



MEMO TO: House Taxation Committee
FROM: Thomas M. Palace, Executive Director of the Petroleum Marketers and
Convenience Store Association of Kansas
DATE: March 15, 2018
RE: HB 2231 Proposed Tax Increases

Mr. Chairman and members of the House Taxation Committee: My name is Tom Palace and I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA), a statewide trade association that represents over 300 independent petroleum marketers and convenience store retailers throughout Kansas.

I have also been given authority to speak on behalf of the Retail Grocers Association (RGA) and Kansas Food Dealers Association (KFDA).

I appreciate the opportunity to appear before this committee on the proposed tax increases for tobacco and other tobacco products.

PMCA, RGA and KFDA oppose HB 2231.

The tax increases approved by the Kansas Legislature in 2015 had a big impact on C-Stores located along state borders. Tobacco excise tax was increased \$.50 per pack (now \$1.29) and the state sales tax went from 6.15% to 6.5%. HB 2231 also includes a tax increase (from 10% -65%) for "other tobacco products" (smokeless tobacco). It is a sure bet that adding \$1.50 to the excise tax will have an even bigger impact on retailers.

Master Settlement Funds

HB 2231 would create a \$5 million Cigarette and Tobacco Cessation Fund. Kansas has been receiving \$50-60 million annually from proceeds of the Master Settlement Agreement. I am told that with the funds Kansas receives from the tobacco Master Settlement Agreement that approximately \$900,000 is used for smoking cessation. My first question? Why is the funding so low? If a smoking cessation fund is important and needed why not use some of the funds Kansas now receives from the tobacco companies?

Border Issues

Convenience store owners in Kansas who compete with retailers in bordering states will be at a tremendous competitive disadvantage if the legislature passes the tax increases listed above. The current excise tax for cigarettes at \$1.29 cent per pack already has Kansas retailers at a competitive disadvantage with our neighboring state, Missouri. And the additional increase only exacerbates the problem. Missouri has the lowest tax rate; \$.17 per pack, Oklahoma's tax is \$1.03, Nebraska \$.64 and Colorado \$.84.

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With the proposed change the new tax rate will rank Kansas 9th in the country with the highest tobacco excise tax rate.

Tobacco sales at convenience stores account for 32% of gross inside store sales...the number one inside store product. Consumers usually purchase individual packs and they also purchase ancillary products like: coffee, pop, sandwiches, Lottery tickets, etc. Kansans living near the border may, and many times do, opt to avoid paying Kansas taxes by crossing state lines where the tax is lower. When this occurs, both the retailer and the state lose. The retailer loses the sale and the state loses sales tax revenue. I have included a document that illustrates the decline in sales in KS and increased sales in MO.

Raising tobacco excise taxes provides an uncertain revenue source. The Tax Facts booklet provided by the Kansas Legislative Research Department validates that tobacco revenues are approximately \$1.4 million down from last year. (see attachment)

Raising tobacco excise taxes also burdens low-income earners. Cigarette excise taxes are regressive because they most negatively affect lower-income adult smokers. Based on data from the Center for Disease Control and Prevention, 34.5% of adults in Kansas who earn less than \$15,000 are smokers, whereas only 10% of adults who earn \$50,000 or more are smokers. Raising taxes will unfairly further burden low income earners.

Tobacco sales and gas sales are the "bread and butter" of the convenience store industry. Consumers usually stop at a convenience stores because service is quick, and the customer can be in and out of the store in less than 1 minute. The increased price of cigarettes has the potential of changing peoples' buying patterns, thus reducing store revenues for all products sold in convenience stores....as well as sales tax for the State of Kansas.

Clearly smokers have options when it comes to purchasing cigarettes. The tax increases proposed in HB 2231 will surely change buying habits once again. And it appears the surrounding states will be the benefactors.

I have also included a number of documents that show the excise tax rates for each state, the impact the \$.50 2015 increase had on Kansas retailers.

