



February 15, 2013

Dear Senator/Representative:

We are writing to express our strong opposition to legislation that would exempt many cigars from regulation under the Family Smoking Prevention and Tobacco Control Act, P.L. 111-31. We believe the Food and Drug Administration (FDA) should retain the authority to regulate all tobacco products, including cigars. Products containing tobacco cause death and disease, and no tobacco products should be exempted from oversight by the agency.

While the health risks of cigar smoking are not the same as cigarette smoking, cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke. According to the National Cancer Institute, cigar smoking causes cancer of the oral cavity, larynx, esophagus and lung, and cigar smokers are at increased risk for an aortic aneurysm. Daily cigar smokers, particularly those who inhale, have an increased risk of heart disease and chronic obstructive pulmonary disease (COPD). Cigar smoking is not limited to adults; it is the second most common form of tobacco use among youth. According to national surveys, 17.8 percent of high school boys currently smoke cigars (i.e., large cigars, cigarillos, and small cigars), and each day more than 3,000 kids under 18 years old try cigar smoking for the first time. Young adults (e.g., 15.9 percent of 18 to 24 year olds) are also much more likely to be cigar smokers than older adults (e.g., 4.9 percent of 45 to 64 year olds).

With strong bipartisan support, Congress gave FDA authority over the manufacture, sale and marketing of all tobacco products, including cigars, in 2009. The statute explicitly defines tobacco products as “any

product made or derived from tobacco that is intended for human consumption ...” and cigars clearly fall under this definition.

Congress appropriately gave the FDA the flexibility to determine the type of regulation that is appropriate for different tobacco products. While the Act immediately applied all of FDA’s new authorities to cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco, it established a process for the Secretary of Health and Human Services to assert jurisdiction over other tobacco products, including cigars, and determine which requirements are appropriate for the protection of public health.

FDA has indicated that it intends to propose a rule in April that deems all tobacco products, including cigars, subject to Chapter IX of the Federal Food, Drug, and Cosmetic Act (FDCA), but it has not indicated which specific provisions or regulations will apply to cigars. Congress should not now reverse course and exempt cigars, or certain types of cigars, from oversight. Maintaining FDA’s current authority will ensure that any proposal about cigars is based on science and will be open to participation by all interested parties through Notice and Comment rulemaking.

Legislation introduced in the previous Congress (S. 1461/H.R. 1639) would have prohibited FDA from promulgating any regulations involving certain types of cigars regardless of how significant the benefit to public health or how minimal the cost to cigar manufacturers or retailers. Our organizations were particularly concerned about the wide range of products that would likely have been exempted from any regulation under that bill, including Swisher Sweets Sweet Chocolate Blunts, Phillies Sugarillos Cigarillos (described on the box as “when sweet isn’t enough!”), White Owl grape Blunts Xtra, and Optimo peach Blunts. These products come in flavors and are among the most popular with youth.

Our organizations strongly urge you to oppose any legislation introduced this Congress that would exempt certain types of cigars from oversight.

Sincerely,

American Cancer Society Cancer Action Network
American Lung Association
American Academy of Family Physicians
American Academy of Pediatrics
American Association for Respiratory Care
American Medical Association
American Public Health Association
American Society of Clinical Oncology
Association of State and Territorial Health Officials
Cancer Prevention and Treatment Fund
National Association of City and County Health Officials
Oncology Nursing Society
Society for Research on Nicotine and Tobacco

American Heart Association
Campaign for Tobacco-Free Kids
American Academy of Otolaryngology—Head and Neck Surgery
American Association for Cancer Research
American College of Preventive Medicine
American Psychological Association
American Society of Addiction Medicine
American Thoracic Society
Association of Women’s Health, Obstetric and Neonatal Nurses
Lung Cancer Alliance
National Physicians Alliance
Partnership for Prevention
United Methodist Church - General Board of Church and Society