



3

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TO: SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
SENATOR PETE BRUNGARDT, CHAIR

FROM: CHRISTOPHER J. MASONER,  
AMERICAN CANCER SOCIETY

DATE: MARCH 15, 2012

RE: SB 462 – RELATING TO CIGARETTES AND OTHER TOBACCO PRODUCTS

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Senator Brungardt, Members of the Committee, thank you for the opportunity to provide testimony in support of SB 462.

The American Cancer Society actively encourages increases in the excise taxes levied against cigarettes and other tobacco products as a public health “win” that will reduce the use of these harmful products—especially among Kansas kids.

### **Other Tobacco Products Should Not Receive Preferential Taxation**

In Kansas, there is a large difference between the way cigarettes are taxed and the way all other tobacco products are taxed. The excise tax on a pack of cigarettes is set at \$0.79 per pack, or just under four cents per cigarette. However, the tax on all other tobacco products (OTP)—such as chew, snuff, snus, and cigars—is only 10% of the wholesale sales price. By comparison, the cigarette tax is roughly equal to 30% of the wholesale price. In practical terms, a pack of cigarettes can cost around \$5.00 or more, while a pack of snus, little cigars, or a can of chew may cost only \$2.50. This difference makes OTP much cheaper per dose than cigarettes, and effectively encourages users—especially kids with less disposable income—to choose the lower-priced OTP. There is no logical reason for OTP to receive preferential treatment, and the law needs to be changed.

- Other Tobacco Products Cause Health Problems, Too. The health problems associated with cigarettes are well-known and have been for many years. Thanks to misleading tobacco company marketing, however, some may still believe that other tobacco products are a safe alternative to cigarettes. The fact is that there is no tobacco product that is risk-free. In particular, smokeless tobacco has been shown to cause cancer in the mouth, esophagus, stomach, and pancreas.
- Other Tobacco Products Are The “Future of Tobacco”. As more people have grown to appreciate the health hazards associated with smoking, cigarette use has declined. Several years ago, tobacco companies marketed smokeless tobacco as a “safer”

March 15, 2012

alternative to cigarettes in order to keep smokers addicted and to initiate new tobacco users. In recent years, as smoke-free laws have become more and more prominent, tobacco companies have begun to market smokeless products as a way for smokers to get their “fix” in places where they cannot smoke. Brands like Camel and Marlboro market their snus with slogans such as “Be Free” and “Go Anywhere” to appeal to younger smokers and promote dual tobacco use (cigarettes and smokeless). One company (Stonewall) even calls its dissolvable tobacco mints “The Future of Tobacco.”

- Kansas Laws On Taxation Of OTP Are Badly Out-Of-Date. The Kansas tax on OTP was first enacted in 1972, and the law has not been updated since then. In that time, every state in the nation has updated its OTP laws to keep pace with the tobacco industry, while Kansas has fallen farther behind. As a result, Kansas ranks among the lowest OTP taxes in the nation. We have attached a chart compiled by the Campaign for Tobacco Free Kids providing a state-by-state breakdown of OTP rates.
- The Tax On OTP Should Be Equalized With The Cigarette Excise Tax. In order to equalize the tax on OTP with the cigarette excise tax, the OTP rate should be raised to 30% of the manufacturer’s price. The tax on OTP should also be “pegged” to the cigarette excise tax such that tax disparities are avoided in the future.
- Little Cigars Should Be Taxed As Cigarettes. So-called “little cigars” are tobacco products that are the same size and shape as a cigarette, have filters like cigarettes, are sold in packs of 20 like cigarettes, and are smoked like cigarettes. The only difference between a cigarette and a little cigar is that one is wrapped in paper and the other is wrapped in a paper-like substance made from tobacco leaves. However, because of the way the tax laws are written, cigarettes are taxed at \$0.79 per pack, while the tax on little cigars may only be around \$0.20 per pack (depending on the manufacturer’s price). This is a loophole that needs to be closed by providing that little cigars are treated as cigarettes for tax purposes.
- New Revenue Could Fund Tobacco Control Programs. If the above policies are implemented, the Campaign for Tobacco-Free Kids estimates the State of Kansas would see approximately \$10.8 million in new revenue. The State’s Tobacco Use Prevention Program is currently funded at a level of \$2.3 million (though the current House Appropriations bill cuts that funding by \$650,000), compared to the Centers for Disease Control’s recommendation of \$32.1 million. Dedicating the new revenues generated from fixing the OTP tax to tobacco control measures would multiply the impact and help reduce tobacco consumption even more.