Mr. Chairman the tax increases listed in HB 2231 are excellent economic development for our neighboring states!

We urge the committee to oppose HB 2231.

Thank You!



STATE CIGARETTE EXCISE TAX RATES & RANKINGS

Average State Cigarette Tax: \$1.72 per pack

State	Tax	Rank
Alabama	\$0.675	40th
Alaska	\$2.00	15th
Arizona	\$2.00	15th
Arkansas	\$1.15	34th
California	\$2.87	9th
Colorado	\$0.84	38th
Connecticut	\$4.35	1st
Delaware	\$2.10	14th
DC	\$2.50	13th
Florida	\$1.339	30th
Georgia	\$0.37	49th
Hawaii	\$3.20	5th
Idaho	\$0.57	45th
Illinois	\$1.98	20th
Indiana	\$0.995	37th
Iowa	\$1.36	29th
Kansas	\$1.29	32nd
Kentucky	\$0.60	43rd

State	Tax	Rank
Louisiana	\$1.08	35th
Maine	\$2.00	15th
Maryland	\$2.00	15th
Massachusetts	\$3.51	4th
Michigan	\$2.00	15th
Minnesota	\$3.04	7th
Mississippi	\$0.68	39th
Missouri	\$0.17	51st
Montana	\$1.70	23rd
Nebraska	\$0.64	41st
Nevada	\$1.80	21st
New Hampshire	\$1.78	22nd
New Jersey	\$2.70	10th
New Mexico	\$1.66	25th
New York	\$4.35	1st
North Carolina	\$0.45	47th
North Dakota	\$0.44	48th
Ohio	\$1.60	26th

State	Tax	Rank
Oklahoma	\$1.03	36th
Oregon	\$1.33	31st
Pennsylvania	\$2.60	11th
Rhode Island	\$4.25	3rd
South Carolina	\$0.57	45th
South Dakota	\$1.53	27th
Tennessee	\$0.62	42nd
Texas	\$1.41	28th
Utah	\$1.70	23rd
Vermont	\$3.08	6th
Virginia	\$0.30	50th
Washington	\$3.025	8th
West Virginia	\$1.20	33rd
Wisconsin	\$2.52	12th
Wyoming	\$0.60	43rd
Puerto Rico	\$5.10	NA
Guam	\$3.00	NA
Northern Marianas	\$1.75	NA

Table shows all cigarette tax rates in effect as of January 1, 2018. Since 2002, 48 states and the District of Columbia have increased their cigarette tax rates more than 130 times. The states in bold have not increased their tax for at least 10 years (since 2008 or earlier). Currently, 35 states, DC, Puerto Rico, the Northern Marianas, and Guam have cigarette tax rates of \$1.00 per pack or higher; 18 states, DC, Puerto Rico, and Guam have cigarette tax rates of \$2.00 per pack or higher; eight states, Puerto Rico and Guam have cigarette tax rates of \$3.00 per pack or higher; three states and Puerto Rico have cigarette tax rates of \$4.00 per pack or higher; and Puerto Rico has a cigarette tax rate higher than \$5.00. States' average includes DC, but not Puerto Rico, other U.S. territories, or local cigarette taxes. The median tax rate is \$1.60 per pack. AK, MI, MN, MS, TX, and UT also have special taxes or fees on brands of manufacturers not participating in the state tobacco lawsuit settlements (NPMs).

The highest combined state-local tax rate is \$6.16 in Chicago, IL, with New York City second at \$5.85 per pack. Other high state-local rates include Evanston, IL at \$5.48 and Juneau, AK at \$5.00 per pack. For more on local cigarette taxes, see: <http://tobaccofreekids.org/research/factsheets/pdf/0267.pdf>.

