

House Taxation Committee Kansas Legislature

Topeka, KS

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House Taxation Committee Hearing on HB 2315
A proposal to increase the tax on tobacco products.

**Prepared Testimony By:
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My name is Rich Marianos, and I am senior law enforcement consultant for Reynolds American Inc. (RAI).

Let me start by telling you a little about my background. I retired from a 27-year career at the Bureau of Alcohol, Tobacco, Firearms and Explosives as Assistant Director. During my ATF career, I conducted, supervised and oversaw investigations into organized crime, counterterrorism, drug trafficking organizations and violent crime.

My ATF experience also includes the position of Special Agent in Charge of the Washington Field Division, and Deputy Chief of ATF's Special Operations Division.

In addition to my duties at Reynolds, I am also an Adjunct Professor at The George Washington University in Washington D.C., where I teach courses in Political Violence and Terrorism. Let me state that if you cannot tell by my background, crime prevention and security are things that I take very seriously.

I testified before the Committee on the issue of increased taxation and illicit trade in 2015. I would like to remind the Committee of the unintended consequences that can follow a cigarette excise tax increase.

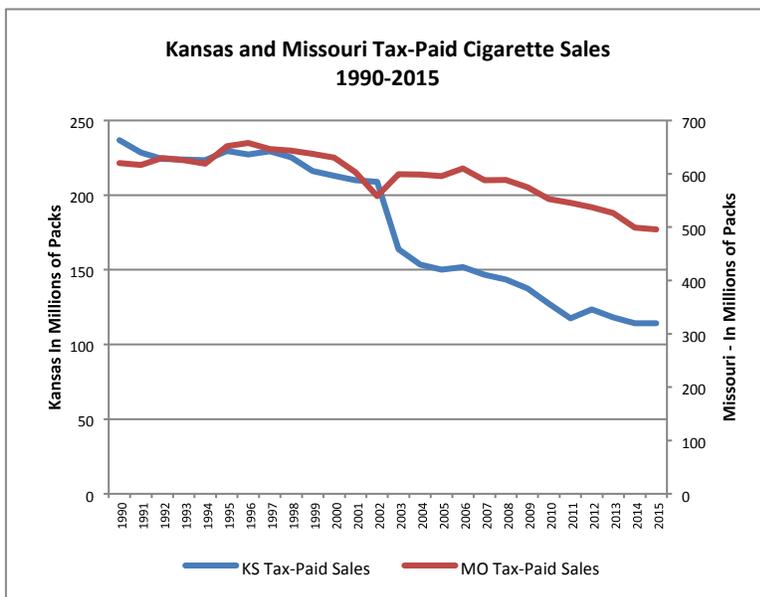
Kansas currently enjoys a relatively low cigarette and other tobacco product excise tax rate relative to her border states with the exception of Missouri and Nebraska, where the current cigarette excise tax rates are \$0.17 per pack and \$0.64 per pack respectively. Missouri has the lowest cigarette excise tax in the nation and is a key source of smuggled cigarettes in the Midwest.

This proposal would increase the Kansas cigarette excise tax rate to \$2.29 per pack, a 78% increase that will push the Kansas cigarette tax rate higher than any of her bordering states.

In Kansas, the weighted-average pack price is estimated at \$5.79. With the proposed tax increase, this would rise to \$7.08. Compare that to Missouri's \$4.63, Nebraska's \$5.18 and Colorado's \$5.32 and it's easy to see why smugglers will find selling their illicit products in Kansas so attractive.

These disparities provide huge profit opportunities for criminals. For example, a van smuggling 50 cases of cigarettes (3,000 cartons) from Kansas City, Missouri, to Kansas City, Kansas would have gross profits in excess of \$73,000. The gross profits from a tractor-trailer loaded with cigarettes on the same route can be nearly \$1.2 million.

Let me give you some background on exactly what the Kansas cigarette market looks like. While data is still unavailable from the 2015 tax increase, tax-paid sales data suggest that after the Kansas



cigarette tax increases of 2002 and 2003, cigarette volume dropped precipitously and has been declining ever since. Tax-paid volume fell by roughly 55.3 million packs between 2002 and 2004. Over the same period, Missouri experienced a tax-paid cigarette volume increase of 40.5 million packs. Kansas per-capita

cigarette sales declined 21.2 packs while Missouri per-capita sales increased 5.8 packs. It is clear that Missouri benefited from Kansas' cigarette tax increases of 2002 and 2003 and that benefit likely still extends to today. A Kansas cigarette excise tax increase of this magnitude will only exacerbate the problem.

[A Mackinac Center for Public Policy study](#) based on 2014 data estimates that roughly 13.4 percent of the cigarettes consumed in Kansas are potentially being exported from other states.

With the influx of commercially smuggled product from nefarious entities comes an increase in violent crime. Those who participate in large-scale cigarette smuggling are often involved with other forms of illicit activity involving drugs, guns and even human trafficking. Virginia realizes the potential harm of illicit trade and, even though their low tax rate makes them a cigarette export state, this session the Virginia State Crime Commission has endorsed several measures aimed at curbing organized interstate cigarette trafficking.

And let me be clear, those who smuggle cigarettes from other states do not age-verify those purchasing their illicit product. This could place Kansas' youth in a precarious position and could jeopardize the efforts to date to prevent Kansas' youth from smoking.

I strongly urge the committee to study what is occurring with regard to cross border cigarette sales among states with differing tax rates, enforcement and the operational needs of the distribution community.

I urge the members of this committee, and the legislature as a whole, to consider the unintended consequences that a cigarette tax increase will have on cigarette smuggling and other illicit activities.

Thank you for permitting me to submit this written testimony.