

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