Federal cigarette tax is \$1.01 per pack. From the beginning of 1998 through 2002, the major cigarette companies increased the prices they charge by more than \$1.25 per pack (but also instituted aggressive retail-level discounting for competitive purposes and to reduce related consumption declines). In January 2003, Philip Morris instituted a 65-cent per pack price cut for four of its major brands, to replace its retail-level discounting and fight sales losses to discount brands, and R.J. Reynolds followed suit. In the last several years, the major cigarette companies have increased their product prices by almost \$1.00 per pack. **Nationally, estimated smoking-caused health costs and lost productivity totals \$19.16 per pack.**

The weighted average price for a pack of cigarettes nationwide is roughly \$6.32 (including statewide sales taxes but not local cigarette or sales taxes, other than NYC's \$1.50 per pack cigarette tax), with considerable state-to-state differences because of different state tax rates, and different manufacturer, wholesaler, and retailer pricing and discounting practices. AK, DE, MT, NH & OR have no state retail sales tax at all; OK has a state sales tax, but does not apply it to cigarettes; MN & DC apply a per-pack sales tax at the wholesale level; and AL, GA & MO (unlike the rest of the states) do not apply their state sales tax to that portion of retail cigarette prices that represents the state's cigarette excise tax.

Campaign for Tobacco-Free Kids, January 9, 2018 / Ann Boonn

For additional information see the Campaign's website at <https://tobaccofreekids.org/fact-sheets/tobacco-control-policies/tobacco-taxes>. Sources: Orzechowski & Walker, *Tax Burden on Tobacco*, 2016; media reports; state revenue department websites.

in principal." If a final agreement is signed, it will resolve the disputes for enforcement years 2003 to 2012.

Tobacco Payments to Kansas

Kansas received its first tobacco revenues in 1999. In general, payments have been less than originally estimated. In FY 2014, tobacco revenues and interest earnings totaled \$62.4 million. Revenues were estimated to be \$62.0 million in FY 2015.

It is important to note that beginning in FY 2008 revenues include funds from the "Strategic Contribution Fund" provisions of the Master Settlement Agreement. These provisions require the tobacco companies to pay, from 2008 through 2017, a total of \$861 million into the Strategic Contribution Fund. Money from the Strategic Contribution Fund is to be allocated to states based on the percentage each state contributed to the original Master Settlement Agreement. Kansas' share of this amount is 1.85 percent. According to the Kansas Attorney General's Office, it is unclear how the Strategic Contribution Fund payments will be affected by recent actions of the tobacco companies to withhold payments under the agreement while they are disputing the basis of payments to be made.

1999 legislation

KANSAS TOBACCO REVENUES AND INTEREST EARNINGS	
FY 1999	\$ 49,705,586
FY 2000	52,935,158
FY 2001	61,465,211
FY 2002	61,511,858
FY 2003	52,531,729
FY 2004	53,453,765
FY 2005	49,463,355
FY 2006	47,515,501
FY 2007	46,900,000
FY 2008	66,347,833
FY 2009	72,278,198
FY 2010	60,838,465
FY 2011	57,091,087
FY 2012	57,985,065
FY 2013	68,034,311
FY 2014	62,378,062
FY 2015	62,452,849
FY 2016 (est)	59,000,000
FY 2017 (est)	58,000,000

Concern Over Future Payments

The amount of tobacco money the states will receive is affected by several factors, including an overall decrease in tobacco consumption which results in diminished sales of tobacco products and lower payments to states. The market share of tobacco companies that are participating in the settlement also is being reduced by sales of nonparticipating manufacturers, and the possibility exists that one or more of the major participating manufacturers could declare bankruptcy. The most immediate and direct threat to the tobacco revenue stream is a clause in the Master Settlement Agreement that permits participating

STATE GENERAL FUND RECEIPTS
 July-February, FY 2018
 (dollar amounts in thousands)

