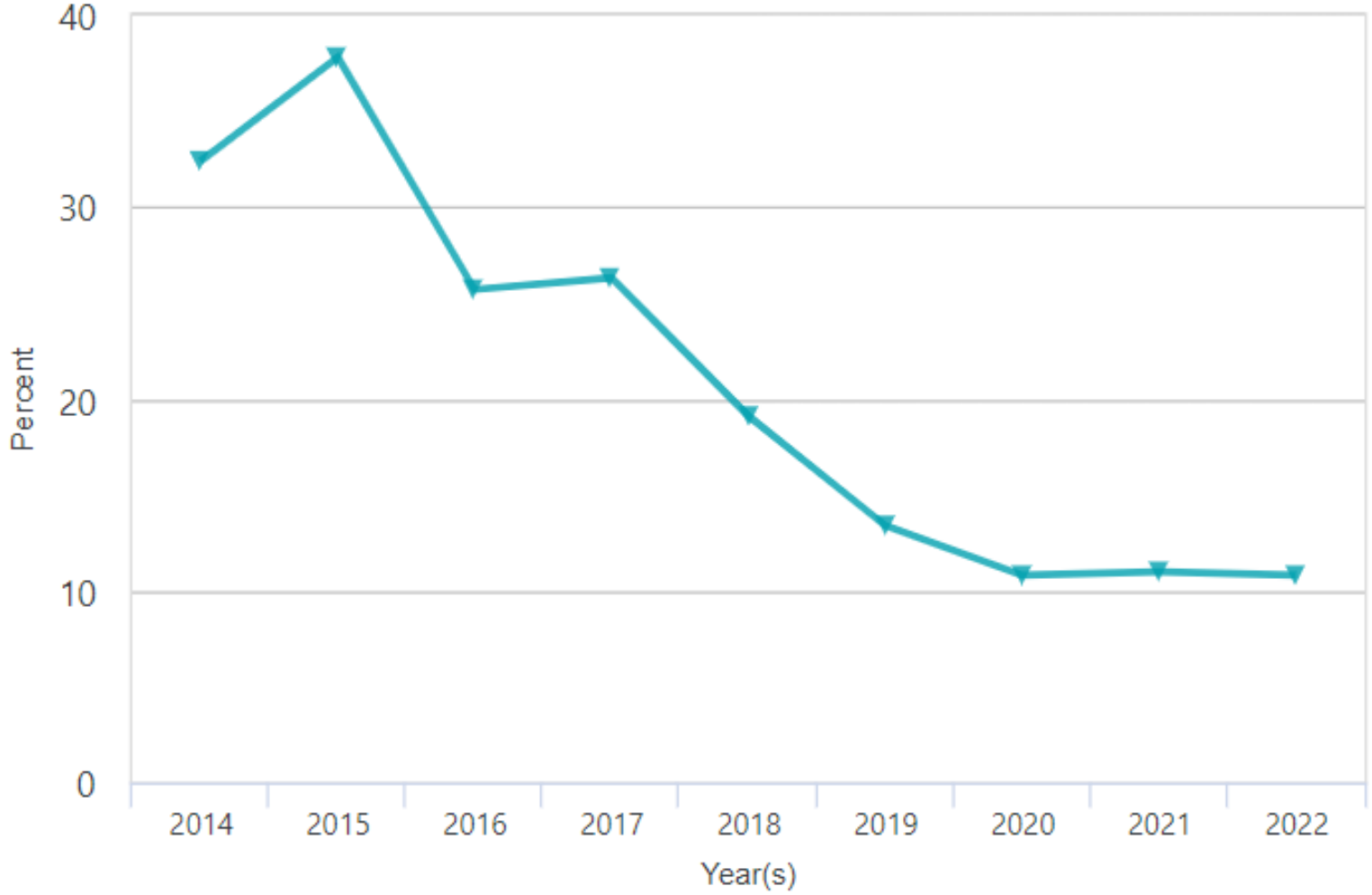
- While national vaping rates began to increase again in 2022, Florida vaping rates continued to decline.

RISK FACTORS FOR VAPING

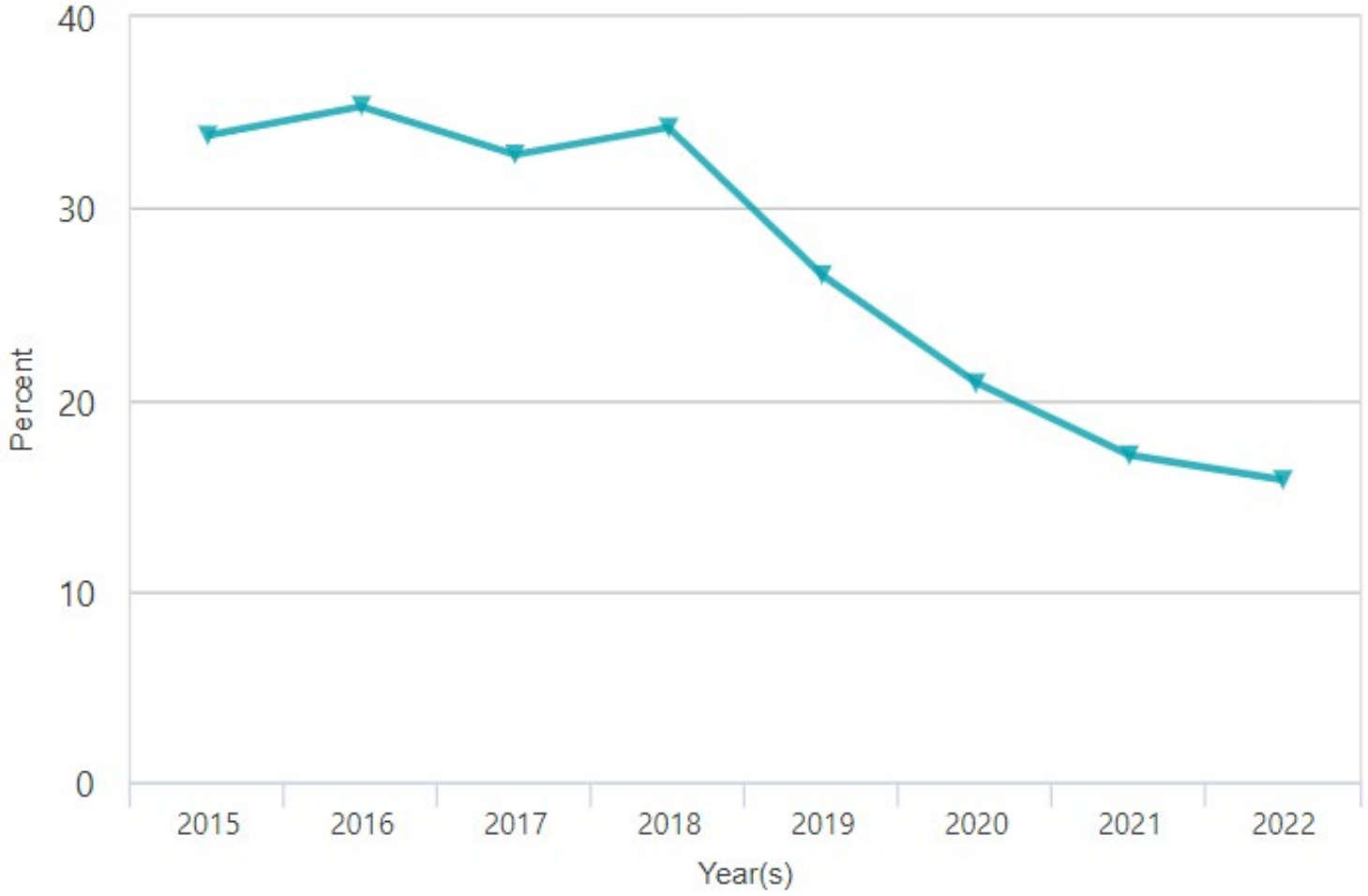
- Risk factors for early initiation of nicotine vaping:
  - Cigarette use
  - Alcohol use
  - Having friends that use substances
  - Being arrested or being suspended

- Risk factors for nicotine vaping:
  - All forms of bullying (physical, verbal, and cyber)
  - Exposure to Adverse Childhood Experiences (ACEs):
    - The lifetime prevalence of nicotine vaping is significantly higher among youth with six or more ACEs (55%), compared to youth with zero ACEs (19%).
  - Low-self control
  - Having friends that vape nicotine
  - Social media use

FLORIDA STUDENTS WHO DO NOT THINK INDIVIDUALS CAN GET ADDICTED TO ELECTRONIC VAPOR PRODUCTS



FLORIDA STUDENTS WHO THINK IT WOULD BE EASY TO QUIT USING ELECTRONIC VAPOR PRODUCTS



IMPLICATIONS FOR POLICIES AND PRACTICES

- Screen youth for exposure to ACEs.
- Provide evidence-based programs that build skills, improve self-control, and bolster resiliency.
- Educate parents on:
  - The risk of children spending time with friends who vape and the importance of enhanced monitoring of peer associations.
  - The importance of monitoring and restricting social media use.

Questions?

Presentation 2



Truth Initiative

Presentation for

Florida House Regulatory Reform & Economic Development Subcommittee

December 13, 2023

HELLO & WELCOME!



Elizabeth C. Hair, Ph.D.

Senior Vice President,
Truth Initiative Schroeder Institute

OUR ORIGIN STORY

In 1998, 46 states sued Big Tobacco for defrauding and manipulating the American Public. It was - and remains - the largest civil litigation settlement in the US History.

From this, the Master Settlement Agreement was created, and American Legacy Foundation (later renamed Truth Initiative) was founded in 1999.



SOME TRUTHS ABOUT US

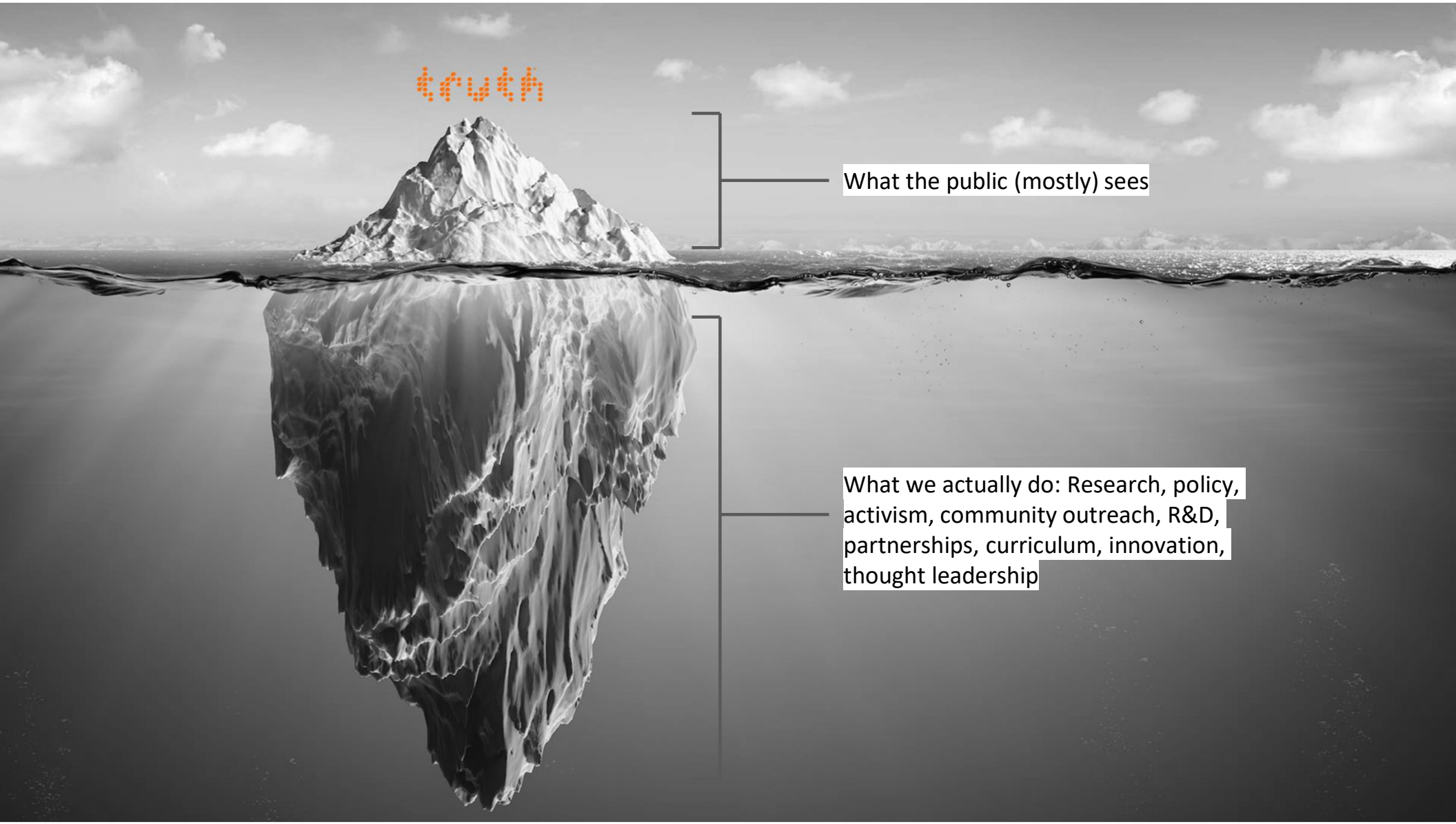
We are a 501(c)3.

We are the largest (non-governmental) national youth & young adult smoking, vaping and nicotine prevention campaign.

We are results-driven and evidence-based.
Facts, science, and proof are our currency.

