



February 16, 2017

United States Senate  
Washington, DC 20510

Dear Senator:

We are writing to express our strong opposition to S. 294 and any appropriations policy riders that would exempt some cigars, including flavored 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. 294 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 what the cigar industry calls “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 “sticky-sweet”, watermelon, “wild rush”, “tropical”, and chocolate, are exactly the type of cigars attractive to young people. A similar policy rider

was included in the House Appropriations Committee's FY 2017 agriculture appropriations bill.

The fact is that cigar smoking is not limited to adults. The 2015 National Youth Risk Behavior Survey shows that more high school boys now smoke cigars (i.e., large cigars, cigarillos, and small cigars) than cigarettes (14 percent of high school boys smoke cigars and 11.8 percent smoke cigarettes). Each day, more than 2,100 kids under 18 years old try cigar smoking for the first time, based on 2015 National Survey on Drug Use and Health data.

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.

After completing a multi-year scientific review and public comment process, FDA in May 2016 published a final rule that will enable the agency to begin to regulate cigars and all other tobacco products that it had not been regulating. During the rulemaking process, FDA specifically examined whether "premium" cigars should be excluded from FDA oversight, and, based on its scientific review, concluded that there was no public health justification for exempting any cigars from FDA oversight because all cigars pose significant health risks.

No tobacco product should be exempt from oversight – 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 exempted by S. 294 and the policy rider included in the House FY 2017 agriculture appropriations bill 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 protect public health and kids and reduce the health and economic burden of tobacco-caused disease by opposing S. 294 and any similar appropriations policy riders.

Sincerely,

Action on Smoking & Health  
American Academy of Family Physicians  
American Academy of Oral and Maxillofacial Pathology  
American Academy of Otolaryngology—Head and Neck Surgery  
American Academy of Pediatrics  
American Association for Cancer Research  
American Association for Dental 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 Medical Student Association  
American Psychological Association  
American Public Health Association  
American Society of Addiction Medicine  
American Society of Clinical Oncology  
American Thoracic Society  
Campaign for Tobacco-Free Kids  
ClearWay Minnesota  
Community Anti-Drug Coalitions of America  
Eta Sigma Gamma - National Health Education Honorary  
March of Dimes  
National African American Tobacco Prevention Network  
National Association of City and County Health Officials  
National Association of Pediatric Nurse Practitioners  
National Center for Health Research  
National Hispanic Medical Association  
National Latino Alliance for Health Equity  
National Network of Public Health Institutes  
Oncology Nursing Society  
Oral Health America  
Society for Public Health Education  
Society for Research on Nicotine and Tobacco  
Students Against Destructive Decisions  
The Society of State Leaders of Health and Physical Education  
The Society of Thoracic Surgeons  
Trust for America's Health  
United Methodist Church – General Board of Church and Society