	Actual FY 2017	FY 2018			Percent change relative to:	
		Estimate*	Actual	Difference	FY 2017	Estimate
Property Tax/Fee:						
Motor Carriers	\$ 7,217	\$ 7,500	\$ 8,158	\$ 658	13.0 %	8.8 %
Income Taxes:						
Individual	\$ 1,464,905	\$ 1,722,000	\$ 1,990,975	\$ 268,975	35.9 %	15.6 %
Corporation	151,917	176,500	166,840	(9,660)	9.8	(5.5)
Financial Inst.	19,403	20,090	21,185	1,095	9.2	5.5
Total	\$ 1,636,225	\$ 1,918,590	\$ 2,179,000	\$ 260,410	33.2 %	13.6 %
Excise Taxes:						
Retail Sales	\$ 1,526,431	\$ 1,568,500	\$ 1,574,803	\$ 6,303	3.2 %	0.4 %
Comp. Use	257,341	273,700	276,072	2,372	7.3	0.9
Cigarette	84,761	82,400	81,021	(1,379)	(4.4)	(1.7)
Tobacco Prod.	5,655	5,720	5,837	117	3.2	2.0
Cereal Malt Bev.	1,072	950	1,043	93	(2.7)	9.8
Liquor Gallonage	12,963	13,720	13,427	(293)	3.6	(2.1)
Liquor Enforce.	47,496	49,400	49,175	(225)	3.5	(0.5)
Liquor Drink	7,233	7,470	7,575	105	4.7	1.4
Corp. Franchise	2,389	2,100	2,103	3	(12.0)	0.1
Severance	23,080	20,620	22,775	2,155	(1.3)	10.5
Gas	6,798	6,790	7,610	820	11.9	12.1
Oil	16,282	13,830	15,165	1,335	(6.9)	9.7
Total	\$ 1,968,421	\$ 2,024,580	\$ 2,033,831	\$ 9,251	3.3 %	0.5 %
Other Taxes:						
Insurance Prem.	\$ 86,311	\$ 84,250	\$ 89,094	\$ 4,844	3.2 %	5.7 %
Miscellaneous	759	1,360	1,555	195	104.9	14.3
Total	\$ 87,070	\$ 85,610	\$ 90,649	\$ 5,039	4.1 %	5.9 %
Total Taxes	\$ 3,698,933	\$ 4,036,280	\$ 4,311,638	\$ 275,358	16.6 %	6.8 %
Other Revenue and Receipts:						
Interest	\$ 16,759	\$ 8,750	\$ 12,054	\$ 3,304	(28.1) %	37.8 %
Transfers (net) and Receipts	34,840	156,590	152,527	(4,063)	337.8	2.6
Agency Earnings and Misc.	52,723	36,040	31,474	(4,566)	(40.3)	(12.7)
Total	\$ 104,322	\$ 201,380	\$ 196,055	\$ (5,325)	87.9 %	(2.6) %
TOTAL RECEIPTS	\$ 3,803,255	\$ 4,237,660	\$ 4,507,693	\$ 270,033	18.5 %	6.4 %

Consensus estimate as of November 2, 2017.

Excludes a Certificate of Indebtedness of \$900 million that must be redeemed prior to the end of the fiscal year.

NOTE: Details may not add to totals due to rounding.



The Impact on Tax-paid Cigarette Sales Along the Kansas-Missouri Border Following the 50-cent Cigarette Excise Tax Increase in Kansas

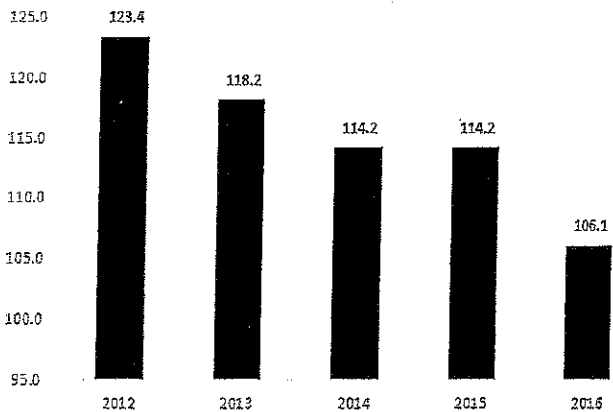
Effective July 1, 2015 (the start of FY2016), Kansas increased its cigarette excise tax by 50-cents per pack, which increased the average price for a pack of cigarettes 10.9% from \$5.67 to \$6.27.