We make work within the rules of the
Master Settlement Agreement

Our mission is to achieve a culture where young people reject smoking, vaping & nicotine


truth
What the public (mostly) sees
What we actually do: Research, policy, activism, community outreach, R&D, partnerships, curriculum, innovation, thought leadership

How it started

23%

Teen smoking rate in 2000 when **truth** launched

<5% → **27.5%**

Teen vaping rate in 2013 — Teen vaping rate in 2019

How it's going

<4%

Teen smoking rate today

*35% of them vape 20+ days a month

10%

Teen vaping rate today

WE STILL FACE SOME TOUGH CHALLENGES

CHALLENGE

Nicotine addiction is a low interest / low involvement “cause” among youth

Vaping has gone from novel to normalized in youth culture

An elusive audience, and fragmentation of media landscape

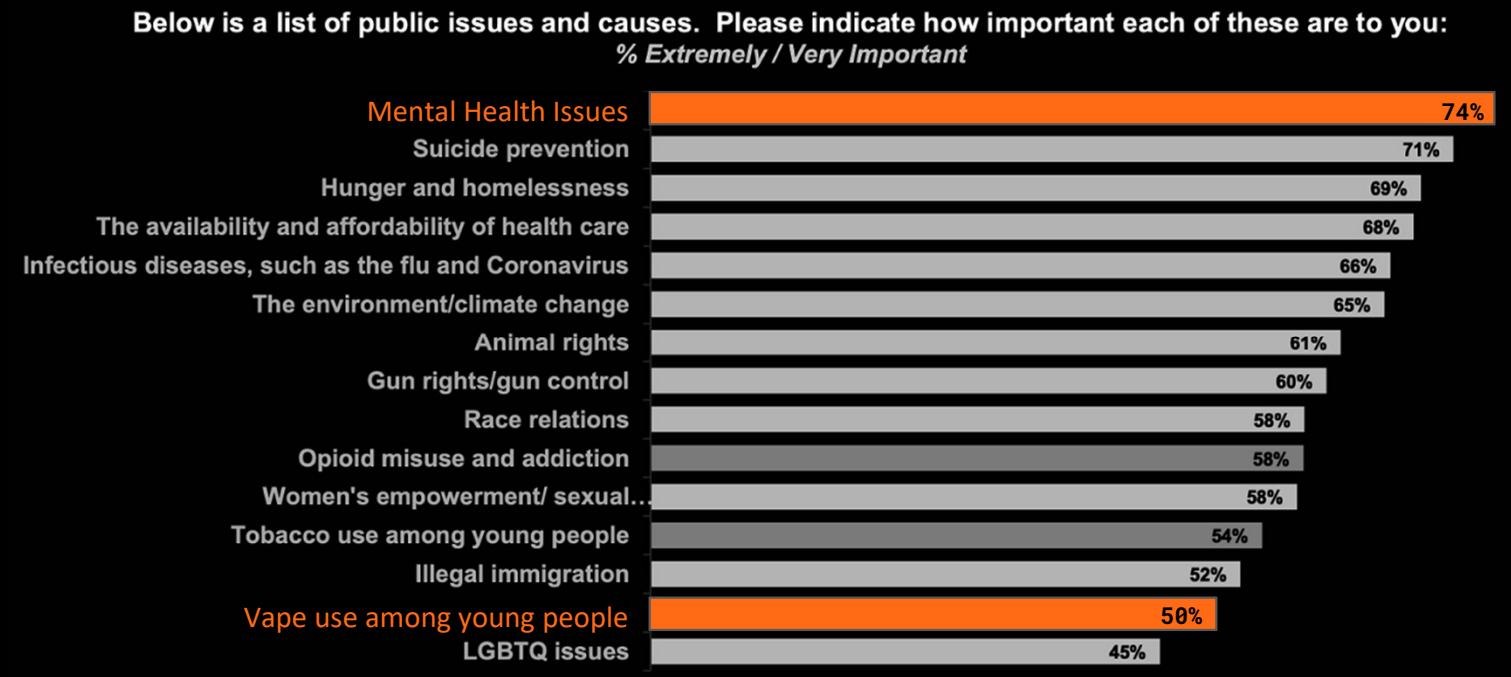
A tobacco industry that outspends us in media $ by 182X

OVERCOMING OUR CHALLENGES

CHALLENGE	ACTION
Nicotine addiction is a low interest / low involvement "cause" among youth	Connect *this issue* with the cause *they* care the most about
Vaping has gone from novel to normalized in youth culture	
An elusive audience, and fragmentation of media landscape	
A tobacco industry that outspends us in media $ by 182X	

truth

Gen Z isn't concerned about their peers vaping…
but they are very concerned about protecting their MENTAL HEALTH



What they don't know is that
nicotine is a key contributor to a long list of mental health problems

Mental Health and Nicotine

There is a strong association between mental health and nicotine including:

- Depression: (Lechner et al., 2017)
- Anxiety: (Kutlu and Gould, 2015)
- Psychiatric Disorders (mental illness diagnosed by a professional that disturbs thinking, mood, behavior): (Yuan et al., 2020)
- Stress: (Siqueira et al., 2001)
- ADHD: (Bierhoff et al., 2019)
- Difficulty concentrating, remembering, making decisions (brain fog): (Xie et al., 2020)
- Brain chemistry (nicotine): (Yuan et al., 2015)
- Irritability: (Leslie, 2020)

truth initiative
INSPIRING LIVES FREE FROM SMOKING, VAPING & NICOTINE

OVERCOMING OUR CHALLENGES

CHALLENGE	ACTION
Nicotine addiction is a low interest / low involvement "cause" among youth	Connect *this issue* with the cause *they* care the most about
Vaping has gone from novel to normalized in youth culture	Get them to think twice about using nicotine vapes to cope
An elusive audience, and fragmentation of media landscape	
A tobacco industry that outspends us in media $ by 182X	

DEBUNKING A MYTH THAT IS WIDELY BELIEVED

START TO PLANT A SEED OF DOUBT



DEMONSTRATE THE NICOTINE CYCLE



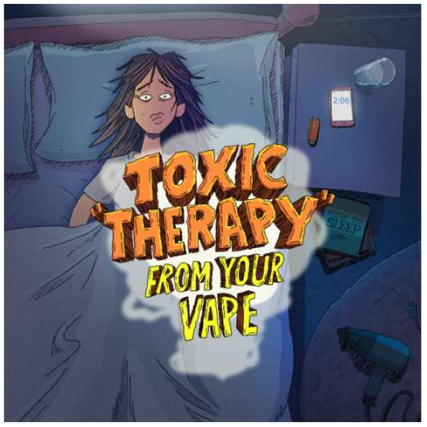
REVEAL WHERE THE MYTH COMES FROM



TOXIC “THERAPY” FROM YOUR VAPE



“Texting Anxiety” :15



“Hypnotherapy” :15



“Sleep Exercises” :15

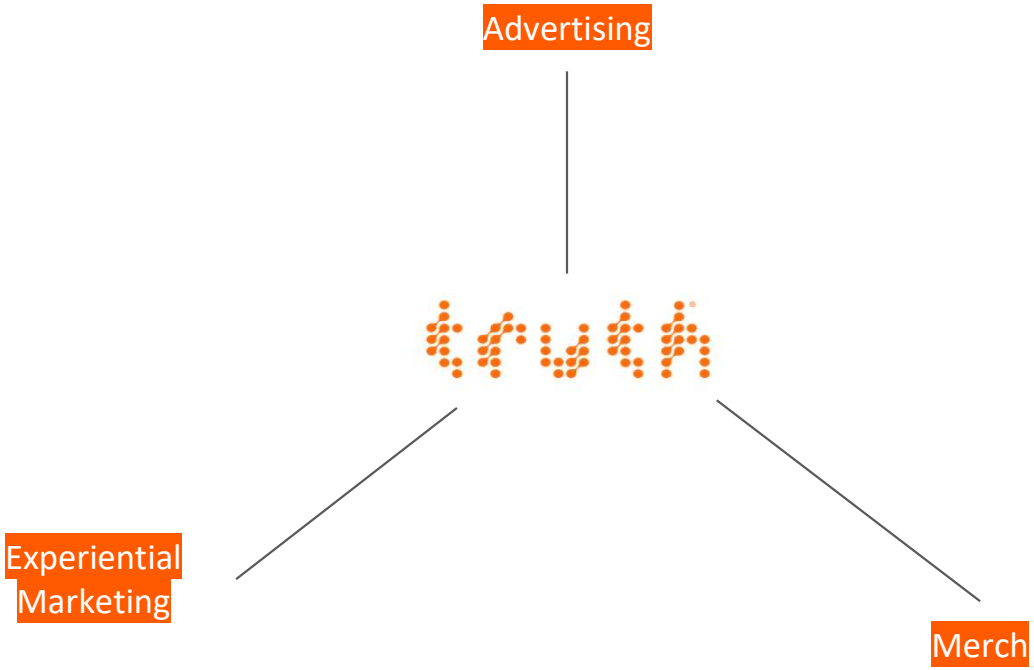


“Locker Anxiety” :15

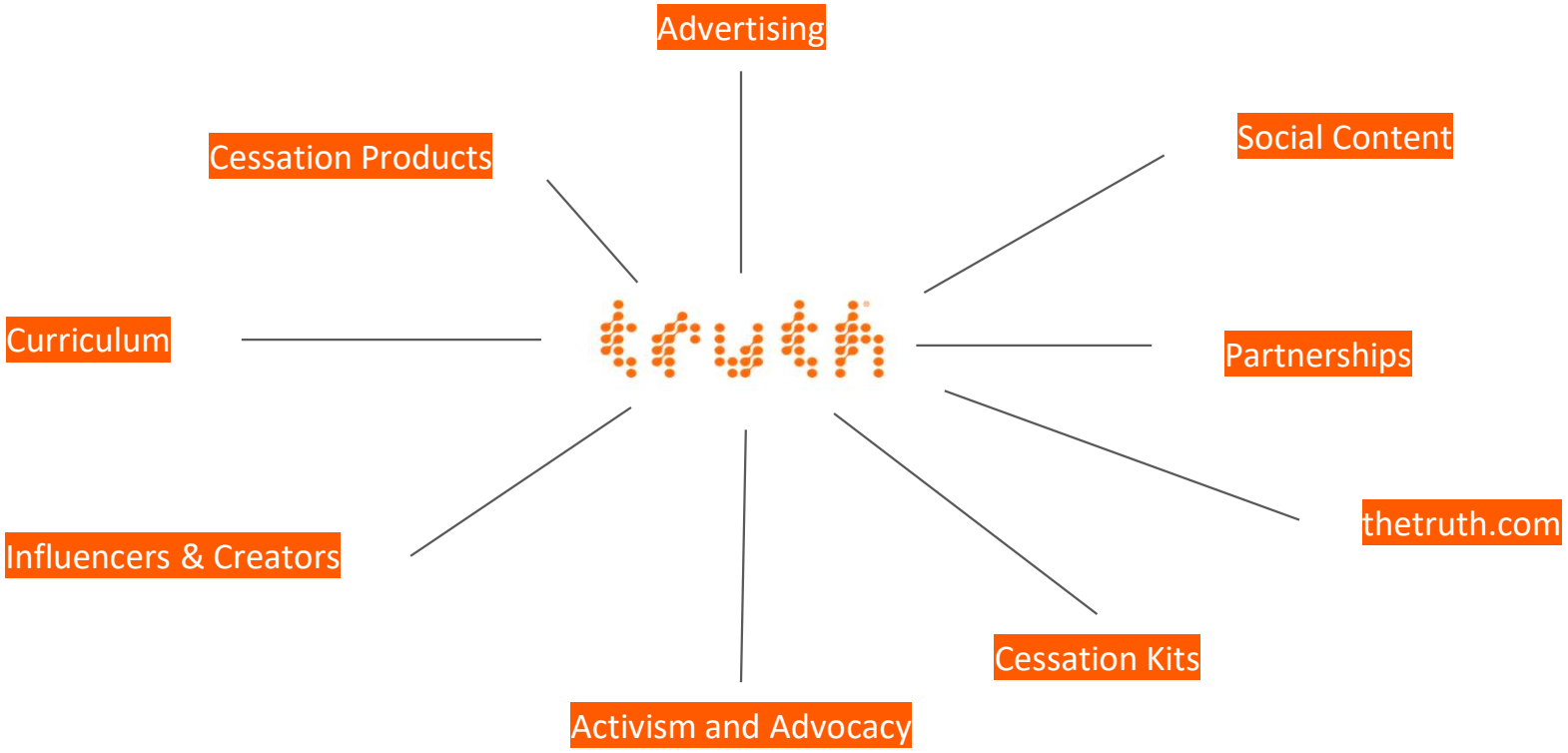
OVERCOMING OUR CHALLENGES

CHALLENGE	ACTION
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Vaping has gone from novel to normalized in youth culture	Get them to think twice about using nicotine vapes to cope
An elusive audience, and fragmentation of media landscape	Meet the audience where they are with what they need
A tobacco industry that outspends us in media $ by 182X	

HOW THE TRUTH BRAND USED TO COME TO LIFE



HOW OUR BRAND COMES TO LIFE TODAY



CESSATION PRODUCT – THIS IS QUITTING



COMMUNITY & YOUTH ENGAGEMENT

- We give youth the skills and resources that they need to be leaders in rejecting tobacco, and to empower them to be change agents in their respective communities

- We do this through several programs including truth® Ambassador and Experiential and Mobilization programs



TOBACCO AND VAPE FREE COLLEGES

- Since 2015, Truth Initiative has provided grants to more than 220 colleges, universities, and college systems to advocate for, adopt and implement a 100% tobacco/vape-free policy.



- **Impact: 153 college policies impacting more than 1.4 million students, faculty and staff.**

CURRICULUM



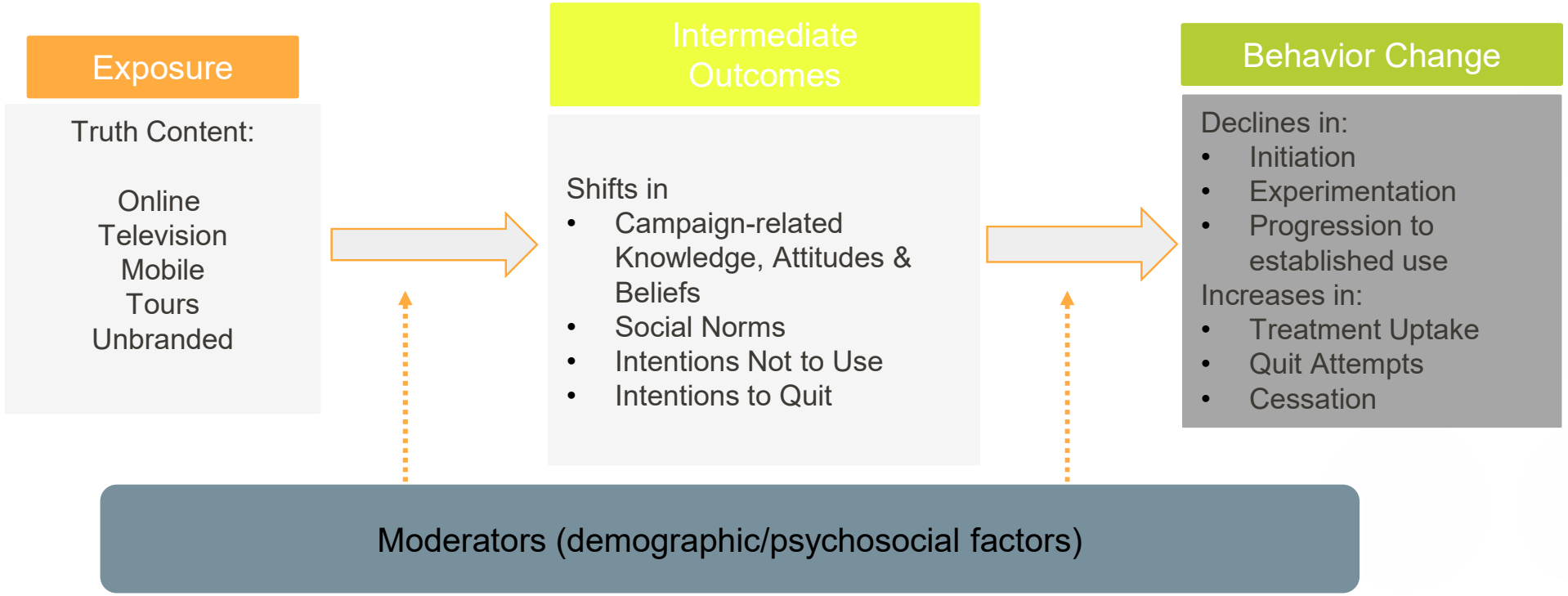
OVERCOMING OUR CHALLENGES

CHALLENGE	ACTION
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An elusive audience, and fragmentation of media landscape	Meet the audience where they are with what they need
A tobacco industry that outspends us in media $ by 182X	Commitment measuring impact & a consistent behavior change model

