



MEMO TO: Senate Assessment and Taxation Committee  
FROM: Thomas M. Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas  
DATE: February 14, 2017  
RE: SB 175 Proposed Tax Increases

Madam Chairwomen 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 300 independent petroleum marketers and convenience store retailers throughout Kansas.

I appreciate the opportunity to offer comments regarding the governor's proposed tax increases for tobacco and other tobacco products.

To say that we are upset that convenience stores are once again the target for tax increases in an understatement. The tax increases approved by the Kansas Legislature in 2015 have 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%. Now the governor is coming back for more and he wants to add another \$1.00 per pack on cigarettes. Also, included in his proposal he has included an increased tax for "other tobacco products (double the tax 10% to 20%) (smokeless tobacco).

Convenience store owners in Kansas who compete with bordering states will be at a tremendous competitive disadvantage if the legislature passes the tax increases listed above. 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. The current price for cigarettes at \$1.29 cent per pack has Kansas retailers at a competitive disadvantage with our neighboring state, Missouri. And the additional increase only exacerbates the problem. 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. With the proposed change the new tax rate will rank Kansas 7<sup>th</sup> in the country with the highest tax rate.

Tobacco sales at convenience stores account for 32% of gross inside store sales...the number one 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 prepared by Altria that illustrates the decline in sales in KS and increased sales in MO.

Petroleum Marketers and Convenience Store Association of Kansas

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Senate Assessment and Taxation  
Date 2-13-17  
Attachment # 14-1

Raising tobacco excise taxes provides an uncertain revenue source. The Tax Facts booklet provided by the Kansas Legislative Research Department validates that tobacco revenues have declined since 2013. The only reason the revenues went up in 2016 was due to inventory tax.  
**(See chart)**

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 store 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.

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 have become a factor. It is a sure bet that with an increase in cigarette taxes, the consumer will be motivated to use the Internet to purchase tobacco products, in ever-increasing numbers.

Clearly smokers have options when it comes to purchasing cigarettes. The tax increases proposed by the governor 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 1015 increase had on Kansas retailers and a web site that smokers can access for tax free cigarettes.

Madam Chairwomen, the tax increases listed in SB 175 are excellent economic development for our neighboring states!

Thank You!

*TAX  
FACTS*

## COMBINED STATE AND LOCAL TAX REVENUE

Kansas state and local government net tax revenue totaled \$13.719 billion in FY 2016. Following are the tax levies or collections, combining state and local tax revenue, in descending order of magnitude for FY 2016.

**Table 1**  
**Kansas State and Local Taxes**  
(In Thousands)

	FY 2013	FY 2014	FY 2015	FY 2016	Percent of FY 2016 Total	Percent Change from FY 2015
General Property (a)	\$ 4,229,149	\$ 4,300,213	\$ 4,389,000	\$ 4,577,497	33.37 %	4.29 %
Sales and Use (b)	3,828,962	3,974,609	4,098,000	4,317,247	31.47	5.35
Income and Privilege	3,359,986	2,685,378	2,760,809	2,664,938	19.43	(3.47)
Motor Fuels	415,352	441,841	439,558	450,800	3.29	2.56
Various Vehicle (a) (c)	360,854	375,538	381,951	398,261	2.90	4.27
Unemployment Comp.	425,462	406,639	415,717	339,928	2.48	(18.23)
Insurance Premiums	174,531	198,356	211,765	298,979	2.18	41.18
Vehicle Registration	221,664	228,625	238,017	237,512	1.73	(0.21)
Cigarette and Tobacco	98,985	97,813	96,303	146,552	1.07	52.18
Liquor and Beer	121,318	126,861	132,251	133,612	0.97	1.03
Transient Guest	36,010	39,749	42,746	46,074	0.34	7.79
Severance	122,895	151,082	121,257	40,423	0.29	(66.66)
Mortgage Registration	47,842	46,272	39,901	40,214	0.29	0.78
Motor Carrier Property	28,855	35,708	11,145	11,376	0.08	2.07
Corporation Franchise	(4,167)	6,632	7,287	6,884	0.05	(5.53)
Intangibles (a)	2,170	2,129	1,821	1,677	0.01	(7.91)
Estate/Inheritance	(77)	136	0	10	0.00	--
All Other (d)	8,686	8,528	7,299	7,087	0.05	(2.90)
<b>Total</b>	<b>\$ 13,478,477</b>	<b>\$ 13,126,109</b>	<b>\$ 13,394,827</b>	<b>\$ 13,719,071</b>	<b>100.00 %</b>	<b>2.42 %</b>

(a) Taxes levied for collection during the fiscal year (b) Includes state, county, city, municipal university, and other special district sales and use taxes.