**STATE EXCISE TAX RATES FOR NON-CIGARETTE TOBACCO PRODUCTS**

Every state except for PA has at least some tax on non-cigarette tobacco products. FL does not tax cigars, but does tax all other tobacco products. The highest rates, as a percentage of wholesale/manufacturer's price, are in WI (100%), WA (95%), VT (92%), MA (90%), RI (80%), ME (78%), and AK (75%). Of those states that tax moist snuff at a percentage of price, the average rate is roughly 39%, despite very low rates in SC (5%), TN (6.6%), and WV (7%). TN and WV also have two of the highest rates of smokeless use by high school males (21.3% and 24.2%). Nationwide, 15.0% of high school boys and 2.2% of girls use smokeless tobacco.<sup>1</sup> It is important to raise tax rates on all tobacco products to prevent switching to a lower-taxed and lower-priced tobacco product or initiation. See Campaign Factsheets, *Smokeless Tobacco and Kids*, [www.tobaccofreekids.org/research/factsheets/pdf/0003.pdf](http://www.tobaccofreekids.org/research/factsheets/pdf/0003.pdf) and *Benefits from Increasing Smokeless Tobacco Taxes*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0180.pdf>.

State	Snuff Tax <sup>2</sup>	Chewing & Smoking Tobacco Tax	Cigar Tax	Date OTP tax last changed	Cigarette Tax (\$/pack)	Parallel Tax (% mfr. price)
Alabama	1.0-12.0¢/oz.	Chewing: 1.5¢/oz.; Smoking: 4-6¢/oz.	4.0-40.5¢/10 cigars	5/18/2004	42.5	14%
Alaska	75% wholesale price	75% wholesale price	75% wholesale price	10/11/1997	200	66%
Arizona	22.35¢/oz.	22.35¢/oz.	20.35-218¢/10 cigars	12/8/2006	200	66%
Arkansas	68% mfr. price	68% mfr. price	68% mfr. price	3/1/2009	115	38%
California <sup>3</sup>	31.73% wholesale price	31.73% wholesale price	31.73% wholesale price	7/1/2011	87	29%
Colorado	40% mfr. price	40% mfr. price	40% mfr. price	1/1/2005	84	28%
Connecticut	100¢/oz.	50% wholesale price	50% wholesale price, 50¢ cap	7/1/2011	340	113%
Delaware	54¢/oz.	15% wholesale price	15% wholesale price	6/30/2007	160	53%
DC	75¢/oz.	12% retail price, not pipe tobacco	12% retail price (not on \$2+ cigars)	1/1/2010	250	83%
Florida	85% wholesale price	85% wholesale price	None	7/1/2009	133.9	44%
Georgia	10% wholesale price	10% wholesale price	2.5¢/10 cigars; 23% wholesale price	7/1/2003	37	12%
Hawaii	70% wholesale price	70% wholesale price	50% wholesale price	9/30/2009	320	106%
Idaho	40% wholesale price	40% wholesale price	40% wholesale price	7/1/1994	57	19%
Illinois	18% wholesale price	18% wholesale price	18% wholesale price	7/16/1996	98	33%
Indiana	24% wholesale price	24% wholesale price	24% wholesale price	7/1/2007	99.5	33%
Iowa	119¢/oz.	50% wholesale price	50% wholesale price, 50¢ cap	3/15/2007	136	45%
Kansas	10% mfr. price	10% mfr. price	10% mfr. price	7/1/1972	79	26%
Kentucky	19¢/unit <sup>4</sup>	15% wholesale price	15% wholesale price	4/1/2009	60	20%
Louisiana	20% mfr. price	Chewing: 20% mfr. price; Smoking: 33%	15% wholesale price	7/1/2000	36	12%
Maine	202¢/oz. (with min. tax)	Chewing: 202¢/oz.; Smoking: 20%	8%-20% mfr. price	7/1/2009	200	66%
Maryland	15% wholesale price	15% wholesale price	20% wholesale price	7/1/2000	200	66%
Massachusetts	90% wholesale price	Chewing: 90% w/s price; Smoking: 30%	15% wholesale price	7/1/2000	200	66%
Michigan	32% wholesale price	32% wholesale price	30% wholesale price	7/25/2002	251	83%
			32% wholesale price	7/1/2004	200	66%