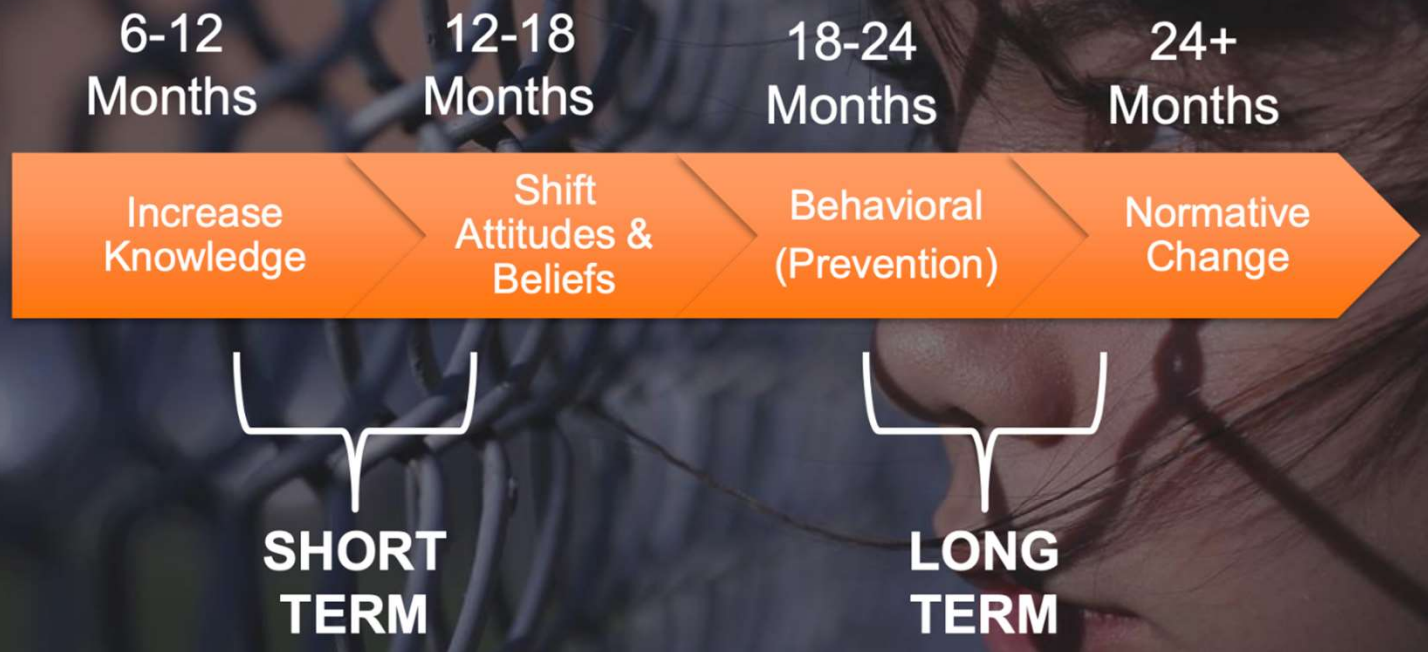
MODEL FOR CHANGE

THE TRUTH KAB MODEL

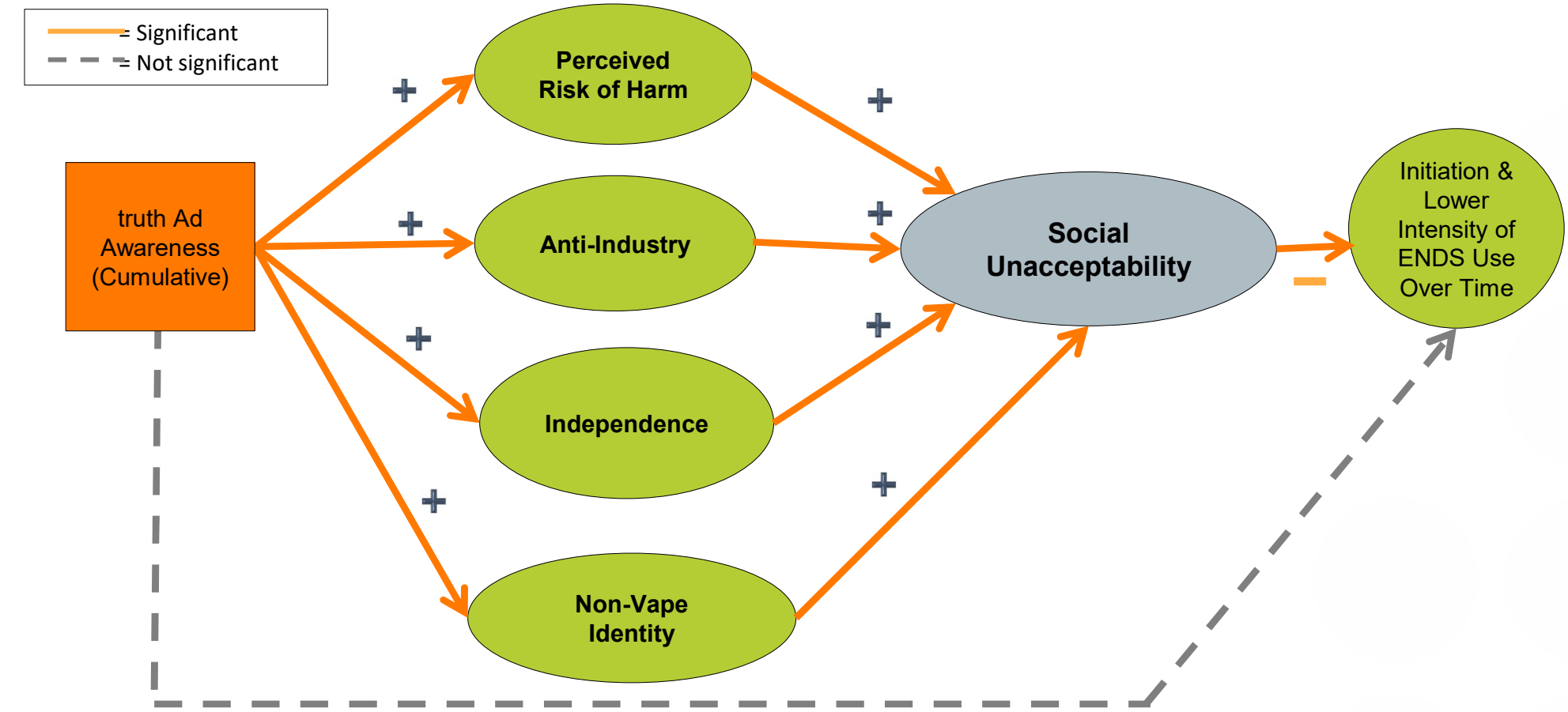
The Knowledge, Attitudes and Beliefs (KAB) Model is adapted from Robert Hornick 2002's study on Public Health Communication: Evidence for Behavior Change.



Model for change

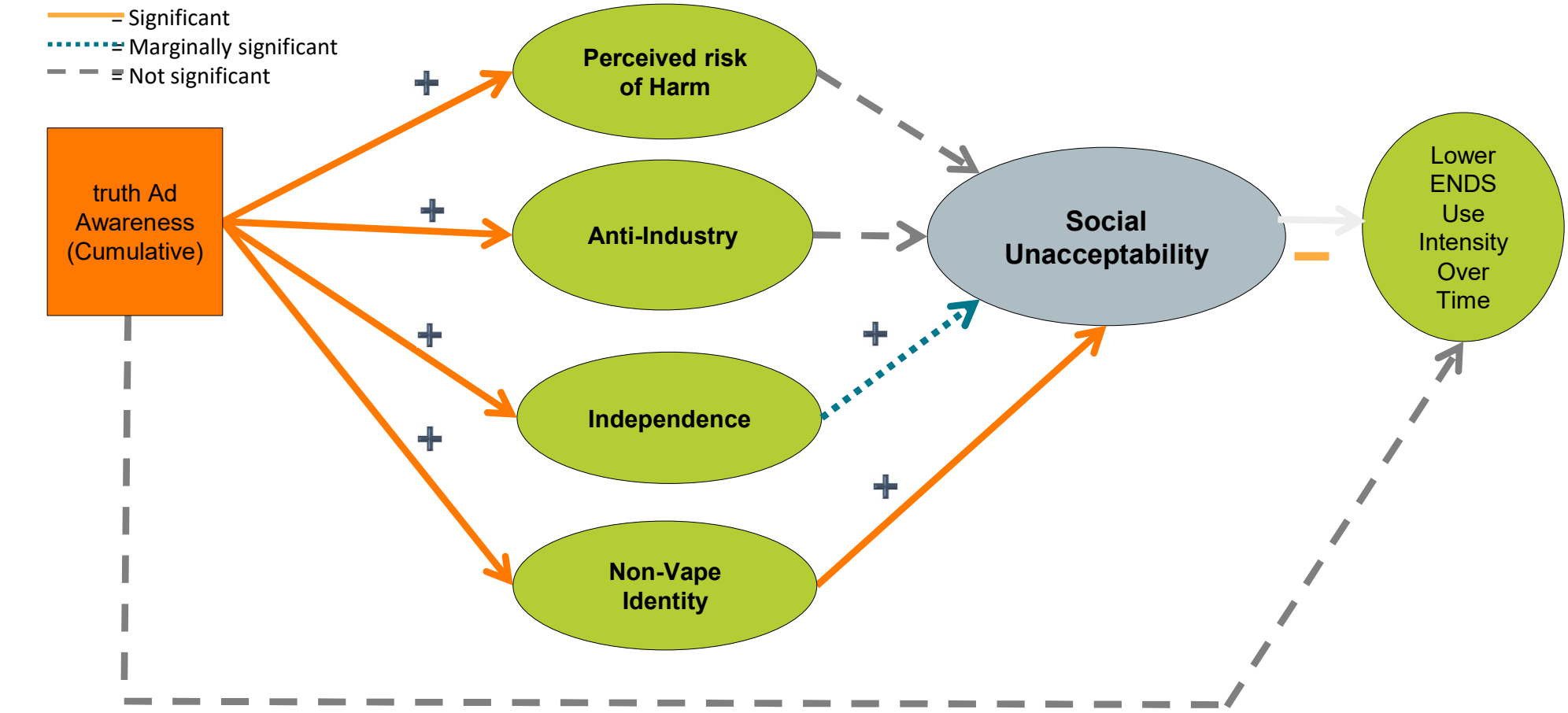


Nicotine Naïve Sample: ↓ Initiation & Progression



Hair EC, Kreslake JM, Liu MS, Vallone DM, Hair EC. Pathways to prevent e-cigarette use: examining the effectiveness of the truth(r) campaign. *Health Psychology* (in press).

Vape User Sample: Declines in Use



Kreslake JM, Aarvig K, Liu M, Vallone DM, Hair EC. Pathways to Quitting E-cigarettes Among Youth and Young Adults: Evidence From the truth® Campaign. American Journal of Health Promotion. 2023:08901171231218492.

Summary

- Among a nicotine-naïve sample, cumulative exposure to truth is related to declines in vaping initiation and further progression in use over time.

- Among current vapers, cumulative exposure to truth is related to declines in frequency of use over time.

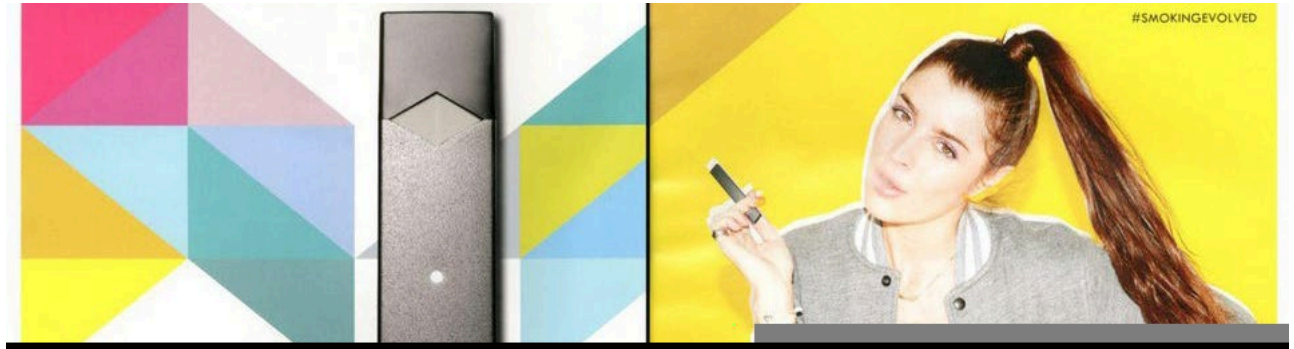
Questions?