(c) Includes motor vehicle, recreational vehicle, 16M and 20M "tagged" vehicles, and rental car excise taxes.

(d) Total revenue from nine taxes, the largest of which for FY 2016 was the clean water drinking tax at \$2.790 million.

### State and Local Tax Structure – Overview

Kansas has had a broad-based state and local tax structure since the 1930s when income, sales, and other taxes were adopted. The broadening continued—at least through the 1980s—with the adoption of various privilege, gross receipts, and severance taxes. One result of these changes is that the general property tax, while still by far the most important tax source for local governments, now is far less significant in terms of the overall state and local tax mix.

The 1992 school finance law substantially altered school district property taxes. In 1991, school district general fund property tax levies ranged from 9.12 mills (Burlington) to 97.69 mills (Parsons). The 1992 law established a uniform general fund mill levy rate of 32 mills for 1992, 33 mills for 1993, and 35 mills for 1994 and thereafter. Beginning in 1997, the Legislature provided major reductions in the general fund levy—which currently is set at 20 mills—in addition to an exemption from that levy for the first \$20,000 of a residential parcel's valuation.



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

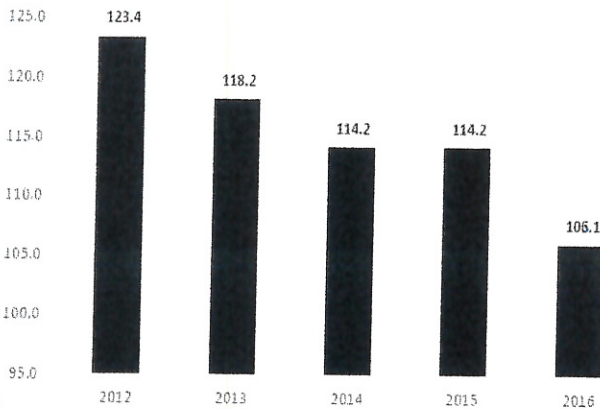
Effective July 1, 2015 (the start of FY2016), Kansas increased its cigarette excise tax by 50-cents per pack, which increased the average price for a pack of cigarettes 10.9% from \$5.67 to \$6.27.

Following the tax increase, the typical decline in tax paid cigarette sales in Kansas accelerated, falling 7.1% in FY2016 compared to FY2015.<sup>1</sup> 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 occurred in Atchison County (-18.8%).

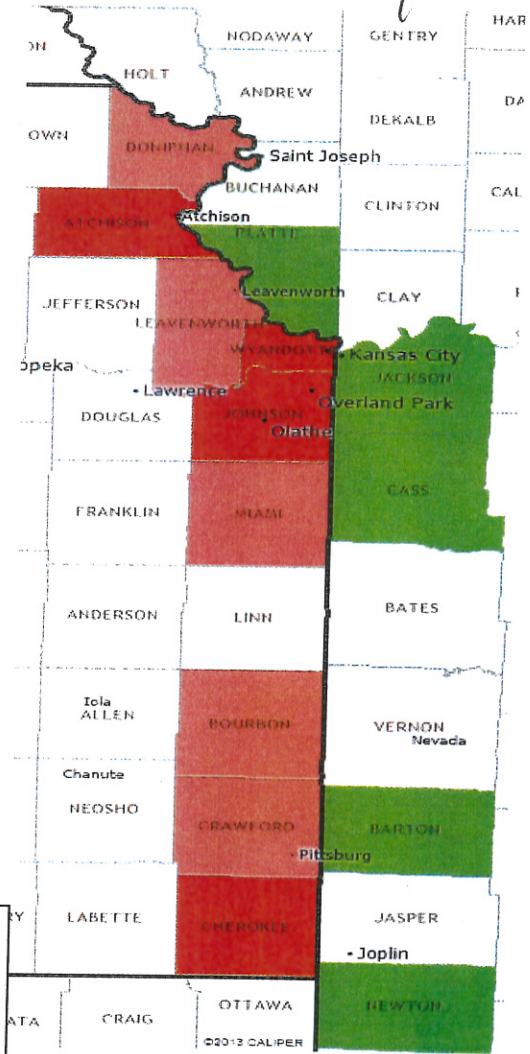
In comparison, total state tax-paid cigarette sales declined a much smaller 1.5% in FY2016 nationally.