<sup>1</sup> Youth Risk Behavior Surveillance (YRBS), 2009, <http://www.cdc.gov/mmwr/pdf/ss/ss5905.pdf>.  
<sup>2</sup> Each state defines "snuff" differently, but it is usually defined as any powdered, finely cut, or ground tobacco that is not intended to be smoked.  
<sup>3</sup> California's other tobacco product tax is based on the state's cigarette tax rate and changes every year.  
<sup>4</sup> Dry snuff only. A unit is defined as a container less than 1.5oz. Moist snuff is taxed at the same rate as chewing tobacco.

State Excise Tax Rates for Non-Cigarette Tobacco Products / 2

State	Snuff Tax <sup>2</sup>	Chewing & Smoking Tobacco Tax	Cigar Tax	Date OTP tax last changed	Cigarette Tax (\$/pack)	Parallel Tax (% mfr. price)
Minnesota	70% wholesale price	70% wholesale price	70% wholesale price	8/1/2005	160	53%
Mississippi	15% mfr. price	15% mfr. price	15% mfr. price	6/1/2005	68	23%
Missouri	10% mfr. price	10% mfr. price	10% mfr. price	10/1/1993	17	6%
Montana	85¢/oz.	50% wholesale price	50% wholesale price	1/1/2005	170	56%
Nebraska	44¢/oz.	20% wholesale price	20% wholesale price	10/1/2009	64	21%
Nevada	30% wholesale price	30% wholesale price	30% wholesale price	7/1/2011	80	27%
New Hampshire	48% wholesale price	48% wholesale price	48% wholesale price (not premium)	7/1/2011	168	56%
New Jersey	75¢/oz.	30% wholesale price	30% wholesale price	7/15/2006	270	90%
New Mexico	25% mfr. price	25% mfr. price	25% mfr. price		166	55%
New York	200¢/oz. (with min. tax)	75% wholesale price	75% wholesale price	8/1/2010	435	144%
North Carolina	12.8% wholesale price	12.8% wholesale price	12.8% wholesale price	9/1/2009	45	15%
North Dakota	60¢/oz.	Chewing: 16¢/oz; Smoking: 28% w/s price	28% wholesale price	7/1/2001 <sup>†</sup>	44	15%
Ohio	17% wholesale price	17% wholesale price	17% wholesale price	2/1/1993	125	41%
Oklahoma	60% mfr. price	Chewing: 60% mfr. price; Smoking: 80%	3.6-120¢/10 cigars	1/1/2005	103	34%
Oregon	178¢/oz. (with min. tax)	65% wholesale price	65% wholesale price, 50¢ cap	1/1/2010	118	39%
Pennsylvania	None	None	Little cigars taxed as cigarettes	1/1/1/2009	160	53%
Rhode Island	100¢/oz.	80% wholesale price	80% wholesale price, 50¢ cap	4/10/2009	346	115%
South Carolina	5% mfr. price	5% mfr. price	5% mfr. price		57	19%
South Dakota	35% wholesale price	35% wholesale price	35% wholesale price	1/1/2007	153	51%
Tennessee	6.6% wholesale price	6.6% wholesale price	6.6% wholesale price	7/15/2002	62	21%
Texas	116¢/oz. (with min. tax)	116¢/oz. (with min. tax)	1-15¢/10 cigars	9/1/2011	141	47%
Utah	183¢/oz.	86% mfr. price	86% mfr. price	7/1/2010	170	56%
Vermont	187¢/oz. or 224¢/pack if less than 1.2oz.	92% mfr. price	92% mfr. price for <\$1.08 price; \$2 per cigar for >\$1.08 to <\$110; \$4 per cigar for ≥ \$10	7/1/2010	262	87%
Virginia	18¢/oz.	Chewing: 21¢-70¢/unit Other: 10% mfr. price	10% mfr. price	1/1/2011	30	10%
Washington	252.6¢/oz. (on 10/1/10)	95% taxable sales price	95% taxable sales price, 75¢ cap	5/1/2010	302.5	100%
West Virginia	7% wholesale price	7% wholesale price	7% wholesale price	7/1/2003	55	18%
Wisconsin	100% mfr. price	71% mfr. price	71% mfr. price, 50¢ cap	9/1/2009	252	84%
Wyoming	60¢/oz.	20% wholesale price	20% wholesale price	7/1/2009	60	20%
US Government	9.4¢/oz.	Chewing: 3.1¢/oz.; Pipe: 17.7¢/oz.; RYO: \$1.55/oz.	Small cigars: \$1.01/20-pack Large cigars: 52.75% wholesale price, 40.26¢ cap	4/1/2009	100.66	33%