Beth Hair

truth initiative®
INSPIRING LIVES
FREE FROM SMOKING,
VAPING & NICOTINE

truthinitiative.org

Presentation 3


#SMOKINGEVOLVED

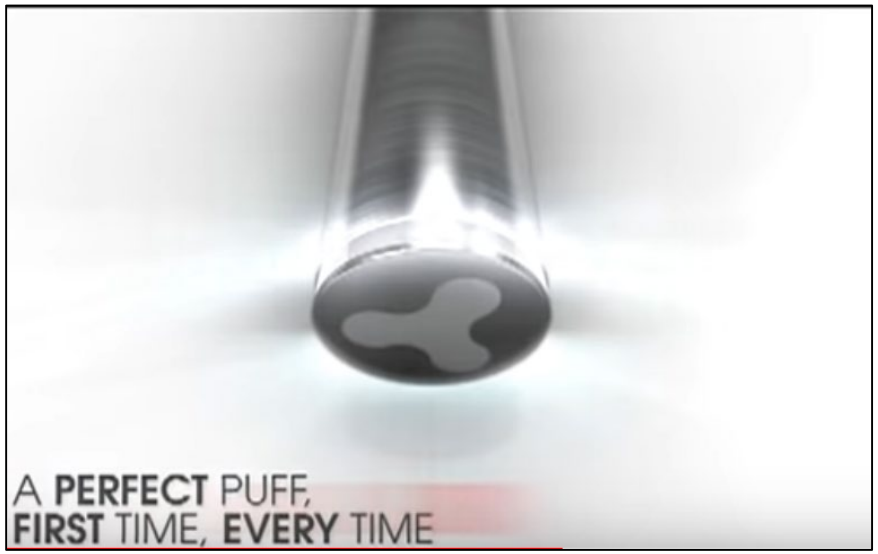
Channels for e-cig marketing



Convenience stores



Internet

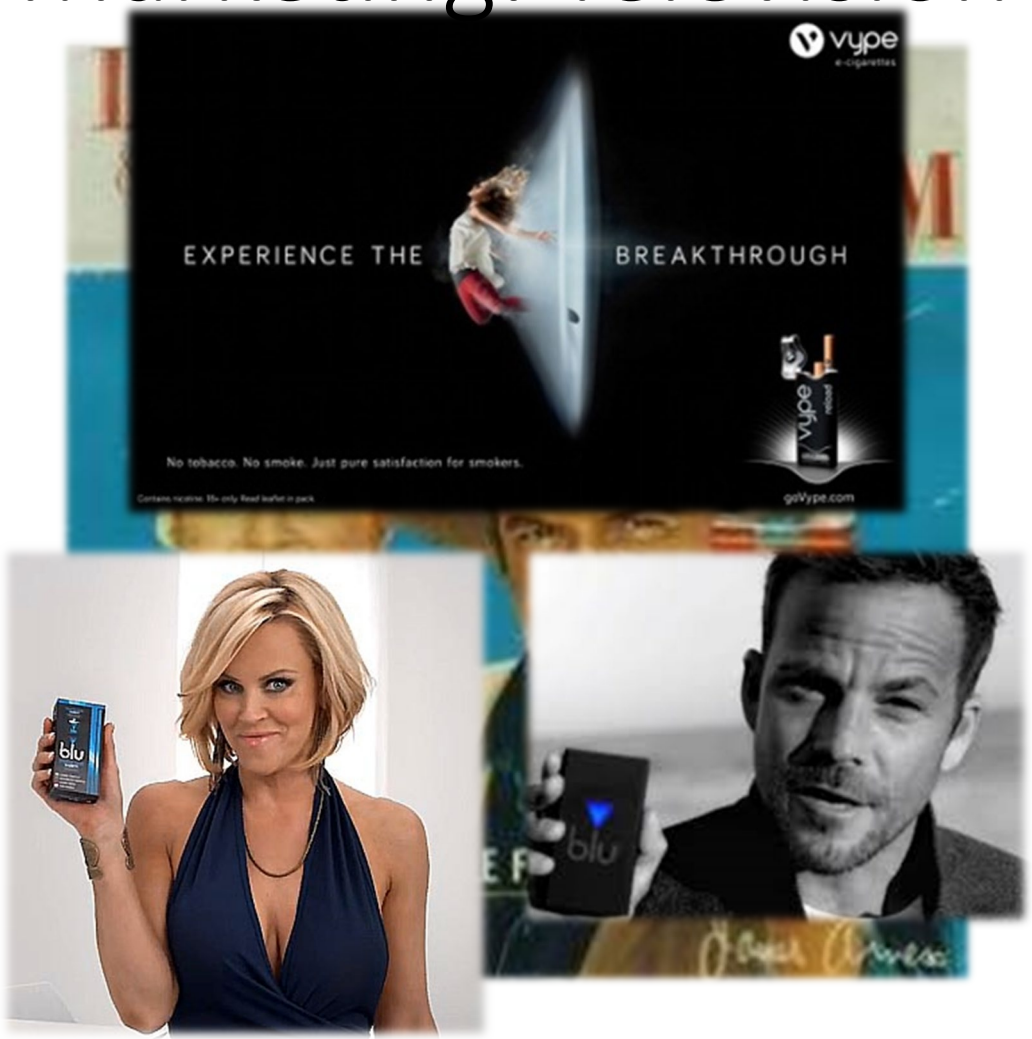


Television



Newspapers and magazines

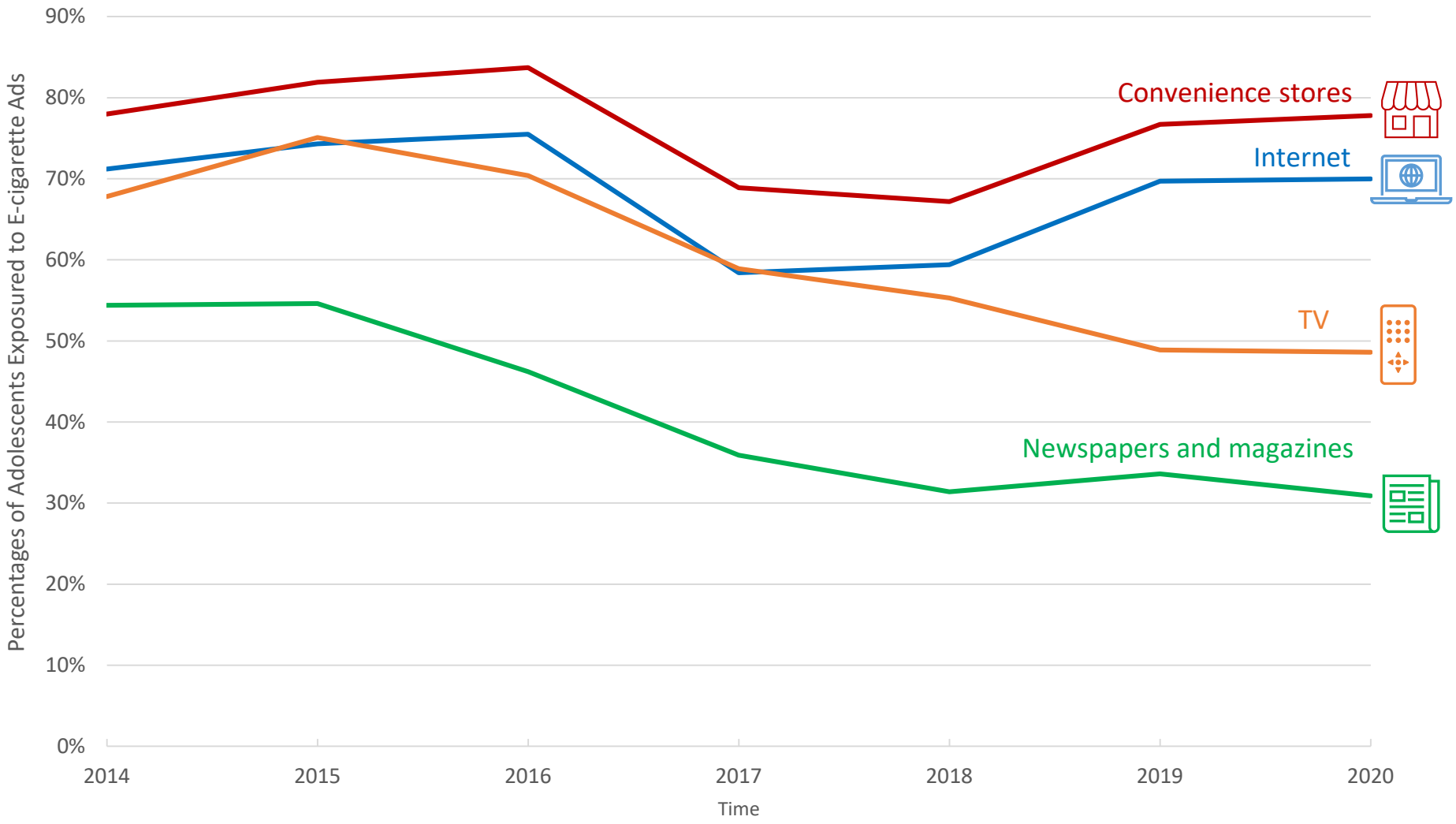
Marketing: Television & Magazines



- No cigarette advertisements on television since 1971
- Today's youth see e-cigarette advertisements on television, first tobacco product in generations advertised using this medium

(Truth Initiative Vaporized, 2015)

Youth E-cig Ad exposure by Channel 2014-2020



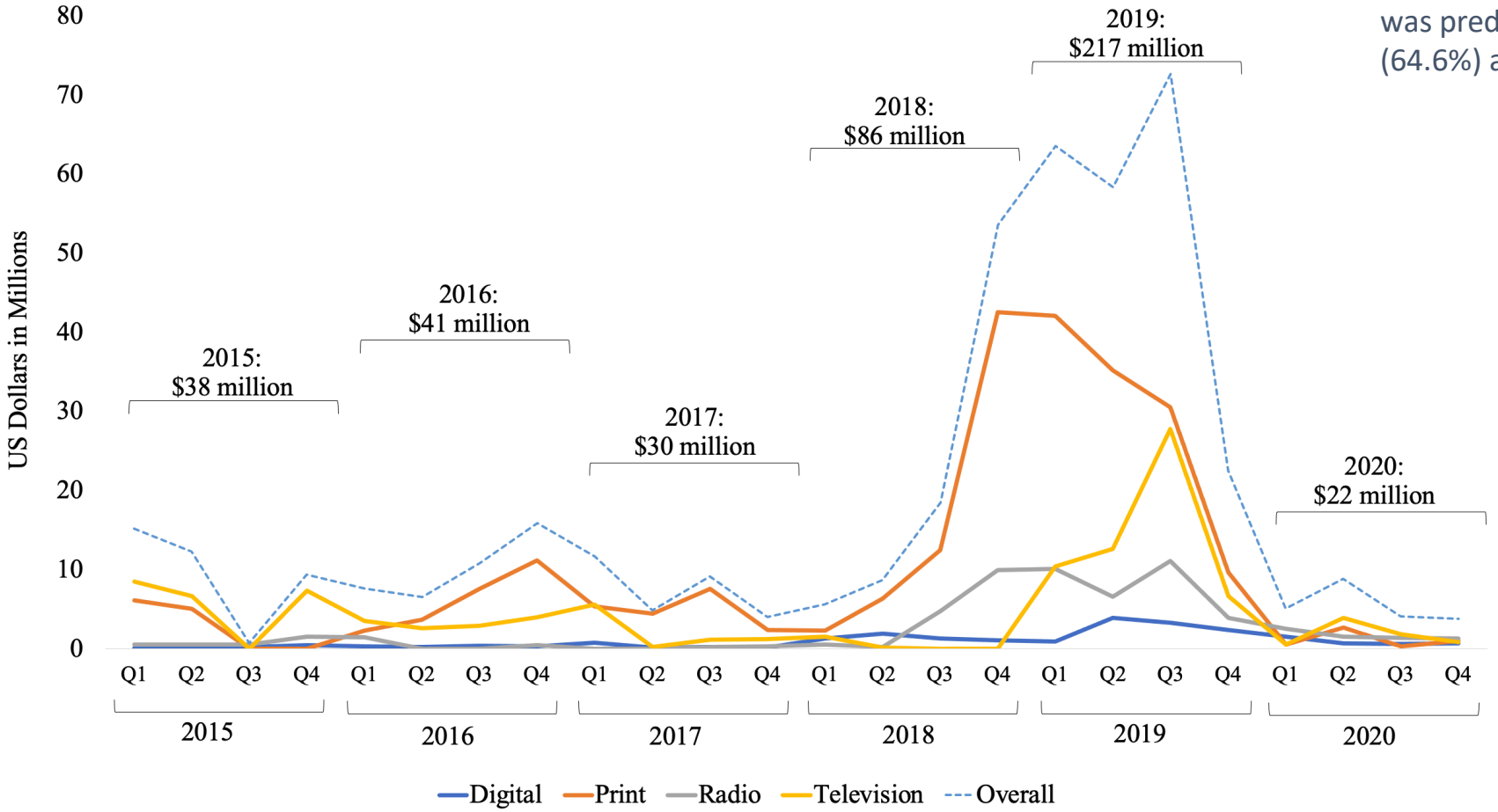
NYTS Data

Ma H, Noar S, Ribisl KM. In prep.

Results: Ad Spending by Channel

- Total ad spend from 2015 to 2020 was $433.6 million (m).
  - $37.6m in 2015, $40.8m in 2016, $29.8m in 2017, $86.4m in 2018, $217.1m in 2019, and $21.8m in 2020

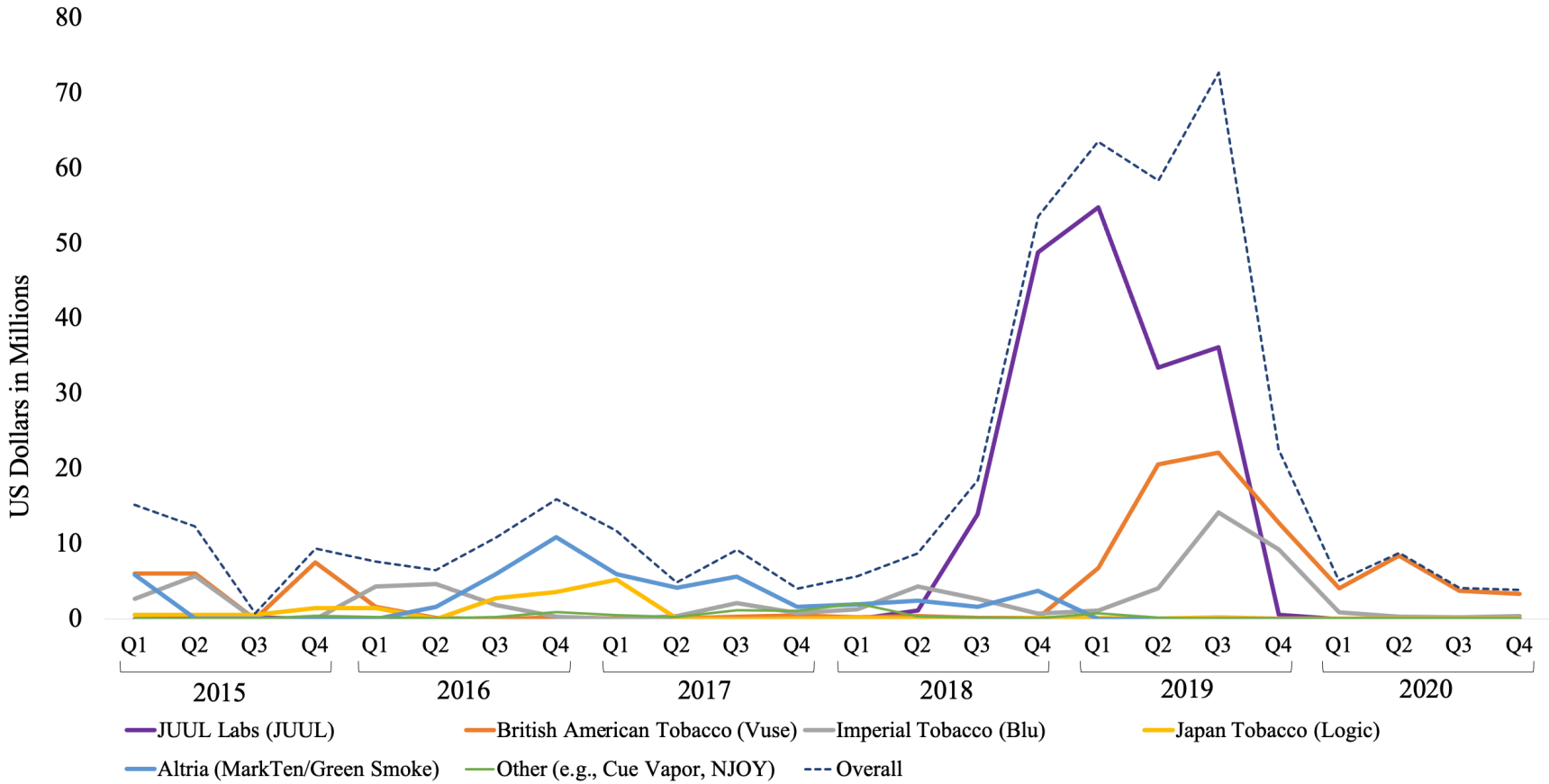
Across all years, **local ad spending** was predominantly used for **print** (64.6%) and **radio** (33.9%).