*12.1% Wyandotte  
14.1% Johnson  
18.8% Atchison*

**Total Kansas Tax Paid Sales**  
(in millions of packs)



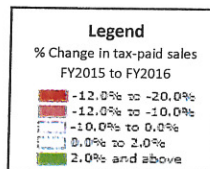
**Percentage Change in State Tax-paid Sales Along KS-MO Border**  
FY2015-FY2016



Prior to the tax increase in Kansas, tax-paid sales had been declining 2.4% per year, on average, in Missouri.<sup>2</sup> 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.



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

<sup>2</sup>Bill 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.





## STATE CIGARETTE EXCISE TAX RATES & RANKINGS

Overall All States' Average: \$1.69 per pack  
 Major Tobacco States' Average: 48.5 cents per pack  
 Other States' Average: \$1.85 per pack

State	Tax	Rank
Alabama	\$0.675	40th
<b>Alaska</b>	<b>\$2.00</b>	<b>14th</b>
<b>Arizona</b>	<b>\$2.00</b>	<b>14th</b>
Arkansas	\$1.15	34th
California	\$2.87	9th
<b>Colorado</b>	<b>\$0.84</b>	<b>38th</b>
Connecticut	\$3.90	2nd
Delaware	\$1.60	25th
DC	\$2.50	13th
Florida	\$1.339	30th
<b>Georgia</b>	<b>\$0.37</b>	<b>49th</b>
Hawaii	\$3.20	5th
<b>Idaho</b>	<b>\$0.57</b>	<b>45th</b>
Illinois	\$1.98	19th
<b>Indiana</b>	<b>\$0.995</b>	<b>37th</b>
<b>Iowa</b>	<b>\$1.36</b>	<b>29th</b>
Kansas	\$1.29	32nd
Kentucky	\$0.60	43rd

State	Tax	Rank
Louisiana	\$1.08	35th
<b>Maine</b>	<b>\$2.00</b>	<b>14th</b>
Maryland	\$2.00	14th
Massachusetts	\$3.51	4th
<b>Michigan</b>	<b>\$2.00</b>	<b>14th</b>
Minnesota	\$3.04	7th
Mississippi	\$0.68	39th
<b>Missouri</b>	<b>\$0.17</b>	<b>51st</b>
<b>Montana</b>	<b>\$1.70</b>	<b>22nd</b>
<b>Nebraska</b>	<b>\$0.64</b>	<b>41st</b>
Nevada	\$1.80	20th
New Hampshire	\$1.78	21st
New Jersey	\$2.70	10th
New Mexico	\$1.66	24th
New York	\$4.35	1st
North Carolina	\$0.45	47th
<b>North Dakota</b>	<b>\$0.44</b>	<b>48th</b>
Ohio	\$1.60	25th

State	Tax	Rank
<b>Oklahoma</b>	<b>\$1.03</b>	<b>36th</b>
Oregon	\$1.32	31st
Pennsylvania	\$2.60	11th
Rhode Island	\$3.75	3rd
South Carolina	\$0.57	45th
<b>South Dakota</b>	<b>\$1.53</b>	<b>27th</b>
<b>Tennessee</b>	<b>\$0.62</b>	<b>42nd</b>
<b>Texas</b>	<b>\$1.41</b>	<b>28th</b>
Utah	\$1.70	22nd
Vermont	\$3.08	6th
<b>Virginia</b>	<b>\$0.30</b>	<b>50th</b>
Washington	\$3.025	8th
West Virginia	\$1.20	33rd
Wisconsin	\$2.52	12th
<b>Wyoming</b>	<b>\$0.60</b>	<b>43rd</b>
Puerto Rico	\$3.40	NA
Guam	\$3.00	NA
Northern Marianas	\$1.75	NA

