



August 29, 2011

The Honorable Bill Nelson
U.S. Senate
Washington, DC 20510

The Honorable Marco Rubio
U.S. Senate
Washington, DC 20510

Dear Senators Nelson and Rubio:

We are writing to express our strong opposition to S. 1461, 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). It is also important to note that cigar smoking is not limited to adults; it is the second most common form of tobacco use among youth. According to national surveys, nearly one in five (18.6 percent) high school boys currently smoke cigars (i.e., large cigars, cigarillos, and small cigars), and each day more than 3,400 kids under 18 years old try cigar smoking for the first time.

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 it intends to propose a rule to deem 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.

Despite your intent to limit the exemption to premium cigars, we believe the definition used in the bill may allow manufacturers of machine-made cigarillos and blunts to claim an exemption from FDA regulation. These products, which cost less than premium cigars and often come in flavors, are among the most popular with youth. Even if the bill succeeded in limiting its exemption to premium cigars, we would oppose it because the bill prohibits FDA from promulgating any regulations for this product regardless of how significant the benefit to public health or how minimal the cost to cigar manufacturers.

We strongly urge you to reconsider and withdraw your legislation.

Sincerely,



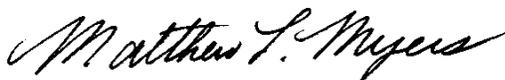
Christopher W. Hansen
President
American Cancer Society Cancer Action Network



Nancy A. Brown
Chief Executive Officer
American Heart Association



Charles D. Connor
President and Chief Executive Officer
American Lung Association



Matthew L. Myers
President
Campaign for Tobacco-Free Kids