Source: Welding, K et al 2021 CERSI.

Results: Ad Spending by Company

- There are **65 advertisers** in the sample.
  - Five advertisers (JUUL, Vuse, Blu, MarkTen, Logic) account for 98.1% of expenditures.

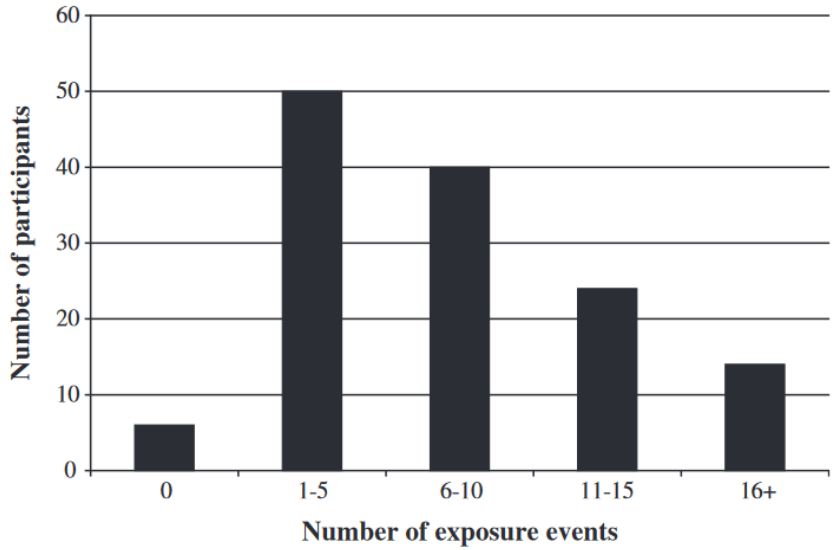


Source: Welding, K et al 2021 CERSI.

EMA studies reveal weekly average exposure to tobacco marketing, mostly at POS

- More for Black and Hispanic youth
- Internet exposure is rising
- Young adults in Hawaii were more likely to vape immediately after seeing pro-vape content on Instagram

Exposure over 21 days



Rose SW et al. (2017). *BMC Research Notes*. 10(1):435.
Martino SC et al. (2012). *Nicotine & Tobacco Research*. 14(4):398-406.
Pokhrel P et al. (2021). *Addictive Behaviors Reports*. 14:100368.

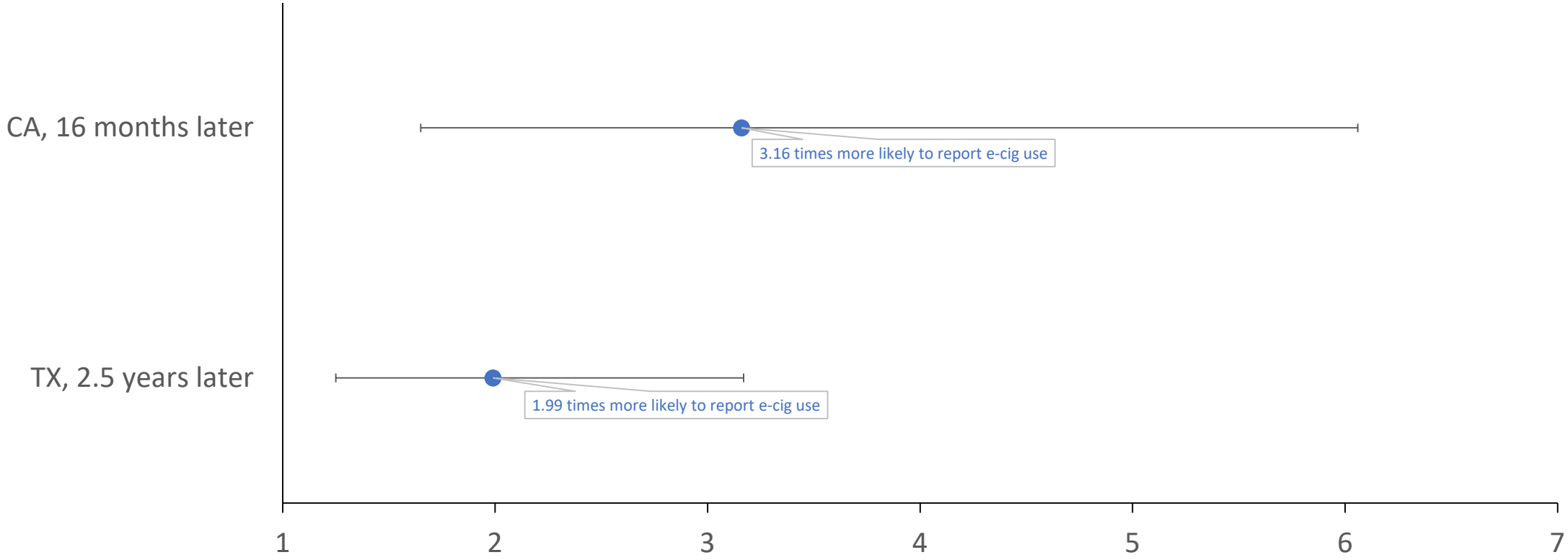
CDC researchers estimated that **15,030,000** youth reported exposure to e-cigarette marketing at retail stores in 2019



Wang TW et al. (2019). MMWR Morb Mortal Wkly Rep. 68(12): p. 1-28.

POS Exposure to Ecig Marketing Predicts E-cig Use

Two large longitudinal studies with youth who had never used e-cigarettes showed that youth with exposure to e-cig marketing at stores had <u>significantly higher odds</u> of using e-cigs than those with no exposure



> 1,500 CA 11th and 12th graders; >2,000 School-aged TX youth

Cruz TB et al. (2019). *Nicotine & Tobacco Research*. 21(7):926-932.
Loukas A et al. (2019). *Pediatrics*. 144(3):e20183601.

Exponential growth in Juul-related tweets Jan 2017-December 2018

JUUL

Juul-specific ↑ from **1.3%** in 2017Q1 to **53.8%** in 2018Q4

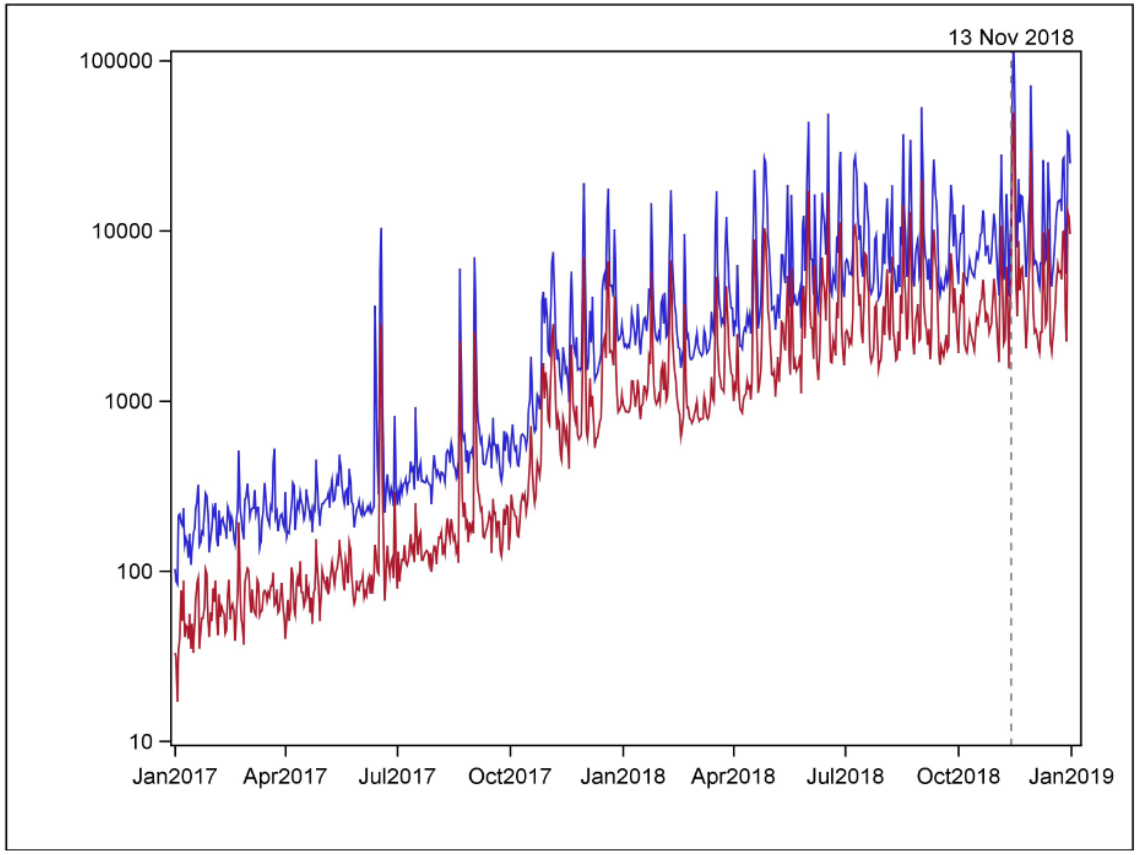


Figure 3 Daily amount of Juul-related tweets, 2017–2018. Daily count of tweets is log-transformed (base 10) on y-axis. The upper blue line represents the number of all Juul-related tweets per day and the red line represents the number of geolocated Juul-related tweets per day. November 13, 2018 when Juul Labs closed its Facebook and Instagram accounts is indicated with a dashed vertical line.

Non-Juul e-cigarettes

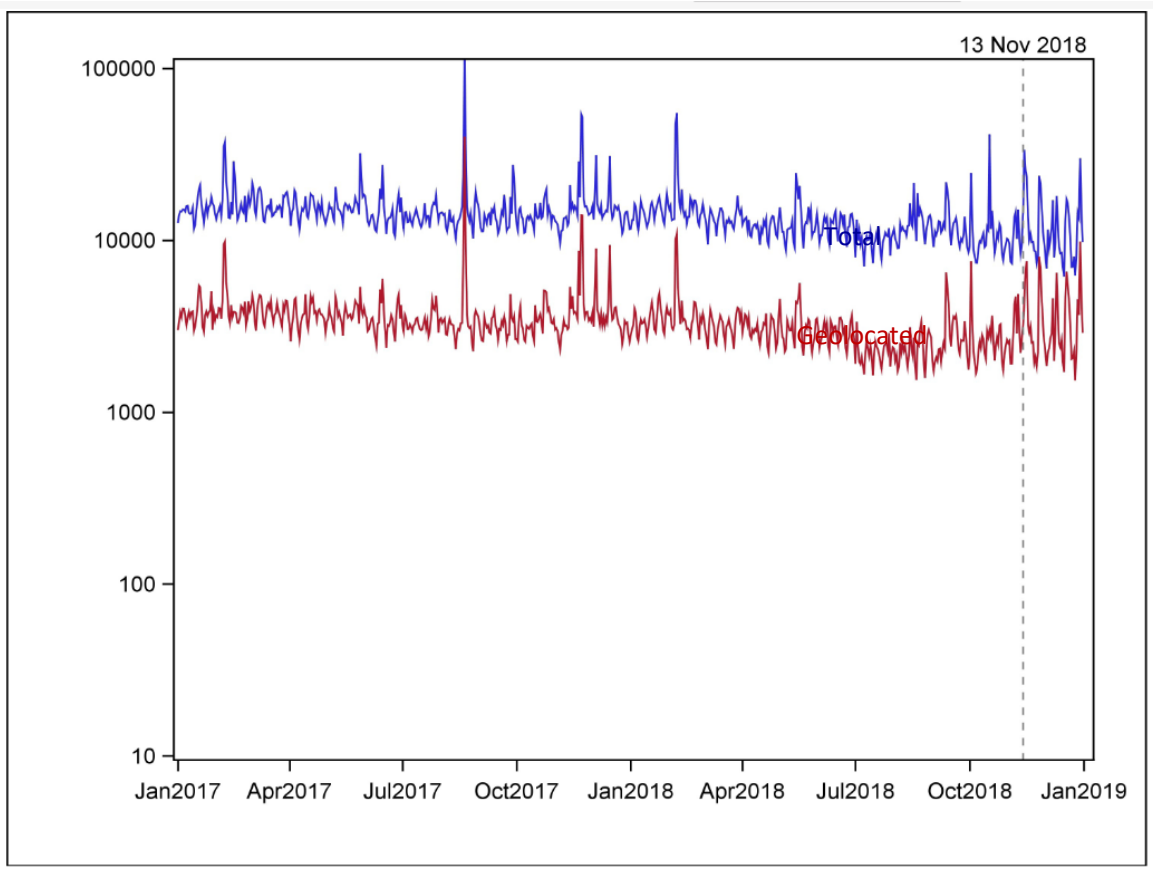
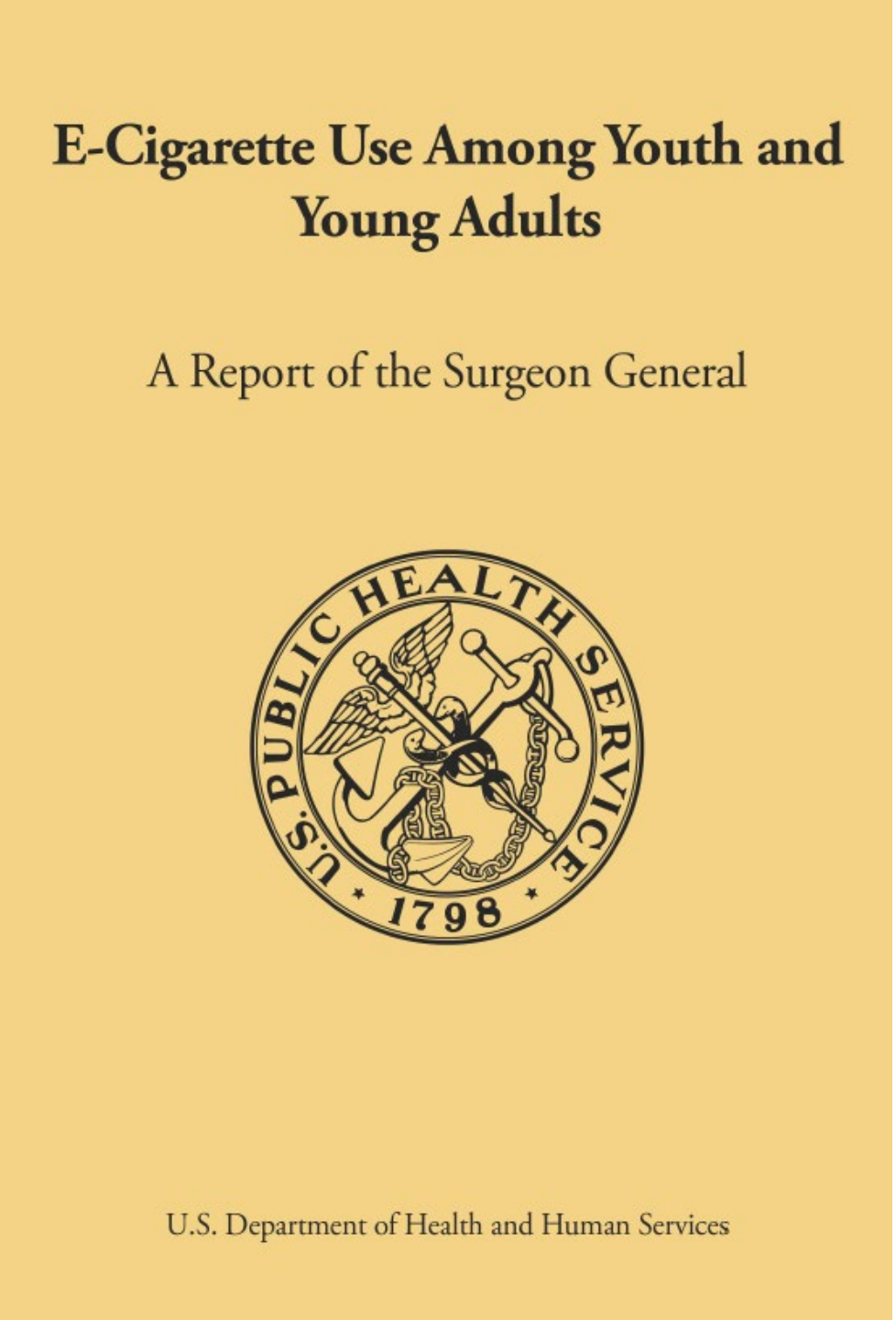


