PMCA
of Kansas

Memorandum:

To: Senate Assessment and Taxation Committee
From: Thomas M. Palace, Executive Director
Petroleum Marketers and Convenience Store Association of Kansas
Date: March 24, 2015
Re: SB 233

Mr. Chairman and members of the Senate Assessment and 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 360 independent petroleum marketers and convenience store retailer throughout Kansas.

I appreciate the opportunity to appear before you to offer testimony in opposition to SB 233.

Convenience store owners in Kansas who compete with bordering states will be at a tremendous competitive disadvantage if SB 233 were to become law. It is interesting to note that although tobacco has been deemed bad, the state of Kansas and the convenience store industry have a common bond with tobacco. Both rely on the revenues from the sale of cigarettes to meet budget demands. Today's 79¢ per pack has Kansas retailers at a competitive disadvantage with our neighboring state, Missouri. Missouri has the lowest tobacco tax in the United States at 17¢ per pack. Oklahoma's tax is $1.03, Nebraska 64¢ and Colorado 84¢. Today tobacco retailers feel they can compete with other states at the current tax rate. With the proposed change the new tax rate will rank Kansas 11th in the country with the highest TAX RATE. The $1.50 proposed tax hike represents 190% increase in the tax rate on mostly middle and lower income class consumers and will negatively impact every tobacco retailer on Kansas borders by pushing the smoking consumer into neighboring states, to the reservations or online.

Although not as dramatic as the cigarette environment, the tax increase for Other Tobacco Products (OTP) is disturbing as well. The Governor's proposal would be a 150% increase on the current 10% ad valorem levy. The same cross-border issues experienced on the Missouri border with cigarettes would exist for smokeless tobacco products.

Reports indicate tobacco smuggling would triple and nearly half the cigarettes used in Kansas would be illicit, if the Legislature approves Gov. Brownback's request for a $1.50-a-pack tax increase, according to data released Monday by a Michigan research group. The tax increase would raise the smuggling rate in Kansas from about 15% of cigarettes consumed to 46.5%, according to the estimate from the Mackinac Center for Public Policy, a free-market-oriented think tank that annually researches cigarette smuggling in conjunction with the Tax Foundation, a Washington-based tax policy research organization.

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A pack-a-day smoker would end up **paying an extra $547.50 in taxes** a year. Kansans living along the Missouri border may opt to avoid the tax altogether by purchasing their tobacco products in Missouri – where the tax is lower. If consumers flock to businesses across state lines, they may make other purchases while shopping for tobacco – hurting the bottom lines of Kansas retailers.

Tobacco sales and gas sales are the "bread and butter" of the convenience store industry. Consumers usually stop at a convenience store because service is quick and the customer can be in and out of the store in less than 1 minute. Cigarette sales are an important product for convenience stores, not only because cigarette sales make up approximately 31% of gross sales, but also because these sales lead to other sales such as pop, coffee, sandwiches, etc. 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.

Over the past few years tobacco increases have been proposed in the legislature as a way to STOP people from smoking. If this is true, how can the state rely on tobacco revenue to fund new government programs? How will the money the state receives from the MSA be impacted? I would assume the state will see a reduction should tobacco sales decline. Also, Internet sales will become a factor. It is a sure bet that with an increase in cigarette taxes, the consumer will be motivated to use the Internet in ever-increasing numbers to purchase tobacco products.
As a note of interest I accessed the Internet to look for sites that sell tobacco products. I found 18 sites that sell tobacco at discounted prices. I printed out one site for your review.

Clearly smokers have options when it comes to purchasing cigarettes. The tax increase provided in SB 233 will surely change buying habits once again. And it appears the surrounding states and the Internet may be the benefactors.

Mr. Chairman, competition in the convenience store industry is fierce. Add a $1.50 tax increase on cigarettes, and not only will the retail marketers be affected, but the state will lose revenue as well.

Attached you will find a letter sent to all legislators from Grover Norquist, president of Americans for Tax Reform opposing the tax increase and a sample page of an online store to purchase tax free cigarettes.

Thank you.