Table shows all cigarette tax rates in effect as of April 1, 2017 (CA effective 4/1/17). Since 2002, 48 states and the District of Columbia have increased their cigarette tax rates 128 times. The states in bold have not increased their tax for at least 10 years (since 2007 or earlier). Currently, 35 states, DC, Puerto Rico, the Northern Marianas, and Guam have cigarette tax rates of \$1.00 per pack or higher; 17 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; and one state (NY) has a cigarette tax rate more than \$4.00 per pack. Tobacco states are KY, VA, NC, SC, GA, and TN. 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 \$6.16 (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 3, 2017 / Ann Boonn*

For additional information see the Campaign's website at [http://www.tobaccofreekids.org/what\\_we\\_do/state\\_local/taxes/](http://www.tobaccofreekids.org/what_we_do/state_local/taxes/).

Sources: Orzechowski & Walker, *Tax Burden on Tobacco*, 2015; media reports; state revenue department websites.



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# Kansas Will Lose Money to Neighboring States from a Cigarette Excise Tax Increase

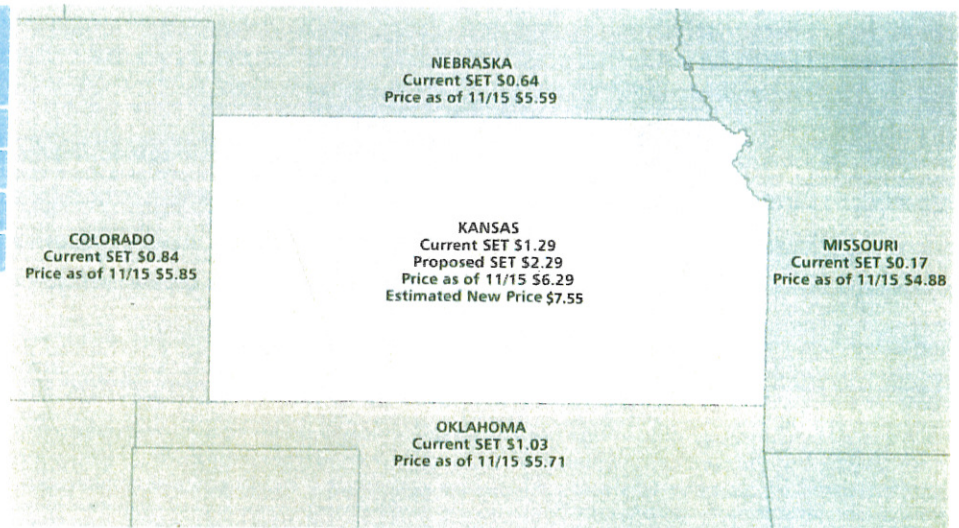
**A cigarette excise tax increase would raise pack prices and encourage adult smokers to make purchases in states with lower taxes. Lost sales means lost revenues for the Kansas government.**

The proposed \$1.00 cigarette excise tax increase will cause cigarette packs to be more expensive in Kansas when compared to its neighbors. The current average price per pack in Kansas is \$6.29.<sup>1</sup> If this tax increase were implemented, the average price would jump to \$7.55 per pack.<sup>2</sup>

Adult smokers in Kansas could save \$2.68 per pack or \$978 annually by purchasing cigarettes in Missouri where the average price is only \$4.88 per pack.<sup>3</sup>

## Potential Annual Savings for Pack-a-Day Adult Smoker across Kansas's Borders

Neighboring States	Estimated Annual Savings
Missouri	\$978
Nebraska	\$715
Oklahoma	\$674
Colorado	\$621



As adult smokers shift purchases to other states, the government will collect less revenue than expected from a cigarette tax increase.

Combined with the fact that tax-paid cigarette sales are on the decline, cross-border sales will further destabilize this revenue stream.

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

<sup>2</sup> The resulting price in Kansas has been estimated by adding the \$1.00 tax increase, the resulting increase in the sales tax per pack and including an estimated 16.2% trade margin. The estimated trade margin is based on National Association of Convenience Stores (NACS), NACS State of the Industry Report – 2015, National Association of Convenience Stores.

<sup>3</sup> Numbers may not add due to rounding.