Figure 4 Daily amount of non-Juul ENDS-related tweets, 2017–2018. Daily count of tweets is log-transformed (base 10) on y-axis. The upper blue line represents the number of all non-Juul ENDS tweets per day and the red line represents the number of geolocated non-Juul ENDS tweets per day. November 13, 2018 when Juul Labs closed its Facebook and Instagram accounts is indicated with a dashed vertical line.

Kim Y et al. (2021). *Tobacco Control*. 30(2):137-146.



Marketing Conclusions

1. E-cigarette products are marketed in a wide variety of channels that have broad reach among youth and young adults , including television, point-of-sale, magazines, promotional activities, radio, and the Internet.
2. Themes in e-cigarette marketing, including sexual content and customer satisfaction, are parallel to themes and techniques in conventional cigarette advertising and promotion.
3. Like cigarette advertising, e-cigarette advertising appears to increase product initiation among never users, discourages quit attempts in current users, and encourages relapse in those who are trying to quit.



https://www.dailymail.co.uk/health/article-11436029/FDA-cracks-e-cigarettes-child-friendly-packaging.html

yahoo!finance | Yahoo Finance

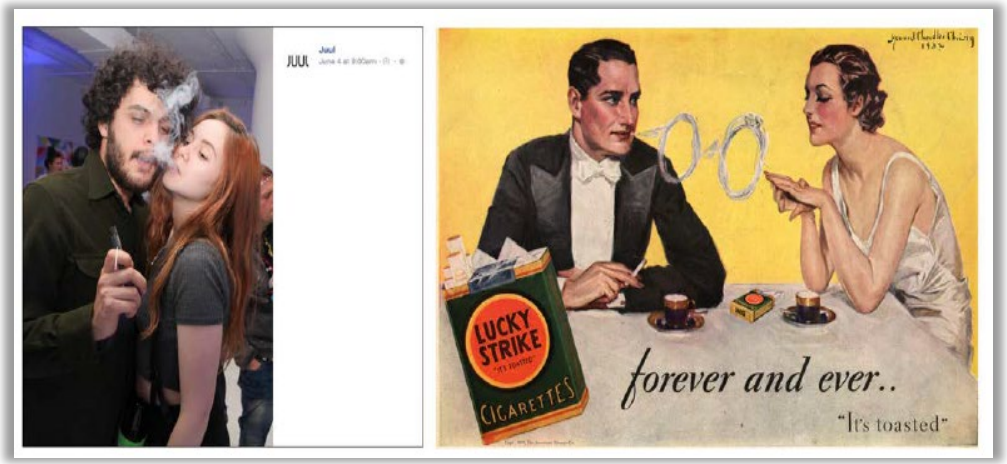
Juul exposed: How Big Vape took a page from Big Tobacco's old ad playbook



Aarthi Swaminathan · **Reporter**

May 30, 2019







Source: "JUUL Advertising Over its First Three Years on the Market" by Stanford Research into the Impact of Tobacco Advertising

https://ca.news.yahoo.com/juul-advertising-tobacco-lawsuits-115746073.html

Product Design





JUUL

Health Promotion Practice
Volume 21, Issue 1, January 2020, Pages 20-24
© 2019 Society for Public Health Education, Article Reuse Guidelines
https://doi.org/10.1177/1524839919868222

Article - Research Brief

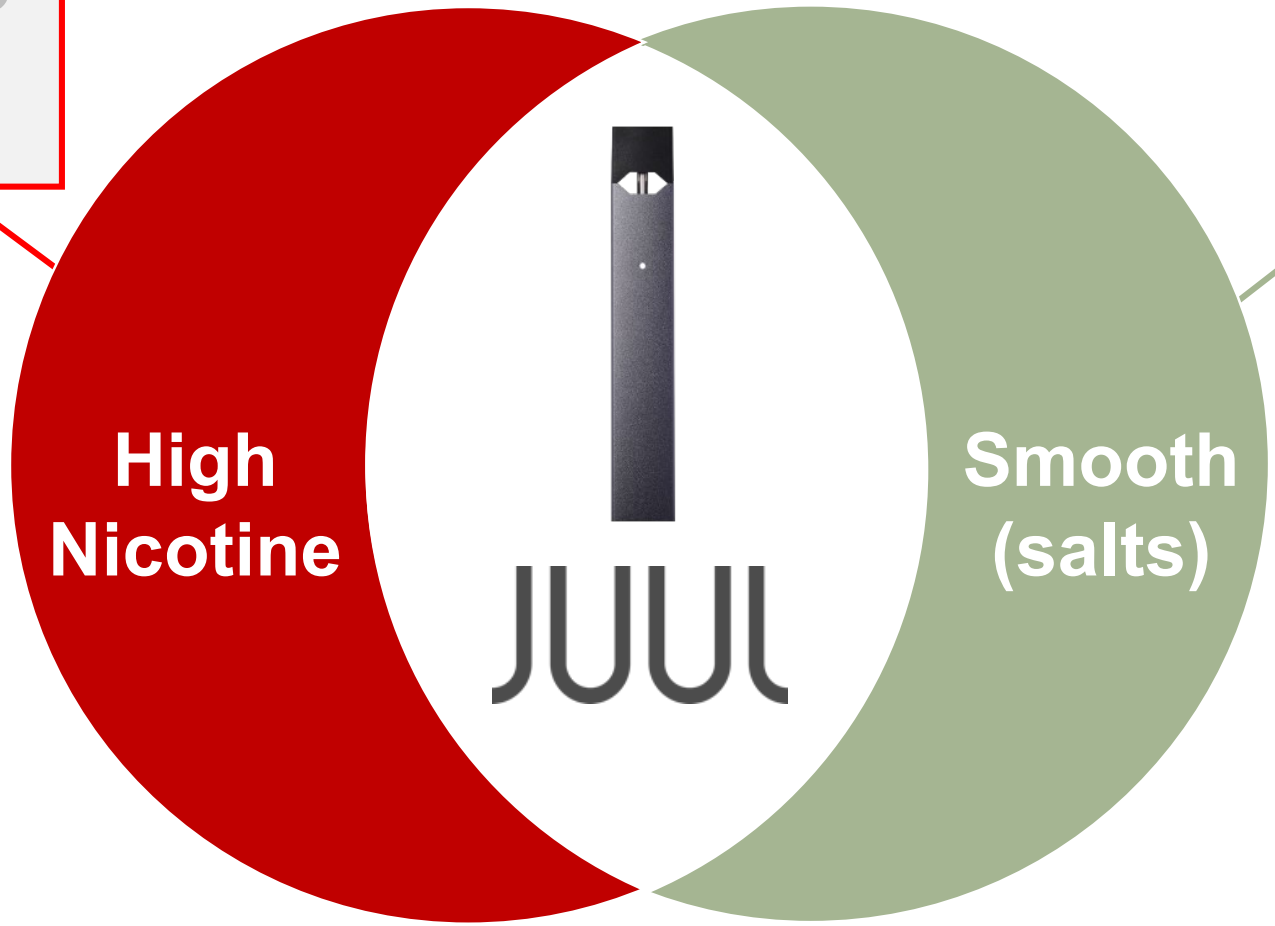
JUUL in School: Teacher and Administrator Awareness and Policies of E-Cigarettes and JUUL in U.S. Middle and High Schools

Barbara A. Schillo, PhD, Alison F. Cuccia, MSPH, Minal Patel, PhD, MPH, Bethany Simard, MS, Emily M. Donovan, MPH, Elizabeth C. Hair, PhD, and Donna Vallone, PhD, MPH

Nicotine Delivery

> “There’s no product I’m aware of that has higher nic. %”
>
> – Adam Bowen, JUUL Co-founder





PTX 0510, PTX 0701

iPhone


iPhone

JUUL


JUUL
JUUL device
USB charger
4 pod multipack
5% strength

iPhone



JUUL

LIMITED EDITION

BLUSH GOLD



iPhone



JUUL



iPhone



JUUL



Juul Tried to Recruit Miley Cyrus & Other Influencers to Woo Kids, Mass. Lawsuit Claims

Massachusetts sued electronic cigarette giant Juul Labs Inc. on Wednesday, accusing the company of deliberately targeting young people through its marketing campaigns.

By Associated Press
02/12/2020



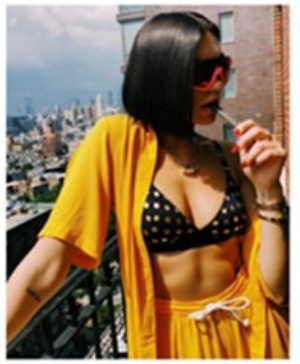
Name: Bella Hadid
Account Name: bellahadid
Number of followers: 24.4m
Follower demographic: 18-24 females

JUUL Post:



Name: Dua Lipa
Account Name: dualipa
Number of followers: 29.8m
Follower demographic: 18-24 females

JUUL Post:



Name: Tina Woods
Account Name: tinawoodsss
Number of followers: 817k
Follower demographic: 18-24 female

JUUL Post:



Name: Lilly May Mac
Account Name: Lillymaymac
Number of followers: 3.9.m
Follower Demographic: 18-24

JUUL post:



Most Juul followers are youth or young adults

- As of April 2018, @JUULvapor had 9,077 followers that were individuals (i.e. not corporate or organizational accounts)

- Of these, **80.6%** (7,313) were aged 13-20, below the legal age to purchase Juul products

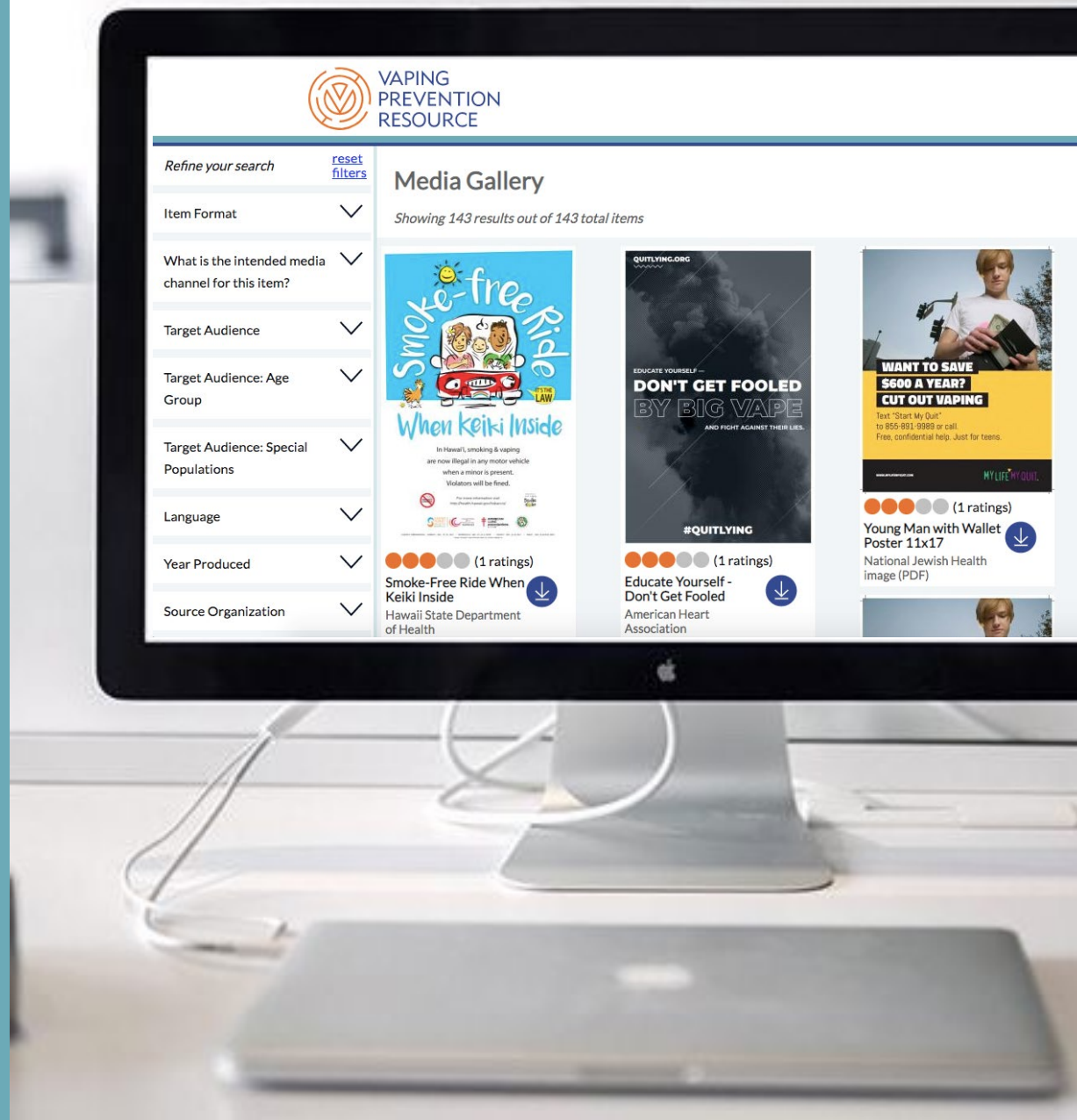
  - **44.9% were youths (aged 13-17 years)**
  - 43.6% were young adults (aged 18-24 years)
  - 11.5% were adults (21 years or older)