STATE EXCISE TAX RATES ON CIGARETTES

(January 1, 2015)

STATE	TAX RATE (¢ per pack)	RANK	STATE	TAX RATE (¢ per pack)	RANK
Alabama (a)	42.5	47	Nebraska	64	38
Alaska	200	12	Nevada	80	35
Arizona	200	12	New Hampshire	178	18
Arkansas	115	30	New Jersey	270	9
California	87	33	New Mexico	166	21
Colorado	84	34	New York (a)	435	1
Connecticut	340	4	North Carolina	45	45
Delaware	160	22	North Dakota	44	46
Florida (b)	133.9	27	Ohio	125	29
Georgia	37	48	Oklahoma	103	31
Hawaii	320	5	Oregon (e)	131	28
Idaho	57	42	Pennsylvania	160	22
Illinois (a)	198	17	Rhode Island	350	3
Indiana	99.5	32	South Carolina	57	42
Iowa	136	26	South Dakota	153	24
Kansas	79	36	Tennessee (a)	62	39
Kentucky (c)	60	40	Texas	141	25
Louisiana	36	49	Utah	170	19
Maine	200	12	Vermont	275	8
Maryland	200	12	Virginia (a)	30	50
Massachusetts	351	2	Washington	302.5	6
Michigan	200	12	West Virginia	55	44
Minnesota (d)	290	7	Wisconsin	252	10
Mississippi	68	37	Wyoming	60	40
Missouri (a)	17	51			
Montana	170	19	Dist. of Columbia (f)	250	11
			U. S. Median	136.0	

Source: Compiled by FTA from state sources.

(a) Counties and cities may impose an additional tax on a pack of cigarettes: in Alabama, 1¢ to 25¢; Illinois, 10¢ to \$4.18; Missouri, 4¢ to 7¢; New York City, \$1.50; Tennessee, 1¢; and Virginia, 2¢ to 15¢.

(b) Florida's rate includes a surcharge of \$1 per pack.

(c) Dealers pay an additional enforcement and administrative fee of 0.1¢ per pack in Kentucky and 0.05¢ in Tennessee.

(d) In addition, Minnesota imposes an in lieu cigarette sales tax determined annually by the Department. The current rate is 52.6¢ through December 31, 2015.

(e) Tax rate in Oregon is scheduled to increase to \$1.32 per pack January 1, 2016

(f) In addition, District of Columbia imposes an in lieu cigarette sales tax calculated every March 31. The curent rate is 40¢.

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Dear Legislator,

I write to you today in opposition to Governor Brownback's proposal to increase taxes on tobacco and alcohol products contained in his budget. Increasing the sate cigarette tax from 79-cents to $2.29 per pack represents a 190% increase in the tax rate on mostly middle and lower class consumers. Increasing the state tax on liquor from 8% to 12% would have a detrimental impact on many of Kansas's small businesses who are reliant on liquor revenue – small businesses that the 2012 and 2013 tax reform legislation was designed to help and grow.

The fact is, so called "sin taxes" like the cigarette tax and alcohol tax disproportionately impact consumers who can afford the tax increase least. A pack-a-day smoker would end up paying an extra $547.50 in taxes a year. Kansans living along the Missouri border may opt to avoid the tax altogether by purchasing their tobacco products in Missouri – where the tax would be lower. If consumers flock to businesses across state lines, they may make other purchases while shopping for tobacco – hurting the bottom lines of Kansas retailers.

Additionally, banking on "sin taxes" as a means of stabilizing state revenue is a dangerous strategy as more often than not, they prove to be declining sources of revenue. John Barnes, writing for the Washington Policy Center, noted Washington State's disastrous experiment of relying on "sin taxes" for a 12% increase in state spending. Barnes notes: "But actual collections under I-773 have been $2.5 million less than expected. Cigarette sales decline about 1% or 2% each year. Raising the tax pushes consumers to seek cigarettes out of state or from Indian reservations, or it cuts how much they buy. The state Department of Revenue estimated $220 million in lost revenue in 2003 due to people buying cigarettes via semi-illicit or downright illegal means."

States should aim to increase spending at the rate of inflation and population growth. Using those metrics Kansas has over-spent by about $12 billion between 2000 and 2009. That's an over one-billion-dollars-per-year overspending problem. That data point alone should put to rest any claims that there is no room to cut from the state budget.

Rather than rely on regressive and unstable sources of revenue like cigarette and alcohol taxes, I would encourage you to consider solutions like those proposed by the Kansas Policy Institute and their 5-year state budget plan. Under KPI's calculations, state spending could increase at a reasonable but constrained rate while continuing to implement the 2012 and 2013 tax reforms as written in statute, not raising taxes, and producing healthy ending balances.

Unpredictable and unstable revenues are not the solution for Kansas. A comprehensive budget plan that reforms state spending and eliminates waste – much like that proposed by KPI – is what Kansas needs.

Onward,

Grover G. Norquist
President

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Doral Filter Lights 100s cigarettes soft box US$28.00

Craven A Menthol 30 cigarettes US$31.00

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Winston Filters 25 cigarettes hard box US$28.00	Camel Collectors Packs 4 Filters cigaret... US$27.00	Marlboro 29 cigarettes hard box US$26.00	Mild Seven Lights cigarettes soft box US$23.50	Newport 25s Menthol 100s cigarettes soft... US$31.00
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