Campaign for Tobacco-Free Kids, March 6, 2012 / Ann Boonn

Manufacturer's (Mfr.) Price is the price charged to wholesalers/distributors by the tobacco company that makes the product. Wholesale (w/s) Price is either the price charged to retailers by the wholesalers/distributors or, in some states, equal to the Manufacturer's Price. Parallel tax rate is based on the cigarette tax and the taxable wholesale price of cigarettes versus other tobacco products. Sources: Orzechowski & Walker, The Tax Burden on Tobacco, 2010; press reports; state tax officials; U.S. Alcohol and Tobacco Tax and Trade Bureau; USDA Economic Resource Service.

More information on other tobacco product taxes is available at [http://www.tobaccofreekids.org/facts\\_issues/fact\\_sheets/policies/tax/other\\_products/](http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/other_products/).



**BENEFITS TO KANSAS  
FROM INCREASING ITS TAX RATES FOR OTHER TOBACCO PRODUCTS**

Kansas' different tobacco tax rates are inconsistent – taxing tobacco products other than cigarettes at much lower effective rates than cigarettes. Increasing the state's tax rates for other tobacco products (OTPs) would increase state revenues, promote public health, and reduce healthcare and other costs caused by tobacco use throughout the state. The following table shows the different current tax rates:

<u>Current Tax Rates</u>	
<i>Cigarettes</i>	\$0.79 per pack
<i>Other Tobacco Products</i>	10% wholesale price

Increasing the state's OTP tax rate to 30% of the wholesale price would produce public health benefits by stopping under-taxed, less-expensive tobacco products from serving as a gateway to cigarette addiction for kids or as an alternative to quitting or cutting back for existing smokers. In addition, it is well established by scientific research and the experiences of numerous states that raising the tax rates on any tobacco product will reduce use rates, especially among youth, thereby reducing related harms and costs, as well. At the same time, the rate increases will also bring in more state revenue because the increased tax rate will bring in far more new revenue than is lost by the reductions to the levels of tobacco product consumption and sales prompted by the tax rate increase.

The following table shows the revenue increases and some of the public health benefits and cost-savings Kansas would enjoy by raising its tax rates on other tobacco products 30% of the wholesale price.

<i>Additional New Annual OTP Revenue</i>	<b>\$10.80 million</b>
<i>Consumption Decline</i>	<b>7.0%</b>
<i>Youth User Decline</i>	<b>13.0%</b>

Revenue projections are conservative, assuming both consumption declines and possible new smuggling and tax evasion after the rate increases. Projected new revenues are net new revenues above the prior year's revenue total.

Kansas' percentage-of-price tax system is the best way to tax OTPs because they come in a wide variety of different types, styles, weights, doses, and prices. A percentage-of-price tax keeps up with inflation and product price increases (which stops state revenue erosion) and works more effectively to prevent and reduce tobacco use, especially among kids. It is also a flat tax that applies the same tax rate to all the tobacco products. While more expensive tobacco products pay a larger amount per dose, that simply means that the higher the revenues and profits per dose the higher the tax amount (and they still pay the exact same percentage tax rate). Nevertheless, the state could add a minimum tax to its percentage-of-price tax on OTPs to stop some tobacco products from evading proper tax payments (and increasing overall tobacco use) when they are dumped on the market at bargain basement prices or sold at predatory prices to steal market share away from properly priced products.

*Campaign for Tobacco-Free Kids 12.15.11 / March 14, 2011*

For more information on smokeless tobacco taxes, see *State Benefits from Increasing Smokeless Tobacco Tax Rates*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0180.pdf>, and *The Best Way to Tax Smokeless Tobacco is With a Percentage-of-Price Tax*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0282.pdf>.