Kim AE et al. (2019) *JAMA Pediatrics*. 173(7):690-

VAPING PREVENTION RESOURCE

UNC LINEBERGER COMPREHENSIVE CANCER CENTER

UNC
LINEBERGER
COMPREHENSIVE
CANCER CENTER



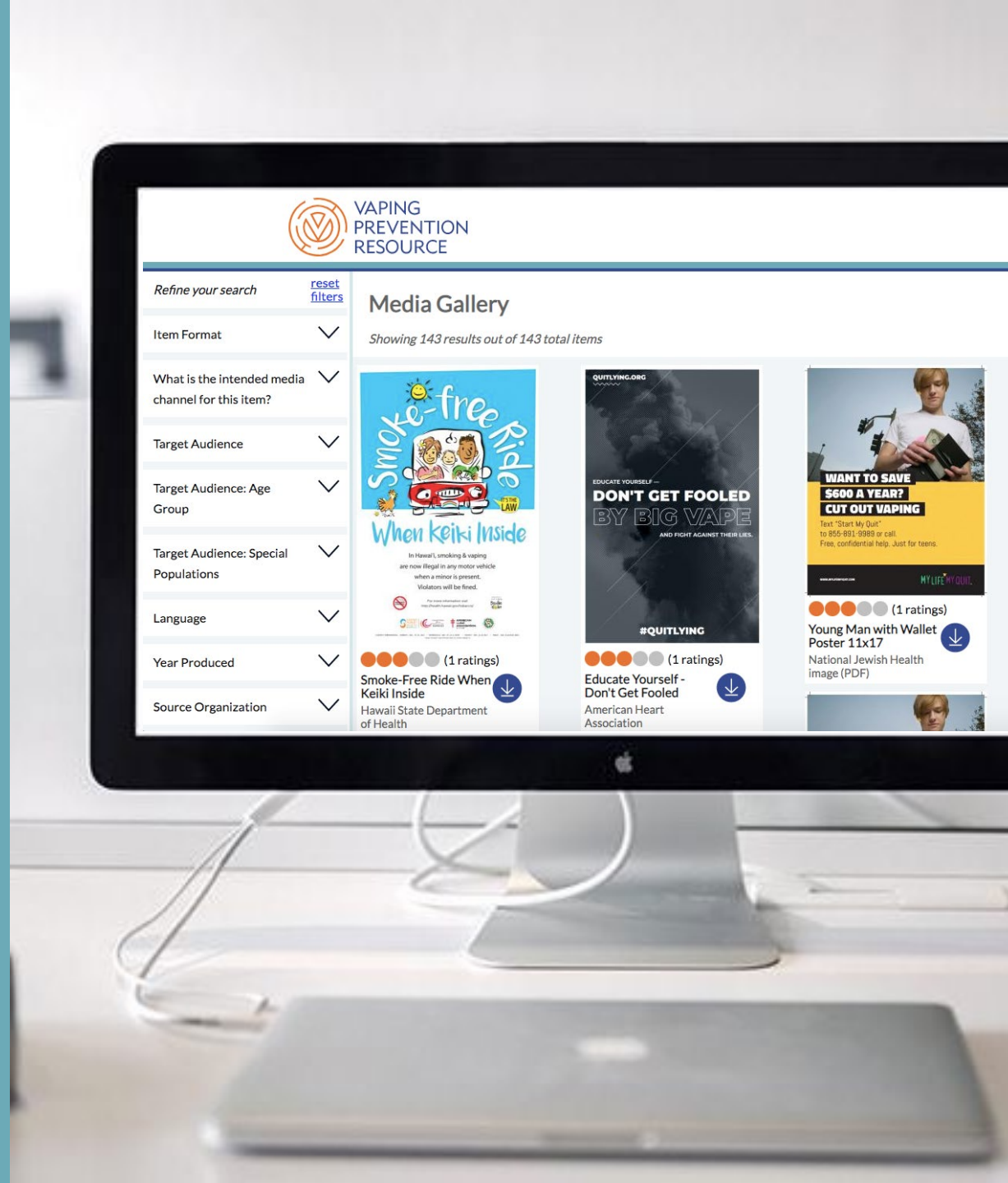
MEDIA GALLERY

854

ITEMS IN MEDIA GALLERY

37

ORGANIZATIONS



Gallery | VPR

vapingprevention.org/gallery

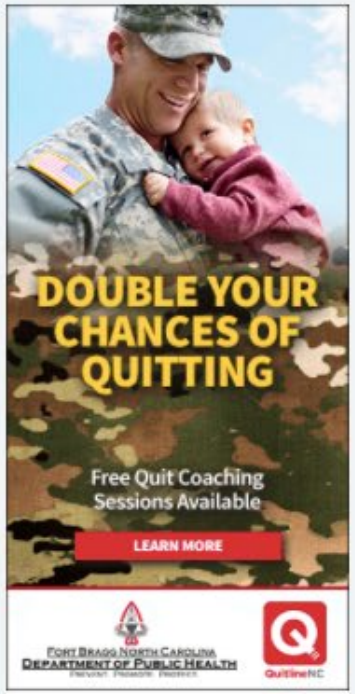
VAPING PREVENTION RESOURCE

Refine your search reset filters

- Item Format
- Media Channel
- Target Audience
- Target Audience: Age Group
- Target Audience: Special Populations
- Language
- Year Produced
- Source Organization
- Campaign Name
- Message Themes
- Message Features
- Country

Media Gallery

Showing 775 results out of 775 total items



(0 ratings)
Double Your Chances of Quitting
Cumberland County Department of Public Health
animated GIF





(0 ratings)
Quit Tobacco Your Way Poster - Russian
Oregon Health Authority
Image (PDF)



(4 ratings)
Promise_Poster



"Dark Bubbles" (Korean) :60 TV
California Department of Public Health
Video Embedded



(0 ratings)
Lies Fly Day
Raze
Video Embedded





"Viktoria" :30 Radio
California Department of Public Health
Video Embedded



"Raul" :30 Radio
California Department of Public Health
Video Embedded



"Naomi" :30 Radio Ad
California Department of Public Health
Video Embedded



(4 ratings)
Let's Play a Game of E-Cig Roulette
New Jersey Department of Health
Image (JPG, PNG)



(4 ratings)
Dear Big Tobacco, To



DITCH JUUL | THIS IS QUITTING | TRUTH | :30

ITEM FORMAT Video
MEDIA CHANNELS television / video streaming, social media
SOURCE ORGANIZATION Truth Initiative
CAMPAIGN Ditch Juul
DESCRIPTION This video depicts youth disposing of and ditching their Juul products.
URL https://vpr-stage.chaicore.com/gallery/64 copy this url
copyright usage restrictions — what happens here?

How effective do you think this ad would be in discouraging viewers from vaping?

Conclusions

- Widespread Availability and Youth Access to E-cigarettes (Supply)
- Ubuiquitious Ads and Promotions for E-cigarette (Demand)
- Solution – Comprehensive Vaping Prevention and Control Program

Presentation 4

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Reach Lab

Tobacco Marketing & It's Impact on Youth

Bonnie Halpern-Felsher, PhD, FSAHM
Marron and Mary Elizabeth Kendrick Professor in Pediatrics II
Founder & Executive Director, TPT, CAPT, & VISIT

Stanford Children's Health | Lucile Packard Children's Hospital Stanford

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Youth Marketing Exposure

- Youth see advertisements and posts for tobacco products at convenience stores, supermarkets, and gas stations; using the Internet/social media; going to the movies; reading newspapers or magazines

- 2021 NYTS: among youth who reported engaging in these activities, 75.7% reported exposure to tobacco marketing or advertising

- Among students who reported using social media, 73.5% had seen e-cigarette–related content

- Internet and social media increase reach, relevance, and opportunities to interact with young consumers

Marketing Themes

- Aspirational visual imagery (e.g., race car driver, dancer, cool) to motivate tobacco use
- Freedom, environment
- Celebrities and familiar characters
- Cartoon characters

Tobacco Marketing & Effects on Youth

- Youth are swayed by images, colors, flavors, celebrities and other influencers, and some themes, which appeal to their emotional decision-making process

- Weigh emotional aspects and rewards of the decision more than the cognitive aspects (e.g., risks vs rewards)

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Reach Lab

Tobacco Marketing & Effects on Youth

- Lowers consumers' and potential consumers' perceptions of risk and increases beliefs in the acceptability of tobacco products

- Results in perceptions of reduced risks, greater benefits, and greater social acceptability of marketed tobacco products

Tobacco Marketing & Effects on Youth

- Youth exposed to tobacco-related marketing:
  - Greater perceptions of benefits
  - Reduced perceptions of harm
  - Greater intentions and susceptibility to use
  - Greater likelihood of use

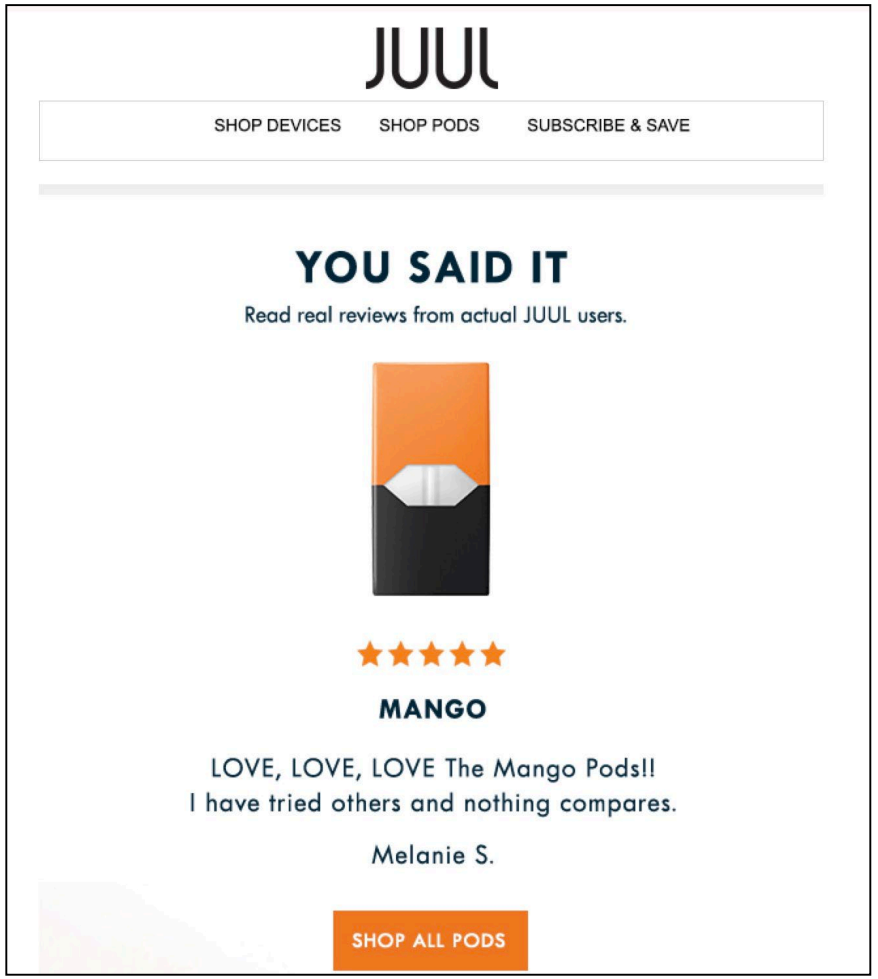
Cool and Youth-Focused Ads



tobaccopreventiontoolkit.stanford.edu

Cool and Youth-Focused Ads





tobaccopreventiontoolkit.stanford.edu

Social Media Targeting

tobaccopreventiontoolkit.stanford.edu

- Problematic memes and cartoons are also distributed via Twitter or Instagram, which give youth the impression that using is okay



Juice Boxes


Pod Juice
Loops
30 ML
55 MG
SALT
Nicotine


30ml
NIC SALT
DRIP WITH US.
CANDY KING on SALT
STRAWBERRY WATERMELON Bubblegum
50MG
CANDY KING on SALT


Gummy
Fruit gummy candy
4 FL OZ (120ML)


