



January 31, 2017

Memorandum:

To: The Senate Assessment and Taxation Committee  
From: Thomas M. Palace Executive Director PMCA of Kansas  
Re: Testimony opposing SB 96

Mr. Chairman and Members of the Senate Assessment and Taxation Committee:

My name is Tom Palace. I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), a statewide trade association representing over 300 independent Kansas petroleum distribution companies and convenience store owners throughout Kansas.

**PMCA Opposes SB 96.**

SB 96 appears to be going after counterfeit cigarettes. PMCA has no problem with halting this process. In fact, we support those efforts. However, I work with a group of people from various agencies; KDHE, KDOR/ABC and others and we have not discussed the proliferation of counterfeit cigarettes! We have not been advised that Kansas is being inundated with counterfeit cigarettes...but I do understand the potential for problems associated with counterfeit/contraband cigarettes especially with the governors recent \$1.00 tax increase on cigarettes.

New section 1 states; “notwithstanding any other provision in this act, any person who purchases, possesses, uses or consumes more than 400 cigarettes in this state without the required tax indicia being affixed as herein provided shall be liable for the tax imposed by this act.” If I am correct that means ONLY the retailer is going to be cited and not the consumer because the retailer is purchasing the product from a distributor. Tobacco retailers will be required to be the enforcement agent.

I have some other concerns with SB 96:

- Wholesalers and Distributors affix the tax stamps on packs of cigarettes that are sold to tobacco retailers. SB 96 only hold the retailer liable if one carton or pack is missing the tax stamp. Why is the retailer the only entity being fined?
- Section 14, the language here indicates that the director can seize counterfeit/contraband cigarettes. Will they only seize the counterfeit cigarettes or will they seize the entire case that may include properly stamped cigarette packages?
- We would recommend some type of graduated scale for fines and would be happy to work with the department on our ideas.

Convenience stores sell age restricted products and as such they take compliance very seriously. This bill gives NO credit to a retailer that has had a good compliance track record. They would be penalized just like the retailer that has had 5-6 infractions (selling to minors). There is no delineation between a store that works hard at compliance and one that doesn't. Convenience stores hire lots of responsible Kansans

**Petroleum Marketers and Convenience Store Association of Kansas**

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and unfortunately the human element will make a mistake from time-to-time and in the regulatory world that means loss of a job and a hefty fine to the business.

On a positive note, tobacco retailers in Kansas have a 91.3% compliance rate that is well above the 80% compliance rate set at the federal level

PMCA represents most of the tobacco retailers in Kansas. We do not support the sale of counterfeit/contraband cigarettes. We support efforts to fix this problem. But SB 96 goes much further than counterfeit/contraband cigarettes. If Kansas has a problem, we would like to have a hand in developing a solution

I urge the committee to oppose this bill.