

House Committee on Taxation

Kansas Legislature

Topeka, KS

Thursday, February 19, 2015

Hearing on KS HB 2306
A bill to increase the tax on tobacco products.

Prepared Testimony By:
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Good morning ladies and gentlemen of the Kansas House Committee on Taxation. My name is Rich Marianos, and I am senior law enforcement consultant for Reynolds American Inc (RAI).

Let me start by telling you a little about my background. I retired from a 27-year career at the Bureau of Alcohol, Tobacco, Firearms and Explosives as Assistant Director. During my ATF career, I conducted, supervised and oversaw investigations into organized crime, counterterrorism, drug trafficking organizations and violent crime.

My ATF experience also includes the position of Special Agent in Charge of the Washington Field Division, and Deputy Chief of ATF's Special Operations Division.

In addition to my duties at Reynolds, I am also an Adjunct Professor at The George Washington University in Washington DC, where I teach courses in Political Violence and Terrorism. Let me state that if you cannot tell by my background, crime prevention and security are things that I take very seriously.

As you know, Kansas currently enjoys a relatively low cigarette and other tobacco product excise tax rate relative to her border states with the exception of Missouri and Nebraska, where the current cigarette excise tax rates are \$0.17 per pack and \$0.64 per pack respectively. Missouri has the lowest cigarette excise tax in the nation and is a key source of smuggled cigarettes in the Midwest.

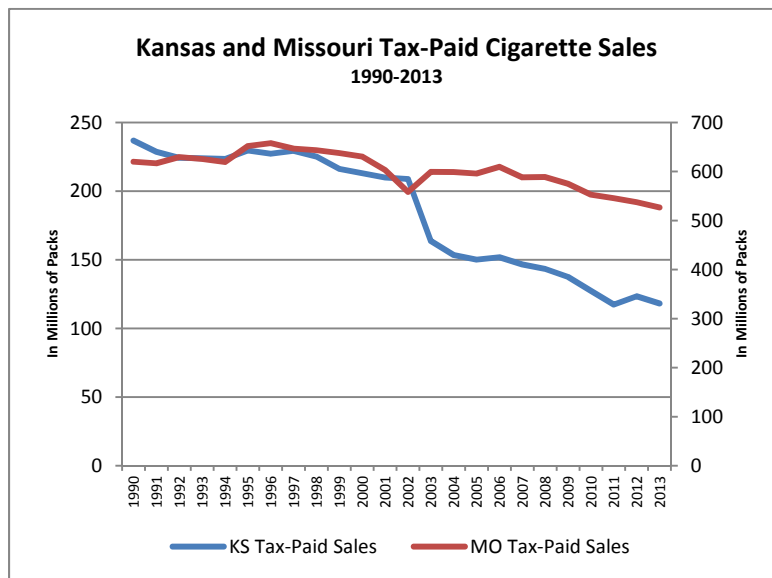
HB 2306 would increase the Kansas cigarette excise tax rate to \$2.29 per pack, a 190% increase that will push the Kansas cigarette tax rate higher than any of her bordering states.

In Kansas, the weighted-average pack price is estimated at \$5.14. With the proposed tax increase, this would rise to \$6.64. Compare that to Missouri's \$4.38, Nebraska's \$5.27 and Colorado's \$5.41 and it's easy to see why smugglers will find selling their illicit products in Kansas so attractive.

These disparities provide huge profit opportunities for criminals. For example, a van smuggling 50 cases of cigarettes (3,000 cartons) from Kansas City, Missouri, to Kansas City, Kansas would have gross profits in excess of \$60,000. The gross profits from a U-Haul on the same route can be 4-times that amount.

Let me give you some background on exactly what the Kansas cigarette market looks like.

Tax-paid sales data suggest that after the Kansas cigarette tax increases of 2002 and 2003, cigarette volume dropped precipitously and has been declining ever since. Tax paid volume fell by



roughly 55.3 million packs between 2002 and 2004. Over the same period, Missouri experienced a tax-paid cigarette volume increase of 40.5 million packs. Kansas per-capita cigarette sales declined 21.2 packs while Missouri per-capita sales increased 5.8 packs. It is clear that Missouri benefited from Kansas'

cigarette tax increases of 2002 and 2003 and that benefit likely still extends to today. A Kansas cigarette excise tax increase of this magnitude will only exacerbate the problem.

[A Mackinac Center for Public Policy study](#) based on 2013 data estimates that roughly 14.95 percent of the cigarettes consumed in Kansas are potentially being exported from other states. The Center also predicts that if the proposed \$1.50-per-pack tax increase is adopted, Kansas legal cigarette sales would drop by 37 percent while the percentage of cigarettes smuggled into the state would **triple**.

With the influx of commercially smuggled product from nefarious entities comes an increase in violent crime. Those who participate in large-scale cigarette smuggling are often involved with other forms of illicit activity involving drugs, guns and even human trafficking. Last year, the state of Rhode Island realized that the movement of illicit cigarettes into their state has resulted in an increase in violent criminals traveling to the state to sell illicit product from Virginia and other lower-tax jurisdictions. Rhode Island lawmakers have taken a firm stand against cigarette smuggling in an effort to thwart the surge in violent criminals entering the state. Kansas should learn from Rhode Island's experience and make sure addressing cigarette smuggling is a priority for the state.

And let me be clear, those who smuggle cigarettes from other states do not age-verify those purchasing their illicit product. This could place Kansas' youth in a precarious position and could jeopardize the efforts to date to prevent Kansas' youth from smoking.

I strongly urge the committee to study what is occurring with regard to cross border cigarette sales among states with differing tax rates, enforcement and the operational needs of the distribution community.

I urge the members of this committee, and the legislature as a whole, to consider the unintended consequences that a cigarette tax increase will have on cigarette smuggling and other illicit activities.

Thank you for your time and attention.