Pod Juice
Pink Burst
30 ML
55 MG
SALT
Nicotine


BERRY BANGER
LUNG HIT
SALT NIC
50MG
30ML


BENNY'S
Dairy Farm
Chocolate Fudge Brownie

Candy Flavored Nicotine Pouches





















Cartoonish Characters in Myriad Flavors





Profusion of Brands Offering Sweet and Fruity Flavors





























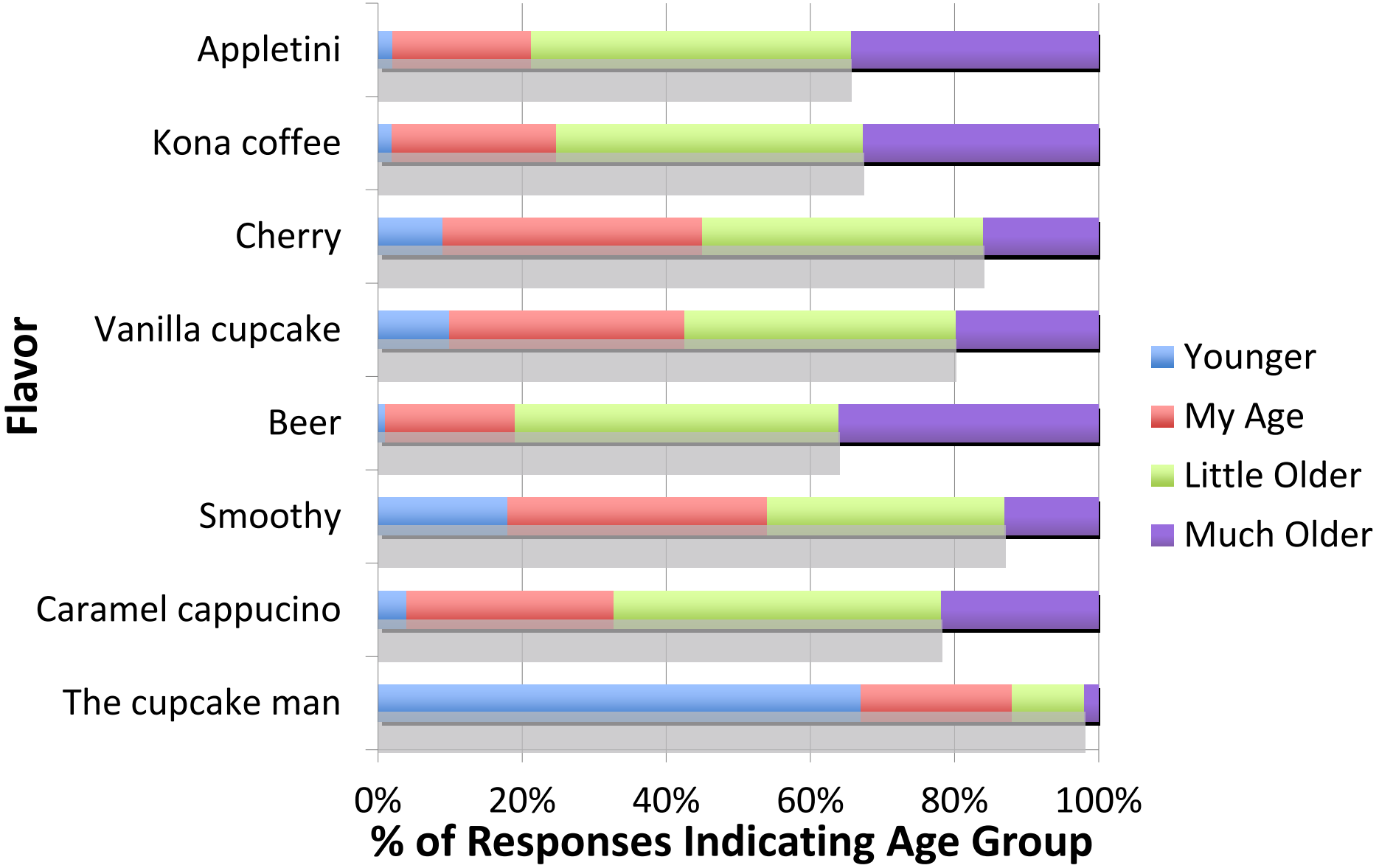


Do Flavored Ads Target Youth?



McKelvey, Baiocchi, Ramamurthi, McLaughlin, Halpern-Felsher, 2018

Target Age Group Attributed to Ads by Flavor



McKelvey, Baiocchi, Ramamurthi, McLaughlin, Halpern-Felsher, 2018

Barbie Inspired





Use of Celebrities

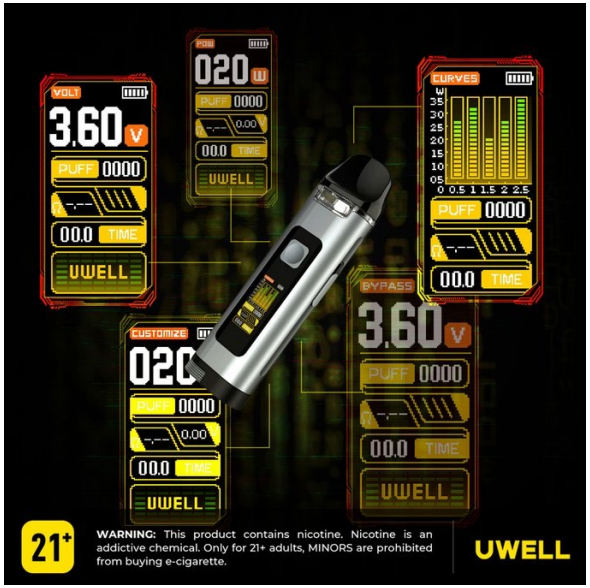




Use of Technology & Smart Screens

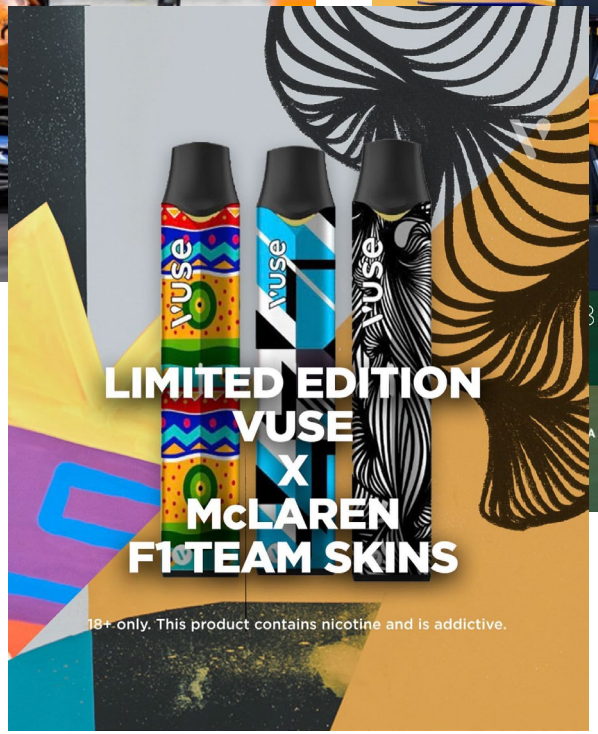




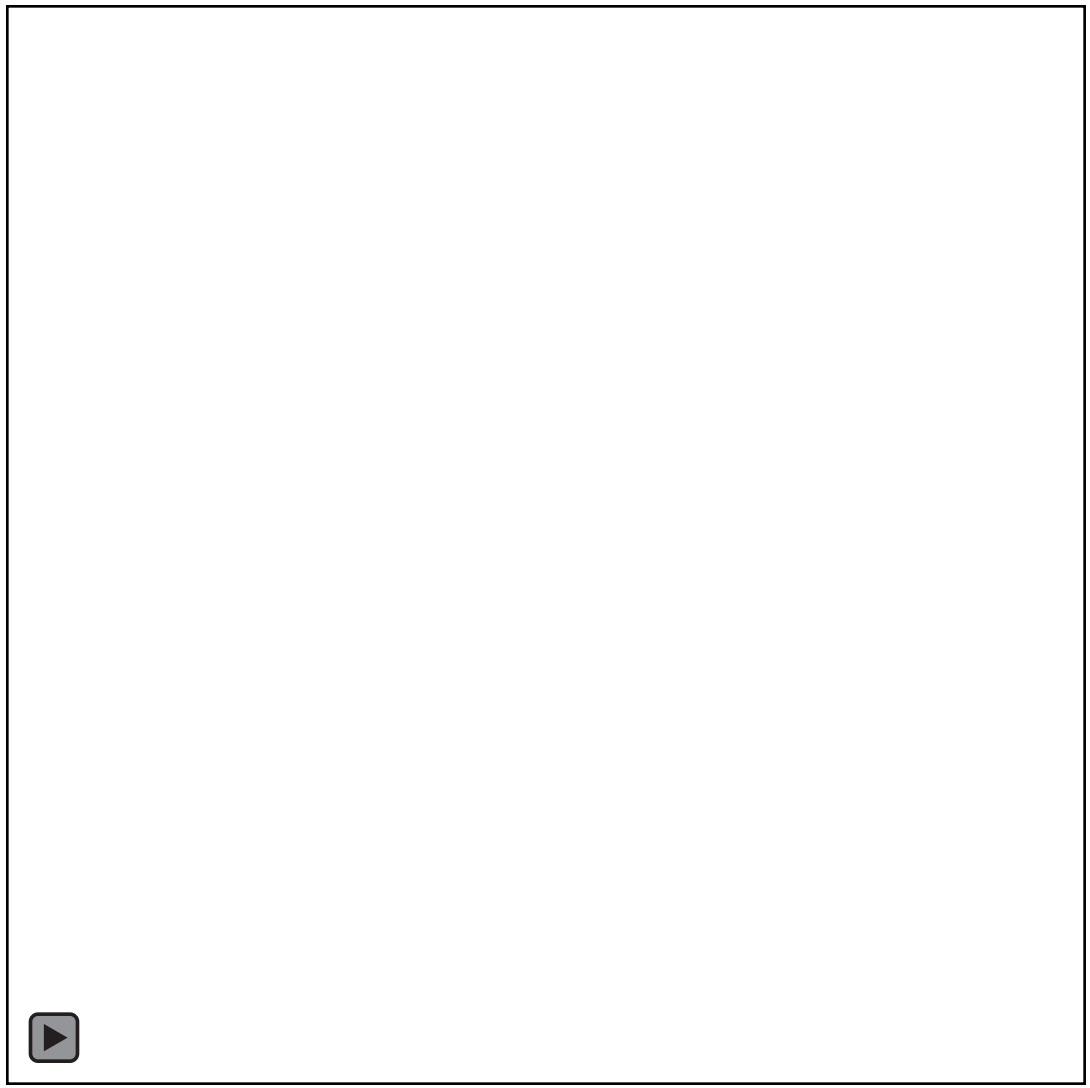


Racing


WARNING: This product contains nicotine. Nicotine is an addictive chemical.
UNDERAGE SALE PROHIBITED
VAPOR PRODUCTS
Get ready for race day
VUSE


LIMITED EDITION
VUSE
X
McLAREN
F1 TEAM SKINS
18+ only. This product contains nicotine and is addictive.


WARNING: This product contains nicotine. Nicotine is an addictive chemical.
UNDERAGE SALE PROHIBITED
VAPOR PRODUCTS
vuse
3:30PM EST NBC SPORTS NETWORK
vuse
7
© 2020 RJRVC



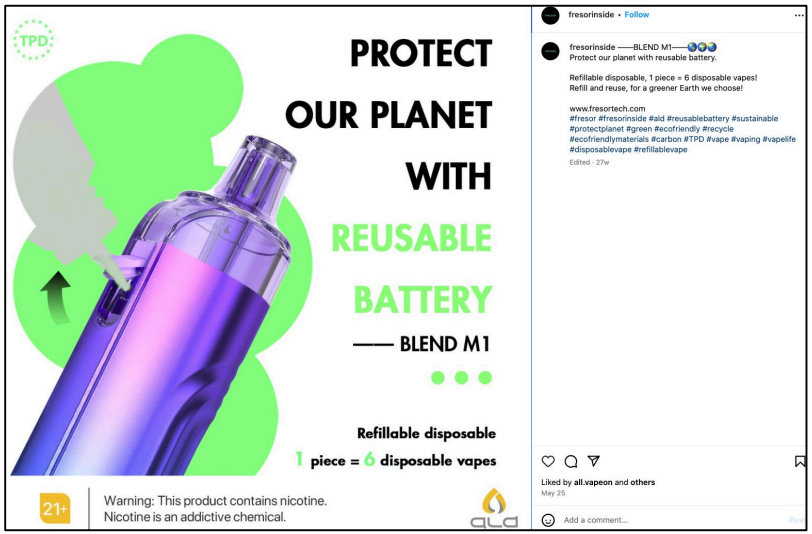
Environment

“First Global Carbon Neutral”



2021

Environment







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Conclusions

- Tobacco marketing appeals to youth
  - That can reach anyone under age 25
  - Focuses on themes that are appealing to youth
    - Flavors
    - Colors
    - “Bling”
    - Cartoons and characters
    - Celebrities and influencers
    - Environment

Conclusions

- Ongoing surveillance needed
  - Rates of use
  - Products used
  - Marketing
- Watch for loopholes

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Bonnie Halpern-Felsher, PhD, FSAHM
Professor, Adolescent Med/Peds

Bonnie.halpernfelsher@Stanford.edu

Stanford Children's Health | Lucile Packard Children's Hospital Stanford



Commercial Free Speech and Restrictions on Tobacco Advertising

PUBLIC HEALTH LAW CENTER
at Mitchell Hamline School of Law

THE PUBLIC HEALTH LAW CENTER




Joe's
BEACH
CLUB
T-SHIRT
FREE with
4-pack purchase
SURGEON GENERAL'S WARNING: Quitting Smoking
Now Greatly Reduces Serious Risks to Your Health.

TYPES OF SPEECH AND EXPRESSIVE CONDUCT

The First Amendment protects:

- Speech
- Expressive conduct

TYPES OF SPEECH AND EXPRESSIVE CONDUCT

The First Amendment protects:

- Speech
- Expressive conduct
- Including commercial speech

STANDARDS OF SCRUTINY

Level of Scrutiny	State Interest	Means Used to Achieve the State Interest
Strict	Compelling actual purpose	Necessary/Least restrictive means
Intermediate	Important actual purpose	Substantially related
Rational	Legitimate conceivable purpose	Rationally related

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STANDARDS OF SCRUTINY



STANDARDS OF SCRUTINY



CENTRAL HUDSON

- Does the law restrict protected speech?
- Is the law justified by a substantial governmental interest?
- Does the law directly advance the governmental interest?
- Is there a reasonable fit between the goal and the means chosen to accomplish the goal?



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STANDARDS OF SCRUTINY



O'BRIEN/WARD

- Does the regulation further an important or substantial governmental interest?
- Is the governmental interest unrelated to the suppression of free expression?
- Would the interest be achieved less effectively without the regulation?



O'BRIEN/WARD

- Does the regulation further an important or substantial governmental interest;
- Is the governmental interest unrelated to the suppression of free expression?
- Would the interest be achieved less effectively without the regulation?



STANDARDS OF SCRUTINY



ZAUDERER

Is the disclosure requirement:

- reasonably related to a legitimate governmental interest?*
- purely factually, accurate, and uncontroversial?
- unjustified or unduly burdensome?

* Preventing deception



ZAUDERER

Is the disclosure requirement:

- reasonably related to a legitimate governmental interest?*
- purely factually, accurate, and uncontroversial?
- unjustified or unduly burdensome?

* Preventing deception



ZAUDERER & COMPELLED OPINION STATEMENTS



https://www.fda.gov/

STANDARDS OF SCRUTINY



* Compelled Opinion Statements

STANDARDS OF SCRUTINY



- Compelled disclosures
- Restricting conduct with incidental effect on expression
- Limits or restrictions of commercial speech

SUCCESSFUL LAWS

- Plan for strict scrutiny, hope for rational basis
- Provide evidence and findings
- Think carefully about the law's "fit" with your actual goals



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facebook.com/publichealthlawcenter