Following the tax increase, the typical decline in tax paid cigarette sales in Kansas accelerated, falling 7.1% in FY2016 compared to FY2015.¹ Some of the largest declines occurred around the Kansas City area. For instance, tax-paid cigarette sales declined 12.1% in Wyandotte County and declined 14.1% in Johnson County. The largest percentage decline in tax-paid sales along the border occurred in Atchison County (-18.8%).

In comparison, total state tax-paid cigarette sales declined a much smaller 1.5% in FY2016 nationally.

Total Kansas Tax Paid Sales

(in millions of packs)

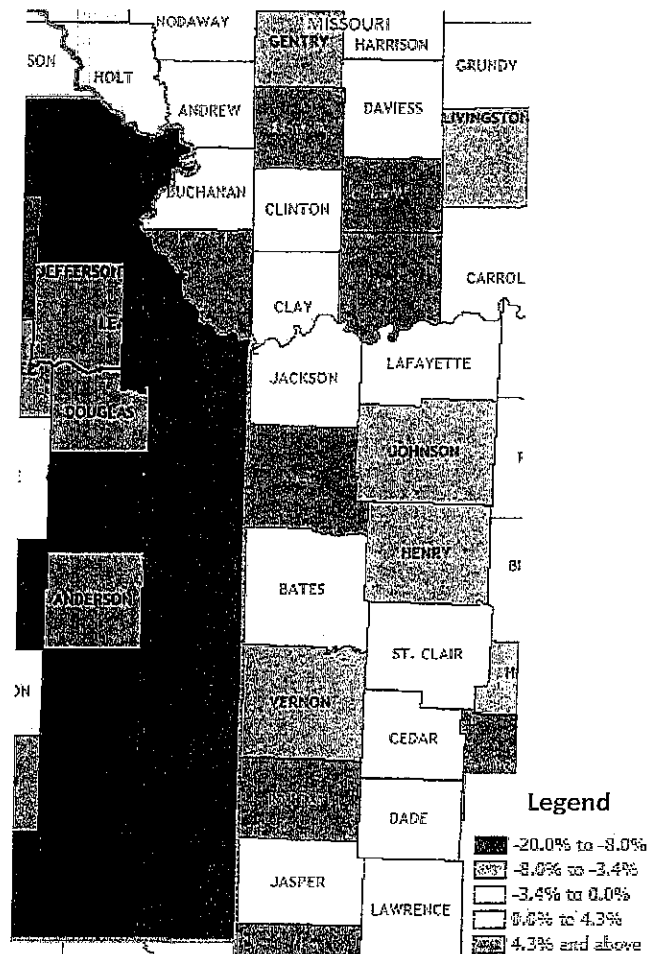


Prior to the tax increase in Kansas, tax-paid sales had been declining 2.4% per year, on average, in Missouri.² Following the 50-cent tax increase in Kansas, tax-paid sales in Missouri increased 2.4%.

The map to the right illustrates the stark differences between the increases in tax-paid sales along the Missouri side of the border and the steep declines in tax-paid sales along the Kansas side of the border following the 50-cent tax increase in Kansas.

Based on the impacts following the 50-cent tax increase in FY2016, further tax increases in Kansas will only worsen the problem of cross border sales.

**Percentage Change in State Tax-paid Sales Along KS-MO Border
FY2015-FY2016**



¹Bill Orzechowski & Rob Walker, *The Tax Burden on Tobacco*, vol. 51 (February 2017); funded in part by Altria Client Services Inc.

²Bill Orzechowski & Rob Walker, *The Tax Burden on Tobacco*, vol. 51 (February 2017); funded in part by Altria Client Services Inc. Average annual decline is calculated based on annual percentage changes between 2012 and 2015.



