



March 4, 2015

The Honorable [Legislator's Full Name]
 U.S. Senate
 Washington, DC 20510

Dear Senator [Legislator's Last Name]:

We are writing to express our strong opposition to S. 441, legislation that would exempt many cigars from regulation under the Family Smoking Prevention and Tobacco Control Act (TCA). The Food and Drug Administration (FDA) should retain oversight authority over all tobacco products, including all cigars.

In 2009, Congress gave FDA authority over the manufacture, sale and marketing of all tobacco products, including cigars. The TCA, which was enacted with strong bipartisan support, explicitly defines tobacco products as “any product made or derived from tobacco that is intended for human consumption” Cigars clearly fall under this definition.

S. 441 would undermine the science-based process created by the TCA for determining the appropriate level of oversight of tobacco products. The bill would prohibit FDA from promulgating any public health protections related to “traditional large and premium cigars.” The bill would specifically exempt from FDA oversight some machine made cigars, including those which can cost as little as \$1.00. It also could allow some flavored cigars to qualify for an exemption. Inexpensive and flavored cigars such as strawberry, grape, cherry, and chocolate are exactly the type of cigars attractive to young people.

The fact is that cigar smoking is not limited to adults; it is the second most common form of tobacco use among youth. According to national survey data, high school boys now smoke cigars (i.e., large cigars, cigarillos, and small cigars) at about the same rate as cigarettes (16.5 percent of high school boys smoke cigars and 16.4 percent smoke cigarettes). Each day 2,400 kids under 18 years old try cigar smoking for the first time.

According to the National Cancer Institute, cigar smoking causes cancer of the oral cavity, larynx, esophagus and lung, and cigar smokers are also 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).

Congress appropriately gave FDA the flexibility to determine the type of oversight that is appropriate for different tobacco products based on the protection of public health. While the TCA 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 issued a proposed rule to regulate cigars, electronic cigarettes and other unregulated tobacco products in April 2014. FDA sought comment on whether it should regulate all cigars or exempt a category of “premium” cigars. As it works to issue a final rule, FDA will assess the available science concerning the health risks of smoking various types of cigars and seek to satisfy the mandate Congress provided in the TCA to protect public health. Congress should not reverse course and exempt a broad category of cigars from basic oversight.

No tobacco product should be exempt from regulation – and certainly not inexpensive and flavored cigars. Tobacco manufacturers have a history of modifying their products to avoid public health protections or attain lower tax rates. We are concerned that the number of cigars covered by S. 411 would increase over time as cigar manufacturers modify their products or change their manufacturing processes to qualify for the exemption.

Our organizations strongly urge you to oppose S. 441 and, instead, support the current science-based rule-making process FDA is now conducting to determine appropriate oversight of cigars and other unregulated tobacco products.

Sincerely,

American Academy of Family Physicians
American Academy of Otolaryngology—Head and Neck Surgery
American Academy of Pediatrics
American Association for Cancer Research
American Association for Respiratory Care
American Cancer Society Cancer Action Network
American College of Cardiology
American College of Physicians
American College of Preventive Medicine
American Dental Association
American Heart Association
American Lung Association
American Psychological Association
American Public Health Association
American Society of Clinical Oncology
American Thoracic Society
Campaign for Tobacco-Free Kids
Cancer Prevention and Treatment Fund
Lung Cancer Alliance
National African American Tobacco Prevention Network
National Association of City and County Health Officials
National Latino Alliance for Health Equity
Oncology Nursing Society
Partnership for Prevention
Prevent Cancer Foundation
Society for Cardiovascular Angiography and Interventions
Society for Research on Nicotine and Tobacco
Trust for America's Health
United Church of Christ, Justice and Witness Ministries