MEMO TO:	House Taxation Committee
FROM:	Thomas M. Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas
DATE:	February 7, 2017
RE:	HB 2237

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 360 independent petroleum marketers and convenience store retailer throughout Kansas.

I appreciate the opportunity to offer testimony in opposition to HB 2237.

I realize HB 2237 does more than increase motor fuel taxes but today my testimony only focuses on Section 22 of the bill.

PMCA does not support the fuel tax increase in HB 2237. In fact, on the contrary, we believe the fuel tax should be lowered. If the Kansas Legislature can approve sweeping over $2 billion dollars out of KDOT and continue new projects as well as maintain highways…we are paying more than enough in fuel excise taxes.

The increase in motor fuel taxes is one of several tax increases that the Kansas Legislature is considering that will have a direct impact on the consumer and convenience store retailers in Kansas. Tobacco (both cigarettes and other tobacco products) account for 35% of a convenience stores gross inside sales and retailers are feeling the pain of lost sales along the border from the 2015 $.50 tax increase. Motor fuel is 60-65% of gross sales. Obviously, motor fuel and tobacco are key products for retailers. Also, selling tobacco and motor fuel spur ancillary sales as well…coffee, sandwiches, lottery tickets; bring in added revenue for the retailer but also the State of Kansas.

For retailers that compete on the border, we will see further deterioration of their customer base if these taxes are approved and Kansas will lose on lost sales tax.

Convenience store owners in Kansas who compete with bordering states are already at a competitive disadvantage due to the disparity of the excise tax rates.

KS	$.253 (gas)	$.273 (diesel)
NE	$.265	$.259
MO	$.173	$.173
CO	$.22	$.205
OK	$.170	$.140

If HB 2237 passes Kansas will have the highest tax rate of all 4 contiguous states.

MO	$.19 advantage on gas	$.21 advantage on diesel tax
NE	$.09	$.11
CO	$.14	$.18
OK	$.19	$.24

(Includes environmental and inspection fees)

As you can see three out of the four contiguous states have lower fuel tax than Kansas. Nebraska being the lone exception. However, if the Kansas Legislature approves HB 2237 Kansas will have the highest fuel tax when compared to surrounding states.

I have also included with my testimony a state-by-state comparison of fuel tax rates for your review.

Fuel retailers and distributors collect **over $400 million annually in motor fuel tax**.

Consumers buy fuel based on price. The National Association of Convenience Stores has reported that consumers are more sensitive to gas prices than other top economic concerns. Consumers will change their behavior to save a few cents per gallon. In fact, it would not be uncommon for a person to drive 5-7 miles out of their way to save 2 cents per gallon. Price is the deciding factor where consumers purchase fuel. If people are willing to drive 5-7 miles out of their way to save 2 cents per gallon, it is a pretty good guess that driving 10-15 miles (or more) out of their way to save 20 cents (MO & OK) cents per gallon makes sense.

What One Retailer Did

It is no secret that there is a tax disparity for retailers that compete on the border. Not too long ago (2010) a Kansas retailer decided to change its street address to a Missouri address. I am referring to the actions taken by the QuikTrip Corporation. QuikTrip moved a store in Kansas City, Kansas 100 feet to the east so that it would have a Missouri address – at a cost of $3.4 million. The loss to Kansas was estimated to be $1.4 million in state and local taxes. The $1.4 million is a financial loss that Kansas cannot afford. I would venture a guess that if more Kansas convenience store retailers had the corporate backing to be able to do the same thing QuikTrip did, they would give serious consideration to a similar move.

When fuel prices increase so do credit card processing costs…***and unlike the state or local government, we cannot pass on the fees to the consumer*****.** Today 70% of fuel sales are paid by debit or credit card. Credit card fees account for the highest expense item on a P &L, for a convenience store just below employee costs. And on top of the current discount points that are paid per transaction retailers are now required to be EMV compliant. **EMV** stands for **Europay, MasterCard and Visa.** This more secure credit card technology, which has long been used throughout Europe, recognizes unique microchips embedded in credit and debit cards and validates their legitimacy, potentially cutting down on card fraud. Beginning October 1, 2015, U.S. retailers who have not installed EMV-capable payment terminals will be held liable for fraud resulting from transactions at their locations. On October 1, 2020, fuel retailers will be required to have the chip card available at the pump. Retailers that are branded MUST comply with this extremely expensive approach to accepting credit cards.

Mr. Chairman, the tax increases being proposed by HB 2237 will have a negative impact on all convenience stores that try to compete on the border. Retailers are still feeling the effects from the tobacco and sales tax increases levied in 2015 (lost sales). Increasing motor fuel taxes as well as the potential of another tobacco tax could be the deciding factors for small business owners…can I continue to stay in business or not? Consumers won't change what they buy; they will change where they buy; they will simply find a cheaper way to purchase their goods. More specifically, retailers who compete along the border are hit the hardest when tax increases in their home state are passed. They watch the exodus of their customers cross the state line without the wherewithal to do anything about the cost disparity. They simply can't lower their prices enough to be competitive.

The tax increases proposed by the governor (and others) are excellent **economic development for our neighboring states!**

Thank you.